

Ordinary Council Meeting

9 October 2024

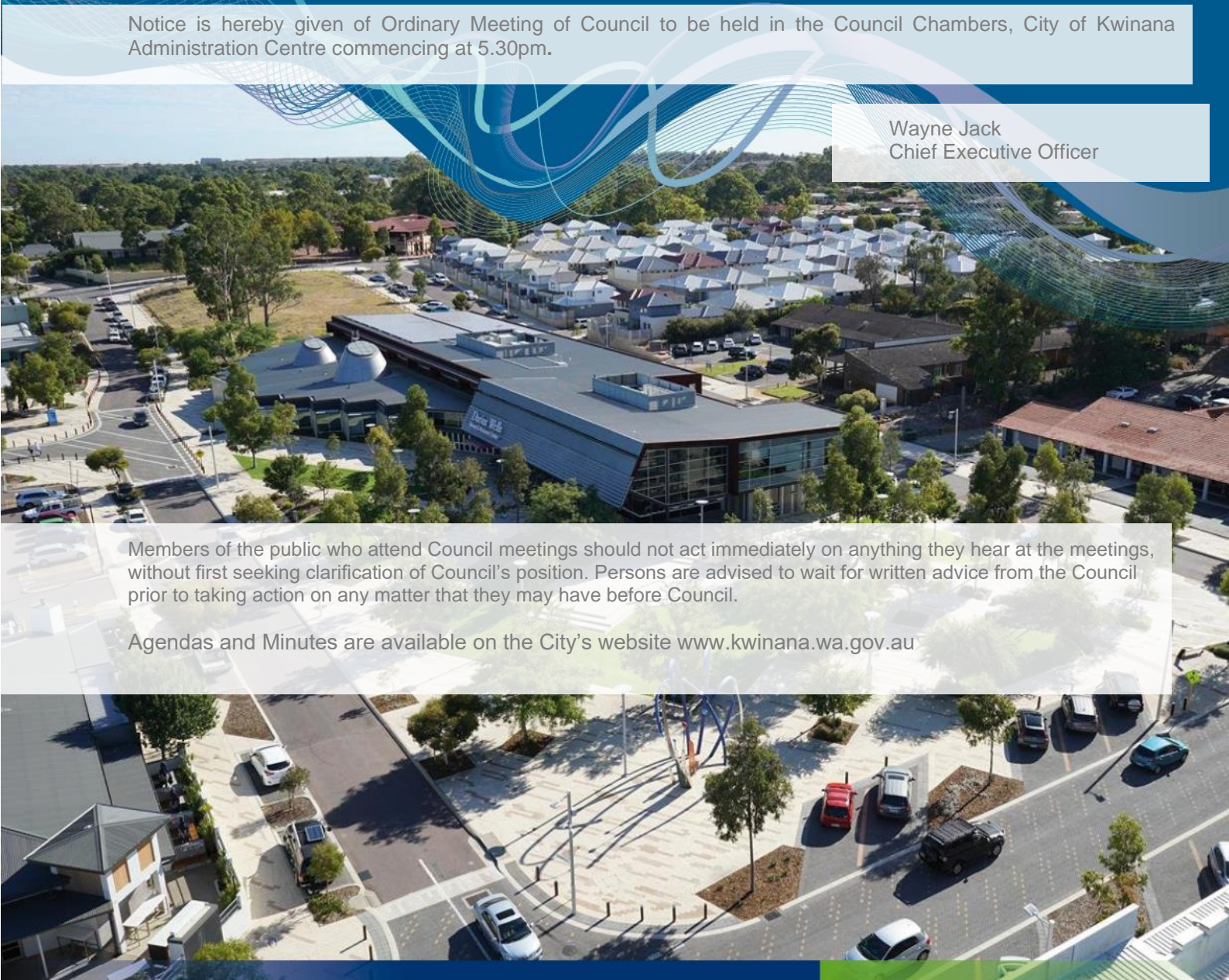
Agenda

Notice is hereby given of Ordinary Meeting of Council to be held in the Council Chambers, City of Kwinana Administration Centre commencing at 5.30pm.

Wayne Jack
Chief Executive Officer

Members of the public who attend Council meetings should not act immediately on anything they hear at the meetings, without first seeking clarification of Council's position. Persons are advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.

Agendas and Minutes are available on the City's website www.kwinana.wa.gov.au



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1 OPENING AND ANNOUNCEMENT OF VISITORS

Presiding Member to declare the meeting open and welcome all in attendance.

Presiding Member to announce that the Ordinary Council Meeting is being live streamed and recorded in accordance with the City's Live streaming and Recording Council Meetings policy.

By being present at this meeting, members of the public consent to the City recording and livestreaming their image and/or voice.

2 WELCOME TO COUNTRY AND ACKNOWLEDGEMENT OF COUNTRY

DEPUTY MAYOR BARRY WINMAR TO PRESENT THE WELCOME TO COUNTRY:

"NGULLAK NYINNINY KOORALONG KOORA NGULLAK NOITJ NIDJA NOONGAR BOODJAR. NOONGAR MOORT DJOORAPINY NYINNINY NIDJA NGULLA QUOPADOK NOONGAR BOODJAR KOORALONG.

FROM THE BEGINNING OF TIME TO THE END, THIS IS NOONGAR COUNTRY. NOONGAR PEOPLE HAVE BEEN GRACEFUL KEEPERS OF OUR NATION FOR MANY, MANY YEARS.

DJINANGINY KATATJIN DJOORAPINY NIDJA WEERN NOONGAR BOODJAR NGALLA MIA MIA BOORDA.

LOOK, LISTEN, UNDERSTAND AND EMBRACE ALL THE ELEMENTS OF NOONGAR COUNTRY THAT IS FOREVER OUR HOME.

KAYA WANDJU NGAANY KOORT DJOORPINY NIDJA NOONGAR BOODJAR DAADJALING WAANKGANINYJ NOONGAR BOODJAR.

HELLO AND WELCOME MY HEART IS HAPPY AS WE ARE GATHERED ON COUNTRY AND MEETING HERE ON NOONGAR COUNTRY"

PRESIDING MEMBER TO READ THE ACKNOWLEDGEMENT OF COUNTRY:

"IT GIVES ME GREAT PLEASURE TO WELCOME YOU ALL HERE AND BEFORE COMMENCING THE PROCEEDINGS, I WOULD LIKE TO ACKNOWLEDGE THAT WE COME TOGETHER TONIGHT ON THE TRADITIONAL LAND OF THE NOONGAR PEOPLE AND WE PAY OUR RESPECTS TO THEIR ELDERS PAST AND PRESENT."

3 DEDICATION

Councillor Sherilyn Wood to read the dedication:

“May we, the Elected Members of the City of Kwinana, have the wisdom to consider all matters before us with due consideration, integrity and respect for the Council Chamber.

May the decisions made be in good faith and always in the best interest of the greater Kwinana community that we serve.”

4 ATTENDANCE, APOLOGIES, LEAVE(S) OF ABSENCE (PREVIOUSLY APPROVED)

Apologies:

City of Kwinana CEO Wayne Jack

Leave(s) of Absence (previously approved):

Councillor S Kearney from 6 October 2024 to 6 November 2024 inclusive.

5 PUBLIC QUESTION TIME

In accordance with the *Local Government Act 1995* and the *Local Government (Administration) Regulations 1996*, any person may during Public Question Time ask any question.

In accordance with Regulation 6 of the *Local Government (Administration) Regulations 1996*, the minimum time allowed for Public Question Time is 15 minutes.

A member of the public who raises a question during Question Time is to state his or her name and address.

Members of the public must provide their questions in writing prior to the commencement of the meeting. A public question time form must contain all questions to be asked and include contact details and the form must be completed in a legible form.

Please note that in accordance with Section 3.4(5) of the *City of Kwinana Standing Orders Local Law 2019* a maximum of two questions are permitted initially. An additional question will be allowed by the Presiding Member if time permits following the conclusion of all questions by members of the public.

6 RECEIVING OF PETITIONS, PRESENTATIONS AND DEPUTATIONS

6.1 PETITIONS

A petition must –

- be addressed to the Mayor;
- be made by electors of the district;
- state the request on each page of the petition;
- contain at least five names, addresses and signatures of electors making the request;
- contain a summary of the reasons for the request;
- state the name of the person to whom, and an address at which, notice to the petitioners can be given; and

be respectful and temperate in its language and not contain language disrespectful to Council.

The only motion which shall be considered by the Council on the presentation of any petition are –

that the petition be received;
that the petition be rejected; or
that the petition be received and a report prepared for Council.

6.2 PRESENTATIONS

In accordance with Clause 3.6 of the *Standing Orders Local Law 2019* a presentation is the acceptance of a gift, grant or an award by the Council on behalf of the local government or the community.

Prior approval must be sought by the Presiding Member prior to a presentation being made at a Council meeting.

Any person or group wishing to make a presentation to the Council shall advise the CEO in writing before 12 noon on the day of the meeting. Where the CEO receives a request in terms of the preceding clause the CEO shall refer it to the presiding member of the Council committee who shall determine whether the presentation should be received.

A presentation to Council is not to exceed a period of fifteen minutes, without the agreement of Council.

6.3 DEPUTATIONS

In accordance with Clause 3.7 of the *Standing Orders Local Law 2019*, any person or group of the public may, during the Deputations segment of the Agenda with the consent of the person presiding, speak on any matter before the Council or Committee provided that:

the person has requested the right to do so in writing addressed to the Chief Executive Officer by noon on the day of the meeting.
setting out the agenda item to which the deputation relates;
whether the deputation is supporting or opposing the officer's or committee's recommendation; and
include sufficient detail to enable a general understanding of the purpose of the deputation.

A deputation to Council is not to exceed a period of fifteen minutes, without the agreement of Council.

7 CONFIRMATION OF MINUTES

7.1 MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 25 SEPTEMBER 2024

RECOMMENDATION

That the Minutes of the Ordinary Council Meeting held on 25 September 2024 be confirmed as a true and correct record of the meeting.

8 DECLARATIONS OF INTEREST (FINANCIAL, PROXIMITY, IMPARTIALITY – BOTH REAL AND PERCEIVED) BY MEMBERS AND CITY OFFICERS

Section 5.65(1) of the *Local Government Act 1995* states:

A member who has an interest in any matter to be discussed at a council or committee meeting that will be attended by the member must disclose the nature of the interest —

in a written notice given to the CEO before the meeting; or
at the meeting immediately before the matter is discussed.

Section 5.66 of the *Local Government Act 1995* states:

If a member has disclosed an interest in a written notice given to the CEO before a meeting then —

before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present immediately before the matters to which the disclosure relates are discussed.

9 REQUESTS FOR LEAVE OF ABSENCE

10 ITEMS BROUGHT FORWARD FOR THE CONVENIENCE OF THOSE IN THE PUBLIC GALLERY

11 ANY BUSINESS LEFT OVER FROM PREVIOUS MEETING

12 RECOMMENDATIONS OF COMMITTEES

Nil

13 ENBLOC REPORTS

14 REPORTS – COMMUNITY

Nil

15 REPORTS – ECONOMIC

Nil

16 REPORTS – NATURAL ENVIRONMENT

Nil

17 REPORTS – BUILT INFRASTRUCTURE

17.1 ROAD DEDICATION - LOT 516 BUTCHER STREET, KWINANA BEACH

SUMMARY

This report is intended for Council to consider an adjustment to the Butcher Street, Kwinana Beach road alignment to incorporate Lot 516 Butcher Street, Kwinana Beach as illustrated in Attachment A. This adjustment involves incorporating the unclaimed portion of road currently Unallocated Crown Land (UCL) into the Butcher Street Road Reserve.

The portion of road from Butcher Street to Mounsey Road resides on Unallocated Crown Land, Lot 516 Butcher Street, Kwinana Beach (DP 41203) and as such is not considered a City of Kwinana asset. The dedication of Lot 516 Butcher Street, Kwinana Beach (DP41203), as outlined in Attachment A, as a public road, is required to ensure inclusion in the City's asset register to avoid ownership confusion and for inclusion in forward works and maintenance programs.

This report is being presented to the Council as officers do not have the authority to act on requests to dedicate land as public roads. Such requests must be directed to the Minister through a Council's resolution.

OFFICER RECOMMENDATION

That Council:

- 1. Requests the Minister for Lands to dedicate a Lot 516 Butcher Street, Kwinana Beach as Road; and**
- 2. Indemnifies the Minister for Lands for any claims of compensation resulting from the dedication.**

VOTING REQUIREMENT

Simple majority

DISCUSSION

This proposal is requesting Council's support to ask the Minister for Lands to dedicate Lot 516 Butcher Street, Kwinana Beach (DP 41203) as a public road. Currently, the road is on Unallocated Crown Land and is currently under the management of the City of Kwinana in accordance with the *Local Government Act 1995* Section 3.53 (2) "A Local Government is responsible for controlling and managing every otherwise unvested facility within its district."

The *Local Government Act 1995* Section 3.53 defines an otherwise unvested facility as "a thoroughfare, bridge, jetty drain, or watercourse belonging to the Crown, the responsibility for controlling or managing which is not vested in any person other than under this section."

Section 56 of the *Land Administration Act 1997* and Regulation 8 of the *Land Administration Regulations 1998* outline the procedures and circumstances under which a request can be made to the Minister to dedicate land as a public road.

If a local government authority makes a request to the Minister for Lands to dedicate land as a public road, it must provide with the request:

- A copy of Council resolution to request the dedication of the road.
- Copies of any submissions relating to the request that the local government authority has received and the local government's comments on those submissions. This may include comments from public utility providers and other government departments.
- Indemnity in favour of the Minister for Lands against any claims for compensation (other than a claim for compensation in respect of land referred to in s56(6) of the LAA) in an amount equal to the amount of all costs and expenses reasonably incurred by DPLH on behalf of the Minister for Lands in considering and granting the request.
- Plan of survey, sketch plan, or document to describe the dimensions of the road.
- Written confirmation that the local government authority has complied with section 56(2) of the LAA.
- Upon receiving a request under section 56 of the LAA, DPLH will either grant the request or direct the local government authority to reconsider the request or refuse the request.

It should be noted that the dedication of the land as a road is a purely administrative process. The experience of officers is that the process can take over 12 months to complete and it is recommended that they commence so that they do not constrain future maintenance and renewal works programs.

STRATEGIC IMPLICATIONS

There are no strategic implications as a result of this proposal.

SOCIAL IMPLICATIONS

There are no social implications as a result of this proposal.

LEGAL/POLICY IMPLICATIONS

Details of the applicable statutory requirements are noted above.

FINANCIAL/BUDGET IMPLICATIONS

As stated above the City is already responsible for controlling and managing Lot 516 Butcher Street, Kwinana Beach as an unvested facility. This process is to formalise the portion of road as a City asset.

ASSET MANAGEMENT IMPLICATIONS

The portion of road will form part of the Butcher Street road reserve and will be added to the City's asset registers.

ENVIRONMENTAL/PUBLIC HEALTH IMPLICATIONS

No environmental or public health implications have been identified as a result of this report or recommendation.

COMMUNITY ENGAGEMENT

Community engagement is not required for this administrative process.

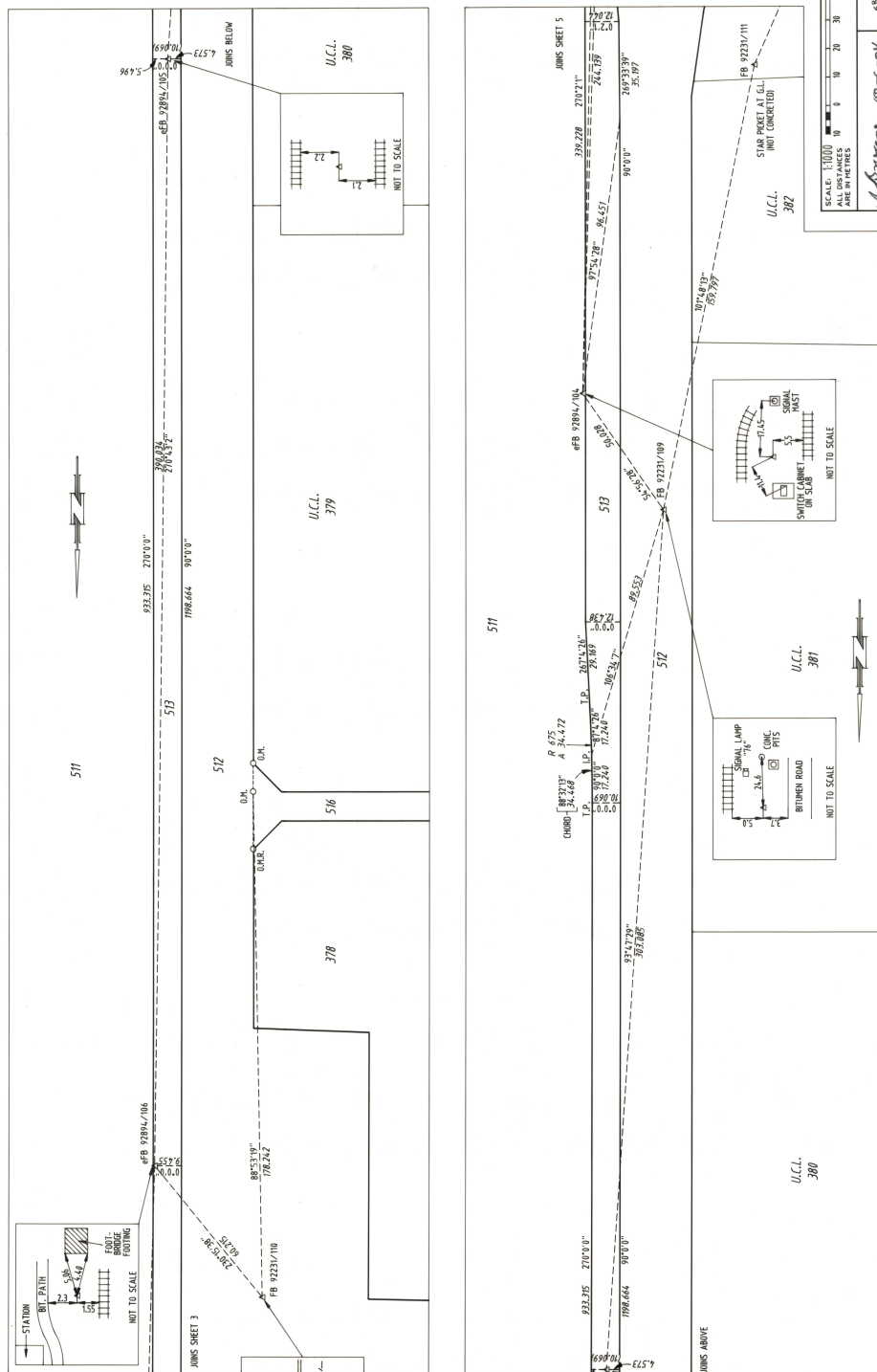
ATTACHMENTS

- A. ATTACHMENT A - Deposited Plan 41203 - Lot 516 Butcher Street, Kwinana Beach** [↓](#)

DP 41203 (04)



SURVEY SHEET
SURVEY INFORMATION ONLY



SURVEY SHEET AUDITED
DATE: 8-8-2024
DOCKET: 01768-2005

SCALE: 1:1000
ALL DISTANCES
ARE IN METRES

APPROVED BY
WESTERN AUSTRALIAN PLANNING COMMISSION

DEPOSITED PLAN
41203
SHEET 1 OF 5
EDITION 1 VERSION 1

CROSSLAND & HARDY PTY LTD
CONSULTING ENGINEERS
177 COLLEGE ROAD
PERTH WA 6000
TEL: 08 9447 3600
FAX: 08 9447 3601
EMAIL: info@chard.com.au

LEGEND
A STAR IRON PICKET
SET IN CONCRETE (P.C.H.)
(UNLESS NOTED OTHERWISE)
BEARINGS DATUM - ASSUMED

SURVEY CARRIED OUT UNDER REGULATION 26A SPECIAL SURVEY AREA GUIDELINES AND SUPPLEMENTARY
GUIDELINES UNDER REGULATION 26A(3).
LIMITED MARKING SURVEY - BOUNDARIES OF LOT 513, THE RAIL CORRIDOR, ARE NOT FULLY MARKED PURSUANT
TO GUIDELINES UNDER REGULATION 26A (3). SEE D.L.I FILE 00955-2003



18 REPORTS – CIVIC LEADERSHIP**18.1 PROPOSED DISPOSITION BY WAY OF LEASE OF SUITES 9,10,11,15,16, AND 17 WITHIN KWINANA TECHNOLOGY BUSINESS CENTRE, 11 STIDWORTHY WAY, KWINANA TOWN CENTRE - KWINANA INDUSTRIES COUNCIL****SUMMARY**

The City of Kwinana (the City) is the owner of 11 Stidworthy Way, Kwinana Town Centre more particularly described as Lot 8 on Deposited Plan 34151 being the whole of the land in Certificate of Title Volume 2615 Folio 989 (the Premises).

The current lease agreement between the City and the Kwinana Industries Council (KIC) within the Kwinana Technology Business Centre is set to expire on 1 September 2025, with no further extension options available. KIC has approached the City with a request to increase their staffing capacity and incorporate Office 15 into their lease. To streamline the process, it is proposed that a new lease be established for Offices 9-11 and 15-17.

This report seeks Council approval to give local public notice and subject to no objections being received, authorise the Chief Executive Officer and the Mayor to execute the lease agreement with respect to Offices 9-11 and 15-17 within the Kwinana Technology Business Centre to Kwinana Industries Council.

OFFICER RECOMMENDATION**That Council:**

- 1. Give local public notice of the proposed disposition of offices 9-11 and 15-17 within the Kwinana Technology Business Centre to Kwinana Industries Council in accordance with Section 3.58(3) and (4) of the *Local Government Act 1995*.**
- 2. Advertise the proposed rent to be \$31,000 per annum, as detailed in the valuation dated 19 September 2024 (Attachment A).**
- 3. Authorise the Chief Executive Officer and Mayor to execute the lease agreement and make any modifications where the intent of the lease agreement does not change in relation to Offices 9, 10, 11, 15, 16, and 17 of 11 Stidworthy Way, Kwinana Town Centre between the City of Kwinana and Kwinana Industries Council.**

VOTING REQUIREMENT

Absolute Majority

DISCUSSION

The Kwinana Industries Council (KIC) is the peak industry association for the Western Trade Coast. It is a membership-based organisation with the primary purpose of advocating on behalf of its members which are companies operating across the Kwinana Industrial Area.

Members of the KIC are major drivers of economic activity for the state and Australian economies with the area's annual activity valued at nearly \$15 billion per annum and employing more than 40,000 workers, with around two-thirds living in the local community.

KIC is a not-for-profit organisation. Its primary source of funding is the membership fees paid by the organisations it represents.

The City of Kwinana first entered into a lease with KIC for the offices 9-11 & 16-17 in November 2018. They now wish to expand the number of offices that they utilise and include the only vacant office within the complex being office 15.

KIC wish to enter in a lease agreement for a term of 3 years with a further 2 years option to extend.

The proposed rent has been determined by an independent valuation dated 19 September 2024 (Attachment A). KIC are to pay the applicable fees for this lease and valuation as per the City's schedule of Fees & Charges 2024/25.

In this case a lease agreement is considered to be a disposition and as such a local government can only dispose of property if it gives local public notice of the proposed disposition, in accordance with Section 3.58 (3)(a) of the *Local Government Act 1995*.

STRATEGIC IMPLICATIONS

There are no strategic implications as a result of this proposal.

SOCIAL IMPLICATIONS

There are no social implications as a result of this proposal.

LEGAL/POLICY IMPLICATIONS

Section 3.58 (3) and (4) of the *Local Government Act 1995* states:

- (3) *A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —*
 - (a) *it gives local public notice of the proposed disposition —*
 - (i) *describing the property concerned; and*
 - (ii) *giving details of the proposed disposition; and*
 - (iii) *inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given; and*
 - (b) *it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*
- (4) *The details of a proposed disposition that are required by subsection (3)(a)(ii) include —*
 - (a) *the names of all other parties concerned; and*
 - (b) *the consideration to be received by the local government for the disposition; and*
 - (c) *the market value of the disposition —*
 - (i) *as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or*
 - (ii) *as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.*

Section 30 of the Local Government (Functions and General) Regulations 1996 states:

- (1) *A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.*
- (2) *A disposition of land is an exempt disposition if —*
 - (a) *the land is disposed of to an owner of adjoining land (in this paragraph called the transferee) and —*
 - (i) *its market value is less than \$5 000; and*
 - (ii) *the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee; or*
 - (b) *the land is disposed of to a body, whether incorporated or not —*
 - (i) *the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions; or*
 - (c) *the land is disposed of to —*
 - (i) *the Crown in right of the State or the Commonwealth; or*
 - (ii) *a department, agency, or instrumentality of the Crown in right of the State or the Commonwealth; or*
 - (iii) *another local government or a regional local government; or*
 - (d) *it is the leasing of land to an employee of the local government for use as the employee's residence; or*
 - (e) *it is the leasing of land for a period of less than 2 years during all or any of which time the lease does not give the lessee the exclusive use of the land; or*
 - (f) *it is the leasing of land to a person registered under the Health Practitioner Regulation National Law (Western Australia) in the medical profession to be used for carrying on his or her medical practice; or*
 - (g) *it is the leasing of residential property to a person.*
- (2a) *A disposition of property is an exempt disposition if the property is disposed of within 6 months after it has been —*
 - (a) *put out to the highest bidder at public auction, in accordance with section 3.58(2)(a) of the Act, but either no bid is made or any bid made does not reach a reserve price fixed by the local government; or*
 - (b) *the subject of a public tender process called by the local government, in accordance with section 3.58(2)(b) of the Act, but either no tender is received or any tender received is unacceptable; or*
 - (c) *the subject of Statewide public notice under section 3.59(4) of the Act, and if the business plan referred to in that notice described the property concerned and gave details of the proposed disposition including —*
 - (i) *the names of all other parties concerned; and*
 - (ii) *the consideration to be received by the local government for the disposition; and*
 - (iii) *the market value of the disposition as ascertained by a valuation carried out not more than 12 months before the proposed disposition.*
- (2b) *Details (see section 3.58(4) of the Act) of a disposition of property under subregulation (2a) must be made available for public inspection for at least 12 months from the initial auction or tender, as the case requires.*
- (3) *A disposition of property other than land is an exempt disposition if —*
 - (a) *its market value is less than \$20 000; or*
 - (b) *the entire consideration received by the local government for the disposition is used to purchase other property, and where the total consideration for the other property is not more, or worth more, than \$75 000.*

FINANCIAL/BUDGET IMPLICATIONS

Proposed rental income of \$31,000 + GST & Outgoings

ASSET MANAGEMENT IMPLICATIONS

Ongoing asset management of the City's facility.

ENVIRONMENTAL/PUBLIC HEALTH IMPLICATIONS

There are no environmental implications identified as a result of this report.

COMMUNITY ENGAGEMENT

Public advertising in accordance with Section 3.58 (3) and (4) of the *Local Government Act 1995*

ATTACHMENTS

A. Kwinana Industries Council - Valuation - Offices 9-11 & 15-17 - Confidential

18.2 LOCAL GOVERNMENT ELECTIONS - REVIEW OF WALGA ADVOCACY POSITION

SUMMARY

The *Local Government Amendment Act 2023* introduced a range of electoral reforms that came into effect prior to the 2023 Local Government ordinary elections, including:

- the introduction of Optional Preferential Voting (OPV);
- extending the election period to account for delays in postal services;
- changes to the publication of information about candidates;
- backfilling provisions for extraordinary vacancies after the 2023 election;
- public election of the Mayor or President for larger Local Governments;
- abolishing wards for smaller Local Governments; and
- aligning the size of councils with the size of populations of each Local Government.

Following requests from several Local Government Zone's, WALGA undertook a comprehensive review and analysis of 5 ordinary election cycles up to and including the 2023 Local Government election against the backdrop of these legislative reforms. The review and report focused on postal elections conducted exclusively by the Western Australian Electoral Commission (WAEC), with the analysis finding evidence of the rising cost and a reduction in service of conducting Local Government elections in Western Australia.

The report was presented to State Council 4 September 2024, with State Council supporting a review of WALGA's Local Government elections advocacy positions.

WALGA has requested Councils consider the current and alternative Elections Advocacy Positions and provide a response back to WALGA by 28 October 2024 for the inclusion in the December 2024 State Council meeting.

OFFICER RECOMMENDATION

That City of Kwinana recommend that WALGA adopt the following Local Government election advocacy positions:

1. **PARTICIPATION – Council support advocacy position 'a' (voluntary voting at Local Government elections).**
2. **TERMS OF OFFICE – Council support advocacy position 'b' (four-year terms on an all in/all out basis).**
3. **VOTING METHODS – Council support advocacy position 'a' (First Past the Post (FPTP) for general elections).**
4. **INTERNAL ELECTIONS – Council support advocacy position 'a' (First Past the Post (FPTP) for all internal elections).**
5. **VOTING ACCESSIBILITY – Council support advocacy position 'a' (electronic voting), 'b' (postal voting) and 'c' (in-person voting).**
6. **METHOLD OF ELECTION OF MAYOR – Council support advocacy position 'b' (Councils decision on method of election of Mayor or President).**

VOTING REQUIREMENT

Simple majority

DISCUSSION

The following is a summary of WALGA’s current Advocacy Positions in relation to Local Government Elections:

Elections

Position Statement	<p>The Local Government sector supports:</p> <ol style="list-style-type: none"> 1. Four year terms with a two year spill 2. Greater participation in Local Government elections 3. The option to hold elections through: <ul style="list-style-type: none"> • Online voting • Postal voting, and • In-person voting 4. Voting at Local Government elections to be voluntary 5. The first past the post method of counting votes <p>The Local Government sector opposes the introduction of preferential voting, however if ‘first past the post’ voting is not retained then optional preferential voting is preferred.</p>
Background	<p>The first past the post (FPTP) method is simple, allows an expression of the electorate’s wishes and does not encourage tickets and alliances to be formed to allocate preferences.</p>
State Council Resolution	<p>February 2022 – 312.1/2022 December 2020 – 142.6/2020 March 2019 – 06.3/2019 December 2017 – 121.6/2017 October 2008 – 427.5/2008</p>
Supporting Documents (as detailed in Attachments A and B)	<p>Advocacy Positions for a New Local Government Act WALGA submission: Local Government Reform Proposal (February 2022)</p>

Method of Election of Mayor

Position Statement	<p>Local Governments should determine whether their Mayor or President will be elected by the Council or elected by the community.</p>
State Council Resolution	<p>February 2022 – 312.1/2022 March 2019 – 06.3/2019 December 2017 – 121.6/2017</p>

Conduct of Postal Elections

Position Statement	The <i>Local Government Act 1995</i> should be amended to allow the Australian Electoral Commission (AEC) and any other third party provider including Local Governments to conduct postal elections.
Background	Currently, the WAEC has a legislatively enshrined monopoly on the conduct of postal elections that has not been tested by the market.
State Council Resolution	May 2023 – 452.2/2023 March 2019 – 06.3/2019 December 2017 – 121.6/2017 March 2012 – 24.2/2012

WALGA has requested Councils consider and advise their view with respect to the following proposed advocacy positions (noting the City's preferred approach is highlighted in bold):

1. Participation

(a) **The sector continues to support voluntary voting at Local Government elections.**

OR

(b) The sector supports compulsory voting at Local Governments elections.

The City supports WALGA's position that voting in Local Government elections should remain voluntary.

Electoral Commission data shows that 9,548 votes were received from the 29,706 total electors for the 2023 City elections, being a 32.1% participation rate.

Whilst mandatory voting may increase voter participation, it would likely result in an increase in informal votes and uninformed voting from those in the community disinterested in local government issues.

Additionally, mandatory voting would substantially increase election costs for Local Governments.

2. Terms of Office

(a) The sector continues to support four-year terms with a two year spill;

OR

(b) **The sector supports four-year terms on an all in/all out basis.**

While the City agrees that Local Government elections should occur every four years, it considers that the election of positions should occur on an all in/all out basis, as opposed to a staggered approach of having a spill every two years. The basis for such position is the cost savings for the community, as well as the stability it provides in terms of governance and decision making.

All other states, along with the Northern Territory hold Local Government elections every four years (noting the ACT does not have a separate system of local government) on an all in/all out basis.

The staggered election cycle in WA is designed to prevent the risk of a full council being replaced at once. However, data suggests that full council turnovers are rare in both two-year and four-year election cycles. When they do occur, they often reflect deep-seated community concerns that necessitate a comprehensive change in governance.

The staggered election process also results in more frequent inductions, which can be less efficient and disrupt council operations. New councillors might struggle with integration if the induction process is fragmented, potentially affecting their ability to contribute effectively. Inducting an entire council at once every four years can lead to a more cohesive induction process, where all

members receive the same training and orientation. This unified approach can enhance the council’s overall effectiveness, as all members start with a common understanding of their roles and responsibilities. A four years period for the entire Council also allows for more extended governance periods, potentially enabling more strategic and long-term planning.

Voter turnout is an issue with Local Government election. Undertaking biennial elections may be a factor to voter fatigue, as residents are called to vote more frequently. This may be one of the impacts resulting in lower voter turnout over time and diminish the perceived importance of each election. Holding elections every four years might result in higher voter turnout per election, as each election is seen as more significant. Additionally, with the potential for a full council turnover, councillors may feel a greater sense of accountability to their constituents, knowing that they will be judged on their performance over a longer term.

The City has seen a significant increase in its general election costs in recent years. The 2023 elections in particular saw an increase of \$60,413.62 from 2021, in part due to additional staffing hours required to process results under the new preferential system. The cost to the City of its general elections dating back to 2015 are as follows:

YEAR	COST
2015	\$62,313.00
2017	\$86,940.00
2019	\$95,535.00
2021	\$115,979.00
2023	\$176,392.62

If such trajectory continues, the City’s election costs are forecast to be:

- \$206,131.00 in 2025; and
- \$226,526.00 in 2027.

This equates to a 263% increase in the 12-year period from 2015 to 2027.

3. Voting Methods

(a) The sector supports First Past the Post (FPTP) as the preferred voting method for general elections. If Optional Preferential Voting (OPV) remains as the primary method of voting, the sector supports the removal of the ‘proportional’ part of the voting method for general elections.

OR

(b) The sector supports Optional Preferential Voting (OPV) as the preferred voting method for general elections.

First Past the Post was the system successfully employed by the City until the 2023 elections. The City supports a return to such system on the following basis:

- Despite select advantages, the City considers that preferential voting is prohibitively complex, both in relation to the casting of votes as well as their counting. Votes for the City’s 2023 elections were unable to be fully counted on the day of the election for the first time in the City’s history due to the additional time required for staff to process preferential votes;
- The system is easily understood by the community. Voter turnout in local government elections is significantly low compared to other jurisdictions. Adding complexity to the voting system may further diminish community participation; and
- It removes politics out of campaigning. Preferential voting encourages alliances and party politics in elections.

4. Internal Elections

- (a) **The sector supports First Past the Post (FPTP) as the preferred voting method for all internal elections.**

OR

- (b) The sector supports Optional Preferential Voting (OPV) as the preferred voting method for all internal elections.

The City considers that First Past the Post should be used for internal voting on the basis that system is simple and easily understood by persons voting and counters. Preferential voting adds unnecessary complexity which outweigh any advantages of the system.

5. Voting Accessibility

The sector supports the option to hold general elections through:

- (a) **Electronic voting; and/or**
(b) **Postal voting; and/or**
(c) **In-Person voting.**

The City supports WALGA's position of permitting voting through electronic means, postal voting or in-person. The City supports giving voters more convenient options to cast their vote.

Under the present system, voters who lose or fail to receive their posted voting pack are required to request a new voting paper. This requires additional staffing resources. Having alternative voting options available to voters would likely minimise the need to re-issue voting papers.

6. Method of Election of Mayor

The sector supports:

- (a) As per the current legislation with no change – Class 1 and 2 local governments directly elect the Mayor or President (election by electors method), with regulations preventing a change in this method.
- (b) **Return to previous legislated provisions – all classes of local governments can decide, by absolute majority, the method for electing their Mayor or President.**
- (c) Apply current provisions to all Bands of Local Governments – apply the election by electors method to all classes of local governments.

The City considers that individual local governments should be provided the flexibility to choose the method they consider appropriate.

The City's Mayor was Council chosen up until the 2023 elections. A review of all recent elections prior to this showed that the Council chosen Mayor (in election years during which they are a candidate) received the highest number of votes from the community for their seat as a Councillor.

STRATEGIC IMPLICATIONS

There are no strategic implications as a result of this proposal.

SOCIAL IMPLICATIONS

There are no social implications as a result of this proposal.

LEGAL/POLICY IMPLICATIONS

There are no direct legal or policy implications arising from the report until such time as further legislative changes (if any) occur as a result from such advocacy.

FINANCIAL/BUDGET IMPLICATIONS

There are no direct financial/budget implications arising from this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications have been identified as a result of this report or recommendation.

ENVIRONMENTAL/PUBLIC HEALTH IMPLICATIONS

There are no environmental or public health implications have been identified as a result of this report or recommendation.

COMMUNITY ENGAGEMENT

There may be implications for community engagement as a result of these changes. Appropriate community engagement will need to be undertaken to address any concerns that may arise.

ATTACHMENTS

- A. Attachment - Local Government Reform Proposal Submission (February-2022) [↓](#)
- B. Attachment - Advocacy Positions for a New Local Government Act(Final) [↓](#)

Local Government Reform Proposal Submission

Local Government Reform Proposal

Submission

February 2022

Local Government Reform Proposal Submission

About WALGA

The WA Local Government Association (WALGA) is working for Local Government in Western Australia. As the peak industry body, WALGA advocates on behalf of 139 Western Australian Local Governments. As the united voice of Local Government in Western Australia, WALGA is an independent, membership-based organization representing and supporting the work and interests of Local Governments in Western Australia. WALGA provides an essential voice for 1,215 Elected Members, approximately 22,000 Local Government employees (16,500 Full Time Equivalents) as well as over 2.5 million constituents of Local Governments in Western Australia.

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Local Government Reform Proposal Submission

Local Government Act Review Process

WALGA, through consultation with the Local Government Sector, endorsed sector advocacy positions relating to Local Government Act amendments in March 2019 and December 2020. These advocacy positions were developed considering (but not limited to):

- The Department of Local Government, Sport and Cultural Industries (DLGSC) consultation on Act Reform (2017-2020)
- The City of Perth Inquiry Report (mid 2020)
- The State Parliament's Select Committee Report into Local Government (late 2020)

In December 2020, WALGA endorsed the following principles for any review of the Local Government Act:

Local Government Reform – WALGA Principles

That the following key principles be embodied in the Local Government Act:

1. Uphold the general competence principle currently embodied in the Local Government Act
2. Provide for a flexible, principles-based legislative framework
3. Promote a size and scale compliance regime
4. Promote enabling legislation that empowers Local Government to carry out activities beneficial to its community taking into consideration Local Governments' role in creating a sustainable and resilient community through:
 - a. Economic development
 - b. Environmental protection, and
 - c. Social advancement
5. Avoid red tape and 'de-clutter' the extensive regulatory regime that underpins the Local Government Act, and
6. The State Government must not assign legislative responsibilities to Local Governments unless there is provision for resources required to fulfil the responsibilities.

It is worth noting that of the above principles, items 1, 2 and 3 are addressed in these legislative reform proposals and principles 4 and 5 are partially addressed.

Local Government Response

WALGA released the Local Government Reform Proposals – Summary of Proposed Reforms Discussion Paper on 24 November 2021, calling for a response by 28 January 2022.

This document is based on submissions made by 65 respondent Local Governments. The overall response indicates majority support for many of the proposed reforms, most commonly where reforms align with current sector advocacy positions.

Key Issues

The submissions included strong commentary on the following proposed reforms that are of concern:

Item 6.6 Audit Committees

The proposed reform to require a majority of independent members on Audit Committees, and mandate that the Audit Committee chair be an independent person, was strongly challenged. A fundamental purpose of an Audit Committee is to provide the vehicle for governance of a Local Government's affairs, and this links directly with the role of Council under Section 2.7(1)(a) of the *Local Government Act* ('the Act'). For this

Local Government Reform Proposal Submission

reason, the sector supports a Council Member majority on Audit Committees and acknowledges the role of the Office of the Auditor General as the independent auditor of Local Governments. The sector confirmed that appointing independent members to Audit Committees is supported and practiced, and that Audit Committees can elect an independent member as Chair under provisions of s.5.12 of the Act. The sector supports the concept of shared regional Audit Committees on proviso there be a majority of Council Members, and the payment of meetings fees or defined reimbursements to independent Audit Committee members be legislatively authorised.

Item 4.3 Introduction of Preferential Voting

The sector remains in favour of the first past the post method of vote counting. Risk of the infiltration of party politics, and that preference swapping leading to alliances amongst candidates has potential for factionalisation of Councils, were pre-eminent in the response. 'First past the post' voting remains favoured on the grounds of its simplicity, efficiency, ease of voter understanding, transparency and candidates campaigning based on the merits of the individual. However, if 'first past the post' is not retained, then optional preferential voting is preferred.

Item 4.4 Public Vote to Elect Mayor or President of Band 1 and 2 Local Governments

Retaining the discretion to choose between popularly-elected Mayors and Presidents of Band 1 and 2 Local Governments remains the favoured option. Respondents queried the lack of detailed benefit of the proposal to enshrine one system of election over another, commenting that the alternate method of election provided under s.2.11 and s.2.12 of the Act permits both a Local Government and electors of the district to exercise agency for change.

Item 4.5 Tiered Limits on the Number of Councillors

There is broad support for WALGA's proposed option that Local Governments with populations up to 5,000 be represented by between 5 and 7 Council Members. The remaining categories of representation are supported.

Item 3.5 Chief Executive Officer Key Performance Indicators

There is support for the reporting of CEO KPIs that reflect the strategic direction and operational function of the Local Government, to the exclusion of reporting KPIs of a confidential nature (i.e. workplace or risk-based matters). There is also support for the exclusion of reporting performance review results which is regarded as a private matter between employer and employee, to be maintained as a confidential record of the Local Government.

The following provides a detailed response to each legislative reform proposal.

Local Government Reform Proposal Submission

Theme 1: Early Intervention, Effective Regulation and Stronger Penalties

PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
<p>1.1 Early Intervention Powers</p>	
<ul style="list-style-type: none"> It is proposed to establish a Chief Inspector of Local Government (the Inspector), supported by an Office of the Local Government Inspector (the Inspectorate). The Inspector would receive minor and serious complaints about elected members. The Inspector would oversee complaints relating to local government CEOs. Local Governments would still be responsible for dealing with minor behavioural complaints. The Inspector would have powers of a standing inquiry, able to investigate and intervene in any local government where potential issues are identified. The Inspector would have the authority to assess, triage, refer, investigate, or close complaints, having regard to various public interest criteria – considering laws such as the <i>Corruption, Crime and Misconduct Act 2003</i>, the <i>Occupational Safety and Health Act 1984</i>, the <i>Building Act 2011</i>, and other legislation. The Inspector would have powers to implement minor penalties for less serious breaches of the Act, with an appeal mechanism. The Inspector would also have the power to order a local government to address non-compliance with the Act or Regulations. The Inspector would be supported by a panel of Local Government Monitors (see item 1.2). The existing Local Government Standards Panel would be replaced with a new Conduct Panel (see item 1.3). Penalties for breaches to the Local Government Act and Regulations will be reviewed and are proposed to be generally strengthened (see item 1.4). These reforms would be supported by new powers to more quickly resolve issues within local government (see items 1.5 and 1.6). 	<p>Current Local Government Position Items 1.1, 1.2 and 1.3 generally align with WALGA Advocacy Position 2.6.8 - ‘Establish Office of Independent Assessor’</p> <p><i>The Local Government sector supports:</i></p> <ol style="list-style-type: none"> <i>Establishing an Office of the Independent Assessor to replace the Standards Panel to provide an independent body to receive, investigate and assess complaints against Elected Members and undertake inquiries.</i> <i>Remove the CEO from being involved in processing complaints.</i> <i>That an early intervention framework of monitoring to support Local Governments be provided with any associated costs to be the responsibility of the State Government.</i> <i>An external oversight model for local level behavioural complaints made under Council Member, Committee Member and Candidate Codes of Conduct, that is closely aligned to the Victorian Councillor Complaints Framework.</i> <p>Comment The Local Government sector is in favour of early intervention and a swift response to potentially disruptive or dysfunctional behaviours. The Proposed Reforms state ‘Local Governments would still be responsible for dealing with minor behavioural complaints’ and therefore do not go as far as the Sector’s recent request for an external oversight model for the independent assessment of local level complaints (State Council Res: 264.5/2021 – September 2021). However this will be mitigated with the Inspector able to respond to a Local Government having unresolved matters by appointing a monitor to assist the Local Government.</p> <p>It is expected the Local Government Inspectorate would be funded by the State Government, however it is noted that the cost of the Local Government Monitors and the Conduct Panel would be borne by the Local Government concerned.</p>

Local Government Reform Proposal Submission

PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
	<p><u>Recommendation – Items 1.1 to 1.3</u> 1. Support the proposed reforms as they align with the sectors position on external oversight and support. 2. Request the Minister to explore alternate mechanisms for resolving local level complaints.</p>
<p>1.2 Local Government Monitors</p>	
<ul style="list-style-type: none"> • A panel of Local Government Monitors would be established. • Monitors could be appointed by the Inspector to go into a local government and try to resolve problems. • The purpose of Monitors would be to proactively fix problems, rather than to identify blame or collect evidence. • Monitors would be qualified specialists, such as: <ul style="list-style-type: none"> ○ Experienced and respected former Mayors, Presidents, and CEOs - to act as mentors and facilitators ○ Dispute resolution experts - to address the breakdown of professional working relationships ○ Certified Practising Accountants and other financial specialists - to assist with financial management and reporting issues ○ Governance specialists and lawyers - to assist councils resolve legal issues ○ HR and procurement experts - to help with processes like recruiting a CEO or undertaking a major land transaction. • Only the Inspector would have the power to appoint Monitors. • Local governments would be able to make requests to the Inspector to appoint Monitors for a specific purpose. <p>Monitor Case Study 1 – Financial Management The Inspector receives information that a local government is not collecting rates correctly under the <i>Local Government Act 1995</i>. Upon initial review, the Inspector identifies that there may be a problem. The Inspector appoints a Monitor who specialises in financial management in local government. The Monitor visits the local government and identifies that the system used to manage rates is not correctly issuing rates notices. The Monitor works with</p>	<p>As above</p> <p><u>Recommendation – Items 1.1 to 1.3</u> 1. Support the proposed reforms as they align with the sectors position on external oversight and support. 2. Request the Minister to explore alternate mechanisms for resolving local level complaints.</p>

Local Government Reform Proposal Submission

PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
<p>the local government to rectify the error, and issue corrections to impacted ratepayers.</p> <p>Monitor Case Study 2 – Dispute Resolution The Inspector receives a complaint from one councillor that another councillor is repeatedly publishing derogatory personal attacks against another councillor on social media, and that the issue has not been able to be resolved at the local government level. The Inspector identifies that there has been a relationship breakdown between the two councillors due to a disagreement on council.</p> <p>The Inspector appoints a Monitor to host mediation sessions between the councillors. The Monitor works with the councillors to address the dispute. Through regular meetings, the councillors agree to a working relationship based on the council’s code of conduct. After the mediation, the Monitor occasionally makes contact with both councillors to ensure there is a cordial working relationship between the councillors.</p>	
<p>1.3 Conduct Panel</p>	
<ul style="list-style-type: none"> • The Standards Panel is proposed to be replaced with a new Local Government Conduct Panel. • The Conduct Panel would be comprised of suitably qualified and experienced professionals. Sitting councillors will not be eligible to serve on the Conduct Panel. • The Inspector would provide evidence to the Conduct Panel for adjudication. • The Conduct Panel would have powers to impose stronger penalties – potentially including being able to suspend councillors for up to three months, with an appeal mechanism. • For very serious or repeated breaches of the Local Government Act, the Conduct Panel would have the power to recommend prosecution through the courts. • Any person who is subject to a complaint before the Conduct Panel would have the right to address the Conduct Panel before the Panel makes a decision. 	<p>As above</p> <p><u>Recommendation – Items 1.1 to 1.3</u></p> <ol style="list-style-type: none"> 1. Support the proposed reforms as they align with the sectors position on external oversight and support. 2. Request the Minister to explore alternate mechanisms for resolving local level complaints.

Local Government Reform Proposal Submission

PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
<p>1.4 Review of Penalties</p>	
<ul style="list-style-type: none"> Penalties for breaching the Local Government Act are proposed to be strengthened. It is proposed that the suspension of councillors (for up to three months) is established as the main penalty where a councillor breaches the Local Government Act or Regulations on more than one occasion. Councillors who are disqualified would not be eligible for sitting fees or allowances. They will also not be able to attend meetings, or use their official office (such as their title or council email address). It is proposed that a councillor who is suspended multiple times may become disqualified from office. Councillors who do not complete mandatory training within a certain timeframe will also not be able to receive sitting fees or allowances. 	<p>Current Local Government Position Items 1.4 and 1.5 <u>expand upon</u> Advocacy Position 2.6.9 - 'Stand Down Proposal'</p> <p><i>WALGA supports, in principle, a proposal for an individual elected member to be 'stood down' from their duties when they are under investigation, have been charged, or when their continued presence prevents Council from properly discharging its functions or affects the Council's reputation, subject to further policy development work being undertaken. Further policy development of the Stand Down Provisions must involve active consultation with WALGA and specific consideration of the following issues of concern to the Sector:</i></p> <ol style="list-style-type: none"> <i>That the Department of Local Government endeavour to ensure established principles of natural justice and procedural fairness are embodied in all aspects of the proposed Stand Down Provisions; and</i> <i>That activities associated with the term 'disruptive behaviour', presented as reason to stand down a defined Elected Member on the basis their continued presence may make a Council unworkable, are thoroughly examined and clearly identified to ensure there is awareness, consistency and opportunity for avoidance.</i> <p>Comment The Local Government sector has long-standing advocacy positions supporting stronger penalties as a deterrent to disruptive Council Member behaviours. Clear guidance will be required to ensure there is consistent application of the power given to Presiding Members.</p> <p>Recommendation - Item 1.4 Supported</p>
<p>1.5 Rapid Red Card Resolutions</p>	
<ul style="list-style-type: none"> It is proposed that Standing Orders are made consistent across Western Australia (see item 2.6). Published recordings of all meetings would also become standard (item 3.1). 	

Local Government Reform Proposal Submission

PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
<ul style="list-style-type: none"> • It is proposed that Presiding Members have the power to “red card” any attendee (including councillors) who unreasonably and repeatedly interrupt council meetings. This power would: <ul style="list-style-type: none"> ○ Require the Presiding Member to issue a clear first warning ○ If the disruptions continue, the Presiding Member will have the power to “red card” that person, who must be silent for the rest of the meeting. A councillor issued with a red card will still vote, but must not speak or move motions ○ If the person continues to be disruptive, the Presiding Member can instruct that they leave the meeting. • Any Presiding Member who uses the “red card” or ejection power will be required to notify the Inspector. • Where an elected member refuses to comply with an instruction to be silent or leave, or where it can be demonstrated that the presiding member has not followed the law in using these powers, penalties can be imposed through a review by the Inspector. 	<p><u>Recommendation - Item 1.5</u> Supported subject to a provision permitting council members to call a point of order to overrule the presiding member by absolute majority.</p>
<p>1.6 Vexatious Complaint Referrals</p>	
<ul style="list-style-type: none"> • Local governments already have a general responsibility to provide ratepayers and members of the public with assistance in responding to queries about the local government’s operations. Local governments should resolve queries and complaints in a respectful, transparent and equitable manner. • Unfortunately, local government resources can become unreasonably diverted when a person makes repeated vexatious queries, especially after a local government has already provided a substantial response to the person’s query. • It is proposed that if a person makes repeated complaints to a local government CEO that are vexatious, the CEO will have the power to refer that person’s complaints to the Inspectorate, which after assessment of the facts may then rule the complaint vexatious. 	<p><u>Current Local Government Position</u> Item 1.6 <u>expands upon</u> Advocacy Position 2.6.11 – ‘Vexatious complainants in relation to FOI applications’ <i>WALGA advocates for the Freedom of Information Act 1992 (WA) to be reviewed, including consideration of:</i></p> <ol style="list-style-type: none"> 1. <i>Enabling the Information Commissioner to declare vexatious applicants similar to the provisions of section 114 of the Right to Information Act 2009 (QLD);</i> 2. <i>Enabling an agency to recover reasonable costs incurred through the processing of a Freedom of Information access application where the application is subsequently withdrawn; and</i> 3. <i>Modernisation to address the use of electronic communications and information.</i> <p>Comment The Act has been expanded significantly in recent years to permit an increased level of public involvement, scrutiny and access to information</p>

Local Government Reform Proposal Submission

PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
	<p>relating to the decisions, operations and affairs of Local Government in WA. Introducing a means to limit capacity for unreasonable complainants to negatively impact Local Governments will provide a necessary balance between the openness and transparency of the sector and the reasonable entitlement of citizens to interact with their Local Government.</p> <p><u>Recommendation – Item 1.6</u> Supported, subject to the legislation including the ability of a person to lodge an appeal with the Inspector.</p>
<p>1.7 Minor Other Reforms</p>	
<ul style="list-style-type: none"> • Potential other reforms to strengthen guidance for local governments are being considered. • For example, one option being considered is the potential use of sector-wide guidance notices. Guidance notices could be published by the Minister or Inspector, to give specific direction for how local governments should meet the requirements of the Local Government Act and Regulations. For instance, the Minister could publish guidance notices to clarify the process for how potential conflicts of interests should be managed. • It is also proposed (see item 1.1) that the Inspector has the power to issue notices to individual local governments to require them to rectify non-compliance with the Act or Regulations. 	<p><u>Current Local Government Position</u> Item 1.7 aligns with Advocacy Position 2.6 - ‘Support DLGSC as service provider / capacity builder’</p> <p><i>WALGA supports the continuance of the Department of Local Government, Sport and Cultural Industries as a direct service provider of compliance and recommend the Department fund its capacity building role through the utilisation of third party service providers. In addition, WALGA calls on the State Government to ensure there is proper resourcing of the Department of Local Government, Sport and Cultural Industries to conduct timely inquiries and interventions when instigated under the provisions of the Local Government Act 1995.</i></p> <p>Comment Operational guidance from the Department of Local Government, Sport and Cultural Industries leads to consistent understanding and application of statutory provisions by Local Government. The proposed reform that the Inspector issue non-compliance notices appears to replicate the Minister’s powers under Section 9.14A – ‘Notice to prevent continuing contravention’.</p> <p><u>Recommendation – Item 1.7</u> Supported</p>

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Theme 2: Reducing Red Tape, Increasing Consistency and Simplicity

PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
2.1 Resource Sharing	
<ul style="list-style-type: none"> Amendments are proposed to encourage and enable local governments, especially smaller regional local governments, to share resources, including Chief Executive Officers and senior employees. Local governments in bands 2, 3 or 4 would be able to appoint a shared CEO at up to two salary bands above the highest band. For example, a band 3 and a band 4 council sharing a CEO could remunerate to the level of band 1. 	<p><u>Current Local Government Position</u> Item 2.1 aligns with Advocacy Position 2.6 – Local Government Legislation – ‘Avoid red tape and ‘de-clutter’ the extensive regulatory regime that underpins the Local Government Act’ and Advocacy Position 2.3.1 - ‘Regional Collaboration’.</p> <p><i>Local Governments should be empowered to form single and joint subsidiaries, and beneficial enterprises. In addition, compliance requirements of Regional Councils should be reviewed and reduced.</i></p> <p>Comment The proposed reforms will rely upon statutory provisions that enable and enhance regional collaboration. Recent over-regulation of Regional Subsidiaries in 2016 resulted in no subsidiaries being formed since that time.</p> <p><u>Recommendation – Item 2.1</u> Supported</p>
2.2 Standardisation of Crossovers	
<ul style="list-style-type: none"> It is proposed to amend the <i>Local Government (Uniform Local Provisions) Regulations 1996</i> to standardise the process for approving crossovers for residential properties and residential developments on local roads. A Crossover Working Group has provided preliminary advice to the Minister and DLGSC to inform this. The DLGSC will work with the sector to develop standardised design and construction standards. 	<p><u>Current Local Government Position</u></p> <p>Comment WALGA developed the Template Crossover Guideline and Specification resource in 2017 and have been part of the Minister’s working group on red tape reduction that has been looking at standardisation of crossovers.</p> <p>It is envisaged that the process for crossovers will be standardised, however the design standards would be different dependant on location.</p> <p><u>Recommendation – Item 2.2</u> Supported</p>

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PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
<p>2.3 Introduce Innovation Provisions</p>	
<ul style="list-style-type: none"> • New provisions are proposed to allow exemptions from certain requirements of the <i>Local Government Act 1995</i>, for: <ul style="list-style-type: none"> ○ Short-term trials and pilot projects ○ Urgent responses to emergencies. 	<p>Comment It is arguable communities expect all levels of Government will apply innovative solutions to complex and emerging issues difficult to resolve by traditional means. Exemptions constructed with appropriate checks and balances, particularly where expenditure of public funds are concerned, has potential to facilitate efficient and effective outcomes.</p> <p>Recommendation – Item 2.3 Supported</p>
<p>2.4 Streamline Local Laws</p>	
<ul style="list-style-type: none"> • It is proposed that local laws would only need to be reviewed by the local government every 15 years. • Local laws not reviewed in the timeframe would lapse, meaning that old laws will be automatically removed and no longer applicable. • Local governments adopting Model Local Laws will have reduced advertising requirements. 	<p>Current Local Government Position Items 2.4, 2.5 and 2.6 <u>expand upon</u> Advocacy Position 2.6.35 - ‘Local law-making process should be simplified’.</p> <p><i>The Local Law making process should be simplified as follows:</i></p> <ul style="list-style-type: none"> • <i>The requirement to give state-wide notice should be reviewed, with consideration given to Local Governments only being required to provide local public notice;</i> • <i>Eliminate the requirement to consult on local laws when a model is used;</i> • <i>Consider deleting the requirement to review local laws periodically. Local Governments, by administering local laws, will determine when it is necessary to amend or revoke a local law; and</i> • <i>Introduce certification of local laws by a legal practitioner in place of scrutiny by Parliament’s Delegated Legislation Committee.</i> <p>Comment Proposed reforms meet the Sector’s preference for simplified local law-making processes. Model local laws are supported, whilst recognising the models themselves will require review by State Government departments with the relevant administrative responsibility. For example, the Model Local Law (Standing Orders) 1998 formed the basis of many Local Government meeting procedures local law but no review was completed. This model was</p>

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PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
	<p>superseded by individual local laws with added contemporary provisions. This pattern will repeat itself if model local laws are not reviewed to remain contemporary to the Sector's requirements.</p> <p><u>Recommendation – Items 2.4 to 2.6</u> Supported</p>
<p>2.5 Simplifying Approvals for Small Business and Community Events</p>	
<ul style="list-style-type: none"> • Proposed reforms would introduce greater consistency for approvals for: <ul style="list-style-type: none"> ○ alfresco and outdoor dining ○ minor small business signage rules ○ running community events. 	<p>As above</p> <p><u>Recommendation – Items 2.4 to 2.6</u> Supported</p>
<p>2.6 Standardised Meeting Procedures, Including Public Question Time</p>	
<ul style="list-style-type: none"> • To provide greater clarity for ratepayers and applicants for decisions made by council, it is proposed that the meeting procedures and standing orders for all local government meetings, including for public question time, are standardised across the State. • Regulations would introduce standard requirements for public question time, and the procedures for meetings generally. • Members of the public across all local governments would have the same opportunities to address council and ask questions. 	<p>As above</p> <p><u>Recommendation – Items 2.4 to 2.6</u> Supported</p>
<p>2.7 Regional Subsidiaries</p>	
<ul style="list-style-type: none"> • Work is continuing to consider how Regional Subsidiaries can be best established to: <ul style="list-style-type: none"> ○ Enable Regional Subsidiaries to provide a clear and defined public benefit for people within member local governments ○ Provide for flexibility and innovation while ensuring appropriate transparency and accountability of ratepayer funds ○ Where appropriate, facilitate financing of initiatives by Regional Subsidiaries within a reasonable and defined limit of risk 	<p><u>Current Local Government Position</u> Item 2.7 aligns with Advocacy Position 2.3.1 - 'Regional Collaboration': <i>Local Governments should be empowered to form single and joint subsidiaries, and beneficial enterprises. In addition, compliance requirements of Regional Councils should be reviewed and reduced.</i></p> <p>Comment Under the Regional Subsidiary model, two or more Local Governments can</p>

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PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
<ul style="list-style-type: none"> ○ Ensure all employees of a Regional Subsidiary have the same employment conditions as those directly employed by member local governments. 	<p>establish a regional subsidiary to undertake a shared service function on behalf of its member Local Governments. The model provides increased flexibility when compared to the Regional Local Government model because regional subsidiaries are primarily governed and regulated by a charter rather than legislation. While the regional subsidiary model’s governance structure is primarily representative, it allows independent and commercially focussed directors to be appointed to the board of management.</p> <p>A key advantage of the regional subsidiary model is the use of a charter, as opposed to legislation, as the primary governance and regulatory instrument. Accordingly, the legislative provisions governing the establishment of regional subsidiaries should be light, leaving most of the regulation to the regional subsidiary charter, which can be adapted to suit the specific circumstances of each regional subsidiary.</p> <p><u>Recommendation – Item 2.7</u> Supported subject to the use of a charter as the primary governance and regulatory instrument.</p>

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Theme 3: Greater Transparency & Accountability

PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
<p>3.1 Recordings and Live-Streaming of All Council Meetings</p>	
<ul style="list-style-type: none"> It is proposed that all local governments will be required to record meetings. Band 1 and 2 local governments would be required to livestream meetings, and make video recordings available as public archives. Band 1 and 2 are larger local governments are generally located in larger urban areas, with generally very good telecommunications infrastructure, and many already have audio-visual equipment. Band 1 and 2 local governments would be required to livestream meetings, and make video recordings available as public archives. Several local governments already use platforms such as YouTube, Microsoft Teams, and Vimeo to stream and publish meeting recordings. Limited exceptions would be made for meetings held outside the ordinary council chambers, where audio recordings may be used. Recognising their generally smaller scale, typically smaller operating budget, and potential to be in more remote locations, band 3 and 4 local governments would be required to record and publish audio recordings, at a minimum. These local governments would still be encouraged to livestream or video record meetings. All council meeting recordings would need to be published at the same time as the meeting minutes. Recordings of all confidential items would also need to be submitted to the DLGSC for archiving. 	<p>Current Local Government Position Item 3.1 expands upon Advocacy Position 2.6 – ‘Promote a size and scale compliance regime’ and Advocacy Position 2.6.31 - ‘Attendance at Council Meetings by Technology’</p> <p><i>A review of the ability of Elected Members to log into Council meetings should be undertaken.</i></p> <p>Comment Local Governments introducing electronic meeting procedures and the means for remote public attendance in response to the COVID-19 pandemic led to a swift uptake of streaming Council meetings. The proposed reform that Band 1 and 2 Local Governments will be required to livestream meetings may be problematic where technical capability such as reliable bandwidth impacts the district.</p> <p>The sector does not support the requirement to submit recordings of confidential items to the Department. Confidential items may include legal advice which is subject to legal privilege. Such privilege is at risk of being lost by the dissemination of the advice.</p> <p>Recommendation – Item 3.1</p> <ol style="list-style-type: none"> Support live streaming the ordinary and special council meetings of Band 1 and 2 Local Governments and audio recording the ordinary and special council meetings of Band 3 and 4 Local Governments. Do not support archiving the recordings of confidential matters by the Department of Local Government, Sport and Cultural Industries.

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PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
<p>3.2 Recording All Votes in Council Minutes</p>	
<ul style="list-style-type: none"> To support the transparency of decision-making by councillors, it is proposed that the individual votes cast by all councillors for all council resolutions would be required to be published in the council minutes, and identify those for, against, on leave, absent or who left the chamber. Regulations would prescribe how votes are to be consistently minuted. 	<p>Comment There is an evolving common practice that Council Minutes record the vote of each Council Member present at a meeting.</p> <p>Recommendation – Item 3.2 Supported</p>
<p>3.3 Clearer Guidance for Meeting Items that may be Confidential</p>	
<ul style="list-style-type: none"> Recognising the importance of open and transparent decision-making, it is considered that confidential meetings and confidential meeting items should only be used in limited, specific circumstances. It is proposed to make the Act more specific in prescribing items that may be confidential, and items that should remain open to the public. Items not prescribed as being confidential could still be held as confidential items only with the prior written consent of the Inspector. All confidential items would be required to be audio recorded, with those recordings submitted to the DLGSC (see Item 3.1). 	<p>Comment Clarifying the provisions of the Act has broad support within the sector. New reforms requiring Local Governments to video or audio record Council meetings (Item 3.1) will add to the formal record of proceedings that includes written Minutes. While being supported, the requirement to provide audio recordings of confidential matters to the DLGSC is queried on the basis that written and audio records can be readily accessed from a Local Government if required.</p> <p>The sector has concerns with submitting confidential items to the DLGSC is supported.</p> <p>Recommendation – Item 3.3 Supported, subject to deleting the requirement to provide confidential items to the DLGSC.</p>
<p>3.4 Additional Online Registers</p>	
<ul style="list-style-type: none"> It is proposed to require local governments to report specific information in online registers on the local government’s website. Regulations would prescribe the information to be included. The following new registers, each updated quarterly, are proposed: <ul style="list-style-type: none"> Lease Register to capture information about the leases the local government is party to (either as lessor or lessee) Community Grants Register to outline all grants and funding 	<p>Comment This proposal follows recent Act amendments that ensure a range of information is published on Local Government websites. WALGA has sought clarity that the contracts register excludes contracts of employment.</p> <p>Recommendation – Item 3.4 Supported</p>

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PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
<ul style="list-style-type: none"> ○ provided by the local government ○ Interests Disclosure Register which collates all disclosures made by elected members about their interests related to matters considered by council ○ Applicant Contribution Register accounting for funds collected from applicant contributions, such as cash-in-lieu for public open space and car parking ○ Contracts Register that discloses all contracts above \$100,000. 	
3.5 Chief Executive Officer Key Performance Indicators (KPIs) be Published	
<ul style="list-style-type: none"> • To provide for minimum transparency, it is proposed to mandate that the KPIs agreed as performance metrics for CEOs: <ul style="list-style-type: none"> ○ Be published in council meeting minutes as soon as they are agreed prior to (before the start of the annual period) ○ The KPIs and the results be published in the minutes of the performance review meeting (at the end of the period) ○ The CEO has a right to provide written comments to be published alongside the KPIs and results to provide context as may be appropriate (for instance, the impact of events in that year that may have influenced the results against KPIs). 	<p>Comment</p> <p>In principle, this proposal has some merit and would be particularly effective if all CEO KPIs consistently reflect Strategic Community Plans and Corporate Business Plans of Local Governments, together with KPIs reflective of the CEO’s statutory functions under Section 5.41 of the Act. This approach would inform the community of the CEO’s performance related to the strategic direction and operational function of the Local Government.</p> <p>In practice, the drafting of statutory provisions will require sensitive consideration of certain KPIs i.e. those relating to issues affecting the workplace or identified risk-based concerns, to reflect the way Audit Committees currently deal with some internal control, risk and legislative compliance issues confidentially. This approach will protect the interests of Local Governments and other parties associated with such KPIs. It would be prudent for exemptions to be provided, based on matters of confidentiality. The proposed reforms and recent Act amendments signal a clear intent to permit closer community involvement and scrutiny of Local Government. However, negative consequences are likely if Local Government Council’s responsibility as the employing authority of the CEO became blurred due to perceived community entitlement to comment, question and influence KPIs and the performance review process. Additionally, the publication of CEO KPI’s will elevate this employment position to a high degree of public scrutiny seldom evident in the public or private sector, if at all. It is worth investigating whether the proposed reforms considered whether this factor could impact on the recruitment of</p>

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PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
	<p>CEO's, particularly from outside the Local Government sector. The results of performance reviews should be confidential information between the employer and employee and should not be published and should remain within the confidential human resource records of the organisation.</p> <p><u>Recommendation – Item 3.5</u></p> <ol style="list-style-type: none"> 1. Conditionally support the reporting of CEO KPIs that are consistent with the strategic direction and operational function of the Local Government, subject to exemptions for publishing KPI's of a confidential nature; 2. Do not support the results of performance reviews being published.

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Theme 4: Stronger Local Democracy and Community Engagement

PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
4.1 Community and Stakeholder Engagement Charters	
<ul style="list-style-type: none"> It is proposed to introduce a requirement for local governments to prepare a community and stakeholder engagement charter which sets out how local government will communicate processes and decisions with their community. A model Charter would be published to assist local governments who wish to adopt a standard form. 	<p>Current Local Government Position Items 4.1 and 4.2 generally align with Advocacy Position 2.6.34 - ‘Support responsive, aspirational and innovative community engagement principles’</p> <p><i>The Local Government sector supports:</i></p> <ol style="list-style-type: none"> Responsive, aspirational and innovative community engagement principles Encapsulation of aims and principles in a community engagement policy, and The option of hosting an Annual Community Meeting to present on past performance and outline future prospects and plans. <p>Comment As indicated in Item 4.1 commentary, many Local Governments have already developed stakeholder engagement charters, or similar engagement strategies, that reflect their unique communities of interest. The development of guidance by the DLGSC, based on standards such as the International Standard for Public Participation practice, is supported in favour of taking a prescriptive approach or conducting a survey for the sake of a survey. Item 4.2 has potential to provide benchmarking of community satisfaction levels across Band 1 and 2 Local Governments.</p> <p>Recommendation – Item 4.1 Supported</p>
4.2 Ratepayer Satisfaction Surveys (Band 1 and 2 local governments only)	
<ul style="list-style-type: none"> It is proposed to introduce a requirement that every four years, all local governments in bands 1 and 2 hold an independently-managed ratepayer satisfaction survey. Results would be required to be reported publicly at a council meeting 	<p>Recommendation – Item 4.2 Support the conduct of community, rather than ratepayer, satisfaction surveys.</p>

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PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
<p>and published on the local government’s website.</p> <ul style="list-style-type: none"> All local governments would be required to publish a response to the results. 	
4.3 Introduction of Preferential Voting	
<ul style="list-style-type: none"> Preferential voting is proposed be adopted as the method to replace the current first past the post system in local government elections. In preferential voting, voters number candidates in order of their preferences. Preferential voting is used in State and Federal elections in Western Australia (and in other states). This provides voters with more choice and control over who they elect. All other states use a form of preferential voting for local government. 	<p>Current Local Government Position Item 4.3 <u>does not align</u> with Advocacy Position 2.5.1 – ‘First Past the Post voting system’</p> <p><i>The Local Government sector supports:</i></p> <ol style="list-style-type: none"> Four year terms with a two year spill Greater participation in Local Government elections The option to hold elections through: <ul style="list-style-type: none"> Online voting Postal voting, and In-person voting Voting at Local Government elections to be voluntary The first past the post method of counting votes <p>Comment It should be noted that the sector’s advocacy against compulsory voting and ‘All in, All out’ 4 year terms has been successful and these items are not included in the reform proposals.</p> <p>The introduction of preferential voting will be a return to the system of voting prior to the <i>Local Government Act 1995</i>. The Local Government Advisory Board reported on voting systems in 2006 (<i>‘Local Government Structural Reform in Western Australia: Ensuring the Future Sustainability of Communities’</i>) and provided the following comments in support of both first past the post voting and preferential voting: ‘Comments in support of retaining first past the post include:</p> <ul style="list-style-type: none"> Quick to count. Preferential voting is time consuming to count. Easily understood. Removes politics out of campaigning. Preferential will encourage

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PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
	<p><i>alliances formed for the distribution of preferences and party politics into local government.</i></p> <ul style="list-style-type: none"> • <i>Preferential voting allows election rigging through alliances or ‘dummy’ candidates.</i> • <i>In a preferential system, the person that receives the highest number of first preference votes does not necessarily get elected.’</i> <p><i>‘Comments in support of replacing first past the post include:</i></p> <ul style="list-style-type: none"> • <i>Preferential voting is more democratic and removes an area of confusion.</i> • <i>Preferential voting ensures that the most popular candidates are elected who best reflect the will of the voters.</i> • <i>Preferential system should be introduced. In FPP elections, candidates work together to get votes for each other. Preferential would make it more difficult for this practice to take place.</i> • <i>FPP does not adequately reflect the wishes of electors when there are three candidates or more.</i> • <i>FPP is unsuitable when there is more than one vacancy.</i> • <i>Allows for a greater representation from a range of interest groups and prevents domination of elections by mainstream party politics.’</i> <p>The Sector supports first past the post voting for its simplicity and fundamental apolitical nature, therefore the proposed reforms are not supported.</p> <p>A number of Local Governments raised the need for a fall back position if this proposal is progressed by the State Government. Optional Preferential voting was considered as the better preferential voting system according to the feedback.</p> <p><u>Recommendation – Item 4.3</u></p> <ol style="list-style-type: none"> 1. Oppose the proposal for preferential voting and support first past the post method of counting votes. 2. However, if ‘first past the post’ is not retained then optional preferential voting is preferred.

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PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
<p>4.4 Public Vote to Elect the Mayor and President</p>	
<ul style="list-style-type: none"> • Mayors and Presidents of all local governments perform an important public leadership role within their local communities. • Band 1 and 2 local governments generally have larger councils than those in bands 3 and 4. • Accordingly, it is proposed that the Mayor or President for all band 1 and 2 councils is to be elected through a vote of the electors of the district. Councils in bands 3 and 4 would retain the current system. • A number of Band 1 and Band 2 councils have already moved towards Public Vote to Elect the Mayor and President in recent years, including City of Stirling and City of Rockingham. 	<p>Current Local Government Position Item 4.4 does not align with Advocacy Position 2.5.2 - 'Election of Mayors and Presidents be at the discretion of Local Government.' <i>Local Governments should determine whether their Mayor or President will be elected by the Council or elected by the community.</i></p> <p>Comment There are 43 Band 1 and 2 Local Governments with 22 popularly electing the Mayor or President: Band 1 - 15 Band 2 - 7</p> <p>The remaining 21 Local Governments have a Council-elected Mayor or President. The sector does not support a requirement for the role of Mayor or President to be determined by electors. The sector considers that its current system of having the Mayor elected directly by Council assists in ensuring the Mayor/President has the support of the majority of Council. Further, it assists in avoiding party politics.</p> <p>Recommendation – Item 4.4 Oppose this proposal and support retaining the current provision, that the election of Mayors and Presidents be at the discretion of each Local Government.</p>
<p>4.5 Tiered Limits on the Number of Councillors</p>	
<ul style="list-style-type: none"> • It is proposed to limit the number of councillors based on the population of the entire local government. • Some smaller local governments have already been moving to having smaller councils to reduce costs for ratepayers. • The Local Government Panel Report proposed: <ul style="list-style-type: none"> ○ For a population of up to 5,000 – five councillors (including the President) 	<p>Current Local Government Position Item 4.5 does not align with Advocacy Position 2.5.1 – '<i>Councils consist of between six and 15 (including the Mayor/President)</i>' <i>Local Governments being enabled to determine the number of Elected Members required on the Council between six and 15 (including the Mayor/President)</i></p>

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PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
<ul style="list-style-type: none"> o population of between 5,000 and 75,000 – five to nine councillors (including the Mayor/President) o population of above 75,000 – nine to fifteen councillors (including Mayor). 	<p>Comment The proposed reform to restrict Local Governments with populations under 5,000 to 5 Council Members does not reflect the varied communities of interest within this grouping. Some Local Governments are essentially regional centres such as the Shires of Katanning (9), Dandaragan (9), Merredin (9), Moora (9) and Northampton (9) (current Councillor numbers bracketed). Local Governments such as the Shire of Ngaanyatjarraku (9) manage substantial land areas, manage isolated communities such as the Shire of Meekatharra (7) and culturally diverse communities such as the Shire of Christmas Island (9). Some Local Governments with populations up to 5,000 warrant a greater number of Councillors to effectively share the representative role that Council Members play within their communities. The additional proposed reforms in population categories over 5,000 generally reflect the current Councillor numbers.</p> <p><u>Recommendation – Item 4.5</u> Recommend 5 to 7 Council Members for populations up to 5,000 and support the remaining proposed reforms.</p>
4.6 No Wards for Small Councils (Band 3 and 4 Councils only)	
<ul style="list-style-type: none"> • It is proposed that the use of wards for councils in bands 3 and 4 is abolished. • Wards increase the complexity of elections, as this requires multiple versions of ballot papers to be prepared for a local government’s election. • In smaller local governments, the population of wards can be very small. • These wards often have councillors elected unopposed, or elect a councillor with a very small number of votes. Some local governments have ward councillors elected with less than 50 votes. • There has been a trend in smaller local governments looking to reduce the use of wards, with only 10 councils in bands 3 and 4 still having wards. 	<p>Comment The proposed reform to discontinue wards in Band 3 and 4 Local Governments brings alignment with the majority and provides that affected Local Governments will no longer have to conduct 8 year ward reviews or make representation to the Local Government Advisory Board to revert to a no wards system. Remaining proposed reforms will improve and clarify election processes.</p> <p><u>Recommendation – Items 4.6 to 4.9</u> Supported</p>

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PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
<p>4.7 Electoral Reform – Clear Lease Requirements for Candidate and Voter Eligibility</p>	
<ul style="list-style-type: none"> • Reforms are proposed to prevent the use of “sham leases” in council elections. Sham leases are where a person creates a lease only to be able to vote or run as a candidate for council. • The City of Perth Inquiry Report identified sham leases as an issue. • Electoral rules are proposed to be strengthened: <ul style="list-style-type: none"> ○ A minimum lease period of 12 months will be required for anyone to register a person to vote or run for council. ○ Home based businesses will not be eligible to register a person to vote or run for council, because any residents are already the eligible voter(s) for that address. ○ Clarifying the minimum criteria for leases eligible to register a person to vote or run for council. • The reforms would include minimum lease periods to qualify as a registered business (minimum of 12 months), and the exclusion of home based businesses (where the resident is already eligible) and very small sub-leases. • The basis of eligibility for each candidate (e.g. type of property and suburb of property) is proposed to be published, including in the candidate pack for electors. 	<p>As above</p> <p><u>Recommendation – Items 4.6 to 4.9</u> Supported</p>
<p>4.8 Reform of Candidate Profiles</p>	
<ul style="list-style-type: none"> • Further work will be undertaken to evaluate how longer candidate profiles could be accommodated. • Longer candidate profiles would provide more information to electors, potentially through publishing profiles online. • It is important to have sufficient information available to assist electors make informed decisions when casting their vote. 	<p>As above</p> <p><u>Recommendation – Items 4.6 to 4.9</u> Supported</p>

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PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
4.9 Minor Other Electoral Reforms	
<ul style="list-style-type: none"> • Minor other electoral reforms are proposed to include: <ul style="list-style-type: none"> ○ The introduction of standard processes for vote re-counts if there is a very small margin between candidates (e.g. where there is a margin of less than 10 votes a recount will always be required) ○ The introduction of more specific rules concerning local government council candidates' use of electoral rolls. 	<p>As above</p> <p><u>Recommendation – Items 4.6 to 4.9</u> Supported</p>

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Theme 5: Clear Roles and Responsibilities

PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
<p>5.1 Introduce Principles in the Act</p>	
<ul style="list-style-type: none"> • It is proposed to include new principles in the Act, including: <ul style="list-style-type: none"> ○ The recognition of Aboriginal Western Australians ○ Tiering of local governments (with bands being as assigned by the Salaries and Allowances Tribunal) ○ Community Engagement ○ Financial Management. 	<p><u>Current Local Government Position</u> Item 5.1 generally aligns with Advocacy Position 2.6 - Legislative Intent <i>Provide flexible, principles-based legislative framework.</i></p> <p><u>Recommendation – Item 5.1</u> Supported</p>
<p>5.2 Greater Role Clarity</p>	
<ul style="list-style-type: none"> • The Local Government Act Review Panel recommended that roles and responsibilities of elected members and senior staff be better defined in law. • It is proposed that these roles and responsibilities are further defined in the legislation. • These proposed roles will be open to further consultation and input. These roles would be further strengthened through Council Communications Agreements (see item 5.3). <p>5.2.1 - Mayor or President Role</p> <ul style="list-style-type: none"> • It is proposed to amend the Act to specify the roles and responsibilities of the Mayor or President. • While input and consultation will inform precise wording, it is proposed that the Act is amended to generally outline that the Mayor or President is responsible for: <ul style="list-style-type: none"> ○ Representing and speaking on behalf of the whole council and the local government, at all times being consistent with the resolutions of council ○ Facilitating the democratic decision-making of council by presiding at council meetings in accordance with the Act ○ Developing and maintaining professional working relationships between councillors and the CEO ○ Performing civic and ceremonial duties on behalf of the local 	<p><u>Current Local Government Position</u> Item 5.2 aligns with Advocacy Position 2.6.36 - ‘Roles and Responsibilities’</p> <p><i>That clarification of roles and responsibilities for Mayors/ Presidents, Councillors and CEOs be reviewed to ensure that there is no ambiguity.</i></p> <p><u>Recommendation – Item 5.2</u> Supported</p> <p><u>Recommendation – Item 5.2.1</u> Supported</p>

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PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
<ul style="list-style-type: none"> o Communicating the decisions and resolutions of council to stakeholders and the public o Developing and maintaining professional working relationships with all other councillors and the CEO o Maintaining and developing their knowledge and skills relevant to local government o Facilitating public engagement with local government. <p>It is proposed that elected members should not be able to use their title (e.g. “Councillor”, “Mayor”, or “President”) and associated resources of their office (such as email address) unless they are performing their role in their official capacity.</p> <p>5.2.4 - CEO Role</p> <ul style="list-style-type: none"> • The <i>Local Government Act 1995</i> requires local governments to employ a CEO to run the local government administration and implement the decisions of council. • To provide greater clarity, it is proposed to amend the Act to specify the roles and responsibilities of all local government CEOs. • While input and consultation will inform precise wording, it is proposed that the Act is amended to generally outline that the CEO of a local government is responsible for: <ul style="list-style-type: none"> o Coordinating the professional advice and assistance necessary for all elected members to enable the council to perform its decision-making functions o Facilitating the implementation of council decisions o Ensuring functions and decisions lawfully delegated by council are managed prudently on behalf of the council o Managing the effective delivery of the services, operations, initiatives and functions of the local government determined by the council o Providing timely and accurate information and advice to all councillors in line with the Council Communications Agreement (see item 5.3) o Overseeing the compliance of the operations of the local government with State and Federal legislation on behalf of the council o Implementing and maintaining systems to enable effective planning, management, and reporting on behalf of the council. 	<p>5.2.4 There is the requirement for more detail for this item. The general direction of the proposal is supported, subject to including reference that the CEO is responsible for the recruitment and performance management of all staff as indicated in the current Act/Regulations.</p> <p><u>Recommendation – Items 5.2.4</u> Supported, subject to including reference that the CEO is responsible for the recruitment and performance management of all staff as indicated in the current Act/Regulations.</p>

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PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
<p>5.3 Council Communication Agreements</p>	
<ul style="list-style-type: none"> • In State Government, there are written Communication Agreements between Ministers and agencies that set standards for how information and advice will be provided. • It is proposed that local governments will need to have Council Communications Agreements between the council and the CEO. • These Council Communication Agreements would clearly specify the information that is to be provided to councillors, how it will be provided, and the timeframes for when it will be provided. • A template would be published by DLGSC. This default template will come into force if a council and CEO do not make a specific other agreement within a certain timeframe following any election. 	<p>Comment The availability of information not already in the public domain to Councillors under Section 5.92 of the Act can become contentious in the absence of a clear statement in support of the function the Council Member is performing. This can place CEO's in the invidious position of ruling on the availability of a record of the Local Government, when it is also their function under Section 5.41(h) of the Act to <i>'ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law'</i>. Consistent availability of information motivates this proposed reform and it does not appear that individual Council Communication Agreements will be a means to that end. There is a better case for a uniform approach in the form of a regulated Agreement, in much the same way that the Communication Agreements between Ministers and agencies are based on provisions of the <i>Public Sector Management Act 1994</i>.</p> <p><u>Recommendation – Item 5.3</u> Support a consistent, regulated Communications Agreement.</p>
<p>5.4 Local Governments May Pay Superannuation Contributions for Elected Members</p>	
<ul style="list-style-type: none"> • It is proposed that local governments should be able to decide, through a vote of council, to pay superannuation contributions for elected members. These contributions would be additional to existing allowances. • Superannuation is widely recognised as an important entitlement to provide long term financial security. • Other states have already moved to allow councils to make superannuation contributions for councillors. • Allowing council to provide superannuation is important part of encouraging equality for people represented on council – particularly for women and younger people. • Providing superannuation to councillors recognises that the commitment to elected office can reduce a person's opportunity to undertake employment and earn superannuation contributions. 	<p>Comment WALGA was in the process of consulting with the sector when this reform was announced. The feedback to date from Local Governments has majority support. The proposed discretionary approach will permit Local Governments to exercise general competence powers to make their own determination on paying superannuation to Council Members.</p> <p><u>Recommendation – Item 5.4</u> Supported</p>

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PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
<p>5.5 Local Governments May Establish Education Allowances</p>	
<ul style="list-style-type: none"> Local governments will have the option of contributing to the education expenses for councillors, up to a defined maximum value, for tuition costs for further education that is directly related to their role on council. Councils will be able to decide on a policy for education expenses, up to a maximum yearly value for each councillor. Councils may also decide not to make this entitlement available to elected members. Any allowance would only be able to be used for tuition fees for courses, such as training programs, diplomas, and university studies, which relate to local government. Where it is made available, this allowance will help councillors further develop skills to assist with making informed decisions on important questions before council, and also provide professional development opportunities for councillors. 	<p>Current Local Government Position Item 5.5 <u>generally aligns</u> with Advocacy Position 2.8 - Elected Member Training <i>Support Local Governments being required to establish an Elected Member Training Policy to encourage training and include budgetary provision of funding for Elected Members;</i></p> <p>Comment The proposal augments recent Act amendments that require Local Governments to adopt a professional development policy for Council Members. Many Local Governments now budget for training requirements that align with the policy statement.</p> <p>Recommendation – Item 5.5 Supported</p>
<p>5.6 Standardised Election Caretaker period</p>	
<ul style="list-style-type: none"> A statewide caretaker period for local governments is proposed. All local governments across the State would have the same clearly defined election period, during which: <ul style="list-style-type: none"> Councils do not make major decisions with criteria to be developed defining ‘major’ Incumbent councillors who nominate for re-election are not to represent the local government, act on behalf of the council, or use local government resources to support campaigning activities. <p>There are consistent election conduct rules for all candidates.</p>	<p>Comment WALGA developed a template Caretaker Policy in 2017 on request for a consistent approach. There are no know instances where Caretaker Policy have led to unforeseen or unmanageable consequences impacting on decision-making functions.</p> <p>Recommendation – Item 5.6 Supported</p>

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PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
<p>5.7 Remove WALGA from the Act</p>	
<ul style="list-style-type: none"> The Local Government Panel Report recommended that WALGA not be constituted under the <i>Local Government Act 1995</i>. Separating WALGA out of the Act will provide clarity that WALGA is not a State Government entity. 	<p>Comment WALGA is conducting its own due diligence on this proposal, previously identified in the Local Government Review Panel Report. The outcome of this reform would require a transition of WALGA from a body constituted under the Act to an incorporated association. It is important to the Local Government sector that the provisions relating to the mutual self-insurance scheme and tender exempt prequalified supply panels remain in the Act and are not affected by this proposal. Further work is being carried out by WALGA to fully understand the effect this proposal will have on WALGA and the sector.</p> <p>Recommendation – Item 5.7</p> <ol style="list-style-type: none"> Support for this proposal is subject to WALGA undertaking further due diligence on the broader implications of the proposal and subsequent consultation with the sector. Any proposed reforms ensure that: <ol style="list-style-type: none"> The Local Government Act retain statutory provisions permitting WALGA to provide the sector with the mutual self-insurance scheme and preferred supplier program tender exemptions; and There be no disadvantages to WALGA’s capacity to provide services and represent the interests of the sector.
<p>5.8 CEO Recruitment</p>	
<ul style="list-style-type: none"> It is proposed that DLGSC establishes a panel of approved panel members to perform the role of the independent person on CEO recruitment panels. Councils will be able to select an independent person from the approved list. <p>Councils will still be able to appoint people outside of the panel with the approval of the Inspector.</p>	<p>Comment The proposed reform augments the CEO Standards in relation to recruitment introduced in February 2021.</p> <p>Recommendation – Item 5.8 Supported on the proviso that no cost is associated with the use of the approved panel.</p>

Local Government Reform Proposal Submission

Theme 6: Improved Financial Management and Reporting

PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
6.1 Model Financial Statements and Tiered Financial Reporting	
<ul style="list-style-type: none"> The Minister strongly believes in transparency and accountability in local government. The public rightly expects the highest standards of integrity, good governance, and prudent financial management in local government. It is critically important that clear information about the financial position of local governments is openly available to ratepayers. Financial information also supports community decision-making about local government services and projects. Local governments differ significantly in the complexity of their operations. Smaller local governments generally have much less operating complexity than larger local governments. The Office of the Auditor General has identified opportunities to improve financial reporting, to make statements clearer, and reduce unnecessary complexity. Recognising the difference in the complexity of smaller and larger local governments, it is proposed that financial reporting requirements should be tiered – meaning that larger local governments will have greater financial reporting requirements than smaller local governments. It is proposed to establish standard templates for Annual Financial Statements for band 1 and 2 councils, and simpler, clearer financial statements for band 3 and 4. Online Registers, updated quarterly (see item 3.4), would provide faster and greater transparency than current annual reports. Standard templates will be published for use by local governments. Simpler Strategic and Financial Planning (item 6.2) would also improve the budgeting process. 	<p>Current Local Government Position Items 6.1 and 6.2 generally align with Advocacy Position 2.6 – Support a size and scale compliance regime and Advocacy Position 2.6.24 – Financial Management and Procurement.</p> <p><i>The Local Government sector:</i></p> <ol style="list-style-type: none"> Requests the Minister for Local Government to direct the Department of Local Government to prepare a Model set of Financial Statements and Annual Budget Statements for the Local Government sector, in consultation with the Office of the Auditor General. Requests the Department of Local Government to re-assess the amount of detail required to be included in annual financial reports, in particular for small and medium sized entities as suggested by the Office of Auditor General. <p>Comment The Sector has a long-standing position for a broad review of the financial management and reporting provisions of the Act, which remain largely unchanged since commencing in 1996.</p> <p>Recommendation – Item 6.1 Supported</p>

Local Government Reform Proposal Submission

PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
<p>6.2 Simplify Strategic and Financial Planning</p>	
<ul style="list-style-type: none"> • Having clear information about the finances of local government is an important part of enabling informed public and ratepayer engagement and input to decision-making. • The framework for financial planning should be based around information being clear, transparent, and easy to understand for all ratepayers and members of the public. • In order to provide more consistency and clarity across the State, it is proposed that greater use of templates is introduced to make planning and reporting clearer and simpler, providing greater transparency for ratepayers. • Local governments would be required to adopt a standard set of plans, and there will be templates published by the DLGSC for use or adaption by local governments. • It is proposed that the plans that are required are: <ul style="list-style-type: none"> ○ Simplified Council Plans that replace existing Strategic Community Plans and set high-level objectives, with a new plan required at least every eight years. These will be short-form plans, with a template available from the DLGSC ○ Simplified Asset Management Plans to consistently forecast costs of maintaining the local government's assets. A new plan will be required at least every ten years, though local governments should update the plan regularly if the local government gains or disposes of major assets (e.g. land, buildings, or roads). A template will be provided, and methods of valuations will be simplified to reduce red tape ○ Simplified Long Term Financial Plans will outline any long term financial management and sustainability issues, and any investments and debts. A template will be provided, and these plans will be required to be reviewed in detail at least every four years ○ A new Rates and Revenue Policy (see item 6.3) that identifies the approximate value of rates that will need to be collected in future years (referencing the Asset Management Plan and Long Term Financial Plan) – providing a forecast to ratepayers (updated at least every four years) 	<p>As above</p> <p><u>Recommendation – Item 6.2</u> Supported</p>

Local Government Reform Proposal Submission

PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
<ul style="list-style-type: none"> ○ The use of simple, one-page Service Proposals and Project Proposals that outline what proposed services or initiatives will cost, to be made available through council meetings. These will become Service Plans and Project Plans added to the yearly budget if approved by council. This provides clear transparency for what the functions and initiatives of the local government cost to deliver. Templates will be available for use by local governments 	
<p>6.3 Rates and Revenue Policy</p>	
<ul style="list-style-type: none"> • The Rates and Revenue Policy is proposed to increase transparency for ratepayers by linking rates to basic operating costs and the minimum costs for maintaining essential infrastructure. • A Rates and Revenue Policy would be required to provide ratepayers with a forecast of future costs of providing local government services. • The Policy would need to reflect the Asset Management Plan and the Long Term Financial Plan (see item 6.2), providing a forecast of what rates would need to be, to cover unavoidable costs. • A template would be published for use or adaption by all local governments. • The Local Government Panel Report included this recommendation. 	<p><u>Current Local Government Position</u> Item 6.3 generally aligns with Advocacy Position 2.1.6 - Rate Setting and WALGA's Rate Setting Policy Statement. <i>Councils' deliberative rate setting processes reference their Integrated Planning Framework – a thorough strategic, financial and asset management planning process – and draw upon the community's willingness and capacity to pay.</i></p> <p><u>Recommendation – Item 6.3</u> Supported</p>
<p>6.4 Monthly Reporting of Credit Card Statements</p>	
<ul style="list-style-type: none"> • The statements of a local government's credit cards used by local government employees will be required to be tabled at council at meetings on a monthly basis. • This provides oversight of incidental local government spending. 	<p><u>Comment</u> This proposed reform reflects widespread common practice for credit card transactions to be included in monthly financial reports and lists of accounts paid.</p> <p><u>Recommendation – Item 6.4</u> Supported</p>

Local Government Reform Proposal Submission

PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
<p>6.5 Amended Financial Ratios</p>	
<ul style="list-style-type: none"> Financial ratios will be reviewed in detail, building on work already underway by the DLGSC. The methods of calculating ratios and indicators will be reviewed to ensure that the results are accurate and useful. 	<p>Current Local Government Position Item 6.5 <u>aligns</u> with Advocacy Position 2.6.25 - Review and reduce financial ratios. <i>Advocate to the Minister for Local Government to amend the Local Government (Financial Management) Regulations 1996 to prescribe the following ratios:</i></p> <ol style="list-style-type: none"> Operating Surplus Ratio, Net Financial Liabilities Ratio, Debt Service Coverage Ratio, and Current Ratio. <p>Recommendation – Item 6.5 Supported</p>
<p>6.6 Audit Committees</p>	
<ul style="list-style-type: none"> To ensure independent oversight, it is proposed the Chair of any Audit Committee be required to be an independent person who is not on council or an employee of the local government. Audit Committees would also need to consider proactive risk management. To reduce costs, it is proposed that local governments should be able to establish shared Regional Audit Committees. The Committees would be able to include council members but would be required to include a majority of independent members and an independent chairperson. 	<p>Current Local Government Position Item 6.6 <u>does not align</u> with Advocacy Position 2.2.4 – Accountability and Audit</p> <p><i>That audit committees of Local Government, led and overseen by the Council, have a clearly defined role with an Elected Member majority and chair.</i></p> <p>Comment The Sector’s view is well established, that the Council must maintain, and be seen by the community to have, majority involvement and investment in the purpose of an Audit Committee. There is sector support for some independent members on the Audit Committee, however not a majority.</p> <p>The dual effect of the proposed reform is to guarantee a place for a majority of independent persons on Audit Committees, with the additional requirement that an independent person Chair this Committee. Presently, not all Local Government Audit Committees are able to include an independent person. This may be for a variety of reasons not least of which</p>

Local Government Reform Proposal Submission

PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
	<p>is a lack of suitable, available candidates with the required qualification, skill and experience.</p> <p>It would be counter-productive if the proposed reforms led to the appointment of unsuitable independent persons to a skills-based role. The concept of Regional Audit Committees has apparent merit in this case but there is no detail regarding practicalities; for example, is the Regional Audit Committee intended to include the same independent persons who will meet separately with each Local Government within the region?</p> <p>There is too little certainty that the imperative question of appropriate representation will be managed as a consequence of the proposed reforms for it to be supported.</p> <p>The proposal for the Audit Committees to also consider proactive risk management is supported.</p> <p><u>Recommendation – Item 6.6</u></p> <ol style="list-style-type: none"> 1. Support the role of the Office of the Auditor General as the responsible entity for independent oversight of Local Government audits. 2. Support Audit Committees of Local Government <u>with an Elected Member majority</u> including independent members, and to consider proactive risk management issues. 3. Support the proposal to establish shared regional Audit Committees 4. Support the appointment of an independent member as chair of the Audit Committee to remain at the discretion of each Local Government. 5. Support the payment of meeting fees or defined reimbursements to independent Audit Committee members.

Local Government Reform Proposal Submission

PROPOSED REFORMS	WALGA COMMENTS & RECOMMENDATIONS
<p>6.7 Building Upgrade Finance</p>	
<ul style="list-style-type: none"> Reforms would allow local governments to provide loans to third parties for specific building improvements - such as cladding, heritage and green energy fixtures. This would allow local governments to lend funds to improve buildings within their district. Limits and checks and balances would be established to ensure that financial risks are proactively managed. 	<p>Current Local Government Position Item 6.7 <u>aligns</u> with Advocacy Position 2.6.26 - Building Upgrade Finance.</p> <p><i>The Local Government Act 1995 should be amended to enable a Building Upgrade Finance mechanism in Western Australia.</i></p> <p>Comment Building Upgrade Finance would enable Local Governments to guarantee finance for building upgrades for non-residential property owners. In addition to building upgrades to achieve environmental outcomes, Local Governments have identified an opportunity to use this approach to finance general upgrades to increase the commercial appeal of buildings for potential tenants. In this way, BUF is viewed as means to encourage economic investment to meet the challenges of a soft commercial lease market and achieve economic growth.</p> <p>Recommendation – Item 6.7 Supported</p>
<p>6.8 Cost of Waste Service to be Specified on Rates Notices</p>	
<ul style="list-style-type: none"> It is proposed that waste charges are required to be separately shown on rate notices (for all properties which receive a waste service). This would provide transparency and awareness of costs for ratepayers. 	<p>Comment This proposed reform will require a relatively simple calculation.</p> <p>Recommendation – Item 6.8 Supported</p>

Local Government Reform Proposal Submission

Additional Reform Proposals

In December 2020, WALGA State Council considered the sector's feedback on the discussion paper 'Advocacy Positions for a New Local Government Act: Key Issues from Recent Inquiries into Local Government' (Rec: 142.6/2020).

It is **recommended** that the Local Government Reform Proposals process be conducted in alignment with the following WALGA advocacy position.

Legislative Intent

That the following key principles be embodied in the Local Government Act:

1. Uphold the general competence principle currently embodied in the Local Government Act
2. Provide for a flexible, principles-based legislative framework
3. Promote a size and scale compliance regime
4. Promote enabling legislation that empowers Local Government to carry out activities beneficial to its community taking into consideration Local Governments' role in creating a sustainable and resilient community through:
 - a. Economic development;
 - b. Environmental protection; and
 - c. Social advancement
5. Avoid red tape and 'de-clutter' the extensive regulatory regime that underpins the Local Government Act, and
6. The State Government must not assign legislative responsibilities to Local Governments unless there is provision for resources required to fulfil the responsibilities.

It is **recommended** that the following additional advocacy positions be included in the sector's response:

Rating Exemptions

That an independent review of all rate exemptions be undertaken.

Fees and Charges

That:

1. An independent review be undertaken to remove fees and charges from legislation and regulation; and
2. Local Government be empowered to set fees and charges for Local Government services.

Financial Management and Procurement

That the Local Government sector:

- Supports Local Governments being able to use freehold land to secure debt; and
- Supports the alignment of Local Government procurement thresholds, rules and policies with the State Government.

Local Government Reform Proposal Submission

Disposal of Property Exemption

Regulation 30 (3) of the *Local Government (Functions and General) Regulations 1996* should not include any financial threshold limitation on a disposition where it is used exclusively to purchase other property. The current limit is \$75,000 and this type of activity commonly applies to a trade-in situation.

Tender Exemption General Practitioner Services

That the reform proposals provide for inclusion of a tender exemption for General Practitioner (GP) services under Part 4, Division 2 of the *Local Government (Functions and General) Regulations 1996*, to support Local Governments to secure and retain necessary primary health care services for their communities.

Elector’s Meetings

That WALGA advocate to the Minister for Local Government to amend the *Local Government Act 1995* to provide protections against the misuse of special electors meetings by:

1. prohibiting a matter previously considered being resubmitted; and
2. ensuring that motions to be considered are relevant to Local Government.

Technical Amendment Proposals

WALGA’s Governance and Organisational Service team monitors the Local Government Act and associated regulations for inconsistencies and potential error. The following matters are proposed for inclusion in the reform process.

Part 4 – Elections and other Polls

<p>s.4.9 <i>Election day for extraordinary elections</i></p>	<p>Section 4.9(1)(a) provides that the President/Mayor may exercise authority to determine the extraordinary election day, if not already fixed under paragraph (b), with s.4.9(1)(b) stating ‘if a day has not already been fixed under paragraph (a)’</p> <p>Additionally, s.4.17 provides for Council to determine, with approval of the Electoral Commissioner, to allow a vacancy to remain unfilled. This has potential to lead to a further anomaly in the exercise of power under s.4.9(1)(a) and (b).</p> <p><u>Recommend legislative amendment that brings chronological order to the decision-making powers for considering vacancies and determination of extraordinary election day.</u></p>
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Part 5 – Administration

<p>s.5.36(4) & (5A) Admin. r.18A(2) <i>Local government employees</i></p>	<p>Administration Regulations, Schedule.2, clause 6 requires a Local Government to advertise the position of CEO if the position is vacant. Regulations do not, however, prescribe classes of persons under s.5.36(5A). Compliance with Admin.r.18A(2) advertising is unrealistic when a CEO leaves the Local Governments employment with little or no notice period.</p> <p>The WALGA Template Policy for Temporary Employment or Appointment of CEO (s.5.39C), includes protocols for Temporary CEO appointments.</p> <p><u>Recommend regulations be made under s.5.36(5A) prescribing classes of persons as a ‘temporary CEO appointed under short term contract, where the person appointed is NOT an existing employee of the Local Government’.</u></p>
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Local Government Reform Proposal Submission

<p>s.5.94</p> <p><i>Public can inspect certain local government information</i></p>	<p>The Act requires public access or inspection rights for documents that contain personal information, i.e. electoral roll, owner / occupier, rate record [s.5.94(m) and (s)]. The Act only limits the right to access this information where the CEO is unable to be satisfied that the information will not be used for a commercial purpose [Admin.r.29B].</p> <p>WALGA members have expressed concern of the risks that may extend to information when combined with other personal information, for example, cyber security / identity theft risks or personal safety risks.</p> <p><i>Recommend there be an analysis of the public benefit versus public risk arising from statutory provisions that requires public disclosure of documents containing personal details (i.e. electoral rolls, rate record) in the context of the potential for this information to be manipulated or misused for improper purposes.</i></p>
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Local Government (Administration) Regulations 1996

<p>Admin.r. 29D</p> <p><i>Period for which information to be kept on official website</i></p>	<p>Requires list of council members and staff positions that provide primary and annual returns to be kept on the website for 5 years. S.5.88(3) requires returns to be removed from the register when a person is no longer relevant. Admin.r.29D is inconsistent with s.5.88(3), meaning that the names and positions will remain on the website despite the returns being removed from the Financial Interests Register.</p> <p><i>Recommend amending Admin.r.29D so that it is consistent with s.5.88(3).</i></p>
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Advocacy Positions for a New Local Government Act

Key issues from recent inquiries into Local Government

December 2020



About WALGA

The WA Local Government Association (WALGA) is working for Local Government in Western Australia. As the peak industry body, WALGA advocates on behalf of 139 Western Australian Local Governments. As the united voice of Local Government in Western Australia, WALGA is an independent, membership-based organization representing and supporting the work and interests of Local Governments in Western Australia. WALGA provides an essential voice for 1,220 Elected Members, approximately 22,000 Local Government employees (16,500 Full Time Equivalent's) as well as over 2.5 million constituents of Local Governments in Western Australia.

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Recommendations

New Local Government Act

That the State Government prepare a new Local Government Act as a priority.

Legislative Intent

That the following key principles be embodied in the Local Government Act:

1. Uphold the general competence principle currently embodied in the Local Government Act
2. Provide for a flexible, principles-based legislative framework
3. Promote a size and scale compliance regime
4. Promote enabling legislation that empowers Local Government to carry out activities beneficial to its community taking into consideration Local Governments' role in creating a sustainable and resilient community through:
 - i. Economic development
 - ii. Environmental protection, and
 - iii. Social advancement
5. Avoid red tape and 'de-clutter' the extensive regulatory regime that underpins the Local Government Act, and
6. The State Government must not assign legislative responsibilities to Local Governments unless there is provision for resources required to fulfil the responsibilities.

Intergovernmental Cooperation

That a Partners in Government Agreement promoting a collaborative partnership approach be signed by the Premier, Minister for Local Government, Western Australian Local Government Association and Local Government Professionals WA at the commencement of each term of the State Government.

Elections

The Local Government sector supports:

1. Four year terms with a two year spill
2. Greater participation in Local Government elections
3. The option to hold elections through:
 - Online voting
 - Postal voting, and
 - In-person voting
4. Voting at Local Government elections to be voluntary
5. The first past the post method of counting votes



6. Local Governments being enabled to determine the number of Elected Members required on the Council between six and 15 (including the Mayor/President)
7. Local Governments to determine if the Mayor or President is elected by the Council or the community at large.
8. Continuation of the property franchise.

Rating Exemptions

That an independent review of all rate exemptions be undertaken.

Fees and Charges

That:

1. An independent review be undertaken to remove fees and charges from legislation and regulation and,
2. Local Government be empowered to set fees and charges for Local Government services.

Road Funding

That the Government returns to Local Government at least 27 percent of motor vehicle licence fee collections.

Regional Collaboration

That:

1. Local Governments be empowered to form single and joint subsidiaries, and beneficial enterprises, and
2. Compliance requirements of Regional Councils be reviewed and reduced.

Community Engagement

The Local Government sector supports:

1. Responsive, aspirational and innovative community engagement principles
2. Encapsulation of aims and principles in a community engagement policy, and
3. The option of hosting an Annual Community Meeting to present on past performance and outline future prospects and plans.

Roles and Responsibilities

That clarification of roles and responsibilities for mayors / presidents, councillors and CEO's be considered to ensure that there is no ambiguity.



External Oversight

The Local Government sector supports:

1. Establishing an Office of the Independent Assessor to replace the Standards Panel to provide an independent body to receive, investigate and assess complaints against elected members and undertake inquiries.
2. Remove the CEO from being involved in processing complaints
3. That an early intervention framework of monitoring to support local governments be provided with any associated costs to be the responsibility of the State Government.

Financial Management and Procurement

That the Local Government sector:

1. Requests the Minister for Local Government to direct the Department of Local Government to prepare a Model set of Financial Statements and Annual Budget Statements for the Local Government sector, in consultation with the Office of the Auditor General;
2. Requests the Department of Local Government to re-assess the amount of detail required to be included in annual financial reports, in particular for small and medium sized entities as suggested by the Office of Auditor General;
3. Supports Local Governments being able to use freehold land to secure debt;
4. Supports Building Upgrade Finance being permitted for specific purposes such as cladding, heritage and green improvements;
5. Supports the alignment of Local Government procurement thresholds, rules and policies with the State Government.

Accountability and Audit

That audit committees of Local Government, led and overseen by the Council, have a clearly defined role with an Elected Member majority and chair.



Background

Three significant inquiries relating to Local Government in Western Australia have released their final reports in August and September 2020.

This paper, which was endorsed by State Council on 2 December 2020 (Resolution 142.6/2020), aims to distil key issues raised by these reports and identify strategic advocacy positions of the Local Government sector to inform the strategic direction of legislative reform.

Local Government Review Panel

As part of the Review of the Local Government Act, the Local Government Review Panel was formed to guide the strategic direction of the review and to recommend high level guiding principles for a new act.

The [Local Government Review Panel Final Report](#) was released on 5 August 2020.

City of Perth Inquiry

The Authorised Inquiry into the City of Perth was announced on 24 April 2018 by the Minister for Local Government.

The report contains 341 recommendations, of which 132 have implications for the Local Government sector.

The [Report of the Inquiry into the City of Perth](#) was tabled in Parliament on 11 August 2020.

Select Committee into Local Government

The Legislative Council Select Committee into Local Government commenced on 26 June 2019.

The Committee had broad terms of reference to inquire into Local Government in Western Australia and made a number of recommendations relating to key Local Government sector issues.

The [Select Committee into Local Government Final Report – Inquiry into Local Government](#) was tabled in Parliament on 22 September 2020.



Key Issues

New Local Government Act

The Local Government Review Panel Final Report states:

When the Western Australia Government launched the Local Government Act Review its objectives were to produce 'a new, modern Act that empowers local governments to better deliver for the community', and that local government should be 'Agile, Smart and Inclusive'. Those objectives remain valid.

Discussion

The current *Local Government Act 1995* was proclaimed in 1996 and has been effective at enshrining the general competence principle which has enabled Local Governments to govern in the best interests of their communities. However, over the last 25 years there has been significant regulation and compliance obligations added to the legislation.

The current Local Government Act contains ten parts and totals 490 pages. In addition, there are 13 sets of regulations comprising a further 460 pages. This is a legislative burden on the Local Government sector and requires a significant reduction and a move to a principle over prescription approach to a new Act.

The Local Government Act should facilitate Local Governments utilising their general competence powers within a legislative framework that provides for good governance and accountability to the community for decision-making. The Local Government sector seeks a reduced regulatory approach accompanied by best practice guidance, support and assistance.

With a State Election due in March 2021 it is appropriate for the sector to seek a commitment for the progression of a new Local Government Act.

Local Government Position:

That the State Government prepare a new Local Government Act as a priority.



Legislative Intent

The Local Government Review Panel Final Report recommends:

2. *The Panel recommends the following statement of intent (vision) for a new Act:*

An Act to provide for a system of local government relevant to Western Australia that develops and supports sustainable, accountable, collaborative and capable local governments through democratic representation, the provision of services, opportunities and enhanced well-being for each and every community.
3. *The Panel recommends the adoption of the following objectives for a new Act:*
 - a. *Democratic and accountable local government that recognises the diversity of and within Western Australia's communities.*
 - b. *Recognition of the specific needs and culture of Western Australia's Aboriginal people.*
 - c. *Promotion and improvement of the community's economic, social and environmental well-being.*
 - d. *An adaptive and forward-looking legislative framework, which supports and enables councils to provide local leadership for the whole community, and to collaborate with each other and with other key stakeholders at a regional level.*
 - e. *Open and transparent community participation in the decisions and affairs of local governments.*
 - f. *Enhanced capability of the local government sector, with a focus on continuous improvement and sustainability.*
 - g. *Efficient and effective service delivery and regulation that is responsive to current and future community needs.*
 - h. *Informed decision-making by local governments which is in the interest of their communities, within a legislative framework that supports balance and certainty in relation to the different interests of their communities.*
 - i. *Accountability of local governments to their communities through processes that demonstrate good governance.*
 - j. *Support for approaches and opportunities which foster collaboration and cooperation both within the local government sector and across all levels of Government.*
4. *The Panel recommends an Act that is considerably shorter, less prescriptive and minimises the use of regulations by establishing clear principles, robust processes, model charters, guidelines and templates.*
5. *The Panel recognises the diversity of local governments in Western Australia and supports a new Act which is responsive to this but does not recommend the adoption of a multi-tiered legislative framework.*
6. *The Panel recommends the inclusion of a statement of the role and principal functions of local governments that makes it clear their basic statutory responsibilities, retaining the overall power of general competency in the current Local Government Act.*



The Select Committee into Local Government recommends:

1. *The Government consider implementing a compliance regime that differentiates between local governments based on their size and scale where appropriate.*

Discussion

Throughout WALGA's consultation with the sector on the Local Government Act review, there has been overwhelming support for *principles over prescription*, an approach that avoids red tape and declutters the extensive regulatory regime. The following key principles are fundamental drivers of future Local Government legislation.

General competence

The Local Government Act is founded on the general competence powers principle, which gives Local Governments the legal capacity to do anything that is not prohibited by law. This principle is uniformly supported by the Local Government sector and that it should not be diluted by over-regulating the operations of Local Government.

The general competence principle recognises the democratic mandate of Local Government to represent, plan, and provides services for its community.

Flexible, principles-based legislative framework

The Local Government Act works well when Local Governments apply their general competence powers within a legislative framework that provides for good governance, with accountability to the community for decision-making.

The Local Government Act should focus on principles and objectives, not on process. Best practice, guidance material and smart people working together to solve problems drive innovation; prescriptive regulation drives compliance for the sake of compliance.

To focus on the process and not the principles and objectives risks embedding today's practice into legislation instead of allowing Local Governments the flexibility to innovate and adapt to new methods and new technologies. Not everything a Local Government should do needs to be legislated. Ultimately, Councils are considered to be generally competent and are accountable to the community through democratic elections held every two years.

Size and scale compliance regime

There is a marked appetite to differentiate between Local Governments based on size and scale. There is a significant difference in the compliance requirements of the City of Stirling compared to the Shire of Murchison. Areas such as the integrated planning and reporting framework, internal audits and model procurement policies are example areas that could be considered on a size and scale approach.



Promote enabling legislation

Promote enabling legislation that empowers Local Government to carry out activities beneficial to its community taking into consideration the Local Government's role in creating a sustainable and resilient community through:

- Economic development
- Environmental protection, and
- Social advancement.

There is a need to provide enabling legislation with a 'menu of opportunities' for the sector. Legislation should enable Local Governments to carry out a range of activities, even though all Local Governments may not want to undertake the activity.

Reduce red tape

WALGA has called for the de-cluttering of the extensive regulatory regime that underpins the Local Government Act. The legislative and regulatory regime represents a considerable challenge to the delivery of effective and efficient governance.

The State Government must not assign legislative responsibilities to Local Governments unless there is provision for resources required to fulfil the responsibilities.

The State Government should not impose responsibilities to Local Governments without adequate resourcing. This principle is contained within the British Columbia Community Charter and is supported by the Local Government sector.

Local Government Position:

That the following key principles be embodied in the Local Government Act:

- 1. Uphold the general competence principle currently embodied in the Local Government Act**
- 2. Provide for a flexible, principles-based legislative framework**
- 3. Promote a size and scale compliance regime**
- 4. Promote enabling legislation that empowers Local Government to carry out activities beneficial to its community taking into consideration Local Governments' role in creating a sustainable and resilient community through:**
 - i. Economic development**
 - ii. Environmental protection, and**
 - iii. Social advancement**
- 5. Avoid red tape and 'de-clutter' the extensive regulatory regime that underpins the Local Government Act, and**
- 6. The State Government must not assign legislative responsibilities to Local Governments unless there is provision for resources required to fulfil the responsibilities.**



Intergovernmental Cooperation

The Local Government Review Panel Final Report recommends:

- 15 *The Panel recommends that the new Act include a set of principles for intergovernmental relations that make clear local government's role and obligations as part of the broader system of government, and that underpin a range of ongoing arrangements such as the State Local Government Partnership.*

Discussion

Local Government strongly supports the enhanced collaboration between State and Local Government, as two spheres of government responsible for delivering public infrastructure and services for the benefit of the Western Australian community.

A Partners in Government Agreement, to be signed by the Premier, Minister for Local Government and Local Government leaders should contain:

- A preamble highlighting the importance of collaboration and partnership
- Objectives and principles
- Meetings of the Partners in Government Group comprising senior State and Local Government decision makers
- Collaboration aims and ideals, and
- Key focus areas.

Collaboration and partnership between the State and Local Government sectors aims to leverage the strengths of both spheres of Government for the benefit of Western Australia: the State's leadership and policy direction, and Local Government's on-the-ground presence in every community in our large and diverse state.

Local Government Position:

That a Partners in Government Agreement promoting a collaborative partnership approach be signed by the Premier, Minister for Local Government, Western Australian Local Government Association and Local Government Professionals WA at the commencement of each term of the State Government.



Elections

The Local Government Review Panel Final Report recommends:

19. *Optional preferential voting be adopted in place of the current first past the post system.*
20. *The principle of one vote per person be included in the legislation, subject to Recommendation 21 below.*
21. *Property franchise voting should be replaced with the requirement for local governments to introduce mechanisms for regular and effective consultation with the business community.*
22. *Local government elections are held once every four years, two years after but to otherwise accord with the timing of the State election.*
23. *All local government elections should be overseen by the Western Australian Electoral Commissioner.*
24. *Provision in the new Act for electronic/online voting to be introduced in the future once the integrity of the process can be assured (including allowing for a pilot).*
25. *The Panel makes the following further recommendations in relation to elections:*
 - a. *Postal voting be required, with lodgement of these votes to be allowed in person on and before election day.*
 - b. *The election process extended to provide more time for the issuing and receipt of postal votes.*
 - c. *The information local government candidates must provide at nomination should be expanded to ensure that adequate information is given for voters to make an informed decision. Candidate nomination forms should also include declaration of membership of a political party and these forms should be published and available during the election period.*
 - d. *A caretaker policy should be introduced barring elected members up for re-election from representing the council at events, handing out council grants or donations and moving substantive notices of motion in the period before the election, and a requirement to comply with this policy should be included in the Code of Conduct.*
 - e. *The donor and the candidate should co-sign each declaration of a gift made.*
 - f. *Donations via crowd funding platforms should be regulated so far as possible.*
26. *In respect to elected member representation, the Panel recommends:*
 - a. *Population should be used to determine the number of elected member positions:*



- (i) *Population of up to 5,000 – 5 councillors (including President).*
 - (ii) *Population of between 5,000 and 75,000 – 5 to 9 councillors (including Mayor/President).*
 - (iii) *Population of above 75,000 – 9 to 15 councillors (including Mayor).*
- b. *Ward boundary reviews, to ensure equitable representation is maintained, should be conducted every four years by the Office of the Electoral Distribution Commissioners, with the support of the WAEC and should be conducted using similar processes and principles that are in place for state electoral boundaries as contained in the Electoral Act 1907.*
- c. *Current classification bands 3 and 4 should not have multiple wards unless the Local Government Commission permits it in the interests of ensuring local democracy is enabled in certain communities.*
- d. *The changes to wards and elected member numbers due to the above recommendations should be phased in.*

Discussion

The overwhelming majority of Local Governments support retaining four year terms with a half spill every two years. A principle of the current two year election cycle is to support the continuity of knowledge and experience of the Local Government. A key risk of a proposal for an all in/all out term is the loss of knowledge and the influence of a Council.

Promoting voting participation in Local Government elections is a priority and can be achieved through a range of voting options, such as:

- On-line voting
- Postal voting, and
- In-person voting.

In respect to voting methods, Local Governments over the past 40 years have experienced preferential voting, proportionate preferential voting and the current first past the post method. Due to its simplicity, and ease of understanding, the Local Government sector supports first past the post voting.

The Local Government sector opposes compulsory voting in Local Government elections.

In respect to Elected Member representation, the general competence principle should apply, enabling a Local Government to determine the appropriate number, between six and 15 elected members (including the Mayor/President), depending on local requirements. This philosophy also extends to the decision to have a Mayor or President elected by the Council or elected at large by the community.

The Local Government sector supports continuation of the status quo with regards to the property franchise.



Local Government Position:**The Local Government sector supports:**

1. Four year terms with a two year spill
2. Greater participation in Local Government elections
3. The option to hold elections through
 - Online voting
 - Postal voting, and
 - In-person voting
4. Voting at Local Government elections to be voluntary
5. The first past the post method of counting votes
6. Local Governments being enabled to determine the number of Elected Members required on the Council between six and 15 (including the Mayor/President)
7. Local Governments to determine if the Mayor or President is elected by the Council or the community at large
8. Continuation of the property franchise.



Rating Exemptions

The Local Government Review Panel Final Report recommends:

50(c) *The Economic Regulatory Authority (ERA) should be asked to undertake a review of the rating system, including a thorough examination of the case for the current wide range of exemptions.*

The Select Committee into Local Government recommends:

- 8 *Recognising that the current charitable purposes rate exemption produces perverse outcomes and may inappropriately shield commercial operations from paying rates, the Government clarify the charitable purposes rate exemption in any new local government Act.*
- 9 *The Government conduct a broad review of the rate exemptions to be included in any new local government Act.*

Discussion

Exemptions from rates represent significant revenue leakage for Local Government. Recent data indicates that revenue foregone represents approximately two percent of rate revenue. This shortfall in lost revenue must then be made up from other ratepayers.

Rating exemptions relating to charitable purposes are particularly concerning as this exemption has extended in scope beyond its original intent to provide rating exemptions for the commercial undertakings of not-for-profit organisations. For instance, Independent Living Units, which often cost far more than the median house, are often exempt from rates. The net result of this is that millions of dollars of revenue is lost to Local Government which then has to be recouped from other ratepayers, many of whom would not be in a position to afford an Independent Living Unit themselves.

The rating exemptions that are of concern for the sector relate to the following:

- Rating of Charitable Purpose properties
- Department of Housing: Leasing to Charitable Organisations
- Government Trading Entities
- State Agreement Act projects
- State Owned Unallocated Crown Land

On this basis, the Local Government sector supports an independent review of all rating exemptions to enhance equity among ratepayers in the community.

Local Government Position:

That an independent review of all rate exemptions be undertaken.



Fees and Charges

The Local Government Review Panel Final Report recommends:

- 51 *The Panel recommends that local governments should be able to set reasonable fees and charges according to a rating and revenue strategy, with the oversight of the Audit, Risk and Improvement Committee.*
- 52 *The Panel recommends that local governments and State Government apply cost recovery principles when setting fees and charges.*

Discussion

Fees and charges represent a significant source of discretionary revenue for Local Governments. Examples include dog registration fees, fees for building approvals and swimming pool entrance fees.

Currently fees and charges are determined by legislation or regulation, with an upper limit set by legislation, or by the Local Government. Fees mandated by legislation often do not keep pace with the cost of delivery meaning that ratepayers will subsidise particular activities without any ability to have input into the setting of the fee.

While cost recovery should be a consideration for the setting of fees and charges, there are some services that Local Governments may choose to subsidise to encourage activities with overall community benefit.

Setting fees and charges is a core government function and should be a deliberative decision of the Council.

Local Government Position:

That:

- 1. An independent review be undertaken to remove fees and charges from legislation and regulation and,**
- 2. Local Government be empowered to set fees and charges for Local Government services.**



Road Funding

The Select Committee into Local Government recommends:

7. *The Government consider returning to local governments at least 27 percent of motor vehicle licence fee collections.*

Discussion

Local Governments are responsible for 127,500km of roads in Western Australia, representing 88 percent of the public road network.

With a replacement value close to \$30 billion, the Local Government road network is a significant state asset that connects people and places and facilitates economic activity across all of Western Australia.

In their final report, the Select Committee into Local Government found that the shortfall between local government expenditure on road preservation and the amount required to maintain roads at their current condition has continued to increase over the past five years to \$155.74 million in 2018-19.

To that end, the Local Government sector advocates for road funding from the State Government to return to 27 percent of vehicle licence fees.

Local Government Position:

That the Government returns to Local Government at least 27 percent of motor vehicle licence fee collections.



Regional Collaboration

The Local Government Review Panel recommends:

12. *The Panel recommends that the new Act should promote and mandate expanded regional cooperation between local governments by:*
 - a. *Making increased collaboration a specific objective and principle.*
 - b. *Providing an improved model of joint (regional) subsidiaries that can be used for strategic planning, resource sharing, shared services delivery and commercial enterprises (see also Recommendations 14 and 39).*
 - c. *Requiring regional cooperation as part of IPR (see also Recommendation 35).*

13. *The Panel recommends that consideration also be given to the potential need for a new form of 'regional authority' to enable collaboration on specific issues between governments and with other key stakeholders.*

14. *The Panel recommends:*
 - a. *The regional council model is discontinued.*
 - b. *A flexible model of joint (regional) and single (local) subsidiaries be introduced in order to enable:*
 - (i) *collaboration between local governments; and/or*
 - (ii) *involvement of local government in economic development including commercial activities.*

40. *The Panel recommends that the new Act should provide the freedom for local governments to be involved in commercial activities where it is in the public interest and subject to competitive neutrality principles.*

41. *The Panel recommends that 'beneficial enterprises' not be introduced as a new mechanism for local government commercial activities, but that instead an updated and more flexible subsidiary model should provide for the following:*
 - a. *Local government autonomy to establish a single or joint subsidiary to:*
 - (i) *Carry out any scheme, work or undertaking on behalf of the council;*
 - (ii) *Manage or administer any property or facilities on behalf of the council;*
 - (iii) *Provide facilities or services on behalf of the council; and/or*
 - (iv) *Carry out any other functions on behalf of the council.*
 - b. *The subsidiary to be established through a charter.*
 - c. *The charter to be certified by an independent and suitably experienced legal practitioner as within power and National Competition Policy.*
 - d. *Public notice of the proposal to establish the subsidiary to ensure that there are no private operators that would be significantly disadvantaged.*
 - e. *The subsidiary to be able to undertake commercial activities (within the limits of competitive neutrality and a thorough risk assessment).*



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- f. *The subsidiary to have the ability to acquire, hold, dispose of or otherwise deal with property.*
- g. *Dividends able to be paid to member local governments.*
- h. *The requirement for employees of the subsidiary to be employed under the same award or agreement conditions as the relevant local government/s and within the jurisdiction of the Western Australian Industrial Relations Commission.*
- i. *No requirement for ministerial approval at the outset, but reserve powers for the Minister for Local Government to intervene if issues arise should be included.*
42. *The Panel recommends local governments should utilise the subsidiary models and, as a general rule, should not form entities outside this, such as under the Associations Incorporation Act, except as a means of establishing or maintaining partnerships with other local or regional organisations in those instances where the local government is not the dominant party.*

Discussion

The Local Government sector supports streamlined and effective regional collaboration to leverage economies of scale, combined resources and enhanced accountability.

Regional collaboration provides many benefits for the community, including:

- Efficient service delivery leveraging economies of scale
- Enhanced accountability for specific functions, and
- Reduced risk by quarantining ratepayer funds in a separate legal entity

Flexibility for local governments to select and adapt the most suitable collaborative model to local circumstances is crucial for the benefits of regional collaboration to be realised. While competitive neutrality is important, and should be respected, the ability to undertake commercial activities is important, particularly to address instances of market failure.

The subsidiary model, governed by a charter, provides simplicity and can be customised to meet local and service delivery needs.

The beneficial enterprises model provides for a commercial focus while increasing accountability and reducing risk by quarantining ratepayer funds.

To that end, the local government sector supports the ability to utilise a range of fit-for-purpose regional collaborative models.



Local Government position

That:

- 1. Local Governments be empowered to form single and joint subsidiaries, and beneficial enterprises, and**
- 2. Compliance requirements of Regional Councils be reviewed and reduced.**



Community Engagement

The Local Government Review Panel Final Report recommends:

33. *The Panel recommends that the following community engagement principles should be included in the new Act:*
 - a. *Councils actively engage with their local communities;*
 - b. *Councils are responsive to the needs, interests and aspirations of individuals and groups within its community;*
 - c. *Community engagement processes have clearly defined objectives and scope;*
 - d. *Participants in community engagement have access to objective, relevant and timely information to inform their participation;*
 - e. *Participants in community engagement are representative of the persons and groups affected by the matter that is the subject of the community engagement;*
 - f. *Participants in community engagement are entitled to reasonable support to enable meaningful and informed engagement; and,*
 - g. *Participants in community engagement are informed of the ways in which the community engagement process will influence council decision-making.*

34. *The Panel recommends a Community Engagement Charter be required as a mechanism for guiding and enhancing community participation in local decision-making, and that a model charter be prepared to set parameters and provide guidance on mechanisms to be used.*

35. *The Panel recommends the Annual Electors' Meeting is replaced by an Annual Community Meeting whereby:*
 - a. *As a minimum, councils provide information on their achievements and future prospects;*
 - b. *Councils report on the local government's financial performance and performance against relevant Council Plans;*
 - c. *Both the mayor/president and the Chair of the Audit Committee address the meeting;*
 - d. *There is ample time for questions; and,*
 - e. *Wider community participation is encouraged through different delivery mechanisms.*

Discussion

With a local presence in every community in Western Australia, community engagement is core business for Local Government.



Principles and methods supporting responsive, aspirational and innovative community engagement are supported. Local Governments are often on the frontier of innovative community engagement methods, such as participatory budgeting and deliberative democracy.

To that end, the Local Government sector supports community engagement aims and principles to be encapsulated in a policy. However, the content of such a policy should not be prescribed; Local Governments, with knowledge and regular touchpoints with their communities, are best placed to determine the content of a community engagement policy.

An optional Annual Community Meeting is supported, at which Local Governments could present their annual report, financial performance and recent achievements, and outline their future prospects and plans.

Local Government Position:

The Local Government sector supports:

- 1. Responsive, aspirational and innovative community engagement principles**
- 2. Encapsulation of aims and principles in a community engagement policy, and**
- 3. The option of hosting an Annual Community Meeting to present on past performance and outline future prospects and plans.**



Roles and Responsibilities

The Local Government Review Panel Final Report recommends:

28. *The Panel recommends significant changes in the Act to the current statements of roles and responsibilities for mayors/presidents, councillors and CEOs and that the Act should include a new statement of responsibilities for the 'council' which captures the roles and responsibilities of all councillors acting collectively as the council.*

29-32. *Revised statements of roles and responsibilities that are specific to address the following issues:*

- *Community leadership*
- *Strategic planning*
- *Continuous improvement*
- *Executive function (for mayors/presidents)*
- *Guiding the CEO (for mayors/presidents)*
- *Training*

The Select Committee into Local Government Report recommends:

26. *The Government clarify the roles of council and the chief executive officer, and the distinction between governance and operational matters, in any new local government Act.*

Discussion

The *Local Government Act 1995* is predicated on separate roles and responsibilities for Elected Members and the administration, as summarised in the Second Reading Speech:

*'The new Act will provide a clear distinction between the representative and policy making role of the elected Councillors and the administrative and advisory role of the chief executive officer and other staff.'*¹

The Inquiry Report's recommendations for training and induction are reflective of the mandatory training and continuing professional development requirements introduced in the *Local Government Legislation Amendment Act 2019*.

WALGA has long advocated for absolute certainty in responsibilities and separation of powers associated with employees. Appointing and dismissing senior designated employees falls within the function of the CEO.

From this perspective, clarification of roles and responsibilities requires similar consideration of a clearly defined separation of powers between the governing body and the administration.

¹ Government of Western Australia, Local Government Bill Second Reading, 31 Aug. 1995 pp. 7547-7551



Local Government Position:

That clarification of roles and responsibilities for mayors / presidents, councillors and CEO's be considered to ensure that there is no ambiguity.



External Oversight

The Local Government Review Panel Final Report recommends:

57. *The Panel recommends that there should be an early intervention framework of monitoring to support local governments. The department should have additional powers to appoint and support the monitor with councils responsible for the direct costs of the monitor.*
58. *The Panel recommends the Minister should have the power to direct local governments and make declarations in respect to the Local Government Act during a declared state of emergency.*
59. *The Panel recommends establishing an Office of the Independent Assessor that should:*
 - a. *Be an independent body to receive, investigate and assess complaints against elected members and undertake inquiries. This removes the CEO from being involved in processing and determining complaints.*
 - b. *Be a statutory appointment by the Governor.*
 - c. *Upon assessment, refer the complaint back to the council (behaviour-related), the State Administrative Tribunal (SAT) (serious breaches), or to another appropriate body (such as, Corruption and Crime Commission, Public Sector Commission, Ombudsman) according to the subject of the complaint.*
 - d. *Replace the Standards Panel by investigating and making determinations on Rules of Conduct breaches. SAT will determine the penalties.*
 - e. *Amongst other powers, have the power to investigate, to order compulsory mediation and to deal with abuses of process.*
 - f. *Be required to notify the CEO and council of any matters on a confidential basis.*

The City of Perth Inquiry Report recommends:

- 323-332. *An Office of Inspector of Local Government (Inspector) be established as an independent statutory office, responsible to the Minister for Local Government.*

The Select Committee into Local Government Report recommends:

25. *The Government give active consideration, as part of the review of the Local Government Act 1995, to establishing a new independent statutory body to regulate and support the local government sector.*



Discussion

The recommendation from the Local Government Act Review Panel to replace the Standards Panel with an Office of the Independent Assessor is worth supporting. The proposal is to set-up an independent body to receive, investigate and assess complaints against elected members and undertake inquiries. This removes the CEO from being involved in processing and determining complaints, which has previously put the CEO in an invidious position.

An early intervention framework of monitoring to support Local Governments should also be provided, with costs to be the responsibility of the State Government.

Local Government Position:

The Local Government sector supports:

- 1. Establishing an Office of the Independent Assessor to replace the Standards Panel to provide an independent body to receive, investigate and assess complaints against elected members and undertake inquiries.**
- 2. Remove the CEO from being involved in processing complaints**
- 3. That an early intervention framework of monitoring to support local governments be provided with any associated costs to be the responsibility of the State Government.**



Financial Management and Procurement

The Local Government Review Panel Final Report recommends:

43. *The Panel recommends the following financial management principles be included in the new Act:*
 - a. *Councils should have regard to achieving intergenerational equity, including ensuring the following:*
 - (i) *Policy decisions are made after considering their financial effects on future generations*
 - (ii) *The current generation funds the cost of its services, and*
 - (iii) *Long life infrastructure may appropriately be funded by borrowings*
 - b. *Revenue, expenses, assets, liabilities, investments and financial transactions are managed in accordance with the council's financial policies and strategic plans*
 - c. *Financial risks are monitored and managed prudently having regard to economic circumstances*
 - d. *Financial policies and strategic plans, including the Revenue and Rating Strategy and Investment policy, seek to provide stability and predictability in the financial impact on the community; and*
 - e. *Accounts and records that explain the financial operations and financial position of the council are kept.*

44. *Having regard to the need for sound financial decision-making and accountability, the Panel recommends the following:*
 - a. *Local governments should be required to adopt or justify departures from a model investment policy to the Audit, Risk and Improvement Committee and relevant State Government Agency.*
 - b. *Local governments should be able to use freehold land to secure debt.*
 - c. *Debt should not be used for recurrent expenditure except in an emergency situation.*
 - d. *Notice should continue to be required to be given for borrowings not included in the local government's annual budget.*
 - e. *Building upgrade finance is permitted for specific purposes such as cladding, heritage and green improvements.*
 - f. *Local governments should adopt program budgeting to more clearly show the actual cost of delivering a service or undertaking an activity.*
 - g. *Local governments should report on the percentage of their expenditure spent on local businesses in their annual report.*

45. *The Panel recommends that local government procurement thresholds, rules and policies are, where applicable, aligned with the State Government, including (but not limited to):*
 - a. *Tender threshold (currently \$250,000);*



- b. *Procurement rules and methods for goods and services under the tender threshold;*
 - c. *Procurement policies, including sustainable procurement, procuring from disability enterprises, buy local (where 'local' refers to Western Australia or a specific region of the state determined by the local government) and Aboriginal businesses; and*
 - d. *Using TendersWA as the primary tender platform.*
46. *The Panel recommends the development of a model procurement policy for all local governments. If a local government chooses to deviate from the policy it should to be required to explain its reasoning to the responsible State Government agency.*
 47. *The Panel recommends enhancing legislation to regulate and guide the establishment and management of panel contracts.*
 48. *The Panel recommends a requirement for local governments to have an open register of local businesses with local governments determining what is considered 'local' to their community.*
 49. *The Panel recommends breaches of the local government procurement rules to be referred to the Office of the Independent Assessor to use the appropriate powers under the new Local Government Act.*

The Select Committee into Local Government recommends:

12. *The Government give active consideration to providing, through the Department of Local Government, Sport and Cultural Industries, an accounting advice helpdesk service to the local government sector similar to the service provided by the Department of Treasury to the State government sector.*
13. *The Government:*
 - *consider reducing the financial reporting requirements on local governments*
 - *in doing so, take into account the information provided by the Office of the Auditor General, set out at Appendix 3 and Appendix 4 of this report.*
14. *The Department of Local Government, Sport and Cultural Industries and the Government consider the introduction of tiered financial reporting for local governments.*

The City of Perth Inquiry Report recommends:

188. *The State Government consider amendments to the Local Government Act 1995 to provide for better practice financial management through the establishment of Local Government Financial Management Instructions (similar to the Treasurer's Instructions for State Government) that establish a minimum set of standards and*



requirements for the financial administration of local government (*Financial Management Instructions*).

189. *The "WA Accounting Manual" be reviewed, updated and promulgated by the Department within the next 12 months.*
190. *The Minister for Local Government consider prescribing the format of the annual budget and financial report to provide consistency across local government.*

Discussion

The sector has considered a number of the recommendations from the reports and supports reviewing the financial reporting requirements for Local Governments.

Model Financial Statements

WALGA has recently formed a Sector Reference Group to review the current financial ratios and to suggest more appropriate ratios. The Reference Group believes the first action to be taken should be for the Department of Local Government to prepare a Model set of Financial Reports for the Local Government sector. This is to enable consistent financial reporting across the sector which would then allow for ratios to be more meaningful for sector analysis.

The following is an excerpt of notes from the group;

The Working Group discussed the possibility of progressing this resolution as soon as possible, rather than waiting for the work on financial ratios to be completed. It was decided that this should be actioned as a priority. A signal from the Minister for Local Government as to whether this proposal is supported will assist in guiding the group's next steps, noting that the actual development of a model set of accounts would take time and resources. The group also noted that the Office of Auditor General (OAG) have made complementary recommendations relating to financial reporting. For example, in the [Audit Results Report – Annual 2018-19 Financial Audits of Local Government Entities](#), it was recommended that DLGSC re-assess the amount of detail required to be included in annual financial reports.

Resolved:

That WALGA advocates to the Minister for Local Government that the Department of Local Government to prepare a Model set of Financial Reports for the Local Government sector, in consultation with the Office of the Auditor General.

The concept on a model set of accounts is not new. Every other State produces one in some form. This document would be produced annually by the Department and be endorsed by the OAG.



The proposal would involve a detailed set of accounts, including notes, would be available to the industry in March of each year. The document would provide a template for Statements and Notes. These items would include references to legislation and Accounting Standards so the user can gain an appreciation as to why the information is required. Accompanying text could provide a greater understanding of the information and the cross referencing to other information. For example, the note on calculating financial ratios would include how those ratios are calculated, hence doing away with the need for Departmental Guidance Notes.

The benefits that would accrue to the Local Government sector and the community would be substantial. One set of model reports that could provide clear outcomes, rather than waiting for the annual audit to see if a Local Government had interpreted the standards and legislation correctly. Small Local Government would benefit as they may not have qualified accountants on staff and this would provide cost savings. Accessing information about each Local Government would be simplified. The audit process would also be simplified. All of these measures have the ability to lower costs incurred by Local Government in producing the annual financial report.

Use of Debt

The sector's long held position is that the Act should allow Local Governments to use freehold land, in addition to its general fund, as security when borrowing. Currently a Local Government can only borrow against its cash. In most cases this is sufficient, however there have been examples of Local Governments borrowing for large scale infrastructure projects that would benefit from being able to use their freehold land as security.

Building Upgrade Finance

Building Upgrade Finance would enable Local Governments to guarantee finance for building upgrades for non-residential property owners. In addition to building upgrades to achieve environmental outcomes, Local Governments have identified an opportunity to use this approach to finance general upgrades to increase the commercial appeal of buildings for potential tenants. In this way, BUF is viewed as means to encourage economic investment to meet the challenges of a soft commercial lease market and achieve economic growth.

Procurement

WALGA has consistently supported the alignment of the tender threshold with that of the State Government and broadly supports the principle that suppliers of goods, services and works competing for contracts will benefit where procurement processes across State and Local Government has more similarities than differences.



Local Government Position:

That the Local Government sector:

- 1. Requests the Minister for Local Government to direct the Department of Local Government to prepare a Model set of Financial Statements and Annual Budget Statements for the Local Government sector, in consultation with the Office of the Auditor General;**
- 2. Requests the Department of Local Government to re-assess the amount of detail required to be included in annual financial reports, in particular for small and medium sized entities as suggested by the Office of Auditor General;**
- 3. Supports Local Governments being able to use freehold land to secure debt;**
- 4. Supports Building Upgrade Finance being permitted for specific purposes such as cladding, heritage and green improvements;**
- 5. Supports the alignment of Local Government procurement thresholds, rules and policies with the State Government.**



Accountability and Audit

The Local Government Review Panel Final Report recommends:

53. *The Panel recommends the role of audit committees be expanded to become Internal Audit, Risk and Improvement Committees and:*
 - a. *The majority of the Committee members, including the Chair, should be independent of the local government and should be drawn from a suitably qualified panel.*
 - b. *To address the impost on small local governments, the committee could be established on a regional basis.*

54. *The Panel recommends the main roles of the Audit, Risk and Improvement Committee should include:*
 - a. *Developing an audit plan which focuses on compliance, risk (including procurement), financial management, fraud control, governance and delivery of Council Plans;*
 - b. *Identifying continuous improvement opportunities and monitoring programs and projects in this area;*
 - c. *Conducting the mandatory internal audits as outlined in the audit plan; and*
 - d. *Providing advice to the council in relation to these matters.*

The Select Committee into Local Government recommends:

11. *The Government give active consideration to facilitating, through the Department of Local Government, Sport and Cultural Industries, a shared internal audit service for the Local Government sector, particularly to assist small and medium councils.*

Discussion

The Local Government sector supports a robust self-regulation audit framework, which includes a role for the audit committee overseen by council, and a role for the Office of the Auditor General in conducting financial and performance audits of Local Government.

In accordance with the principles of self-governance and self-regulation, majority independent membership of audit committees is not supported. Oversight of the affairs of the Local Government is a fundamental role of the Council, and should not be confused by diffusing responsibility among an audit committee comprised of a majority of non-elected members. Notwithstanding, the Local Government sector acknowledges that some independent expertise may be beneficial to the audit committee process.

The Local Government sector supports a clearly defined role for the audit committee, led and overseen by the elected Council.



Local Government Position:

That audit committees of Local Government, led and overseen by the Council, have a clearly defined role with an Elected Member majority.

18.3 DISPOSITION BY WAY OF LEASE - THOMAS OVAL PAVILION - ARLC WA LIMITED OPERATING AS NRL WA

SUMMARY

The City of Kwinana (**the City**) has management of Thomas Oval, Medina (**the Land**) with power to lease for 21 years subject to the Minister for Lands' consent.

ARLC WA Limited operating as NRL WA (**NRL WA**) have leased the Thomas Oval Pavilion (**the Premises**) since 2020, as a base for NRL activities and development in the district.

NRL WA's existing lease is due to expire 30 September 2024. As such, they request a new lease with a term which aligns with the construction of the new clubrooms on the Land.

Subject to Ministerial consent, this report recommends Council authorise the Chief Executive Officer to lease the Premises to NRL WA for a period of 2 years (with a further 1-year option).

OFFICER RECOMMENDATION

That Council:

- 1. Approves the proposed lease of part of Reserve 24302, Lot M1084 on Deposited Plan 216209, known as 28 Tucker Street, Medina (Premises) by the City to ARLC WA Limited operating as NRL WA (ACN 602 143 199) (NRL WA) on the following key terms:**
 - a. the lease will be subject to the approval of the Minister for Lands;**
 - b. the lease duration shall be two years with the option to extend for a further year; and**
 - c. rental for the Premises will be at the subsidised rate of \$127 per annum.**
- 2. Delegates by absolute majority to the Chief Executive Officer the power to enter into a deed of lease as set out in Recommendation 1 above and authorises the Mayor and Chief Executive Officer to affix the common seal and execute the deed of lease.**

VOTING REQUIREMENT

Absolute Majority

DISCUSSION

NRL WA is the governing body for Rugby League in Western Australia. Headed by a board of three directors, NRL WA has a General Manager and a number of staff working full time to ensure the strong development of Rugby League in Western Australia. NRL WA is endeavouring to lift the profile of Rugby League with ongoing incentives that have seen numbers increase in recent times.

NRL WA is a not-for-profit organisation that will provide the local community with sport and recreation.

NRL WA receives funding for its ongoing operations from the NRL. Other funding is provided by the Department of Local Government, Sport and Cultural Industries funding, private business sponsorships and sporting registrations from clubs and participants. Under the proposed lease, NRL WA will be responsible for electricity costs, cleaning, maintenance, repair and replacement costs (not of a structural nature). The City will, however, continue to maintain building insurance and make repairs and replacement to the building for things that are of a structural nature

As a not-for-profit organisation, NRL WA meet the criteria within the City's Leasing Policy for a subsidised rental rate. This is currently set at \$127.00 per annum and is subject to annual review by Council.

Pursuant to regulation 30(2)(b)(i) of the *Local Government (Functions and General) Regulations 1996*, the proposed lease is exempt from the requirement to give public notice. However, Ministerial consent is required in accordance with section 18 of the *Land Administration Act 1997*.

STRATEGIC IMPLICATIONS

There are no strategic implications as a result of this proposal.

SOCIAL IMPLICATIONS

There are no social implications as a result of this proposal.

LEGAL/POLICY IMPLICATIONS

The Management Order issued to the City pursuant to section 46 of the *Land Administration Act 1997* provides the process for disposing of a portion of Reserve 24302 by way of a lease for the purpose of recreation providing that lease is for a term not exceeding twenty-one (21) years.

In accordance with regulation 30 of the *Local Government (Functions and General) Regulations 1996*, the City is not required to advertise the disposal of local government property by way of a lease agreement as tenant is of a charitable nature.

Section 3.58 of the *Local Government Act 1995* (Disposing of Property).

City of Kwinana Lease Policy.

FINANCIAL/BUDGET IMPLICATIONS

A subsidised rental of \$127 p.a. and Community Lease administration fee of \$550 as per the City's Fees & Charges 2024/25.

The subsidised rental of \$127 is off set with the NRL WA being responsible for facility cleaning, building maintenance and utilities.

ASSET MANAGEMENT IMPLICATIONS

Ongoing management and structural maintenance of the facility.

ENVIRONMENTAL/PUBLIC HEALTH IMPLICATIONS

There are no environmental implications identified as a result of this report.

COMMUNITY ENGAGEMENT

There is no community engagement required as a result of this report.

ATTACHMENTS

Nil

19 NOTICES OF MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

20 NOTICE OF MOTIONS FOR CONSIDERATION AT THE FOLLOWING MEETING IF GIVEN DURING THE MEETING

21 LATE AND URGENT BUSINESS

Note: In accordance with Clauses 3.13 and 3.14 of Council's Standing Orders, only items resolved by Council to be Urgent Business will be considered.

22 REPORTS OF ELECTED MEMBERS

23 ANSWERS TO QUESTIONS WHICH WERE TAKEN ON NOTICE

24 MAYORAL ANNOUNCEMENTS

25 CONFIDENTIAL ITEMS**25.1 PROPOSED DISPOSITION BY WAY OF LEASE OF LOT 12 (2) STIDWORTHY WAY,
KWINANA TOWN CENTRE****Reason for Confidentiality**

This report and its attachments are confidential in accordance with Section 5.23(2)(c) of the *Local Government Act 1995*, which permits the meeting to be closed to the public for business relating to the following:

- (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting

26 CLOSE OF MEETING