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05 DEC 2017

Received at 140 William St  
Attachments? Y N

**Hon David Templeman MLA**  
**Minister for Local Government; Heritage; Culture and the Arts**

Our Ref: 66-02955

Mr Melvyn Congerton  
Chair  
Local Government Advisory Board  
Gordon Stephenson House  
140 William Street  
PERTH WA 6000

Dear Mr Congerton

*Mel*

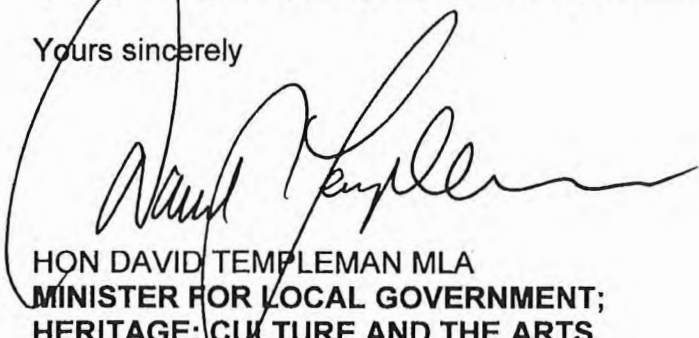
**MINISTERIAL STATEMENT OF EXPECTATION**

I commend the Local Government Advisory Board (the Board) for recently reviewing its governance structure and associated documents and for implementing a strong governance framework.

As discussed at our meeting on 3 August 2017, I attach a statement of my expectations for the Board, which reflect the Public Sector Commissioner's governance and performance requirements for State Government Boards. I am confident that with the robust governance foundation the Board has in place, the provision of impartial and objective assessment of potential changes to the structure of local government in Western Australia will continue.

I am sure that, as leaders in the sector, Board members will continue to foster a culture that ensures that all members will fully participate in the adoption of appropriate governance processes and protocols.

Yours sincerely

  
HON DAVID TEMPLEMAN MLA  
MINISTER FOR LOCAL GOVERNMENT;  
HERITAGE; CULTURE AND THE ARTS

Att

7 NOV 2017

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## MINISTERIAL STATEMENT OF EXPECTATION FOR THE LOCAL GOVERNMENT ADVISORY BOARD

I am pleased to provide you with a statement of expectation for the Local Government Advisory Board (the Board). The purpose of this statement is to provide clarity as to roles, values and objectives and to support an effective relationship. As Minister for Local Government, I am responsible for administering the *Local Government Act 1995* (the Act).

The objects of the Act include providing for the constitution of local government in Western Australia. The Board's role in decisions on the constitution of local government is set out in section 2.45 and schedules 2.1, 2.2 and 2.5 of the Act. This statement reflects the governance and other requirements specified in the Act (and should be read in context with those requirements).

This statement is important in the discharge of my Ministerial portfolio. It sets out what the Act requires of the Board and recognises and reflects that the Board has its own legal responsibilities. It is not a direction to the Board to act in a particular way. It shares with you my expectation that the Board will conduct inquiries and make recommendations to me within the strict confines of its legislative capacity.

### Role and functions

The Board is established under section 2.44 of the Act with the purposes of:

1. considering, inquiring into and making recommendations on proposals made to change local government district boundaries, wards, numbers of elected members and names of wards and districts;
2. considering, inquiring into and making recommendations as to whether any other orders are required to give effect to recommended proposals; and
3. carrying out any inquiries that I may direct.

In exercising these functions, the Act requires each member of the Board to have regard to the general interests of local government in the State.

The role of the Board is confined to these functions. The Board's role is to assess proposals independently and impartially, and does not extend to making policy or strategic recommendations in relation to those assessments.

### Community participation

The Board has the important role of listening to all stakeholders when assessing proposals, including local governments, as well as members of the public, government, business and community sectors.

Section 1.3(2) of the Act provides that one of the aims of the Act is to result in better decision making, greater community participation, greater accountability and more efficient and effective local government. It is expected that these values are reflected in the processes and actions of the Board.

### **Requirement to consider proposals**

The Act requires the Board to consider any proposal that is put to it, except in a very limited range of circumstances (as set out in subclause 3 of Schedule 2.1 of the Act).

The formal inquiry process is designed to facilitate the carrying out of the Board's responsibility to make informed recommendations by allowing for a range of views and sources of relevant information to be accessed by the Board. The formal inquiry process avoids the risk of significant facts or issues being overlooked and of the Board proceeding to a recommendation without the benefit of the various points of view which may exist about the proposal and its likely effects.

If the Board cannot satisfy itself that these risks cannot be avoided without a formal inquiry, I would expect that it would not be in a position to hold the opinion that the proposal was both minor in nature and did not need public submissions to be invited.

I note that the Act requires the Board to form its opinion as to the minor nature of the proposal rather than the minor nature of the boundary adjustment. This is an important distinction because while a boundary adjustment might be judged to be minor because it involves only a few electors or a small area of land, for other reasons such as public interest or the likelihood of controversy, its nature may not be said to be minor.

Before deciding not to conduct a formal inquiry, the Board must also consider whether public submissions need to be invited. I expect that there may be times when the Board may form the opinion that, notwithstanding that it considers the proposal to be minor in nature, nevertheless public submissions need to be invited.

I note that the Board will continue to apply and, when necessary, continue to develop processes and methodologies that ensure that the Board's recommendations are evidence based, objective and impartial.

### **When further consultation may be required**

There may be times in conducting a formal inquiry that the Board comes to the view that it is appropriate to change the scope of the inquiry. The Board may also consider that an order different from that originally proposed is appropriate.

If the Board decides that the changed scope is significantly different from the scope set out in the initial notice of inquiry, it is required to issue a further notice and invite further submissions.

Likewise, if the Board intends to recommend the making of an order that is significantly different from the originally proposed order, the Board is required to give further notice and allow adequate time for further submissions to be made.

In most circumstances, it is expected that it will be very clear whether the scope of an inquiry or a proposed order is or is not significantly different from the initial scope or originally proposed order. While it is for the Board to make the decision, in the case where it is not so clear which side of the line a matter falls, it is expected that the Board will exercise prudence and treat the matter as significantly different and engage in further consultation. Such a course of action avoids both the risk of making a potentially challengeable recommendation as well as reflects the values underpinning the aims of the Act referred to above.

### **Relationship with the Department of Local Government, Sport and Cultural Industries**

The Department of Local Government, Sport and Cultural Industries assists me with the administration of the Act and provides advice on the application of the Act, including those parts of the Act that apply to the making of proposals and the functions and role of the Board. While it is understood that members may from time to time be asked for advice on the application of the Act, I expect that such queries will be referred to the Department. While the Chair of the Board may receive queries from the media from time to time, I expect that he will seek the assistance of the Department in responding, in accordance with the Communication Protocol.

As provided by clause 10 of Schedule 2.5, the Chief Executive Officer of the Department is to make an officer of the Department available to the Board to act as its executive officer. The executive officer is responsible to the Department for the delivery of Board services.

### **Good governance**

I acknowledge that the Board has a robust governance system in place with the development and adoption of its Charter, Code of Conduct and other relevant documents.

It is necessary for all public boards to employ good governance practices to ensure that they effectively perform their functions and responsibilities and comply with their obligations. It is important that each Board member is aware of their responsibilities regarding any potential conflict between the duty that member has to the Board under the Act and a duty that they have to another entity. In particular, the Act requires that each Board member have regard to the general interests of local government in the State.

I expect at all times that all members of the Board are aware of, and comply with, any governance principles, performance indicators and reporting arrangements set out in the Act and the Board's governance documents such as the Code of Conduct and Board Charter. As part of this, I expect that appropriate induction and training will be undertaken by Board members.

In addition to the enabling provisions in the Act, I expect that the Board will work with the Department to ensure that the affairs of the Board are managed in a way that promotes the efficient, effective, economical and ethical use of resources. I expect that the Board will meet all statutory obligations imposed under any relevant legislation. Other general requirements may be imposed by other instruments such as Public Sector Commissioner's Circulars, Premier's Circulars and Treasurer's Instructions.

### **Communication with the Minister**

I expect that the Board will keep me informed of its actions and alert me to events or issues that may impact on government policy or operations. In particular, I look forward to continuing to receive monthly written updates of the Board's work schedule.

## **Conclusion**

As your Minister, I recognise the high level of corporate governance that is in place, including a robust, transparent and accountable system of annual reporting to Parliament. Accordingly, I expect this statement will be incorporated into your planning process.

This statement applies from the date of receipt until the end of this Parliamentary term, or until otherwise amended. I look forward to receiving your response confirming your understanding of these expectations. For transparency, it is anticipated that both this statement and your response will be placed on the Local Government Advisory Board's webpage.

I look forward to working with you and continuing our cooperative working relationship.



**HON DAVID TEMPLEMAN MLA  
MINISTER FOR LOCAL GOVERNMENT;  
HERITAGE; CULTURE AND THE ARTS**