

Local Government Act 1995 Reform Position Paper



Contents

Executive Summary.....	2
Background	2
Themes of the Act Review	3
Theme 1 – Earlier Intervention, effective regulation and stronger penalties.....	3
Theme 2 – reducing red tape, increasing consistency and simplicity.....	13
Theme 3 - Greater transparency and accountability	19
Theme 4 - Stronger local democracy and community engagement	26
Theme 5: Clear Roles and Responsibilities	33
Theme 6: Improved financial management and reporting.....	44
Conclusion.....	52

Executive Summary

The Minister for Local Government, the Hon. John Carey MLA, recently announced details of proposed reforms to the *Local Government Act 1995*.

The reforms are based on the findings and recommendations of a number of reports and consultation undertaken over the past five years, and represent the most significant package of reforms to local government in Western Australia since the Local Government Act 1995 was introduced more than 25 years ago. The package is based on six major themes:

1. Earlier intervention, effective regulation and stronger penalties
2. Reducing red tape, increasing consistency and simplicity
3. Greater transparency and accountability
4. Stronger local democracy and community engagement
5. Clear roles and responsibilities; and
6. Improved financial management and reporting.

This report is intended to provide some further background to the reforms and to outline a position for the City to enable a submission to be provided to the State Government by 25 February 2022.

Background

The *Local Government Act 1995* (LGA) review has been underway for some time and whilst there have been some minor changes made over the last three years, the announcement on 10 November 2021 provides the clearest indication on the direction the State Government is taking in relation to the reform of the legislation,

In preparing this report, the following have been reviewed:

- Council reports and resolutions in relation to LGA reforms
- Draft position papers
- Responses to the LGA position papers
- The Local Government Review Panel Final Report May 2020
- The Select Committee into Local Government Final Report September 2020.
- Government Response to Select Committee Panel Report November 2020
- Review of Authorised Inquiries into various local governments.

The balance of this position paper has been developed based on the high level reforms which were released on 10 November 2021.

Themes of the Act Review

Theme 1 – Earlier Intervention, effective regulation and stronger penalties

Over the last few years there have been numerous inquiries into local governments, some of which have indicated that earlier intervention may have been beneficial in resolving issues at a much earlier stage. The proposed amendments to the Act appear to be based around the areas of “people, process and property”

In summary the following are being proposed:

The Local Government Inspector

A new oversight inspector for local government will be appointed to handle complaints, manage investigations, and coordinate the proactive resolution of significant problems identified within local governments. The inspector will have the authority to receive complaints about local government CEOs.

Local Government Monitors

Specialist independent monitors appointed by the Inspector will visit and work with local governments to fix problems, to provide for faster resolution where problems are identified.

Stronger penalties

Stronger penalties will be imposed by a new Conduct Panel. This will include short-term disqualification or withholding of allowances for elected members who have been found to be in breach of the Local Government Act or Regulations.

Mandatory training

Elected members who do not complete mandatory training within a certain time will not be eligible for any allowances or sitting fees. They will also be liable for other penalties.

Rapid red card resolutions

Mayors and presidents will have consistent powers to eject anyone who disrupts a council meeting, with appropriate checks and balances by the Local Government Inspector, to prevent the misuse of these powers. This reform will also be supported by mandatory audio or video recording of council meetings.

Other amendments

Other amendments may further strengthen oversight of local government. Early intervention and oversight reforms will also be supported by the other reforms, especially new transparency and democratic decision-making reforms.

Comments on Theme 1: Early Intervention, Effective Regulation and Stronger Penalties

The following table provides an overview of the current provisions within the legislative framework, the proposed reforms along with officer comments. Unless the City has a previously adopted position on any of these matters the comments reflect the position of the City’s officer.

Overall, the principles and proposed reforms in “Earlier intervention, effective regulation and stronger penalties” are supported subject to the comments provided.

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
1.1 Early Intervention Powers		
<ul style="list-style-type: none"> • The Act provides the means to regulate the conduct of local government staff and council members and sets out powers to scrutinise the affairs of local government. The Act provides certain limited powers to: <ul style="list-style-type: none"> ○ Suspend or dismiss councils ○ Appoint Commissioners ○ Suspend or, order remedial action (such as training) for individual councillors. • The Act also provides the Director General with the power to: <ul style="list-style-type: none"> ○ Conduct Authorised Inquiries ○ Refer allegations of serious or recurrent breaches to the State Administrative Tribunal ○ Commence prosecution for an offence under the Act. • Authorised Inquiries are a costly and a relatively slow response to significant issues. Authorised Inquiries are currently 	<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</i> 	<p>The general principles of the Local Government Inspector are supported subject to the other comments in relation to Theme 1 outlined further in this section.</p> <p>The issue of local governments still having to deal with minor behavioural issues still needs some further clarification and reinforcement if it is to be effective.</p> <p>There are some concerns in relation to the referral arrangements that would trigger the Inspector coming into a local government. As has been demonstrated previously, a small number of residents can create a high level of dysfunction within a local government due to repeated vexatious complaints. This would need to be clearly</p>

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
<p>the only significant tool for addressing significant issues within a local government.</p> <ul style="list-style-type: none"> The Panel Report, City of Perth Inquiry, and the Select Committee Report made various recommendations related to the establishment of a specific office for local government oversight. 	<p>2003, the <i>Occupational Safety and Health Act 1984</i>, the <i>Building Act 2011</i>, and other legislation.</p> <ul style="list-style-type: none"> 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>defined to ensure that the office of the Inspector was not used to achieve specific or targeted outcomes to the detriment of the rest of the Council/community.</p> <p>The issue of the Inspector dealing with complaints against the CEO does not appear to have any other provisions in the proposed reforms. Given that CEOs are employed under a contract arrangement, it is assumed that this will be the basis for any action taken as a result of a review. This point needs to be clarified.</p> <p>The support arrangements through the establishment of the Local Government Monitors is also supported and should build upon, not replace or replicate the work that has already been undertaken in relation to the CEO Mentoring Program.</p>
1.2 Local Government Monitors		
<ul style="list-style-type: none"> There are currently no legislative powers for the provision of monitors/ temporary advisors. The DLGSC provides support and advice to local governments, however there is no existing mechanism for pre-qualified, 	<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. 	<p>The establishment of the Local Government Monitors is seen as a positive and proactive measure to assist both local governments and the Inspector. Whilst it is recognised that the Local Government Monitor could include experienced and</p>

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
<p>specialised assistance to manage complex cases.</p>	<ul style="list-style-type: none"> • 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</p> <p>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</p>	<p>respected former Mayors, Presidents and CEOs, it should be noted that many of those that have left the sector some time ago would not be sufficiently experienced or qualified to deal with current and emerging issues.</p> <p>Whilst it is noted that the Inspector has the power to appoint, and local governments have the ability to request the assistance of Local Government Monitors, the issue of funding is silent. This should be clarified through the drafting of any relevant legislation.</p>

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
	<p>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 the local government to rectify the error, and issue corrections to impacted ratepayers.</p> <p>Monitor Case Study 2 – Dispute Resolution</p> <p>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>	

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
1.3 Conduct Panel		
<ul style="list-style-type: none"> • The Local Government Standards Panel was established in 2007 to resolve minor breach complaints relatively quickly and provide the sector with guidance and benchmarks about acceptable standards of behaviour. • Currently, the Panel makes findings about alleged breaches based on written submissions. • The City of Perth Inquiry report made various recommendations that functions of the Local Government Standards Panel be reformed. 	<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>This is seen as a natural evolution of the Standards Panel and if structured and appropriately resourced will be a positive step forward. The two biggest criticisms of the Standards Panel have been in relation to the level of resourcing resulting in extended time delays for dealing with complaints and the lack of power of the Panel to impose penalties. It would appear that both of these issues will be addressed with the proposed amendments.</p> <p>The area that is not explained in the consultation paper is in relation to the evidence gathering process. It simply states that the Inspector would provide evidence to the Conduct Panel. It is not clear what powers the Inspector would have in relation to evidence gathering. It also appears that the ability of a person who is subject of a complaint to the Conduct Panel has a right to address the Panel prior to them making a decision. Given that there is already an independent person (the Inspector) it may be more appropriate to clearly outline that evidence should be provided by the person the subject of the complaint before it is referred to the Conduct Panel.</p>

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
1.4 Review of Penalties		
<ul style="list-style-type: none"> There are currently limited penalties in the Act for certain types of non-compliance with the Local Government Act. 	<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>The development and implementation of graduated penalty arrangement is supported. The only concern in relation to this is that in the event that there were single member wards and a member was suspended for a period of three months, then that area of the municipality would not be represented – this is seen as detrimental to the community and would need to be managed.</p> <p>In the event that an elected member was suspended, there would still need to be provisions in place to deal with issues such as the payment of superannuation or to deal with other equipment that is provided to elected members. Computers, phones etc. The final issue is in relation the provision of information, especially in relation to confidential information provided as part of agendas and Council Meetings.</p> <p>Whilst an elected member may be suspended they should still have access to information to enable them to do their role upon their return. Restricting access to information would create an additional administrative burden for some local governments having to change system access etc.</p>

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
1.5 Rapid Red Card Resolutions		
<ul style="list-style-type: none"> • Currently, local governments have different local laws and standing orders that govern the way meetings run. Presiding members (Mayors and Presidents) are reliant on the powers provided in the local government standing orders local laws. • Differences between local governments is a source of confusion about the powers that presiding members have to deal with disruptive behaviours at council meetings. • Disruptive behaviour at council meetings is a very common cause of complaints. Having the Presiding Member be able to deal with these problems should more quickly resolve problems that occur at council meetings. 	<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). • 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>Whilst some degree of consistency is considered appropriate there is still going to be a need for variation. As an example, local governments that have agenda briefings and deal with deputations at the agenda briefing would need to have a different provision to those that simply hear deputations on the night of the Ordinary Council Meeting.</p> <p>An alternative option would be to have minimum standards for Standing Orders and then identify any other provisions to assist in the conduct of meeting which could be developed and adopted as policies by the Council.</p> <p>The remaining proposals in this section appear appropriate on face value but would need to be underpinned by guidance notes to ensure equitable application across all local governments.</p>

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
1.6 Vexatious Complaint Referrals		
<ul style="list-style-type: none"> No current provisions. The Act already provides a requirement for Public Question Time at council meetings. 	<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>It is noted that the provisions that are proposed to deal with vexatious complaints takes the onus away from local governments and places this with the Inspectorate, on face value this simply creates another level of red-tape. Other States have implemented vexatious complaints process with the State Ombudsman providing guidance on the development of vexatious complaints policies and procedures and it is considered that this may be a better approach. Placing these sorts of matters with the Inspectorate will simply create additional work for an area that would then need to be appropriately resourced. It is felt that the Inspectorate should focus on more important issues related to governance and financial performance.</p>
1.7 Minor Other Reforms		
<ul style="list-style-type: none"> Other minor reforms are being considered to enhance the oversight of local government. Ministerial Circulars have traditionally been used to provide guidance to the local government sector. 	<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 	<p>This proposed arrangement would be of benefit to some of the smaller, less resourced local governments, however development of guidance notes would still need to take into account the size and</p>

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
	<p>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.</p> <ul style="list-style-type: none"> • 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>complexity of the relevant local government.</p> <p>Any changes that are proposed in this area should be linked back to areas which have been identified in the Annual Compliance Returns and build upon increasing the overall level of competence across the sector.</p>

Theme 2 – reducing red tape, increasing consistency and simplicity

As is the case in any legislative environment, the issue of red tape will always exist. Whilst it is recognised that change is required, it is considered that the areas that have been targeted in this area are quite limited.

In summary, the following changes are proposed:

Standardised meeting procedures across all local governments

The procedures for all council meetings, including for public question time, will be standardised across the State. This will improve consistency, and make engaging with council decisions simpler and easier.

Greater consistency for small business

Reforms will introduce standard approvals for key local government regulations and approvals, including:

- alfresco and outdoor dining
- minor small business signage rules
- community events.

Many of these reforms build on the planning reforms already implemented by the State Government. They also complement the ongoing innovations by local governments, and initiatives by the [Small Business Development Corporation](#) and [StreamlineWA](#).

Streamlining local laws

Local laws will be streamlined to create greater consistency and reduce the complexity of regulation, particularly for rules about installing minor signage for small business, and the planning of community events. There will be new, simple model local laws that local governments can easily adopt.

Creating flexibility to enable resource-sharing

Legislation will specifically enable and encourage local governments to share resources, including CEOs and senior employees. For instance, it will be easier for two or three local governments to hire one shared CEO.

Standardising residential crossovers/driveways on local roads

Reforms to standardise and simplify the approval of crossovers (the part of driveways connecting to the road) for residential developments on local roads as part of the Phase 2 Planning and Local Government Reforms, announced jointly by the Minister for Planning and the Minister for Local Government, will be implemented.

Comments on Theme 2: Reducing Red Tape, Increasing Consistency and Simplicity

The following table provides an overview of the current requirements, the proposed reforms and comments provided by the City's Officers.

The proposed amendments are generally supported by the City, however it is considered further reform would be beneficial for the sector, as mentioned in the comments.

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
2.1 Resource Sharing		
<ul style="list-style-type: none"> The Act does not currently include specific provisions to allow for certain types of resource sharing – especially for sharing CEOs. Regional local governments would benefit from having clearer mechanisms for voluntary 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>The concept of shared services should go well beyond the senior roles within local government, it needs to remove any potential barriers to sharing resources. The ability of a local government to pay for some services is often limited and a simple shared services arrangement without external red tape is what is required.</p>
2.2 Standardisation of Crossovers		
<ul style="list-style-type: none"> Approvals and standards for crossovers (the section of driveways that run between the kerb and private property) are inconsistent between local government areas, often with very minor differences. This can create confusion and complexity for homeowners and small businesses in the construction sector. 	<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. 	

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	<ul style="list-style-type: none"> • The DLGSC will work with the sector to develop standardised design and construction standards. 	
2.3 Introduce Innovation Provisions		
<ul style="list-style-type: none"> • The <i>Local Government Act 1995</i> currently has very limited provisions to allow for innovations and responses to emergencies to (such as the Shire of Bruce Rock Supermarket). 	<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>There should also be further exemptions provided for some commercial developments which local government area involved. This is particularly relevant where a local government wishes to negotiate for provision of a commercial service without having to go to public tender.</p> <p>The current Act requires local governments to publicly advertise disposal of land etc and this reduces the commercial viability for the private sector.</p> <p>Wherever a local government decides to dispose of land for commercial purposes they are required to go through a public process which, whilst transparent, restricts the ability of the private sector to invest up front because they are not assured of being awarded a contract and therefore their IP and concept becomes public reducing the commercial viability of projects. This reduces the ability of the private sector to deal in a confidential manner.</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		<p>Other jurisdictions have a provision which exempts the public process (subject to appropriate checks and balances). As an example the Local Government legislation in Queensland has very similar provisions to the West Australia Local Government regime with an additional provision that provides an exemption which is approved by the Minister, either with or without additional conditions. This means that Council can enter into commercial negotiations with a developer or purchaser without having to go to public tender or auction.</p>
2.4 Streamline Local Laws		
<ul style="list-style-type: none"> • Local laws are required to be reviewed every eight years. • The review of local laws (especially when they are standard) has been identified as a burden for the sector. • Inconsistency between local laws is frustrating for residents and business stakeholders. 	<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>This provision is supported and needs to be further expanded to ensure that the State develops a suite of Model Local Laws which can be adopted by simple resolution and advertising. This would help to ensure consistency across the State and simplify development and implementation of consistent local laws.</p> <p>Other jurisdictions have developed more streamlined approaches to review and adoption of local laws and these should be investigated fully before re-inventing new processes.</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
2.5 Simplifying Approvals for Small Business and Community Events		
<ul style="list-style-type: none"> • Inconsistency between local laws and approvals processes for events, street activation, and initiatives by local businesses is frustrating for business and local communities. 	<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>No particular position on this matter.</p>
2.6 Standardised Meeting Procedures, Including Public Question Time		
<ul style="list-style-type: none"> • Local governments currently prepare individual standing order local laws. • The <i>Local Government Act 1995</i> and regulations require local governments to allocate time at meetings for questions from the public. • Inconsistency among the meeting procedures between local governments is a common source of complaints. 	<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>Whilst this has not been identified as a local issue, the existing provisions in relation to public question time are already covered in the legislation and regulations. The application of these provisions through the standing orders is potentially where there may be issues. Standardisation is supported as long as some degree of flexibility is maintained to meet individual needs of local governments. Experience has shown that the majority of the questions posed at Council meetings could be dealt with outside of the formal decision-making process of Council.</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
2.7 Regional Subsidiaries		
<ul style="list-style-type: none"> • Initiatives by multiple local governments may be managed through formal Regional Councils, or through less formal “organisations of councils”, such as NEWROC and WESROC. • These initiatives typically have to be managed by a lead local government. • In 2016-17, provisions were introduced to allow for the formation of Regional Subsidiaries. Regional Subsidiaries can be formed in line with the <i>Local Government (Regional Subsidiaries) Regulations 2017</i>. • So far, no Regional Subsidiary has been formed. 	<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 ○ Ensure all employees of a Regional Subsidiary have the same employment conditions as those directly employed by member local governments. 	<p>Any proposal to expand the opportunities for regional subsidiaries is supported. The current model of regional local governments, which useful in some circumstances, is still somewhat confusing and causes conflict for elected members attempting to represent two different entities.</p> <p>It is noted that the employment conditions should be the same as those of the member local governments, however where there is disparity between member councils there would need to be a provision to deal with this. Example may be where there is a band 1 and a band 4 local government establish a regional subsidiary the band 1 local government may have substantially better employment conditions than the smaller local government. By paying the regional subsidiary staff at the higher rate than members of the band 4 local government would be disadvantaged. There would need to be legislation to ensure no disadvantage or no reduction for staff moving into a regional subsidiary.</p>

Theme 3 - Greater transparency and accountability

Ratepayers and the public expect local government decision making to be clear and transparent. During the COVID-19 pandemic, councils across the State demonstrated how online engagement can bolster public participation in local government decision-making.

In summary, the following changes are proposed:

Mandatory recording of council meetings

Large local governments will be required to livestream meetings, and post recordings online. Smaller local governments will be required to record and publish audio recordings.

Guidance for confidential meeting items

Clear rules will define the types of decisions that can be made by councils in confidential meetings, and recordings of those decisions will be required to be stored as permanent records.

Transparency and accountability through online registers

There will be new state-wide standards for reporting of important local government transactions online, including:

- a Lease Register about the leases the local government is party to (either as lessor or lessee)
- a Community Grants Register to outline all grants and funding provided by the local government
- a Contracts Register that discloses all contracts or procurement with a value of \$100,000 or more
- an Interest Disclosure Register which collates all disclosures made by elected members about their interests related to matters considered by council
- an Applicant Contribution Register accounting for funds collected from applicant contributions, such as cash-in-lieu for public open space or car parking.

Transparency of CEO key performance indicators

The Key Performance Indicators (KPI) used to measure the performance of the CEO will be made publicly available, and the results will also be reported. The CEO will also have the right to publish comments to provide context to the results.

Consistent recording of all votes

To provide consistent transparency of decision-making across all local governments, all votes cast by all councillors for all decisions on council will be required to be reported in council minutes.

Comments on Theme 3: Greater Transparency & Accountability

The following table provides an overview of the current requirements, the proposed reforms and comments provided by the City's Officers.

These reforms are generally supported, although it is recognised that some of these may increase the administrative burden on local governments.

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
3.1 Recordings and Live-Streaming of All Council Meetings		
<ul style="list-style-type: none"> • Currently, local governments are only required to make written minutes of meetings. • While there is no legal requirement for livestreaming or video or audio recording of council meetings, many local governments now stream and record their meetings. • Complaints relating to behaviours and decisions at meetings constitute a large proportion of complaints about local governments. • Local governments are divided into bands with the largest falling in bands 1 and 2, and smaller local governments falling bands 3 and 4. The allocation of local governments into bands is determined by The Salaries and Allowances Tribunal based on factors¹ such as: <ul style="list-style-type: none"> ○ Growth and development ○ Strategic planning issues 	<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. 	<p>All of these provisions appear reasonable and should be supported. In relation to the last point around recordings of confidential items needing to be provided to DLGSC this would need to be managed in accordance with the state records requirements for the retention of electronic records.</p>

¹ See page 3 of the [2018 Salaries and Allowance Tribunal Determination](#)

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
<ul style="list-style-type: none"> ○ Demands and diversity of services provided to the community ○ Total expenditure ○ Population ○ Staffing levels. 	<ul style="list-style-type: none"> ● 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. 	
3.2 Recording All Votes in Council Minutes		
<ul style="list-style-type: none"> ● A local government is only required to record which councillor voted for or against a motion in the minutes of that meeting if a request is made by an elected member at the time of the resolution during the meeting. ● The existing provision does not mandate transparency. 	<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>Given that there is a proposal to implement a standardised local law for council meetings it would be more appropriate to incorporate the way in which votes are recorded in the council minutes into the new standing orders local law.</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
3.3 Clearer Guidance for Meeting Items that may be Confidential		
<ul style="list-style-type: none"> • The Act currently provides broad definitions of what type of matters may be discussed as a confidential item. • There is limited potential for review of issues managed as confidential items under the current legislation. 	<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. 	<p>It is recognised that the current provisions for closing a meeting to members of the public often are misused. The proposed recommendation to make the act more specific in this regard is welcomed.</p> <p>Whilst it is acknowledged that the proposed amendments will allow for confidential items which are not prescribed being considered behind closed doors with the approval or consent of the inspector this would need to be clearly prescribed to ensure that the local government was aware of the rationale and implications of them releasing information publicly. Under the current provisions of the <i>Local Government Act</i> the council has the ability to resolve that the matter be considered an open session despite the recommendation of the chief executive officer to deal with the matter as a confidential item.</p> <p>The requirement to provide the audio recordings for confidential items to the DLGSC may create an additional burden for some local governments. This requirement would need to be underpinned by additional legislation to effectively manage the issue of confidentiality. As an example when the elected council is dealing with the performance review of the chief executive</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		<p>officer, the chief executive officer may be required to leave the meeting whilst council discussed particular issues relating to the performance of the CEO. the CEO is then responsible for providing the audio of the confidential meeting to the DLGSC and in doing so would have access to the recording of the meeting. This may in fact result in some elected members not expressing their views during the meeting as the information may be accessible to staff members.</p> <p>This could be an issue that could be addressed through regulations or by prescribing additional security measures within the Standing Orders Local Law.</p>
<h3>3.4 Additional Online Registers</h3>		
<ul style="list-style-type: none"> Local governments are required to provide information to the community through annual reports, council minutes and the publication of information online. Consistent online publication of information can substitute for certain material in annual reports. Consistency in online reporting across the sector will provide ratepayers with better information. These registers supplement the simplification of financial statements in Theme 6. 	<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. <p>The following new registers, each updated quarterly, are proposed:</p> <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) 	<p>Whilst there is no objection to the provisions of additional registers, there would need to be provisions for exempting commercially sensitive provisions from any register. The requirement to update a lease register on a quarterly basis appears to be overkill as many leases run for periods in excess of 10 years. An update to these on a quarterly basis does not appear to provide any benefit. A better approach may be to legislate that updates must be made within 3 months of any change to a lease or when entering into a new lease.</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	<ul style="list-style-type: none"> ○ Community Grants Register to outline all grants and funding 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. 	<p>The remaining proposed registers are supported and are already captured by many organisations.</p>
3.5 Chief Executive Officer Key Performance Indicators (KPIs) be Published		
<ul style="list-style-type: none"> • It is a requirement of the <i>Local Government Act 1995</i> that CEO performance reviews are conducted annually. • The Model Standards for CEO recruitment and selection, performance review and termination require that a local government must review the performance of the CEO against contractual performance criteria. • Additional performance criteria can be used for performance review by agreement between both parties. 	<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 	<p>These proposals are supported and are already in place as part of best practice reporting.</p> <p>The only issue is in relation to changes made to key performance indicators made during the year. This is where new projects or activities come on line during the year and are deemed important enough to replace existing focus areas. This could be dealt with through appropriate wording in the legislation.</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	context as may be appropriate (for instance, the impact of events in that year that may have influenced the results against KPIs).	

Theme 4 - Stronger local democracy and community engagement

Election and community engagement reforms are proposed to empower ratepayers to participate in local democracy and decision-making.

Direct election of the mayor or president

All electors in large local governments will be able to vote directly for the mayor or president, giving ratepayers more power to choose the leadership of their council. This reflects a broader trend, with councils such as Stirling and Rockingham already having moved to a public vote for the election of their mayors.

Preferential voting

Local government elected members will be elected by preferential voting, which is the same as State and Federal elections. Preferential voting ensures the elected council best reflects community views.

Consistent number of elected members

To increase consistency, the number of elected members on any council will be set based upon the population within that local government. The Local Government Panel Report recommended a number of elected members as follows:

- population of up to 5000 — 5 councillors (including the president)
- population of between 5000 and 75,000 — 5 to 9 councillors (including the mayor/president)
- population of above 75,000 — 9 to 15 councillors (including the mayor).

No wards for small local governments

Wards in small local governments can cover very limited areas, with small populations. This means that councillors are more likely to be elected unopposed, or with a very small number of votes. In line with a broader trend, it is proposed that wards for all small local governments be abolished.

Reforms to ensure valid candidate and voter eligibility

Rules for who is eligible to vote or run for council will be tightened, ensuring that only legitimate residents or businesses will be eligible. New laws will prevent candidates from using sham leases in council elections. The basis for why a candidate is eligible to run will also be required to be publicly disclosed.

Community engagement charter

Local governments will be required to establish a Charter which sets out how it will engage with ratepayers and the community about the local government's proposed policies, initiatives, and projects. A model Charter will be published to assist local governments who wish to adopt a standard Charter.

Other amendments

There are also more reforms proposed to further enhance local government democracy and community engagement, including proposed minor changes to the annual meeting.

Comments on Theme 4: Stronger Local Democracy and Community Engagement

The following table provides an overview of the current requirements, the proposed reforms and comments provided by the City's Officers

These reforms are generally supported, and in many cases reflect practices already adopted by the City. The City also suggests the introduction of compulsory voting for local elections to ensure that the outcomes of the proposed introduction of preferential voting and public voting for to Elect the Mayor or President better reflect the position of the whole community.

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
4.1 Community and Stakeholder Engagement Charters		
<ul style="list-style-type: none"> • There is currently no requirement for local governments to have a specific engagement charter or policy. • Many local governments have introduced charters or policies for how they will engage with their community. • Other States have introduced a specific requirement for 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>This is supported subject to appropriate wording and reflects current practice albeit using different terminology.</p>
4.2 Ratepayer Satisfaction Surveys (Band 1 and 2 local governments only)		
<ul style="list-style-type: none"> • Many local governments already commission independent surveying consultants to hold a satisfaction survey of residents/ratepayers. • These surveys provide valuable data on the performance of local governments. 	<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 and published on the local government's website. • All local governments would be required to publish a response to the results. 	<p>This is supported subject to appropriate wording and reflects current practice</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
4.3 Introduction of Preferential Voting		
<ul style="list-style-type: none"> • The current voting method for local government elections is first past the post. • The existing first-past-the-post does not allow for electors to express more than one preference. • The candidate with the most votes wins, even if that candidate does not have a majority. • Preferential voting better captures the precise intentions of voters and as a result may be regarded as a fairer and more representative system. Voters have more specific choice. 	<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>This change is supported with the introduction of compulsory voting for local government elections.</p>
4.4 Public Vote to Elect the Mayor and President		
<ul style="list-style-type: none"> • The Act currently allows local governments to have the Presiding Member (the Mayor or President) elected either: <ul style="list-style-type: none"> ○ by the electors of the district through a public vote; or ○ by the council as a resolution at a council meeting. 	<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. 	<p>This change is supported with the introduction of compulsory voting for local government elections. Council has previously considered the issue and whilst not supported this has been based on the approach to change the election of mayor method. If the matter was legislated it should be supported.</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	<ul style="list-style-type: none"> 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. 	
4.5 Tiered Limits on the Number of Councillors		
<ul style="list-style-type: none"> The number of councillors (between 5-15 councillors) is decided by each local government, reviewed by the Local Government Advisory Board, and if approved by the Minister. The Panel Report recommended electoral reforms to improve representativeness. 	<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) population of between 5,000 and 75,000 – five to nine councillors (including the Mayor/President) population of above 75,000 – nine to fifteen councillors (including Mayor). 	<p>This proposed amendment is supported if with regards to populations between 5,000 and 75,000 people, the requirement be changed from 9 to 11 Councillors (including the Mayor/President).</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
4.6 No Wards for Small Councils (Band 3 and 4 Councils only)		
<ul style="list-style-type: none"> • A local government can make an application to be divided into wards, with councillors elected to those wards. • Only about 10% of band 3 and 4 local governments currently have wards. 	<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>Proposal not relevant to Council, however the principle of ward removal should remain a decision of the relevant local government.</p>
4.7 Electoral Reform – Clear Lease Requirements for Candidate and Voter Eligibility		
<ul style="list-style-type: none"> • A person with a lease in a local government district is eligible to nominate as a candidate in that district. • A person with a lease in a local government district is eligible to apply to vote in that district. • The City of Perth Inquiry Report identified a number of instances where dubious lease arrangements put to question the validity of candidates in local government 	<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: 	<p>The proposed amendments are supported.</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
<p>elections, and subsequently their legitimacy as councillors.</p>	<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>4.8 Reform of Candidate Profiles</p>		
<ul style="list-style-type: none"> • Candidate profiles can only be 800 characters, including spaces. This is equivalent to approximately 150 words. 	<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. 	<p>Any proposed changes which will make the process more efficient are supported.</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	<ul style="list-style-type: none"> • It is important to have sufficient information available to assist electors make informed decisions when casting their vote. 	
4.9 Minor Other Electoral Reforms		
<ul style="list-style-type: none"> • Other minor reforms are proposed to improve local government elections. 	<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>Any proposed changes which will make the process more efficient are supported.</p>

Theme 5: Clear Roles and Responsibilities

The Local Government Act 1995 (the Act) outlines the role of council, elected members and the Chief Executive Officer (CEO). Ambiguity in these roles can be a source of dispute within local governments.

Amendments to further define these roles and responsibilities in the Act will help to address this.

Principles

New principles will be included in the Act to foster a culture of better practice, based on the recommendations of the Local Government Review Panel Report. New principles will include:

- recognition of the unique status of Aboriginal Western Australians
- recognition of tiers (based on SAT bands)
- guidance for community engagement
- guidance for financial management.
- Communication agreements
- Local governments will be required to introduce a communications agreement outlining communications process between councillors and the CEO.

Elected members

Elected members will only be able to use the title of their local government position while performing their role in an official capacity.

Statewide caretaker period

A Statewide caretaker period for local governments is proposed. This means that all local governments across the State will have the same clearly defined election period, during which all councils operate on a caretaker basis.

Superannuation allowances

Local governments will be able to decide to make superannuation contributions for elected members. Councils will also be able to decide to cover tuition fees for elected members who undertake further study related to local government.

CEO recruitment

DLGSC will establish an approved panel of CEO recruitment panel members for the role of independent person on a recruitment and selection panel. Local governments will be able to appoint people outside of the designated panel with approval from the Local Government Inspector.

The role of CEOs

Roles will be further defined, providing a greater understanding of the CEO's responsibilities and clear delineation between the functions of council and the CEO, as leader of the administration.

WALGA

In accordance with the Local Government Review Panel Report's recommendation, WALGA will no longer be constituted under the Local Government Act 1995. This will provide clarity that WALGA is not a State Government entity.

Comments on Theme 5: Clear Roles and Responsibilities

The following table provides an overview of the current requirements, the proposed reforms and comments provided by the City's Officers.

These reforms are large supported, many of which also reflect current practices of the City.

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
5.1 Introduce Principles in the Act		
<ul style="list-style-type: none"> • The Act does not currently outline specific principles. • The Act contains a short "Content and Intent" section only. • The Panel Report recommended greater articulation of principles 	<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>Any proposed changes which will make the process more efficient are supported.</p>
5.2 Greater Role Clarity		
<ul style="list-style-type: none"> • The Act provides for the role of council, councillor, mayor or president and CEO. • The role of the council is to: <ul style="list-style-type: none"> ○ govern the local government's affairs ○ be responsible for the performance of the local government's functions. 	<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). 	

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	<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 government ○ Working effectively with the CEO and councillors in overseeing the delivery of the services, operations, initiatives and functions of the local government. 	<p>Further clarification of the role of Mayor is required and should be supported. One of the issues in the current legislation relates to the ambiguity of the roles, resulting in conflicts between staff and elected members and between the mayor and councillors.</p>
	<p>5.2.2 - Council Role</p> <ul style="list-style-type: none"> • It is proposed to amend the Act to specify the roles and responsibilities of the Council, which is the entity consisting of all of the councillors and led by the Mayor or President. 	<p>This is seen as a positive step forward but would need to see draft wording to fully understand the intent.</p> <p>As an outcome of recent inquiries and reports the issue of creation of a safe work environment for the Chief Executive Officer in</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	<ul style="list-style-type: none"> • While input and consultation will inform precise wording, it is proposed that the Act is amended to generally outline that the Council is responsible for: <ul style="list-style-type: none"> ○ Making significant decisions and determining policies through democratic deliberation at council meetings ○ Ensuring the local government is adequately resourced to deliver the local governments operations, services and functions - including all functions that support informed decision-making by council ○ Providing a safe working environment for the CEO; ○ Providing strategic direction to the CEO; ○ Monitoring and reviewing the performance of the local government. 	<p>isolation appears a little out of step with other recommendations. The ability of the Councillors to provide a safe work environment for the Chief Executive should be further underpinned with a requirement to provide a safe work environment for all staff.</p>
	<p>5.2.3 - Elected Member (Councillor) Role</p> <ul style="list-style-type: none"> • It is proposed to amend the Act to specify the roles and responsibilities of all elected councillors. • While input and consultation will inform precise wording, it is proposed that the Act is amended to generally outline that every elected councillor is responsible for: <ul style="list-style-type: none"> ○ Considering and representing, fairly and without bias, the current and future interests of all people who live, work and 	<p>This is seen as a positive step forward but would need to see draft wording to fully understand the intent.</p> <p>The point around “communicating the decisions and resolutions....” seems contrary to the Mayor being the spokesperson for the City. There would need to be wording to ensure that this overlapped can be effectively managed.</p> <p>As the Council will be required to develop an engagement process the point about facilitating public engagement with the local</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	<p>visit the district (including for councillors elected for a particular ward)</p> <ul style="list-style-type: none"> ○ Positively and fairly contribute and apply their knowledge, skill, and judgement to the democratic decision-making process of council ○ Applying relevant law and policy in contributing to the decision-making of the council ○ Engaging in the effective forward planning and review of the local governments' resources, and the performance of its operations, services, and functions ○ Communicating the decisions and resolutions of council to stakeholders and the public ○ Developing and maintaining professional working relationships with all other councillors and the CEO ○ Maintaining and developing their knowledge and skills relevant to local government ○ Facilitating public engagement with local government. <ul style="list-style-type: none"> ● 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>government will need to be clarified to remove any duplication of competing priorities.</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	<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"> ○ Coordinating the professional advice and assistance necessary for all elected members to enable the council to perform its decision-making functions ○ Facilitating the implementation of council decisions ○ Ensuring functions and decisions lawfully delegated by council are managed prudently on behalf of the council ○ Managing the effective delivery of the services, operations, initiatives and functions of the local government determined by the council ○ Providing timely and accurate information and advice to all councillors 	<p>In clarifying the role of the Chief Executive Officer, it is unclear from the current proposal if the existing provisions would still be included, in particular the issue of employing of other staff. At present in the wording this existing provision is missing. Whilst this point was clarified to some extent during the WALGA webinar on 15/11 by the Minister, this will need to be further enshrined in the legislation.</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	<p>in line with the Council Communications Agreement (see item 5.3)</p> <ul style="list-style-type: none"> ○ Overseeing the compliance of the operations of the local government with State and Federal legislation on behalf of the council ○ Implementing and maintaining systems to enable effective planning, management, and reporting on behalf of the council. 	
5.3 Council Communication Agreements		
<ul style="list-style-type: none"> • The Act provides that council and committee members can have access to any information held by the local government that is relevant to the performance of the member in their functions. • The availability of information is sometimes a source of conflict within local governments. 	<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 	<p>This is seen as a positive step forward and aligned to the roles and responsibilities of the elected members. The proposed process would ensure that the incoming Council would be responsible for the development and adoption of the Communications Agreement, and this would assist in setting the operating framework expectations. Guidance from the Department through the development of a standardised template will assist in the clarification of roles.</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	other agreement within a certain timeframe following any election.	
5.4 Local Governments May Pay Superannuation Contributions for Elected Members		
<ul style="list-style-type: none"> • Elected members are eligible to receive sitting fees or an annual allowance. • Superannuation is not paid to elected members. However, councillors can currently divert part of their allowances to a superannuation fund. • Councils should be reflective and representative of the people living within the district. Local governments should be empowered to remove any barriers to the participation of gender and age diverse people on councils. 	<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. 	This position is consistent with the recent matter considered by Council and is supported along those lines.
5.5 Local Governments May Establish Education Allowances		
<ul style="list-style-type: none"> • Local government elected members must complete mandatory training. • There is no specific allowance for undertaking further education. 	<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, 	The City already has a policy in relation to Councillor training and development and this would further underpin the existing principles and as such is supported.

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	<p>for tuition costs for further education that is directly related to their role on council.</p> <ul style="list-style-type: none"> • 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. 	
5.6 Standardised Election Caretaker period		
<ul style="list-style-type: none"> • There is currently no requirement for a formal caretaker period, with individual councils operating under their own policies and procedures. • This is commonly a point of public confusion. 	<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, 	<p>This is consistent with the current Council policy and is supported to ensure a standardised approach across the sector.</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	<ul style="list-style-type: none"> or use local government resources to support campaigning activities. ○ There are consistent election conduct rules for all candidates. 	
5.7 Remove WALGA from the Act		
<ul style="list-style-type: none"> • The Western Australian Local Government Association (WALGA) is constituted under the <i>Local Government Act 1995</i>. • The Local Government Panel Report and the Select Committee Report included this recommendation. 	<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>The Council has not previously considered this matter, however removal of WALGA from the Act should be supported subject to there being no detriment to local governments using systems such as preferred supplier arrangements. This program alone provides substantial benefits to local government and ensures value for money for smaller local governments in particular.</p>
5.8 CEO Recruitment		
<ul style="list-style-type: none"> • Recent amendments introduced provisions to standardise CEO recruitment. • The recruitment of a CEO is a very important decision by a local government. 	<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. • Councils will still be able to appoint people outside of the panel with the approval of the Inspector. 	<p>It is considered that this proposal is consistent with the direction that has already been undertaken in relation to changes to the CEO Recruitment process and as such should be supported. As currently outlined the Council can move outside of the list of approved panel members with prior approval this still leaves the Council with the ultimate decision on appointment of external member.</p>

Theme 6: Improved financial management and reporting

Clear and accurate financial management and reporting is critical for public confidence in local government. Currently, local governments across Western Australia have to comply with the same financial reporting requirements, even though local governments range from less than 200 residents to a population of more than 200,000 people.

Model financial statements

New standardised templates will be established for local government financial statements:

- large (band 1 and 2) local governments will have financial statements similar to those already used, with minor amendments and streamlining where possible
- smaller (band 3 and 4) local governments will have more streamlined standard financial statements, reflecting the generally less complex operations of smaller local governments.
- Rates and revenue policy
- All local governments will adopt a short Rates and Revenue Policy. The policy will provide greater clarity for ratepayers by linking the cost of services and the maintenance of assets (such as roads and recreation facilities) to the setting of rates.

Reforms for financial ratios

The financial metrics reported on the MyCouncil website will be reviewed and adjusted to ensure they best reflect the underlying financial position of the local government.

Credit card statements publicly reported to council

New reforms will introduce a requirement that employee credit card statements are to be provided to council at meetings on a monthly basis.

Other minor reforms

Other changes to the legislation will provide for general improvements for financial management:

- Changes to require audit and risk committees to bolster local government oversight, and allowing regional local governments to share audit and risk committees to reduce costs.
- Reforms will allow local governments to provide fixed-interest loans to building owners to fund specific building upgrade finance, such as for green energy investments, and for heritage preservation works.
- The cost of waste collection services provided to a property will be required to be separately stated on any rates notice for that property. This provides ratepayers with clear transparency for what waste collection services cost.
- The State Government is also considering potential further reform for regional subsidiaries, and other financial and risk management initiatives.

Comments on Theme 6: Improved Financial Management and Reporting

The following table provides an overview of the current requirements, the proposed reforms and comments provided by the City's Officers.

These reforms are mostly supported, with the outlying exception being the use of financial ratios to compare local governments in isolation, given that all local governments operate within different environments with diverse resources and pressures.

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
6.1 Model Financial Statements and Tiered Financial Reporting		
<ul style="list-style-type: none"> The financial statements published in the Annual Report is the main financial reporting currently published by local governments. Reporting obligations are the same for large (Stirling, Perth, Fremantle) and small (Sandstone, Wiluna, Dalwallinu) local governments, even though they vary significantly in complexity. The Office of the Auditor General has said that some existing reporting requirements are unnecessary or onerous - for instance, information that is not relevant to certain local governments, or that is a duplicate of other published information. 	<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 	

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	<p>reporting requirements should be tiered – meaning that larger local governments will have greater financial reporting requirements than smaller local governments.</p> <ul style="list-style-type: none"> • 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. 	
6.2 Simplify Strategic and Financial Planning		
<ul style="list-style-type: none"> • Requirements for plans are outlined in the Local Government Financial Management and Administration Regulations. • There is also the Integrated Planning and Reporting (IPR) framework. • While many councils successfully apply IPR to their budgeting and reporting, IPR may seem complicated or difficult, especially for smaller local governments. 	<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 	

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	<p>make planning and reporting clearer and simpler, providing greater transparency for ratepayers.</p> <ul style="list-style-type: none"> • 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 	

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	<p>plans will be required to be reviewed in detail at least every four years</p> <ul style="list-style-type: none"> ○ 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) ○ 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. 	
6.3 Rates and Revenue Policy		
<ul style="list-style-type: none"> ● Local governments are not required to have a rates and revenue policy. ● Some councils defer rate rises, resulting in the eventual need to drastically raise rates to cover unavoidable costs – especially for the repair of infrastructure. 	<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. 	<p>Whilst the principles of a rates and revenue policy are supported, it would need to be appropriately robust to ensure ongoing compliance. At present the Long Term Financial Plan is underpinned by assumptions relating to rate increases which change every</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	<ul style="list-style-type: none"> • 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>year resulting in a plan which cannot be funded or provides for shortfall in revenue as proposed increases do not occur. Appropriate linking of a rates and revenue policy with a requirement to publicly advertise long term rating increases provides for some assurance and certainty for ratepayers and makes the organisation more accountable by having to advertise changes that it wishes to make to the longer term forecasts.</p>
6.4 Monthly Reporting of Credit Card Statements		
<ul style="list-style-type: none"> • No legislative requirement. • Disclosure requirements brought in by individual councils have shown significant reduction of expenditure of funds. 	<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>The Council already undertakes this process and it is considered an appropriate transparency measure.</p>
6.5 Amended Financial Ratios		
<ul style="list-style-type: none"> • Local governments are required to report seven ratios in their annual financial statements. • These are reported on the MyCouncil website. 	<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>Whilst the process of simplifying ratios is supported, the use of ratios to compare local governments in isolation is not supported. Every local government operates in a different environment and growth cycle and as such are likely to be performing at different levels. The use of ratios to identify early issues in relation</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
<ul style="list-style-type: none"> • These ratios are intended to provide an indication of the financial health of every local government. 		<p>to financial performance is appropriate and some form of standardisation is required.</p>
<p>6.6 Audit Committees</p>		
<ul style="list-style-type: none"> • Local governments must establish an Audit Committee that has three or more persons, with the majority to be council members. • The Audit Committee is to guide and assist the local government in carrying out the local government’s functions in relation to audits conducted under the Act. • The Panel Report identified that Audit Committees should be expanded, including to provide improved risk management. 	<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>One of the key issues in relation to this reform will be the ability of local governments to pay external members of the Audit Committee. It is considered an appropriate change to help ensure transparency in the assessment and review process, however without the ability to pay professionals for their involvement it is unlikely that it will deliver positive change. The role of Mayor and Councillors would need to be amended in relation to organisational oversight to ensure compliance with these provisions given that the Audit Committee would not comprise a majority of elected members.</p>
<p>6.7 Building Upgrade Finance</p>		
<ul style="list-style-type: none"> • The local government sector has sought reforms that would enable local governments to provide loans to property owners to finance for building improvements. • This is not currently provided for under the Act. • The Local Government Panel Report included this recommendation. 	<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>An amendment to the Local Government Act describing minimum Local Government involvement, existing mortgagee considerations and tenant pass-through criteria is the first step to creating and enabling an environment for BUF in WA. Lessons from other states show that keeping the wording of the legislation simple and encouraging standardisation of the program is most effective. This is considered to be an</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		appropriate mechanism to allow local governments to facilitate redevelopment of buildings within the municipality. A copy of the fact sheet has been provided previously.
6.8 Cost of Waste Service to be Specified on Rates Notices		
<ul style="list-style-type: none"> • No requirement for separation of waste charges on rates notice. • Disclosure will increase ratepayer awareness of waste costs. • The Review Panel Report included this recommendation. 	<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. 	This change is supported, if it doesn't affect the discount currently eligible to pensioners.

Conclusion

This position paper forms the basis of the City of Bayswater's submission to the Western Australian State Government on the proposed reforms to the *Local Government Act 1995*.

On the whole, the reforms are considered to be positive and a step forward for WA local governments, with the exception of a few in which the City has provided further comments in the body of this paper.