

Our Ref: LEGIS004/4778852

Your Ref:

Contact: [REDACTED]



29 December 2021

Hon. John Carey
Minister for Local Government
Level 7, Dumas House
2 Havelock Street
WEST PERTH WA 6005
[REDACTED]

Dear Minister Carey

PROPOSED REFORMS TO THE LOCAL GOVERNMENT ACT 1995

We refer to the proposed reforms (the Reforms) of the *Local Government Act 1995* (the Act), released for public comment 10 November 2021. The City of Busselton (City) has reviewed the summary of proposed reforms and welcomes advice of the comprehensive overarching direction for local government and associated review of the Act.

The City would like to take the opportunity to express support for the majority of the Reforms proposed. We also set out below where we have concern with some of the Reforms and brief supporting reasons. We hope these comments will be considered, along with the other submissions you have received, when formulating amendments to the Act.

Early Intervention Powers

The City is supportive of the Early Intervention Power Reforms 1.1 - 1.7 inclusive, which seek to resolve problems, disputes and dysfunction in local government quickly and with reduced risk to the damage of the local government. The City supports these Reforms, subject to appropriate resourcing to ensure the reforms achieve the intended outcome and subject to amendments so that all complaints, including current Code of Conduct Division 3 behaviour complaints, are handled external to the local government.

The City does not believe the recently introduced complaint mechanisms within local government Codes of Conduct are effective in achieving appropriate standards of behaviour. They are open to misuse and can drive further discord amongst Councillors, as opposed to improve Council functioning. The process also places CEO's and other senior employees in a difficult position, having to prepare reports and recommendations in relation to Councillor behaviour and action plans (even where assisted by external investigation).

The City would request that the behaviour complaints process be incorporated into the role and functions of the Local Government Inspector whereby in time a much more consistent approach and direction will likely occur across the local government industry to address and deal with such matters.

All Communications to:

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Reform 1.4 Review of Penalties

The City seeks clarification as to the scope of functions an elected member would be suspended from fulfilling during the penalty period; and whether the proposed suspension period of up to 3 months, which for the City, equates to 6 ordinary meetings of council, would trigger an automatic disqualification from Council as per section 2.25(4) of the Act.

Reducing Red Tape, Increasing Consistency and Simplicity

The City is supportive of the reforms aimed at reducing red tape, increasing consistency and simplicity (2.1 - 2.7 inclusive), for small business, community organisations, residents and ratepayers, subject to the following comments.

Reform 2.4 Streamline Local Laws

The City believes the lapsing of a local law, if not reviewed within the 15 year time frame is too extreme a penalty, even acknowledging the extended timeframe for local law review; and could be problematic. For instance if a thoroughfares local law is not reviewed in a timely fashion, then all street trees in a district could be removed "lawfully" upon the local law lapsing.

The City also notes that there should be capacity for local governments to upgrade from base model local laws without undue administrative process.

Reform 2.6 Standardised Meeting Procedures Including Public Question Time

As per above, the City would like to see the ability for local governments to retain the ability to customise procedures where Council agrees.

Greater Transparency and Accountability

The City is generally supportive of the Greater Transparency and Accountability Reforms 3.1 - 3.5 and notes a range of the proposals are currently implemented by the City. The City seeks clarity in relation to Reform 3.3 and is only supportive of Reform 3.5 subject to the comments / conditions below.

Reform 3.3 Clearer Guidelines for Meeting Items that may be Confidential

The City seeks further clarification in relation to the provision of audio recordings of confidential matters and the consequences of releasing confidential information to the Department in respect to the requirements of section 5.96A(2). The City also believes local governments are generally in a position to retain their own confidential information, as is the responsibility of the CEO under the Act.

Reform 3.5 Chief Executive Officer Key Performance Indicators (KPIs) be to Published

The City is supportive of the KPI's set for a CEO being published where they align to the local government's strategic direction and subject to exemptions which do not require KPI's of a confidential or sensitive nature to be published. The City is not however supporting of proposals to publish results of CEO performance reviews. Organisation performance review results should be published through strategic and corporate reporting and through the annual report process.

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Stronger Local Democracy and Community Engagement

With the exception of Reform 4.4, the City is broadly supportive of the Stronger Local Democracy and Community Engagement Reforms, but notes it does not have a strong position in regards to Reform 4.3 Introduction of Preferential Voting. The City acknowledges that there are pros and cons for this Reform.

Reform 4.4 Public Vote to Elect the Mayor and President

The City is not supportive of this Reform as it believes local governments should be able to choose (as they can now) how their Mayor is elected. The City believes there are significant benefits to having Elected Members choose who should lead them; notwithstanding the ability for a Council to determine the method of election is considered important.

The City is unsure of why such a change is needed and what evidence exists to suggest that a change is required.

Reform 4.5 Tiered Limits on the Number of Councillors

The City supports this Reform, subject to Tier 2 having 7 to 9 Councillors and Tier 3 having a maximum of 13 Councillors. The rationale for this view is that the increase in the number of elected members should be equally relative to the population. Further, the City views 15 Councillors as a significant number that may, without benefit, place an increased financial and resourcing burden on the ratepayer.

Clear Roles and Responsibilities

With the exception of Reform 5.3 and subject to further clarification as follows, the City is supportive of the proposed Clear Roles and Responsibilities Reforms:

Reform 5.2 Greater Role Clarity

The City is supportive of this Reform, subject to the inclusion of specific reference to employment of staff being retained under CEO Roles and Responsibilities.

The Act would benefit from greater clarity in relation to responsibilities of the Local Government, Council, Mayor and CEO. A suggestion that the Act be modified to clearly delineate the Mayor and Council's roles, and following this, that the balance of responsibility fall under the role of the CEO's functions.

Reform 5.3 Council Communication Agreements

The City questions the need for mandating this or for a default agreement. Each local government should be able to determine the need for a communication agreement.

Reform 5.4 Local Governments may pay Superannuation Contributions for Elected Members

The City is supportive of this Reform, subject to further clarification as to whether superannuation contributions will be included within the current salaries and allowances band thresholds or whether these would be increased to accommodate the additional remuneration.

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Improved Financial Management and Reporting

Whilst the City is broadly supporting of Improved Financial Management and Reporting Reforms 6.1, 6.3-6.5 and 6.7-6.8, the City has comments regarding Reform 6.2 and 6.6.

Reform 6.2 Simplify Strategic and Financial Planning

The City feels that the current legislated requirements coupled with the advisory standards are sufficient and allow local governments the necessary flexibility with respect to strategic and financial planning. While further detail is required to be sure, the proposed reforms appear to create more work and complexity as opposed to simplify requirements, while also limiting the ability for local governments to tailor their approach to organisational and community needs.

Reform 6.5 Amended Financial Ratios

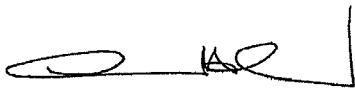
The City supports a comprehensive review of the financial ratios as the current ratios are not fit for purpose. Whilst the City cannot make specific comment on any specific proposals for a new method of calculating ratios and indicators, the City would support new methods that allowed for the inclusion of reserve and cash accounts in the calculations.

Reform 6.6 Audit Committees

The City does not support majority independent members of the Audit Committee. Responsibility for Audit oversight should remain with the Council through establishment of a Committee with majority Councillor representation.

We again thank you for the opportunity to provide feedback on the proposed Reforms and we submit our above comments with the intent of contributing to a new legislative framework that empowers local governments to continue to deliver quality services to communities. We welcome any enquiries you may have and we will provide any further information as required.

Yours sincerely



Mr Mike Archer
CHIEF EXECUTIVE OFFICER

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