

**Local Government Reform –  
Summary of Proposed Reforms –  
Submission  
February 2022**



## 1.1 Early Intervention Powers

- 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 Corruption, Crime and Misconduct Act 2003, the Occupational Safety and Health Act 1984, the Building Act 2011, and other legislation.
- The Inspector would have powers to implement minor penalties for less serious breaches of the Act, with an appeal mechanism.
- The Inspector would also have the power to order a local government to address non-compliance with the Act or Regulations.
- The Inspector would be supported by a panel of Local Government Monitors (see item 1.2).
- The existing Local Government Standards Panel would be replaced with a new Conduct Panel (see item 1.3).
- Penalties for breaches to the Local Government Act and Regulations will be reviewed and are proposed to be generally strengthened (see item 1.4).
- These reforms would be supported by new powers to more quickly resolve issues within local government (see items 1.5 and 1.6).

### Response.

- We request the Minister explore alternate mechanisms for resolving local level complaints.
- Request the Minister to not establish the Chief Inspector for Local Government and support adequately resourcing the Local Government Standards Panel
- that the LSP be expanded to manage the minor and serious wide range of complaints in relation to disputes, breach of the LGA and local level complaints that are currently dealt with by the Code of Conduct complaints.
- City of Kalamunda would also request that parties involved in the management of the complaints process be entirely independent of the Council and of anyone who has connections with Local Government.

The City of Kalamunda are also concerned about the additional costs of the initial recommendation onto ratepayers and the city in general for providing an Inspector service and do not support cost impositions into the Local Government. There will also be additional cost given the request for employee FTE to accommodate the needs of the Inspector to support the City staff and Council.

The City of Kalamunda have a positive track record of behaviour with Councillors and do not believe this service would be of benefit to our Council or ratepayers.

## 1.2 Local Government Monitors

- A panel of **Local Government Monitors** would be established.
- Monitors could be appointed by the Inspector to go into a local government and try to resolve problems.
- The purpose of Monitors would be to proactively fix problems, rather than to identify blame or collect evidence.
- Monitors would be qualified specialists, such as:
  - 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 Practicing 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.

### Response:

- Does not support the proposed reform position on external oversight and support using Local Government Monitors.
- There is pre-existing funding for professional development, mediation, and mentoring programs through a wide range of agencies affiliated with the Local Government that can and does provide this service already.
- We request the Minister to explore alternatives to the establishment of LGM and would support increased resources towards the Local Government Standards Panel in managing of disputes, complaints for local level issues and breaches of the LGA, provided there is no cost-shifting to ratepayers.

The City of Kalamunda does not support the use of local government monitors as the definition is very broad and needs better role definition. Council does not endorse the use of local government monitors to resolve issues and investigate Councillors when anyone with a prior or existing connection to Local Government is utilised due to potential bias and concerns over fairness.

The appointment of a LG monitor panel for conduct panels, problem resolution and grievances must be persons who are totally independent of the LG sector to ensure that the complaints, grievances, and dispute resolution processes follows procedural fairness.

Council must and do already approve utilising services (governance, External and Internal Audits, HR, Procurement etc) given there is a need for tending processes outside of this scope and would not support use of monitors for this purpose. Council already has highly skilled staff competent and capable of fulfilling the financial management needs of the City.

Any requests for monitors for any relevant purpose must be endorsed by Council and cannot be requested by the City alone.

### 1.3 Conduct Panel

- 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.

Response:

Does not support the proposed reform position on the new establishment for the conduct panel.

- Request the Minister to adequately resource the Standards Panel and to ensure that any person has the right to address the standards panel before the panel decides.
- Ensure all parties are afforded access to support services to ensure mental health and wellbeing are protected
- Complaints must be evidence based and be able to be tested with the relevant facts, i.e., can not just be made up, hearsay or vexatious.
- Council endorse that the standards panel have the capability of ruling complainants as vexatious.
- Does not support suspending councillors from their role whilst an investigation occurs.

Appointment of conduct panels, problem resolution and grievances must be persons who are totally independent of the LG sector to ensure that the complaints, grievances, and dispute resolution processes to ensure that procedural fairness is supported.

### 1.4 Review of Penalties

- 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.

Response:

- Council does not support standing down members whilst being investigated.
- Council should have similar protections as State or Federal Members of Parliament
- Councillors should be supported with appropriate Governance and Training on appropriate behaviours and conduct and interpersonal skills
- Council does not consider procedural fairness applies in this proposed amendment.

Council recognise that many elected members rely on their allowances as a large source towards their income and forms an essential part of their family household income, contributing towards mortgages, credit cards and everyday bills. Whilst the allowances are limited, the upmost protection of allowances for elected members should be given. There is no workplace in Government or otherwise who would remove an income source and stand down a staff member for the breaches or misconduct that a Councillor could be investigated for.

Council recognises that penalties for breaching the act should be strengthened to ensure councillors behaviours are positive and productive, and that further policy work must be completed to ensure consistency.

### 1.5 Rapid Red Card Resolutions

- 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:
  - o Require the Presiding Member to issue a clear first warning
  - o 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
  - o 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.

Response:

- Council do not support use of a red card for councillors or any attendees.
- Any councillor attending a meeting must be entitled to voice concerns, debate, and vote in an ordinary manner.

If a Councillor attends a meeting they are entitled to vote and speak on the matter. The presiding member must revisit good governance about agreed code of conduct and behaviours needs to be demonstrated at the commencement of every meeting.

Often emotional or “upset/angry” councillors can have strong views on a matter, and they should be afforded all opportunities to ensure good decision making occurs as part of good governance for the community.

If any Attendees at meetings who have a pattern of unreasonable behaviour or communications there is an already existing framework to ban people from meetings, refuse requests for deputations or to cease and desist requests from vexatious and repeated requests for information.

### 1.6 Vexatious Complaint Referrals

- 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.

Response:

Council agree there needs to be a process developed for vexatious complaints to the City and as part of any complaints process related to Councillors and their code of conduct panel/ LG Complaints committee.

### 1.7 Minor Other Reforms

- Potential other reforms to strengthen guidance for local governments are being considered.
- For example, one option being considered is the potential use of sector-wide guidance notices. Guidance notices could be published by the Minister or Inspector, to give specific direction for how local governments should meet the requirements of the Local Government Act and Regulations. For instance, the Minister could publish guidance notices to clarify the process for how potential conflicts of interests should be managed.
- It is also proposed (see item 1.1) that the Inspector has the power to issue notices to individual local governments to require them to rectify non-compliance with the Act or Regulations.

Response:

The City of Kalamunda supports the continuance of the Department of Local Government, Sport and Cultural Industries as a direct service provider of compliance and recommend the Department fund its capacity building role through the utilisation of third-party service providers. In addition, the City calls on the State Government to ensure there is proper resourcing of the Department of Local Government, Sport and Cultural Industries to conduct timely inquiries and interventions when instigated under the provisions of the Local Government Act 1995.

Operational guidance from the Department of Local Government, Sport and Cultural Industries leads to consistent understanding and application of statutory provisions by Local Government. The proposed reform that the Inspector issue non-compliance notices appears to replicate the Minister's powers under Section 9.14A – 'Notice to prevent continuing contravention'

Recommendation

Supported

### 2.1 Resource Sharing

- 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.

Response:

The City of Kalamunda has been resourcing sharing with rural LGA's through the Avon and wheatbelt areas. Providing rangers, building, planning and health services through established MOUs. In regard to senior staff being shared it is unlikely to occur in large and medium sized LGA as the capacity would not be available to share senior staff. This initiative would seem practicable for smaller and regional LGAs.

Local governments should be empowered to form single and joint subsidiaries, and beneficial enterprises that are not burdened with unreasonable compliance to enable them to operate in commercially viable competitive markets in order to create much needed new revenue sources for LG. The proposed reforms will rely upon statutory provisions that enable and enhance regional collaboration. Recent over-regulation of Regional Subsidiaries in 2016 resulted in no subsidiaries being formed since that time.

Recommendation  
Supported

## 2.2 Standardisation of Crossovers

- It is proposed to amend the Local Government (Uniform Local Provisions) Regulations 1996 to standardise the process for approving crossovers for residential properties and residential developments on local roads.
- A Crossover Working Group has provided preliminary advice to the Minister and DLGSC to inform this.
- The DLGSC will work with the sector to develop standardised design and construction standards.

Response:

The City of Kalamunda views this reform as a sensible approach.

Recommendation  
Supported

## 2.3 Introduce Innovation Provisions

- New provisions are proposed to allow exemptions from certain requirements of the Local Government Act 1995, for:
  - o Short-term trials and pilot projects
  - o Urgent responses to emergencies.

Response:

The City of Kalamunda sees it necessary to apply innovative solutions to complex and emerging issues which are difficult to resolve by traditional means.

Exemptions constructed with appropriate checks and balances, and should be aligned to the risk appetite statements of the local government, particularly where expenditure of public funds are to be expended to fund pilots and trials which may have the potential to facilitate efficient and effective outcomes.

Recommendation  
Supported

#### 2.4 Streamline Local Laws

- 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.

Response:

The Local Law-making process should be simplified as follows:

- The requirement to give state-wide notice should be reviewed, with consideration given to local governments only being required to provide local public notice.
- Eliminate the requirement to consult on local laws when a model is used.
- Consider deleting the requirement to review local laws periodically. Local governments, by administering local laws, will determine when it is necessary to amend or revoke a local law; and
- Introduce certification of local laws by a legal practitioner in place of scrutiny by Parliament's Delegated Legislation Committee.

The proposed reforms meet the City's preference for simplified local law-making processes. Model local laws are supported, whilst recognising the models themselves will require review by State Government departments with the relevant head of power. For example, the Model Local Law (Standing Orders) 1998 formed the basis of many Local government meeting procedures local laws but no review was completed. This model was superseded by individual local laws with added contemporary provisions. This pattern will repeat itself if model local laws are not reviewed to remain contemporary to the Sector's requirements.

Recommendation

Supported

#### 2.5 Simplifying Approvals for Small Business and Community Events

- Proposed reforms would introduce greater consistency for approvals for:
  - o alfresco and outdoor dining
  - o minor small business signage rules
  - o running community events.

Response:

The proposed reforms meet the City's preference for providing greater consistency across LG for small business and community events. The City would also like the Department to provide overlay guidance on political signage and real estate signage.

Recommendation

Supported

#### 2.6 Standardised Meeting Procedures, Including Public Question Time

- 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.**

Response:

The City of Kalamunda views this reform as a sensible approach.

Recommendation

Supported

## **2.7 Regional Subsidiaries**

- Work is continuing to consider how Regional Subsidiaries can be best established to:
  - o Enable Regional Subsidiaries to provide a clear and defined public benefit for people within member local governments
  - o Provide for flexibility and innovation while ensuring appropriate transparency and accountability of ratepayer funds
  - o Where appropriate, facilitate financing of initiatives by Regional Subsidiaries within a reasonable and defined limit of risk
  - o Ensure all employees of a Regional Subsidiary have the same employment conditions as those directly employed by member local governments.

Response:

Local governments should be empowered to form single and joint subsidiaries, and beneficial enterprises. In addition, compliance requirements of Regional Councils should be reviewed and reduced.

Under the Regional Subsidiary model, two or more Local governments can establish a regional subsidiary to undertake a shared service function on behalf of its constituent Local governments. The model provides increased flexibility when compared to the Regional Local government model because regional subsidiaries are primarily governed and regulated by a charter rather than legislation. While the regional subsidiary model's governance structure is primarily representative, the model also allows independent and commercially focussed directors to be appointed to the board of management.

A key advantage of the regional subsidiary model is the use of a charter, as opposed to legislation, as the primary governance and regulatory instrument. Accordingly, the legislative provisions governing the establishment of regional subsidiaries should be light, leaving most of the regulation to the regional subsidiary charter, which can be adapted to suit the specific circumstances of each regional subsidiary.

Recommendation

Supported

## **3.1 Recordings and Live-Streaming of All Council Meetings**

- It is proposed that all local governments will be required to record meetings.
- Band 1 and 2 local governments would be required to livestream meetings, and make video recordings available as public archives.
- Band 1 and 2 are larger local governments are generally located in larger urban areas, with generally very good telecommunications infrastructure, and many already have audio-visual equipment.
- Band 1 and 2 local governments would be required to livestream meetings, and make video recordings available as public archives.

- Several local governments already use platforms such as YouTube, Microsoft Teams, and Vimeo to stream and publish meeting recordings.
- Limited exceptions would be made for meetings held outside the ordinary council chambers, where audio recordings may be used.
- Recognising their generally smaller scale, typically smaller operating budget, and potential to be in more remote locations, band 3 and 4 local governments would be required to record and publish audio recordings, at a minimum. These local governments would still be encouraged to livestream or video record meetings.
- All council meeting recordings would need to be published at the same time as the meeting minutes. Recordings of all confidential items would also need to be submitted to the DLGSC for archiving.

Response:

The City of Kalamunda has implemented live streaming and is supportive of it being mandated across the sector.

Recommendations:

Supported.

### 3.2 Recording All Votes in Council Minutes

- 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.

Response:

The City of Kalamunda has always recorded voting outcomes and is supportive of it being mandated across the sector.

Recommendations:

Supported.

### 3.3 Clearer Guidance for Meeting Items that may be Confidential

- 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.

Response:

Clarifying the confidentiality provisions of the Act has support from the City of Kalamunda, however, the provisions currently provided are reasonable and should not be diluted. New reforms requiring Local governments to video or audio record Council meetings (Item 3.1) will add to the formal record of proceedings that includes written Minutes. While being supported, the requirement to provide audio recordings of confidential matters to the DLGSC is queried on the basis that written and audio records can be readily accessed from a Local government if required.

It is also suggested to aid in consistency across Local governments and for the benefit of the community, that Regulations are developed which set out the content of Council reports regarding award of tenders in terms of information that is Confidential and information that is not Confidential.

Recommendation

Supported except for point 4.

Regulations are developed detailing the award of tenders by Council to aid in consistency across the sector.

### 3.4 Additional Online Registers

- It is proposed to require local governments to report specific information in online registers on the local government's website. Regulations would prescribe the information to be included.

The following new registers, each updated quarterly, are proposed:

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

Response:

This proposal follows recent Act amendments that ensure a range of information is published on Local government websites. Clarity that the contracts register excludes contracts of employment this would not be reasonable to make employment contracts public information and would have a negative impact on recruitment of skilled senior staff.

Recommendation

Supported, with the exception for employment contract being placed on registers.

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

- To provide for minimum transparency, it is proposed to mandate that the KPIs agreed as performance metrics for CEOs:

- o Be published in council meeting minutes as soon as they are agreed prior to (before the start of the annual period)
- o The KPIs and the results be published in the minutes of the performance review meeting (at the end of the period)
- o The CEO has a right to provide written comments to be published alongside the KPIs and results to provide context as may be appropriate (for instance, the impact of events in that year that may have influenced the results against KPIs).

Response:

Support reporting of KPIS

Common basic KPIS must be defined by Dept for benchmarking across councils and we can add to them

Support reviews being published.

### 4.1 Community and Stakeholder Engagement Charters

- 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.

Response:

The City of Kalamunda supports:

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

The City of Kalamunda has already developed stakeholder engagement charters, based on the International Association for Public Participation which is recognised as an international leader in this field and its Spectrum of Public Participation has been applied at the City since 2016.

The development of guidance by the DLGSC, based on standards such as the International Standard for Public Participation practice, is supported in favour of taking a prescriptive approach or conducting a survey for the sake of a survey.

Recommendation  
Supported

#### **4.2 Ratepayer Satisfaction Surveys (Band 1 and 2 local governments only)**

- 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

Response:

Item 4.2 has potential to provide benchmarking of community satisfaction levels across Band 1 and 2 Local governments.

The City of Kalamunda has participated in the independent CATALYSE community perceptions survey every 2 years and has been benchmarked against most other LGAs using the same survey tool. The cost of using the CATALYSE survey tool is around \$20,000 every two years. The City sees this approach as necessary for continuous improvement to occur.

Recommendations:  
Supported

#### **4.3 Introduction of Preferential Voting]**

- 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.

Response:

- Council does not support preferential voting.
- Council would support compulsory voting for ratepayers.
- Council prefers first past the post as a method for determining election members.

Option to hold elections via combination of online, postal and in person voting.

#### 4.4 Public Vote to Elect the Mayor and President

- Mayors and Presidents of all local governments perform an important public leadership role within their local communities.
- Band 1 and 2 local governments generally have larger councils than those in bands 3 and 4.
- Accordingly, it is proposed that the Mayor or President for all band 1 and 2 councils is to be elected through a vote of the electors of the district. Councils in bands 3 and 4 would retain the current system.
- A number of Band 1 and Band 2 councils have already moved towards Public Vote to Elect the Mayor and President in recent years, including City of Stirling and City of Rockingham.

Response:

Local Governments should determine whether their Mayor or President will be elected by the Council or elected by the community.

There are 43 Band 1 and 2 Local governments with 22 popularly electing the Mayor or President: The remaining 21 Local governments have a Council-elected Mayor or President. The cited examples of the City of Rockingham and City of Stirling electors determining by referendum to change the process for electing the Mayor are examples of the current system working as intended. There is no evidence of elector support for uniform direct election of Mayors.

Recommendation:

Not Supported.

#### 4.5 Tiered Limits on the Number of Councillors

- 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:  
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).

Response:

- Council does not support limitations on the number of elected members being determined by a tiered system.
- Supports self-determining the needs of Councillors for their communities on their own
- Support Councillors in doing a good job, being able to remain an elected member, balance work and life balance.

#### 4.6 No Wards for Small Councils (Band 3 and 4 Councils only)

- 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.

Response:

The City of Kalamunda would not be impacted by this reform and would prefer to defer to all small LGAs to advise if this would work for them given their respective individual and unique features and characterises that represent their communities.

The City supports this reform if all the LGAs affected are satisfied with this reform will not impact negatively of their ability to govern effectively.

#### **4.7 Electoral Reform – Clear Lease Requirements for Candidate and Voter Eligibility**

- 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:
  - o A minimum lease period of 12 months will be required for anyone to register a person to vote or run for council.
  - o 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.
  - o 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.

Response:

The City of Kalamunda supports this reform.

#### **4.8 Reform of Candidate Profiles**

- Further work will be undertaken to evaluate how longer candidate profiles could be accommodated.
- Longer candidate profiles would provide more information to electors, potentially through publishing profiles online.
- It is important to have sufficient information available to assist electors make informed decisions when casting their vote.

Response:

The City of Kalamunda supports this reform.

#### **4.9 Minor Other Electoral Reforms**

- Minor other electoral reforms are proposed to include:
  - o 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)
  - o The introduction of more specific rules concerning local government council candidates' use of electoral rolls.

Response:

The City of Kalamunda supports this reform.

### 5.1 Introduce Principles in the Act

- It is proposed to include new principles in the Act, including:
  - o The recognition of Aboriginal Western Australians
  - o Tiering of local governments (with bands being as assigned by the Salaries and Allowances Tribunal)
  - o Community Engagement
  - o Financial Management.

Response:

The City of Kalamunda supports this reform.

### 5.2 Greater Role Clarity

- 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).

Response:

Council welcomes the invitation to further consult and engage on roles and responsibilities of EM and senior staff to continue to develop effective understandings and engagement.

#### 5.2.1 - Mayor or President Role

**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:

- 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.

Response:

The City of Kalamunda supports this reform.

### 5.2.2 - Council Role

- 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.
- 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:
  - o Making significant decisions and determining policies through democratic deliberation at council meetings
  - o 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
  - o Providing a safe working environment for the CEO;
  - o Providing strategic direction to the CEO;
  - o Monitoring and reviewing the performance of the local government.

#### Response:

- Council questions the meaning of significant decisions and would welcome this discussion as part of the further consultation and engagement process.
- Council takes this to mean significant as being the current decisions made now, therefore no decisions being removed from them except by way of delegated authority.
- Council welcome *providing a safe working environment for all Councillors and the CEO.*

### 5.2.3 - Elected Member (Councillor) Role

- 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:
  - o Considering and representing, fairly and without bias, the current and future interests of all people who live, work and visit the district (including for councillors elected for a particular ward)
  - o Positively and fairly contribute and apply their knowledge, skill, and judgement to the democratic decision-making process of council
  - o Applying relevant law and policy in contributing to the decision-making of the council
  - o Engaging in the effective forward planning and review of the local governments' resources, and the performance of its operations, services, and functions
  - o Communicating the decisions and resolutions of council to stakeholders and the public
  - o Developing and maintaining professional working relationships with all other councillors and the CEO
  - o Maintaining and developing their knowledge and skills relevant to local government
  - o Facilitating public engagement with local government.
- 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.

#### Response:

- Council welcomes the invitation to further consult and engage on specifying the roles and responsibilities of the Councillors.
- Council must be able to use their title (Councillors/Mayor/President) as we are always seen to be a Cr regardless and it should be for Council to determine appropriate use. What is the reason we are being removed from the ability to self-determine using our role in our daily interactions with community? As this has never been an issue.

#### 5.2.4 - CEO Role

- The Local Government Act 1995 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:
  - o Coordinating the professional advice and assistance necessary for all elected members to enable the council to perform its decision-making functions
  - o Facilitating the implementation of council decisions
  - o Ensuring functions and decisions lawfully delegated by council are managed prudently on behalf of the council
  - o Managing the effective delivery of the services, operations, initiatives and functions of the local government determined by the council
  - o Providing timely and accurate information and advice to all councillors in line with the Council Communications Agreement (see item 5.3)
  - o Overseeing the compliance of the operations of the local government with State and Federal legislation on behalf of the council
  - o Implementing and maintaining systems to enable effective planning, management, and reporting on behalf of the council.

Response:

Council welcomes the invitation to further consult and engage on specifying the roles and responsibilities of the CEO particularly to ensure KPIS are correctly reflected.

#### 5.3 Council Communication Agreements

- In State Government, there are written Communication Agreements between Ministers and agencies that set standards for how information and advice will be provided.
- It is proposed that local governments will need to have Council Communications Agreements between the council and the CEO.
- These Council Communication Agreements would clearly specify the information that is to be provided to councillors, how it will be provided, and the timeframes for when it will be provided.
- A template would be published by DLGSC. This default template will come into force if a council and CEO do not make a specific other agreement within a certain timeframe following any election.

Response:

The City of Kalamunda supports this reform.

#### 5.4 Local Governments May Pay Superannuation Contributions for Elected Members

- 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.

Response:

The City of Kalamunda supports this reform.

### **5.5 Local Governments May Establish Education Allowances**

- Local governments will have the option of contributing to the education expenses for councillors, up to a defined maximum value, for tuition costs for further education that is directly related to their role on council.
- Councils will be able to decide on a policy for education expenses, up to a maximum yearly value for each councillor. Councils may also decide not to make this entitlement available to elected members.
- Any allowance would only be able to be used for tuition fees for courses, such as training programs, diplomas, and university studies, which relate to local government.
- Where it is made available, this allowance will help councillors further develop skills to assist with making informed decisions on important questions before council, and also provide professional development opportunities for councillors.

Response:

The City of Kalamunda supports this reform.

### **5.6 Standardised Election Caretaker period**

- 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:
  - o Councils do not make major decisions with criteria to be developed defining 'major'
  - o Incumbent councillors who nominate for re-election are not to represent the local government, act on behalf of the council, or use local government resources to support campaigning activities.
  - o There are consistent election conduct rules for all candidates.

Response:

The City of Kalamunda supports this reform.

### **5.7 Remove WALGA from the Act**

- The Local Government Panel Report recommended that WALGA not be constituted under the Local Government Act 1995.
- Separating WALGA out of the Act will provide clarity that WALGA is not a State Government entity.

Response:

- The City of Kalamunda would welcome the opportunity to advocate for the needs of our community independently of WALGA and the Sector,
- The City Supports removal of WALGA from the ACT and favours independent consultation and engagement on issues affecting our Local Government or the Sector in general.

### **5.8 CEO Recruitment**

- 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.

Response:

The City of Kalamunda is concerned that this reform will add an extra layer of cost if the independent person is to be paid for this role.

Recommendation:

Supported if the role of independent person is classified a voluntary position that is not required to be paid unless the Local government decide it will pay for this service.

### 6.1 Model Financial Statements and Tiered Financial Reporting

- The Minister strongly believes in transparency and accountability in local government. The public rightly expects the highest standards of integrity, good governance, and prudent financial management in local government.
- It is critically important that clear information about the financial position of local governments is openly available to ratepayers. Financial information also supports community decision-making about local government services and projects.
- Local governments differ significantly in the complexity of their operations. Smaller local governments generally have much less operating complexity than larger local governments.
- The Office of the Auditor General has identified opportunities to improve financial reporting, to make statements clearer, and reduce unnecessary complexity.
- Recognising the difference in the complexity of smaller and larger local governments, it is proposed that financial reporting requirements should be tiered – meaning that larger local governments will have greater financial reporting requirements than smaller local governments.
- It is proposed to establish standard templates for Annual Financial Statements for band 1 and 2 councils, and simpler, clearer financial statements for band 3 and 4.
- Online Registers, updated quarterly (see item 3.4), would provide faster and greater transparency than current annual reports. Standard templates will be published for use by local governments.
- Simpler Strategic and Financial Planning (item 6.2) would also improve the budgeting process.

Response:

The City of Kalamunda:

1. Requests the Minister for Local Government to direct the Department of Local Government to prepare a Model set of Financial Statements and Annual Budget Statements for the Local Government sector, in consultation with the Office of the Auditor General, WALGA and at a representative group of LG Chief Financial officers to ensure that all reforms will be practicable and should align with Australian Accounting standards.
2. Requests the Department of Local Government to re-assess the amount of detail required to be included in annual financial reports, for small and medium sized entities as suggested by the Office of Auditor General.

Recommendation

Supported subject to broad industry engagement in the development stage.

### 6.2 Simplify Strategic and Financial Planning

- Having clear information about the finances of local government is an important part of enabling informed public and ratepayer engagement and input to decision-making.

- The framework for financial planning should be based around information being clear, transparent, and easy to understand for all ratepayers and members of the public.
- In order to provide more consistency and clarity across the State, it is proposed that greater use of templates is introduced to make planning and reporting clearer and simpler, providing greater transparency for ratepayers.
- Local governments would be required to adopt a standard set of plans, and there will be templates published by the DLGSC for use or adaption by local governments.
- It is proposed that the plans that are required are:
  - o 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
  - o 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
  - o Simplified Long Term Financial Plans will outline any long term financial management and sustainability issues, and any investments and debts. A template will be provided, and these plans will be required to be reviewed in detail at least every four years
  - o 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)
  - o 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.

Response:

The City of Kalamunda:

1. Requests the Minister for Local Government to direct the Department of Local Government to undertake the development of a revised strategic and financial planning framework, in consultation with the Office of the Auditor General, WALGA and a representative group of LG Chief Executive officers to ensure that all reforms will be practicable
2. Requests the Department of Local Government to re-assess the amount of detail required to be included for small and medium sized entities

Recommendation

Supported subject to broad industry engagement in the development stage and that pragmatic decisions are reached regarding the materiality thresholds before Service Proposals and Project Proposals are required.

### 6.3 Rates and Revenue Policy

- The Rates and Revenue Policy is proposed to increase transparency for ratepayers by linking rates to basic operating costs and the minimum costs for maintaining essential infrastructure.
- A Rates and Revenue Policy would be required to provide ratepayers with a forecast of future costs of providing local government services.
- The Policy would need to reflect the Asset Management Plan and the Long Term Financial Plan (see item 6.2), providing a forecast of what rates would need to be, to cover unavoidable costs.

- A template would be published for use or adaption by all local governments.
- The Local Government Panel Report included this recommendation.

Response:

The City of Kalamunda's Long Term Financial Plan outlines the city's approach to rates setting, hence this reform would not be an issue to deliver given Councils' current deliberative rate setting processes referencing the Integrated Planning Framework – including strategic, financial and asset management planning process – and draw upon the community's willingness and capacity to pay.

Recommendation  
Supported

#### 6.4 Monthly Reporting of Credit Card Statements

- 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.

Response:

This proposed reform reflects widespread common practice for credit card transactions to be included in monthly financial reports and lists of accounts paid.

Recommendation  
Supported

#### 6.5 Amended Financial Ratios

- 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.

Response:

The City of Kalamunda requests the Minister for Local Government to amend the Local Government (Financial Management) Regulations 1996 to prescribe the following ratios:

- Operating Surplus Ratio,
- Net Financial Liabilities Ratio,
- Debt Service Coverage Ratio, and
- Current Ratio.

This would remove the asset ratios that currently impact negatively upon the provision of new community facilities. The Asset ratios are currently weighted toward the requirement to spend funds on renewing assets in line with Asset Management Plans. This is not useful to Local government given the amount of community infrastructure needed by modern communities in Perth's outer metropolitan where infill and urban expansion is taking place.

Furthermore, the current structure of grants funding from the other levels of Government leans toward construction funding for new assets. The funding sources and the current asset ratios are in conflict. If a LGA invested in a new community centre, pool, roads, etc its overall Financial health Indicator (FHI) is negatively impacted. This then leads community view to think the LG is not being financially prudent. The City of Kalamunda requests to have all asset ratios removed from the statutory reporting requirement and should be placed as guiding asset management plans and reported through the Annual report without being incorporated in the FHI score for the LGA.

Recommendation

Supported subject to asset ratios being removed from the calculation of Financial Health Indicator, particularly for growth councils.

## 6.6 Audit Committees

- 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.

Response:

The City of Kalamunda is of the view that the Council must maintain, and be seen by the community to have, majority involvement and investment in the purpose of an Audit Committee.

There is support for some independent members on the Audit Committee, however not a majority and also that independent members should only be able to reach a sitting allowance commensurate to Elected members allowance.

This reform must avoid the LG incurring 'consultancy' type fees to facilitate its Audit Committee. The cost of this reform must be minimal.

This may be for a variety of reasons not least of which is a lack of suitable, available candidates with the required qualification, skill and experience and a good understanding of how LG operates.

It would be counter-productive if the proposed reforms led to the appointment of unsuitable independent persons to a skills-based role. The concept of Regional Audit Committees has apparent merit in this case but there is no detail regarding practicalities; for example, is the Regional Audit Committee intended to include the same independent persons who will meet separately with each Local government within the region?

There is too little certainty that the imperative question of appropriate representation will be managed as a consequence of the proposed reforms for it to be supported.

The proposal for the Audit Committees to also consider proactive risk management is supported.

Recommendation

The City of Kalamunda:

1. Does not support majority independent members of the Audit Committee
2. Support Audit Committees of Local government with an Elected Member majority including independent members, and to consider proactive risk management issues.
3. Subject to the cost of independent members being minimised and regulated.

## 6.7 Building Upgrade Finance

Response:

The City of Kalamunda does not support this reform on the basis of increasing risk that loaning, managing, collecting debts owed would add an impost of greater administration burden upon the LGA. The City of Kalamunda has in the past provided self-supporting loans to various groups in the

community and have experienced default repayments and write offs in some occasions. The LGA is not a bank and should not use ratepayers' funds for high risk proposals.

Recommendation

Not Supported

### 6.8 Cost of Waste Service to be Specified on Rates Notices

- 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.

Response:

This proposed reform will have no impact on the City of Kalamunda given the waste charge is already shown as a separate charge on the rate notice.

It should be noted however, those LGA's who have included the waste charge into the rate in the dollar calculation, once this is removed and made a separate charge, all pensioners receiving the pensioner rebate will see an increase in their annual rate. This impact needs to be made clear to those affected given the waste charge will no longer be included in the calculation of the pensioner rebate which is provided by the State government.

This will result in cost shifting to pensioners in those localities that currently don't have a separate waste charge (e.g. City of Wanneroo); and the State government will experience a reduction in its payments to LGs recouping the pensioner rebates.

It is noted that Local governments do not offer the same services in their overall waste management process, hence it is difficult for the community to gauge the 'value for money' proposition across the sector when there will be a range of different waste services delivered by each Council.

As it currently stands the only waste stream that is common across all Local governments would be the kerbside waste collection. Many Councils also operate transfer stations, landfills sites, recycling process, bulk waste collections which all vary in shape and size. It is therefore suggested that this reform would have the most impact, if the 'separate waste charge' reporting includes one set of 'common' items across all metropolitan and regional councils (for aid in comparison) and the 'value add' set of services that individual councils provide in response to their local community's needs.

Recommendation

Supported

1. noting the unintended consequence for pensioners in LGA who will be impacted by this reform.
2. It is proposed that this separated waste service notice include two elements – common services provided across many local governments (for aid in comparison) and value add services.