

# Local Government Reform

## Shire of Pingelly Submission



Shire of  
Pingelly

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### General Comments

The following should be considered as paramount:

- When implementing a new requirement, what other requirement can be removed i.e. red tape reduction. Many of the proposed reforms add further regulation and costs to local government without removal of this burden in other areas.
- Each additional requirement for transparency/accountability or other purposes comes with a financial cost to the local government which should be:
  - compensated financially by the state;
  - assisted achieve by the state;
  - include a fee or charge commensurate with the additional burden; or
  - involve the removal of other legislative and administrative burdens of an equal or greater weight.
- A more to a less prescriptive form of legislation is required to remove red tape and respond to local needs. The reforms in general are more prescriptive in nature using a 'one size fits all' approach.
- There should be a presumption that local government are competent – which is generally the case (and assistance offered where required). Mechanisms are and should be put in place in the event that this proves not to be true. Many of the reform initiatives are a micromanagement of local government's core business rather than having a presumption of competence.
- Councillors are democratically chosen by the people and they should make decisions in light of the local situation. These decisions should be respected and not easily circumvented by the state government either at the officer or ministerial level. The principle of subsidiarity is commonly recognised as valuable and essential for making effective decisions and should be observed.

### Theme 1: Early Intervention, Effective Regulation and Stronger Penalties

#### Local Government Inspector and Local Government Monitors

The concept of independent oversight and handling of complaints and working with local governments at an early stage is commended, however the Shire of Pingelly has concerns in relation to the cost of these additional requirements and the additional red tape involved without removal of previous layers. This proposal is not supported until more wholistic changes are made which streamline the existing provisions and not just adding new requirements.

#### Stronger Penalties & Conduct Panel

Stronger penalties are supported as the current provisions of an 'all or nothing' approach are inadequate. A Conduct Panel that replaces the existing Standards Panel is also supported.

### **Mandatory Training**

Penalties which include ineligibility for allowances or sitting fees for not completing the mandatory training is supported.

### **Rapid Red Card Resolutions**

The word 'resolutions' is confusing in this context. The President may under certain circumstances silence or instruct a person to leave a meeting. This is supported, however, standard provisions to forcibly remove a person that is being disruptive or violent with the assistance of law enforcement should also be included.

### **Vexatious Complaint Referrals**

Local governments should have the ability themselves to determine if a complaint is vexatious, either through a resolution of Council or delegated to the Chief Executive Officer. The grounds for vexatious complaints could be listed in legislation and the Council's decision is subject to oversight from the Department in any case. The proposal as it stands is not supported as assumes that local government does not have the ability or integrity to deal with these matters and it is a needless elevation of complaints to an exterior agency.

## **Theme 2: Reducing Red Tape, Increasing Consistency and Simplicity**

### **Resource Sharing**

Encouraging resource sharing is commendable and changes to allow this are supported. Funding should be made available to local governments to investigate these opportunities.

### **Standardisation of Crossovers**

This is supported, however is considered to be of a low priority as there is no apparent demand from the community or developers for this to occur.

### **Innovation Provisions**

The legislation should allow innovation in all cases, not just in emergencies and pilot projects. This is supported and should be expanded.

### **Streamline Local Laws**

The outstanding issue with local laws is the complexity of initiating and adopting them. This has led to a lack of review and inadequacies in the laws as making new local laws is a time consuming and convoluted process. The complexity of this process has led to large, complex local laws rather than more smaller laws which are relevant for the community. This process can be simplified by removing the requirement to give state-wide notice, removing the requirement for physical newspaper cuttings to be retained and submitted, removing the form of words required in relation to the advertising, reducing the consultation period, allowing local governments to automatically adopt the laws if no objections have been received, providing for amendments to be made to the laws, allowing local governments to make administrative changes (numbering etc.) following consultation or instruction of the Parliament's Delegated Legislation Committee. The modification of the process is supported, and the development of simple model local laws is also supported if there is flexibility within the model to be modified to accommodate the particular local government and if real consultation takes place in the preparation of the local laws.

### **Small Businesses & Community Event Approvals**

This should be addressed through the streamlining of local laws and the adoption process as above. Community event legislation needs considerable reform and a definition of 'events' would also be helpful. This proposal is supported.

### **Standard Meeting Procedures**

The standardisation of the standing orders is supported either through a local law or regulations, provided that sufficient flexibility is given and that the requirements are not overly complex, onerous or prescriptive.

### **Regional Subsidiaries**

These are overly complex to form and so no regional subsidiary has been formed to date. These should not come under the Local Government regulations, but should be regulated under the corporations act and others which relate to private corporations and overseen by the local government. The changes are supported as a small step to deregulation.

## **Theme 3: Greater Transparency & Accountability**

### **Mandatory Recording of Council Meetings**

Transparency and accountability are only an issue of a small number of local governments. In these local governments, the recording of proceedings is unlikely to provide the transparency needed. For the majority of others, it will lead (and has when trialled previously) to needless disagreement over historical comments made which have no bearing on present events ('but you said on xxx date...') and comments being taken out of context to support positions. This proposal will stifle debate by encouraging some to grandstand and others to remain silent or not seek clarification for appearance's sake. These will then be discussed away from the Council table which leads to reduced transparency and accountability. This proposal is strongly opposed.

### **Recording of Councillors Votes For/Against**

This issue is only one for larger councils or those which do not have a culture of working together. This assists finger pointing and does nothing for getting the job done. This would slow down the meeting and add an additional layer of bureaucracy when this is otherwise not required and so this proposal is not supported.

### **Guidance for Confidential Items**

There is general guidance for which items should be confidential. This respects the democratic mandate of Councillors to make decisions as appropriate. This proposal, and the proposal to send the audio recordings of all confidential items to the department is not supported.

### **Online Registers**

The proposal for online registers appears to be a sensible one and is supported. The Shire has concerns relating to confidentiality for contractors and their competitive pricing if they were included on this list. Selection of tenders frequently are confidential for this reason. In addition, the value should align with other sections of the local government regulations, particularly in relation to the requirement for a tender process. The introduction of online registers calls into question the already dubious requirement for an annual report which must be prepared by the local government at great pains and

expense. It is recommended that these reports and other reporting requirements be removed in favour of live updates on online registers.

#### **CEO KPIs to be Published**

This is an opportunity to align the KPIs with the actions of the Integrated Planning and Reporting Framework rather than requiring that the KPIs be published. This publication will lead to 'formal' published KPIs and 'informal' expectations which Council would not wish to make public. This proposal will lead to less transparency and accountability and so is not supported.

### **Theme 4: Stronger Local Democracy and Community Engagement**

#### **Community and Stakeholder Engagement Charters Requirement**

The proposal for a Model Charter or the option for Custom Charter which reflects the needs, aspirations and demographics of the community is supported. The community is the local government's core stakeholder group and an additional tool to assist with engagement is appreciated. The additional requirement should be accompanied by additional funding.

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

While this occurs voluntarily in most larger and even smaller local governments, it is incongruent for the state government to make this a requirement of the local government. Councils must be respected enough to make their own decisions for their own circumstances. If this is a requirement then state government should pay for and run the surveys on a statewide basis. This proposal is not supported.

#### **Preferential Voting**

This system of voting tends to encourage party politics as way to make sense of a confusing preference system. There does not need to be alignment with the State or Federal voting systems. The first past the post system has the confidence and understanding of the electors and there does not appear to be a pressing need for change. The preferential system will increase the likelihood of spoiled votes – the current system accepts any mark (number, tick, cross etc.) which indicates an intention to vote. Currently local governments have the option of running an election and many smaller local governments do this for cost reasons. The preferential system will add further complexity to the process and effectively remove this option thereby disproportionately penalising smaller local governments. This proposal is strongly opposed.

#### **Public Vote to Elect the Mayor and President (Band 1 and 2 local governments only)**

Removing the discretion from local government and requiring bands 1 and 2 Mayors and Presidents to be directly elected while bands 3 and 4 are elected by Councillors neither provides consistency as some will be one or another or discretion of Councillors. The decisions of Councillors should be respected in this regard as this more likely to be reflective of their community's preference. This is not supported.

#### **Specified Number of Councillors**

Streamlining this area does not seem to have any benefit and removes the discretion of Councillors to determine these matters for themselves. Reducing the number of Councillors as will mostly be the case, will actively reverse the recommendation of the Panel Report to improve representativeness. By

experience, the most effective Council numbers are 6 – 9 as this number can work as a team including having constructive disagreements. Smaller numbers can tend to have an overly dominant individual or one that works against the others while larger numbers are not effective as a team and are difficult to get in a room together at one time. This is true regardless of population. This proposal will lead to less effective local government and less representation. This proposal is strongly opposed. An alternative is suggested which includes independent periodic reviews of the number of councillors every 6 years to ensure ongoing effectiveness.

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

While wards are becoming less popular, there are occasions where they can be very appropriate including where there are distinct population centres. Wards, in some circumstances increases the complexity of elections, but in many other instances actually streamline the system, particularly where councillors are elected unopposed. Note that being elected unopposed is not a negative thing, it can be an expression of support in the candidates – frequently when an unpopular or unsuitable candidate stands then there are others that nominate. The abolition of wards will further reduce the likelihood of voluntary amalgamations and increase the resistance to forced amalgamations as the ward system would still provide local representation in an amalgamation situation. There does not seem to be an advantage to make this change. In this circumstance, the principle of subsidiarity should apply and allow the locally elected representatives to make this decision. This proposal is not supported.

#### **Candidate and Voter Eligibility**

The use of ‘sham leases’ and other loopholes to either stand or vote in a local election should be eliminated to preserve the integrity of the election. This proposal should be designed to make voting or standing for election easier and clearer. This proposal is supported.

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

Lengthening the scope of candidate profiles from 800 characters (approx. 150 words) to allow for more detail to be provided is supported if still limited to approximately 300 words (approx. 1/2 a page). In addition, guidance should be provided regarding what should not be included e.g. election promises for infrastructure etc.

#### **Other Election Reforms**

The standardisation and clarification of elections is supported. Other reforms are suggested including on-line voting through a secure central portal in addition to either in person or mail in voting, making it easier for individuals to check their eligibility to vote (through an online service) and to register to vote.

### **Theme 5: Clear Roles and Responsibilities**

#### **Introduction of Principles in the Act**

A move to a principles based act rather than one which is prescriptive is strongly supported. However, if this proposal is just to add principles to prescriptive legislation, then this is not supported. The current prescriptive legislation stifles innovation and is not keeping pace with change. The nature of the prescriptive legislation means that a constant process of reform is required to attempt to make it relevant and suitable. Principles based legislation will be more adaptable over time and will reduce red tape considerably while still retaining suitable transparency, accountability and oversight.

### **Greater Role Clarity**

Greater clarification between the roles of Mayor/President; Council; Councillors and the CEO is supported. As above, this should be principles based rather than prescriptive. The proposed reforms appear to be very prescriptive and inaccessible. Much of this information could be provided as guidance notes and not need to be legislated.

### **Council Communication Agreements**

The mandating of communication agreements is not supported. Modelling these agreements on the those between state agencies and ministers is not an appropriate comparison due to the size and scale of the agencies who have several hundred if not thousand employees and local governments that may have as few as ten or fifteen. This is an increased level of bureaucracy that is needed at that level, but is unnecessary for local government of any size, particularly bands 3 and 4. It is of note that local governments tend to work more effectively and with greater levels of communication and consultation than at the state agency level. Providing an optional (not mandatory) model communication agreement is supported.

### **Elected Members Superannuation**

The proposal to allow a vote of Council to decide to pay superannuation to Councillors is supported. Note that mandatory superannuation for Councillors is not supported as this increases costs to the local government and blurs the line between Councillors and staff.

### **Elected Members Education Allowances.**

The proposal to allow Council to allocate an education allowance for Councillors is supported on the basis that this is a decision to be made by Council.

### **Standardised Election Caretaker Period**

This is considered unnecessary as local government has a 50% election every 2 years and is another burden laid on local government. A point is made that this is a source of public confusion, however this is not quantified and it would be difficult to make a point that this is a common source of public confusion. There seems to be no apparent need for this change, it goes against the principle of subsidiarity, it may prevent local government from making timely decisions and so it is not supported.

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

This is considered to be a matter for WALGA to respond.

### **CEO Recruitment – List of Approved Independent Persons**

This is an additional requirement without sufficient justification provided. Councillor's elected mandate should be respected to make such decisions. This proposal is not supported. It is suggested that WALGA or the department forms a list of 'approved suppliers' to assist local governments but that this is not placed into legislation.

## **Theme 6: Improved Financial Management and Reporting**

### **Model Financial Statements and Tiered Financial Reporting**

Tiered reporting is strongly supported as it will reduce the burden on smaller local governments. Modified financial statements too is strongly supported to be fit for purpose, clearer and easier to produce. It is strongly supported that this replace the annual report.

### **Simplify Strategic and Financial Planning**

The Integrated Planning & Reporting Framework is a comprehensive planning tool which is suitable for local government, however it is onerous and should be simplified into one overall planning document which includes costings. Rather than comprehensive reform, financial and in-kind assistance (such as planning tool, information and templates) should be provided to assist local government to complete comprehensive plans. The simplification of the overall system is supported if it is similar to the existing comprehensive system. However, the proposal to increase review timeframes to 8 years is too long and is not supported.

### **Rates and Revenue Policy**

A policy is not the correct mechanism to achieve the alignment of rates with the Shire's Strategic Plans as Council can override the policy at will. As a result, this will not achieve the stated aim of flattening the rate rises to a consistent level. As a result, this proposal as it stands is not supported. It is suggested that rates are specified within the strategic planning process and are the end result of the service levels set and other expenditure. This would mean that a change to the rates would require a change to the commitments of the community strategic plan and that it would be clear to Council that a rate reduction would entail a service level or expenditure reduction.

### **Monthly Reporting of Credit Card Expenditure**

A requirement to report credit card expenditure along with other expenditure to Council on a monthly basis is supported.

### **Amended Financial Ratios**

The current ratios are not fit for purpose as they do not provide an overall picture of the financial health of the organisation. A review of these ratios is supported.

### **Audit Committees – Majority Independent Members**

One of the main responsibilities of elected members is to oversee the prudent financial management of the organisation. Having a majority of independent members on the audit committee would undermine this responsibility. This proposal is not supported. Similarly the proposal to require an independent person to chair the committee is not supported.

### **Audit Committees – Include Risk**

The addition of a responsibility for risk oversight into the function of the audit committee appears to be a suitable fit and will provide greater oversight for this area. This proposal is supported.

**Audit Committees – Regional Committees**

The operation of these committees on a regional basis is not supported. Limiting the committee to one local government area will retain focus on that area and retain suitable representation on the committee. This proposal risks having councillors for other local governments vote and recommend matters at the committee.

**Building Upgrade Finance**

This proposal would remove barriers to development, particularly in regional areas where loans are harder to source, particularly for heritage buildings. This proposal would also allow buildings to be more sustainable and for the loans to be paid back through reduced energy costs. This proposal is supported.

**Cost of Waste Service to be Specified on Rates Notices**

This is a relatively simple change which will increase transparency. This proposal is supported.