



Department of
**Local Government, Sport
and Cultural Industries**

Local Government Reform – Summary of Proposed Reforms



Local Government Reform – Consultation on Proposed Reforms

Local government benefits all Western Australians. It is critical that local government works with:

- a culture of openness to innovation and change
- continuous focus on the effective delivery of services
- respectful and constructive policy debate and democratic decision-making
- an environment of transparency and accountability to ensure effective public engagement on important community decisions.

Since first coming to office in 2017, the McGowan Government has already progressed reforms to improve specific aspects of local government performance. This includes new laws that work to improve transparency, cut red tape, and support jobs growth and economic development - ensuring that local government works for the benefit of local communities.

Based on the significant volume of research and consultation undertaken over the past five years, the Minister for Local Government has now announced the most significant package of major reforms to local government in Western Australia since the Local Government Act 1995 was passed more than 25 years ago. The package is based on six major themes:

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

A large focus on the new reform is oversight and intervention where there are significant problems arising within a local government. The introduction of new intermediate powers for intervention will increase the number of tools available to more quickly address problems and dysfunction within local governments. The proposed system for early intervention has been developed based on similar legislation in place in other jurisdictions, including Victoria and Queensland.

This will deliver significant benefits for small business, residents and ratepayers, industry, elected members and professionals working in the sector.

Local Government Reforms

These reforms are based on extensive consultation undertaken over the last five years, and have been developed considering:

- The Local Government Review Panel Final Report (mid 2020)
- The City of Perth Inquiry Report (mid 2020)
- Department of Local Government, Sport and Cultural Industries (DLGSC) consultation on Act Reform (2017-2020)
- The Victorian Local Government Act 2020 and other State Acts
- The Parliament's Select Committee Report into Local Government (late 2020)
- Western Australian Local Government Association (WALGA) Submissions
- Direct engagement with local governments
- Correspondence and complaints
- Miscellaneous past reports.

Consultation

Comments on these proposed reforms are invited. Comments can be made against each proposed reform in this document. For details on how to make a submission, please visit www.dlgsc.wa.gov.au/lgactreform.

Theme 1: Early Intervention, Effective Regulation and Stronger Penalties

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
1.1 Early Intervention Powers		
<ul style="list-style-type: none"> • The Act provides the means to regulate the conduct of local government staff and council members and sets out powers to scrutinise the affairs of local government. The Act provides certain limited powers to: <ul style="list-style-type: none"> ○ Suspend or dismiss councils ○ Appoint Commissioners ○ Suspend or, order remedial action (such as training) for individual councillors. • The Act also provides the Director General with the power to: <ul style="list-style-type: none"> ○ Conduct Authorised Inquiries ○ Refer allegations of serious or recurrent breaches to the State Administrative Tribunal ○ Commence prosecution for an offence under the Act. • Authorised Inquiries are a costly and a relatively slow response to significant issues. Authorised Inquiries are currently the only significant tool for addressing significant issues within a local government. • The Panel Report, City of Perth Inquiry, and the Select Committee Report made various recommendations related to the establishment of a specific office for local government oversight. 	<ul style="list-style-type: none"> • It is proposed to establish a Chief Inspector of Local Government (the Inspector), supported by an Office of the Local Government Inspector (the Inspectorate). • The Inspector would receive minor and serious complaints about elected members. • The Inspector would oversee complaints relating to local government CEOs. • Local Governments would still be responsible for dealing with minor behavioural complaints. • The Inspector would have powers of a standing inquiry, able to investigate and intervene in any local government where potential issues are identified. • The Inspector would have the authority to assess, triage, refer, investigate, or close complaints, having regard to various public interest criteria – considering laws such as the <i>Corruption, Crime and Misconduct Act 2003</i>, the <i>Occupational Safety and Health Act 1984</i>, the <i>Building Act 2011</i>, 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). 	<p><u>Administration Recommendation</u> - Supported. Council has an established position on this matter.</p> <p>On 7 February 2019, Council determined (Resolution 27724) to support legislative reform to allow for early intervention into local governments, as follows:</p> <p>“The inclusion of a provision to be able to embed a suitably qualified individual into a ‘dysfunctional’ Council to monitor governance processes and report directly to the Minister of Local Government on the activity of the local government, subject to clear advice on the allocation of cost for the intervention”.</p> <p>An early intervention process is supported. It is deemed the Inspectorate and Conduct Panel as proposed by the DLGSC would be in keeping with Council’s resolution. Complaints should be managed by an independent body</p>

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
	<ul style="list-style-type: none"> • These reforms would be supported by new powers to more quickly resolve issues within local government (see items 1.5 and 1.6). 	<p>separate to local governments, not at a local level.</p>
1.2 Local Government Monitors		
<ul style="list-style-type: none"> • There are currently no legislative powers for the provision of monitors/ temporary advisors. • The DLGSC provides support and advice to local governments, however there is no existing mechanism for pre-qualified, specialised assistance to manage complex cases. 	<ul style="list-style-type: none"> • A panel of Local Government Monitors would be established. • Monitors could be appointed by the Inspector to go into a local government and try to resolve problems. • The purpose of Monitors would be to proactively fix problems, rather than to identify blame or collect evidence. • Monitors would be qualified specialists, such as: <ul style="list-style-type: none"> ○ Experienced and respected former Mayors, Presidents, and CEOs - to act as mentors and facilitators ○ Dispute resolution experts - to address the breakdown of professional working relationships ○ Certified 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. <p>Monitor Case Study 1 – Financial Management</p> <p>The Inspector receives information that a local government is not collecting rates correctly under the <i>Local Government Act</i></p>	<p><u>Administration</u> <u>Recommendation - Supported.</u></p> <p>Council has an established position on this matter, as provided at 1.1 Early Intervention Powers.</p>

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
	<p>1995. Upon initial review, the Inspector identifies that there may be a problem. The Inspector appoints a Monitor who specialises in financial management in local government. The Monitor visits the local government and identifies that the system used to manage rates is not correctly issuing rates notices. The Monitor works with the local government to rectify the error, and issue corrections to impacted ratepayers.</p> <p>Monitor Case Study 2 – Dispute Resolution</p> <p>The Inspector receives a complaint from one councillor that another councillor is repeatedly publishing derogatory personal attacks against another councillor on social media, and that the issue has not been able to be resolved at the local government level. The Inspector identifies that there has been a relationship breakdown between the two councillors due to a disagreement on council.</p> <p>The Inspector appoints a Monitor to host mediation sessions between the councillors. The Monitor works with the councillors to address the dispute. Through regular meetings, the councillors agree to a working relationship based on the council’s code of conduct. After the mediation, the Monitor occasionally makes contact with both councillors to ensure there is a cordial working relationship between the councillors.</p>	
1.3 Conduct Panel		
<ul style="list-style-type: none"> The Local Government Standards Panel was established in 2007 to resolve minor breach complaints relatively quickly and provide the sector with guidance and benchmarks about acceptable standards of behaviour. Currently, the Panel makes findings about alleged breaches based on written submissions. 	<ul style="list-style-type: none"> The Standards Panel is proposed to be replaced with a new Local Government Conduct Panel. The Conduct Panel would be comprised of suitably qualified and experienced professionals. Sitting councillors will not be eligible to serve on the Conduct Panel. The Inspector would provide evidence to the Conduct Panel for adjudication. 	<p><u>Administration Recommendation</u> - Supported.</p> <p>In addition to the above, WALGA’s position is that Items 1.1, 1.2 and 1.3 <u>generally align</u> with WALGA Advocacy Position 2.6.8 - ‘Establish Office of Independent Assessor’, as follows:</p>

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
<ul style="list-style-type: none"> The City of Perth Inquiry report made various recommendations that functions of the Local Government Standards Panel be reformed. 	<ul style="list-style-type: none"> The Conduct Panel would have powers to impose stronger penalties – potentially including being able to suspend councillors for up to three months, with an appeal mechanism. For very serious or repeated breaches of the Local Government Act, the Conduct Panel would have the power to recommend prosecution through the courts. Any person who is subject to a complaint before the Conduct Panel would have the right to address the Conduct Panel before the Panel makes a decision. 	<p><i>The Local Government sector supports:</i></p> <ol style="list-style-type: none"> <i>Establishing an Office of the Independent Assessor to replace the Standards Panel to provide an independent body to receive, investigate and assess complaints against Elected Members and undertake inquiries.</i> <i>Remove the CEO from being involved in processing complaints.</i> <i>That an early intervention framework of monitoring to support Local Governments be provided with any associated costs to be the responsibility of the State Government.</i> <i>An external oversight model for local level behavioural complaints made under Council Member, Committee Member and Candidate Codes of Conduct, that is closely aligned to the Victorian Councillor Complaints Framework.</i> <p><u>WALGA Comment</u> The Local Government sector is in favour of early intervention and a swift response to potentially disruptive or dysfunctional</p>

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
		<p>behaviours. The Proposed Reforms state <i>'Local Governments would still be responsible for dealing with minor behavioural complaints'</i> and therefore do not go as far as the Sector's recent request for an external oversight model for the independent assessment of local level complaints (State Council Res: 264.5/2021 – September 2021). However this will be mitigated with the Inspector able to respond to a Local Government having unresolved matters by appointing a monitor to assist the Local Government.</p> <p>It is expected the Local Government Inspector would be funded by the State Government, however it is noted that the cost of the Local Government Monitors and the Conduct Panel would be borne by the Local Government concerned.</p> <p>WALGA Recommendation</p> <ol style="list-style-type: none"> 1. Support the proposed reforms as they align with the sectors position on external oversight and support.

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
		<p>2. Request the Minister to explore alternate mechanisms for resolving local level complaints.</p> <p>It is recommended Council support WALGA's recommendation.</p>
<p>1.4 Review of Penalties</p>		
<ul style="list-style-type: none"> There are currently limited penalties in the Act for certain types of non-compliance with the Local Government Act. 	<ul style="list-style-type: none"> Penalties for breaching the Local Government Act are proposed to be strengthened. It is proposed that the suspension of councillors (for up to three months) is established as the main penalty where a councillor breaches the Local Government Act or Regulations on more than one occasion. Councillors who are disqualified would not be eligible for sitting fees or allowances. They will also not be able to attend meetings, or use their official office (such as their title or council email address). It is proposed that a councillor who is suspended multiple times may become disqualified from office. Councillors who do not complete mandatory training within a certain timeframe will also not be able to receive sitting fees or allowances. 	<p><u>Administration Recommendation</u> - Supported.</p> <p>Items 1.4 and 1.5 expand upon WALGA's Advocacy Position 2.6.9 - 'Stand Down Proposal'</p> <p><i>WALGA supports, in principle, a proposal for an individual elected member to be 'stood down' from their duties when they are under investigation, have been charged, or when their continued presence prevents Council from properly discharging its functions or affects the Council's reputation, subject to further policy development work being undertaken. Further policy development of the Stand Down Provisions must involve active consultation with WALGA and specific consideration of the following issues of concern to the</i></p>

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
		<p><i>Sector:</i></p> <ol style="list-style-type: none"> 1. <i>That the Department of Local Government endeavour to ensure established principles of natural justice and procedural fairness are embodied in all aspects of the proposed Stand Down Provisions; and</i> 2. <i>That activities associated with the term ‘disruptive behaviour’, presented as reason to stand down a defined Elected Member on the basis their continued presence may make a Council unworkable, are thoroughly examined and clearly identified to ensure there is awareness, consistency and opportunity for avoidance.</i> <p>Comment</p> <p>The Local Government sector has long-standing advocacy positions supporting stronger penalties as a deterrent to disruptive Council Member behaviours. Clear guidance will be required to ensure there is consistent application of the power given to Presiding Members. Officers recommend that Council Support WALGA’s recommendation.</p>
<p>1.5 Rapid Red Card Resolutions</p>		

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
<ul style="list-style-type: none"> • Currently, local governments have different local laws and standing orders that govern the way meetings run. Presiding members (Mayors and Presidents) are reliant on the powers provided in the local government standing orders local laws. • Differences between local governments is a source of confusion about the powers that presiding members have to deal with disruptive behaviours at council meetings. • Disruptive behaviour at council meetings is a very common cause of complaints. Having the Presiding Member be able to deal with these problems should more quickly resolve problems that occur at council meetings. 	<ul style="list-style-type: none"> • It is proposed that Standing Orders are made consistent across Western Australia (see item 2.6). Published recordings of all meetings would also become standard (item 3.1). • It is proposed that Presiding Members have the power to “red card” any attendee (including councillors) who unreasonably and repeatedly interrupt council meetings. This power would: <ul style="list-style-type: none"> ○ Require the Presiding Member to issue a clear first warning ○ If the disruptions continue, the Presiding Member will have the power to “red card” that person, who must be silent for the rest of the meeting. A councillor issued with a red card will still vote, but must not speak or move motions ○ If the person continues to be disruptive, the Presiding Member can instruct that they leave the meeting. • Any Presiding Member who uses the “red card” or ejection power will be required to notify the Inspector. • Where an elected member refuses to comply with an instruction to be silent or leave, or where it can be demonstrated that the presiding member has not followed the law in using these powers, penalties can be imposed through a review by the Inspector. 	<p><u>Administration Recommendation</u> - Supported, subject to clearer guidance on process.</p> <p>Council currently has no established position on this proposal. See comment on Item 1.4 above.</p>
1.6 Vexatious Complaint Referrals		
<ul style="list-style-type: none"> • No current provisions. • The Act already provides a requirement for Public Question Time at council meetings. 	<ul style="list-style-type: none"> • Local governments already have a general responsibility to provide ratepayers and members of the public with assistance in responding to queries about the local government’s operations. Local governments should resolve queries and complaints in a respectful, transparent and equitable manner. • Unfortunately, local government resources can become unreasonably diverted when a person makes repeated 	<p><u>Administration Recommendation</u> - Supported.</p> <p>The Act has been expanded significantly in recent years to permit an increased level of public involvement, scrutiny and access to information relating to the</p>

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
	<p>vexatious queries, especially after a local government has already provided a substantial response to the person’s query.</p> <ul style="list-style-type: none"> It is proposed that if a person makes repeated complaints to a local government CEO that are vexatious, the CEO will have the power to refer that person’s complaints to the Inspectorate, which after assessment of the facts may then rule the complaint vexatious. 	<p>decisions, operations and affairs of Local Government in WA. Introducing a means to limit capacity for unreasonable complainants to negatively impact Local Governments will provide a necessary balance between the openness and transparency of the sector and the reasonable entitlement of citizens to interact with their Local Government.</p>
1.7 Minor Other Reforms		
<ul style="list-style-type: none"> Other minor reforms are being considered to enhance the oversight of local government. Ministerial Circulars have traditionally been used to provide guidance to the local government sector. 	<ul style="list-style-type: none"> Potential other reforms to strengthen guidance for local governments are being considered. For example, one option being considered is the potential use of sector-wide guidance notices. Guidance notices could be published by the Minister or Inspector, to 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. 	<p><u>Administration Recommendation</u> - Supported.</p> <p>Specific guidance to ensure compliance across the local government sector is supported to build capacity and understanding. Although, adequate resourcing across the State Government sector seems to be an issue. It is recommended that Council call upon the State Government to ensure the DLGSC is adequately resourced to be effective in assisting local governments rectify non-compliance.</p>

Theme 2: Reducing Red Tape, Increasing Consistency and Simplicity

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
2.1 Resource Sharing		
<ul style="list-style-type: none"> The Act does not currently include specific provisions to allow for certain types of resource sharing – especially for sharing CEOs. Regional local governments would benefit from having clearer mechanisms for voluntary resource-sharing. 	<ul style="list-style-type: none"> Amendments are proposed to encourage and enable local governments, especially smaller regional local governments, to share resources, including Chief Executive Officers and senior employees. Local governments in bands 2, 3 or 4 would be able to appoint a shared CEO at up to two salary bands above the highest band. For example, a band 3 and a band 4 council sharing a CEO could remunerate to the level of band 1. 	<p><u>Administration Recommendation</u> - Supported.</p> <p>It is recommended Council support this proposed reform.</p> <p>Item 2.1 aligns with WALGA’s Advocacy Position 2.6 – Local Government Legislation – ‘<i>Avoid red tape and ‘de-clutter’ the extensive regulatory regime that underpins the Local Government Act</i>’ and Advocacy Position 2.3.1 - ‘Regional Collaboration’.</p> <p><i>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.</i></p> <p>Comment</p> <p>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.</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
2.2 Standardisation of Crossovers		
<ul style="list-style-type: none"> • Approvals and standards for crossovers (the section of driveways that run between the kerb and private property) are inconsistent between local government areas, often with very minor differences. • This can create confusion and complexity for homeowners and small businesses in the construction sector. 	<ul style="list-style-type: none"> • It is proposed to amend the <i>Local Government (Uniform Local Provisions) Regulations 1996</i> to standardise the process for approving crossovers for residential properties and residential developments on local roads. • A Crossover Working Group has provided preliminary advice to the Minister and DLGSC to inform this. • The DLGSC will work with the sector to develop standardised design and construction standards. 	<p><u>Administration Recommendation</u> - Not Supported.</p> <p>The Shire of Manjimup standard crossover specifications are at a higher level of specification than those proposed through the Crossover Working Group. This reform is not supported.</p> <p>Whilst the standardisation of crossovers may work in metropolitan areas, it is considered that the standard proposed will not work in regional areas as there are:</p> <ul style="list-style-type: none"> • Limited resources in overseeing crossover works/enforcing compliance; • Dramatic difference in verge sizes; • It does not take into account ecological communities and Environmentally Sensitive Areas; and • A 'one size fits all' approach does not take into consideration of site

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		specific overland stormwater flow issues.
2.3 Introduce Innovation Provisions		
<ul style="list-style-type: none"> The <i>Local Government Act 1995</i> currently has very limited provisions to allow for innovations and responses to emergencies to (such as the Shire of Bruce Rock Supermarket). 	<ul style="list-style-type: none"> New provisions are proposed to allow exemptions from certain requirements of the <i>Local Government Act 1995</i>, for: <ul style="list-style-type: none"> Short-term trials and pilot projects Urgent responses to emergencies. 	<p><u>Administration Recommendation</u> - Supported.</p> <p>It is in the interest of local government to have broader legislative abilities to address community needs and issues where appropriate. This proposed reform has the ability to facilitate efficient and effective outcomes.</p>
2.4 Streamline Local Laws		
<ul style="list-style-type: none"> Local laws are required to be reviewed every eight years. The review of local laws (especially when they are standard) has been identified as a burden for the sector. Inconsistency between local laws is frustrating for residents and business stakeholders. 	<ul style="list-style-type: none"> It is proposed that local laws would only need to be reviewed by the local government every 15 years. Local laws not reviewed in the timeframe would lapse, meaning that old laws will be automatically removed and no longer applicable. Local governments adopting Model Local Laws will have reduced advertising requirements. 	<p><u>Administration Recommendation</u> - Supported.</p> <p>Council’s resolution 27724 from 7 February 2019 supports this reform:</p> <p>“The retention of the ability to make Local Laws specific to a local government area, but based on a model Local Law; and</p> <p>The inclusion of default penalties for offences not specified within a Local Law.”</p> <p>The proposed reform to Local Laws is welcomed by Shire</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		<p>officers. The Local Law process is considered overly onerous, inefficient and costly to the Shire organisation.</p> <p>Furthermore, it is recommended that the Minister review the role of the Joint Standing Committee on Delegated Legislation (JSCDL) in the determination of Local Laws. Whilst it is appreciated that the JSCDL has a role to play in the approval of legislation, it should consider all Local Laws prior to gazettal and report its findings back to the relevant local government as the cost to amend a Local Law that is legislatively incorrect can be financially expensive.</p>
2.5 Simplifying Approvals for Small Business and Community Events		
<ul style="list-style-type: none"> • Inconsistency between local laws and approvals processes for events, street activation, and initiatives by local businesses is frustrating for business and local communities. 	<ul style="list-style-type: none"> • Proposed reforms would introduce greater consistency for approvals for: <ul style="list-style-type: none"> ○ alfresco and outdoor dining ○ minor small business signage rules ○ running community events. 	<p><u>Administration Recommendation</u> - Support, subject to further clarification.</p> <p>It is recommended that Council support this reform, however it is unclear as to what the ramifications are in terms of:</p> <ul style="list-style-type: none"> • practical impacts on existing and future alfresco and outdoor dining areas;

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		<ul style="list-style-type: none"> the level of risk the local government would be assuming; and whether such a reform impacts on the Shire's level of insurance.
<p>2.6 Standardised Meeting Procedures, Including Public Question Time</p>		
<ul style="list-style-type: none"> Local governments currently prepare individual standing order local laws. The <i>Local Government Act 1995</i> and regulations require local governments to allocate time at meetings for questions from the public. Inconsistency among the meeting procedures between local governments is a common source of complaints. 	<ul style="list-style-type: none"> To provide greater clarity for ratepayers and applicants for decisions made by council, it is proposed that the meeting procedures and standing orders for all local government meetings, including for public question time, are standardised across the State. Regulations would introduce standard requirements for public question time, and the procedures for meetings generally. Members of the public across all local governments would have the same opportunities to address council and ask questions. 	<p><u>Administration Recommendation - Support.</u></p> <p>Standardisation of meeting procedures across all local governments will assist in better engagement with the community.</p>

2.7 Regional Subsidiaries		
<ul style="list-style-type: none"> • Initiatives by multiple local governments may be managed through formal Regional Councils, or through less formal “organisations of councils”, such as NEWROC and WESROC. • These initiatives typically have to be managed by a lead local government. • In 2016-17, provisions were introduced to allow for the formation of Regional Subsidiaries. Regional Subsidiaries can be formed in line with the <i>Local Government (Regional Subsidiaries) Regulations 2017</i>. • So far, no Regional Subsidiary has been formed. 	<ul style="list-style-type: none"> • Work is continuing to consider how Regional Subsidiaries can be best established to: <ul style="list-style-type: none"> ○ Enable Regional Subsidiaries to provide a clear and defined public benefit for people within member local governments ○ Provide for flexibility and innovation while ensuring appropriate transparency and accountability of ratepayer funds ○ Where appropriate, facilitate financing of initiatives by Regional Subsidiaries within a reasonable and defined limit of risk ○ Ensure all employees of a Regional Subsidiary have the same employment conditions as those directly employed by member local governments. 	<p><u>Administration Recommendation</u> - Supported.</p> <p>Under the Regional Subsidiary model, two or more Local Governments are able to establish a regional subsidiary to undertake a shared service function on behalf of its constituent Local Governments Whilst the Shire of Manjimup has no plans for a Regional Subsidiary this reform is supported. The easier development of Regional Subsidiaries will create opportunities for councils to pool resources and obtain better community outcomes.</p>

Theme 3: Greater Transparency & Accountability

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
3.1 Recordings and Live-Streaming of All Council Meetings		
<ul style="list-style-type: none"> • Currently, local governments are only required to make written minutes of meetings. • While there is no legal requirement for livestreaming or video or audio recording of council meetings, many local governments now stream and record their meetings. • Complaints relating to behaviours and decisions at meetings constitute a large 	<ul style="list-style-type: none"> • It is proposed that all local governments will be required to record meetings. • Band 1 and 2 local governments would be required to livestream meetings, and make video recordings available as public archives. • Band 1 and 2 are larger local governments are generally located in larger urban areas, with generally very good telecommunications infrastructure, and many already have audio-visual equipment. 	<p><u>Administration Recommendation</u> - Supported, subject to:</p> <ul style="list-style-type: none"> • The State Government making a significant financial contribution to the purchase and installation of the appropriate hardware

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
<p>proportion of complaints about local governments.</p> <ul style="list-style-type: none"> • Local governments are divided into bands with the largest falling in bands 1 and 2, and smaller local governments falling bands 3 and 4. The allocation of local governments into bands is determined by The Salaries and Allowances Tribunal based on factors¹ such as: <ul style="list-style-type: none"> ○ Growth and development ○ Strategic planning issues ○ Demands and diversity of services provided to the community ○ Total expenditure ○ Population ○ Staffing levels. 	<ul style="list-style-type: none"> • 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. 	<p>and software to implement livestreaming of Council Meetings.</p> <ul style="list-style-type: none"> • Where Council Meetings are held outside of the Council Chamber (e.g. in another town) legislative provision be made for an audio recording of that meeting being deemed sufficient. <p>Whilst supportive, the implementation of livestreaming of Council meetings will come at a significant financial cost impost for the Shire of Manjimup and its ratepayers, expected to be in the tens of thousands of dollars. Also, connectivity to stream from outer town facilities of the Council Chambers is limited by a number of factors.</p> <p>Whilst livestreaming allows Council to reach a wider audience, there is real risk in that recordings of meetings may be used to the detriment of local governments. It is recommended that legislative provisions be included to allow the DLGSC to investigate and prosecute for the misuse of</p>

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

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		recordings, and protect staff, Councillors and members of the public from libellous behaviour and deliberate misrepresentation by others.
3.2 Recording All Votes in Council Minutes		
<ul style="list-style-type: none"> A local government is only required to record which councillor voted for or against a motion in the minutes of that meeting if a request is made by an elected member at the time of the resolution during the meeting. The existing provision does not mandate transparency. 	<ul style="list-style-type: none"> To support the transparency of decision-making by councillors, it is proposed that the individual votes cast by all councillors for all council resolutions would be required to be published in the council minutes, and identify those for, against, on leave, absent or who left the chamber. Regulations would prescribe how votes are to be consistently minuted. 	<p><u>Administration Recommendation - Supported.</u> The Shire of Manjimup undertakes this already as standard practice.</p>
3.3 Clearer Guidance for Meeting Items that may be Confidential		
<ul style="list-style-type: none"> The Act currently provides broad definitions of what type of matters may be discussed as a confidential item. There is limited potential for review of issues managed as confidential items under the current legislation. 	<ul style="list-style-type: none"> Recognising the importance of open and transparent decision-making, it is considered that confidential meetings and confidential meeting items should only be used in limited, specific circumstances. It is proposed to make the Act more specific in prescribing items that may be confidential, and items that should remain open to the public. Items not prescribed as being confidential could still be held as confidential items only with the prior written consent of the Inspector. All confidential items would be required to be audio recorded, with those recordings submitted to the DLGSC. 	<p><u>Administration Recommendation - Supported.</u> The Shire supports WALGA's commentary around this matter in that the confidentiality provisions need to be clarified. Reform to prescribing what is and isn't confidential is supported.</p> <p>However, the requirement to provide the DLGSC an audio copy of all confidentially made decisions purports to a distinct lack of trust in local government decision-making process by the DLGSC. This is considered unnecessary, when</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		<p>the DLGSC can request a recording of a confidential matter from a local government.</p>
<p>3.4 Additional Online Registers</p>		
<ul style="list-style-type: none"> Local governments are required to provide information to the community through annual reports, council minutes and the publication of information online. Consistent online publication of information can substitute for certain material in annual reports. Consistency in online reporting across the sector will provide ratepayers with better information. These registers supplement the simplification of financial statements in Theme 6. 	<ul style="list-style-type: none"> It is proposed to require local governments to report specific information in online registers on the local government’s website. Regulations would prescribe the information to be included. <p>The following new registers, each updated quarterly, are proposed:</p> <ul style="list-style-type: none"> Lease Register to capture information about the leases the local government is party to (either as lessor or lessee) Community Grants Register to outline all grants and funding provided by the local government Interests Disclosure Register which collates all disclosures made by elected members about their interests related to matters considered by council Applicant Contribution Register accounting for funds collected from applicant contributions, such as cash-in-lieu for public open space and car parking 	<p><u>Administration Recommendation</u> - Supported, subject to:</p> <ul style="list-style-type: none"> The new Lease Register only listing leases with commercial or not-for-profit entities, not those made with non-commercial interests in Shire or Shire-managed land (e.g. Holiday cottage leaseholders at Windy Harbour). Clear legislative provisions/DLGSC guidance providing protection of lessee details.

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	<ul style="list-style-type: none"> ○ Contracts Register that discloses all contracts above \$100,000. 	<p>This proposal follows recent Act amendments that ensure a range of information is published on Local Government websites. WALGA has sought clarity that the contracts register excludes contracts of employment. Clear guidance also needs to be provided either by the DLGSC, or through the Act as to how personal details are to be protected on these registers.</p> <p>In terms of community grants, this proposed reform could become onerous in that the register would need to be continually updated for small amounts donated to community groups, clubs, etc. It is recommended that the Minister include a provision for a non-disclosure cap of \$500 to cover small donations to eliminate the need to continually update the proposed Community Grants Register.</p>
3.5 Chief Executive Officer Key Performance Indicators (KPIs) be Published		
<ul style="list-style-type: none"> • It is a requirement of the <i>Local Government Act 1995</i> that CEO performance reviews are conducted annually. 	<ul style="list-style-type: none"> • To provide for minimum transparency, it is proposed to mandate that the KPIs agreed as performance metrics for CEOs: <ul style="list-style-type: none"> ○ Be published in council meeting minutes as soon as they are agreed prior to (before the start of the annual period) 	<p><u>Administration Recommendation</u> - Supported, in principle, subject to:</p> <ul style="list-style-type: none"> • Conditionally support

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
<ul style="list-style-type: none"> • The Model Standards for CEO recruitment and selection, performance review and termination require that a local government must review the performance of the CEO against contractual performance criteria. • Additional performance criteria can be used for performance review by agreement between both parties. 	<ul style="list-style-type: none"> ○ The KPIs and the results be published in the minutes of the performance review meeting (at the end of the period) ○ The CEO has a right to provide written comments to be published alongside the KPIs and results to provide context as may be appropriate (for instance, the impact of events in that year that may have influenced the results against KPIs). 	<p>the reporting of CEO KPIs that are consistent with the strategic direction and operational function of the Local Government, subject to exemptions for publishing KPI's of a confidential nature;</p> <ul style="list-style-type: none"> • Do not support the results of performance reviews being published. <p>It is important to note that this level of scrutiny is not given to CEO's in any other public or private sector. This is a very unique reform being proposed, and requires careful consideration by the Minister.</p> <p>In principle, this proposal has some merit and would be particularly effective if all CEO KPIs consistently reflect Strategic Community Plans and Corporate Business Plans of Local Governments, together with KPIs reflective of the CEO's statutory functions under Section 5.41 of the Act. This approach would inform the community of the CEO's performance related to the strategic direction and operational function of the Local Government.</p> <p>In practice, the drafting of statutory</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		<p>provisions will require sensitive consideration of certain KPIs i.e. those relating to issues affecting the workplace or identified risk-based concerns, to reflect the way Audit Committees currently deal with some internal control, risk and legislative compliance issues confidentially. This approach will protect the interests of Local Governments and other parties associated with such KPIs. It would be prudent for exemptions to be provided, based on matters of confidentiality. Given the local government landscape evolves rapidly, there seems to be no measure of flexibility to allow for CEO's to manage unexpected situations, that may impact on their ability to deliver their agreed KPI's.</p> <p>The proposed reforms and recent Act amendments signal a clear intent to permit closer community involvement and scrutiny of Local Government. However, negative consequences are likely if Local Government Council's responsibility as the employing authority of the CEO became blurred due to perceived community entitlement to comment, question and influence KPIs and the performance review process.</p>

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CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		<p>Additionally, the publication of CEO KPI's will elevate this employment position to a high degree of public scrutiny seldom evident in the public or private sector, if at all. It is worth investigating whether the proposed reforms considered whether this factor could impact on the recruitment of CEO's, particularly from outside the Local Government sector.</p> <p>The results of performance reviews should be confidential information between the employer and employee and should not be published and should remain within the confidential human resource records of the organisation.</p>

Theme 4: Stronger Local Democracy and Community Engagement

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
4.1 Community and Stakeholder Engagement Charters		
<ul style="list-style-type: none"> • There is currently no requirement for local governments to have a specific engagement charter or policy. • Many local governments have introduced charters or policies for how they will engage with their community. • Other States have introduced a specific requirement for engagement charters. 	<ul style="list-style-type: none"> • It is proposed to introduce a requirement for local governments to prepare a community and stakeholder engagement charter which sets out how local government will communicate processes and decisions with their community. • A model Charter would be published to assist local governments who wish to adopt a standard form. 	<p><u>Administration Recommendation</u> - Not supported.</p> <p>Council has an established position not to support this reform (Resolution 27724, 7 February 2019) as follows:</p> <ul style="list-style-type: none"> • “The requirement to develop a ‘Community Engagement Charter’. Maintenance of the status quo in community engagement by local governments should be maintained.” <p>It is the opinion of Shire Officers that the current status quo in community engagement be maintained. A community engagement charter may have an adverse effect in that it could potentially stymie development and decision making within a local government if consultation is legislated any further.</p> <p>In any case, should Council believe that further consultation on a community activity or decision making proposal need to be undertaken prior to a decision, it has the ability to determine that further consultation with the community on</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		<p>a matter is required. Council can also determine the limits of that consultation. It is additionally expected that unnecessarily widening the scope for consultation would have cost implications to the local government.</p>
<p>4.2 Ratepayer Satisfaction Surveys (Band 1 and 2 local governments only)</p>		
<ul style="list-style-type: none"> • Many local governments already commission independent surveying consultants to hold a satisfaction survey of residents/ratepayers. • These surveys provide valuable data on the performance of local governments. 	<ul style="list-style-type: none"> • It is proposed to introduce a requirement that every four years, all local governments in bands 1 and 2 hold an independently-managed ratepayer satisfaction survey. • Results would be required to be reported publicly at a council meeting and published on the local government’s website. • All local governments would be required to publish a response to the results. 	<p><u>Administration Recommendation</u> - Supported.</p> <p>The Shire already undertakes this proposed action as part of its review of the Strategic Community Plan every 4 years.</p> <p>However, having an independent consultant undertake the survey may be cost prohibitive and ineffective.</p>
<p>4.3 Introduction of Preferential Voting</p>		
<ul style="list-style-type: none"> • The current voting method for local government elections is first past the post. • The existing first-past-the-post does not allow for electors to express more than one preference. • The candidate with the most votes wins, even if that candidate does not have a majority. • Preferential voting better captures the precise intentions of voters and as a result may be regarded as a fairer and more 	<ul style="list-style-type: none"> • Preferential voting is proposed be adopted as the method to replace the current first past the post system in local government elections. • In preferential voting, voters number candidates in order of their preferences. • Preferential voting is used in State and Federal elections in Western Australia (and in other states). This provides voters with more choice and control over who they elect. • All other states use a form of preferential voting for local government. 	<p><u>Administration Recommendation</u> - Not supported.</p> <p>Council has an established position not to support this reform (Resolution 27724, 7 February 2019) as follows:</p> <ul style="list-style-type: none"> • “The utilisation of a preferential voting methodology for local government elections.”

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
<p>representative system. Voters have more specific choice.</p>		<p>WALGA’s position on Item 4.3 is that preferential voting <u>does not align</u> with its Advocacy Position 2.5.1 – ‘First Past the Post voting system’</p> <p><i>The Local Government sector supports:</i></p> <ol style="list-style-type: none"> 1. <i>Four year terms with a two year spill</i> 2. <i>Greater participation in Local Government elections</i> 3. <i>The option to hold elections through:</i> <ul style="list-style-type: none"> • <i>Online voting</i> • <i>Postal voting, and</i> • <i>In-person voting</i> 4. <i>Voting at Local Government elections to be voluntary</i> 5. <i>The first past the post method of counting votes</i> <p>WALGA Comment</p> <p>It should be noted that the sector’s advocacy against compulsory voting and “All in All out” 4 year terms has been successful and these items are not included in the reform proposals.</p> <p>The introduction of preferential voting will be a return to the system of voting prior to the <i>Local Government Act 1995</i>. The Sector supports first past the post voting for its simplicity and fundamental</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		<p>apolitical nature, therefore the proposed reforms are not supported.</p> <p>Given the above, the Shire of Manjimup maintains its position against preferential voting in local government elections.</p>
<p>4.4 Public Vote to Elect the Mayor and President</p>		
<ul style="list-style-type: none"> • The Act currently allows local governments to have the Presiding Member (the Mayor or President) elected either: <ul style="list-style-type: none"> ○ by the electors of the district through a public vote; or ○ by the council as a resolution at a council meeting. 	<ul style="list-style-type: none"> • Mayors and Presidents of all local governments perform an important public leadership role within their local communities. • Band 1 and 2 local governments generally have larger councils than those in bands 3 and 4. • Accordingly, it is proposed that the Mayor or President for all band 1 and 2 councils is to be elected through a vote of the electors of the district. Councils in bands 3 and 4 would retain the current system. • 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. 	<p><u>Administration Recommendation</u> - Not supported.</p> <p>WALGA’s position is that Item 4.4 <u>does not align</u> with Advocacy Position 2.5.2 - ‘Election of Mayors and Presidents be at the discretion of Local Government.’</p> <p><i>Local Governments should determine whether their Mayor or President will be elected by the Council or elected by the community.</i></p> <p>WALGA Comment</p> <p>There are 43 Band 1 and 2 Local Governments with 22 popularly electing the Mayor or President:</p> <p style="padding-left: 40px;">Band 1 - 15 Band 2 - 7</p> <p>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</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		<p>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/Presidents.</p> <p>Public vote for the direct election of the Mayor or President presents significant risk. One major risk being the election to the position of ‘one issue’ candidates. Direct election is considered more likely to create unaligned councils that eventually become dysfunctional, polarised and ineffective in delivering good governance to their communities. Therefore, this proposed reform is not supported.</p>
4.5 Tiered Limits on the Number of Councillors		
<ul style="list-style-type: none"> The number of councillors (between 5-15 councillors) is decided by each local government, reviewed by the Local Government Advisory Board, and if approved by the Minister. The Panel Report recommended electoral reforms to improve representativeness. 	<ul style="list-style-type: none"> It is proposed to limit the number of councillors based on the population of the entire local government. Some smaller local governments have already been moving to having smaller councils to reduce costs for ratepayers. The Local Government Panel Report proposed: <ul style="list-style-type: none"> For a population of up to 5,000 – five councillors (including the President) population of between 5,000 and 75,000 – five to nine councillors (including the Mayor/President) population of above 75,000 – nine to fifteen councillors (including Mayor). 	<p><u>Administration Recommendation</u> - Not supported.</p> <p>Under the proposal, the Shire of Manjimup will be unable to operate wards with 9 councillors or less because of geographical location and representative quotas.</p> <p>The Shire of Manjimup is a unique local government in that it encompasses 4 towns, a number of settlements and has a diverse geography over its 7,027 km² area. It also has varied communities of</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		<p>interest. Therefore it is important the current ward system, with the current Councillor representation (11 Councillors) is maintained for the effective representation of each Shire community. Local Governments should be able to determine the number of councillors it needs to ensure effective representation of their communities.</p>
<p>4.6 No Wards for Small Councils (Band 3 and 4 Councils only)</p>		
<ul style="list-style-type: none"> • A local government can make an application to be divided into wards, with councillors elected to those wards. • Only about 10% of band 3 and 4 local governments currently have wards. 	<ul style="list-style-type: none"> • It is proposed that the use of wards for councils in bands 3 and 4 is abolished. • Wards increase the complexity of elections, as this requires multiple versions of ballot papers to be prepared for a local government’s election. • In smaller local governments, the population of wards can be very small. • These wards often have councillors elected unopposed, or elect a councillor with a very small number of votes. Some local governments have ward councillors elected with less than 50 votes. • There has been a trend in smaller local governments looking to reduce the use of wards, with only 10 councils in bands 3 and 4 still having wards. 	<p><u>Administration Recommendation</u> - No comment.</p>

4.7 Electoral Reform – Clear Lease Requirements for Candidate and Voter Eligibility		
<ul style="list-style-type: none"> • A person with a lease in a local government district is eligible to nominate as a candidate in that district. • A person with a lease in a local government district is eligible to apply to vote in that district. • The City of Perth Inquiry Report identified a number of instances where dubious lease arrangements put to question the validity of candidates in local government elections, and subsequently their legitimacy as councillors. 	<ul style="list-style-type: none"> • Reforms are proposed to prevent the use of “sham leases” in council elections. Sham leases are where a person creates a lease only to be able to vote or run as a candidate for council. • The City of Perth Inquiry Report identified sham leases as an issue. • Electoral rules are proposed to be strengthened: <ul style="list-style-type: none"> ○ A minimum lease period of 12 months will be required for anyone to register a person to vote or run for council. ○ Home based businesses will not be eligible to register a person to vote or run for council, because any residents are already the eligible voter(s) for that address. ○ Clarifying the minimum criteria for leases eligible to register a person to vote or run for council. • The reforms would include minimum lease periods to qualify as a registered business (minimum of 12 months), and the exclusion of home based businesses (where the resident is already eligible) and very small sub-leases. • The basis of eligibility for each candidate (e.g. type of property and suburb of property) is proposed to be published, including in the candidate pack for electors. 	<p><u>Administration Recommendation</u> - Supported.</p>
4.8 Reform of Candidate Profiles		
<ul style="list-style-type: none"> • Candidate profiles can only be 800 characters, including spaces. This is equivalent to approximately 150 words. 	<ul style="list-style-type: none"> • Further work will be undertaken to evaluate how longer candidate profiles could be accommodated. • Longer candidate profiles would provide more information to electors, potentially through publishing profiles online. • It is important to have sufficient information available to assist electors make informed decisions when casting their vote. 	<p><u>Administration Recommendation</u> - Supported.</p>

4.9 Minor Other Electoral Reforms		
<ul style="list-style-type: none"> • Other minor reforms are proposed to improve local government elections. 	<ul style="list-style-type: none"> • Minor other electoral reforms are proposed to include: <ul style="list-style-type: none"> ○ The introduction of standard processes for vote recounts if there is a very small margin between candidates (e.g. where there is a margin of less than 10 votes a recount will always be required) ○ The introduction of more specific rules concerning local government council candidates' use of electoral rolls. 	<p><u>Administration Recommendation</u> - Supported.</p> <p>These proposed changes will serve to remove any ambiguity about election outcomes and the use of information.</p>

Theme 5: Clear Roles and Responsibilities

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
5.1 Introduce Principles in the Act		
<ul style="list-style-type: none"> The Act does not currently outline specific principles. The Act contains a short “Content and Intent” section only. The Panel Report recommended greater articulation of principles 	<ul style="list-style-type: none"> It is proposed to include new principles in the Act, including: <ul style="list-style-type: none"> The recognition of Aboriginal Western Australians Tiering of local governments (with bands being as assigned by the Salaries and Allowances Tribunal) Community Engagement Financial Management. 	<p><u>Administration Recommendation</u> - Supported.</p> <p>The Shire supports a flexible, principles-based framework on the basis that the level of regulation is workable.</p>
5.2 Greater Role Clarity		
<ul style="list-style-type: none"> The Act provides for the role of council, councillor, mayor or president and CEO. The role of the council is to: <ul style="list-style-type: none"> govern the local government’s affairs be responsible for the performance of the local government’s functions. 	<ul style="list-style-type: none"> The Local Government Act Review Panel recommended that roles and responsibilities of elected members and senior staff be better defined in law. It is proposed that these roles and responsibilities are further defined in the legislation. These proposed roles will be open to further consultation and input. These roles would be further strengthened through Council Communications Agreements (see item 5.3). 	<p><u>Administration Recommendation</u> - Supported.</p> <p>Clear definition of roles, supported by legislation allows for better understanding between Councillors, President/mayor and staff.</p>
	<p>5.2.1 - Mayor or President Role</p> <ul style="list-style-type: none"> It is proposed to amend the Act to specify the roles and responsibilities of the Mayor or President. While input and consultation will inform precise wording, it is proposed that the Act is amended to generally outline that the Mayor or President is responsible for: <ul style="list-style-type: none"> Representing and speaking on behalf of the whole council and the local government, at all times being consistent with the resolutions of council 	<p><u>Administration Recommendation</u> - Supported.</p> <p>Clear definition of roles, supported by legislation allows for better understanding between Councillors, President/Mayor and staff.</p> <p>The interpretation of the role needs to be succinct, providing useful clarity around roles and responsibilities.</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	<ul style="list-style-type: none"> ○ Facilitating the democratic decision-making of council by presiding at council meetings in accordance with the Act ○ Developing and maintaining professional working relationships between councillors and the CEO ○ Performing civic and ceremonial duties on behalf of the local government ○ Working effectively with the CEO and councillors in overseeing the delivery of the services, operations, initiatives and functions of the local government. 	<p>Linking this proposal back to Theme 1, there must be a meaningful consequences for breaches of the Act.</p>
	<p>5.2.2 - Council Role</p> <ul style="list-style-type: none"> ● It is proposed to amend the Act to specify the roles and responsibilities of the Council, which is the entity consisting of all of the councillors and led by the Mayor or President. ● While input and consultation will inform precise wording, it is proposed that the Act is amended to generally outline that the Council is responsible for: <ul style="list-style-type: none"> ○ Making significant decisions and determining policies through democratic deliberation at council meetings ○ Ensuring the local government is adequately resourced to deliver the local governments operations, services and functions - including all functions that support informed decision-making by council ○ Providing a safe working environment for the CEO; ○ Providing strategic direction to the CEO; ○ Monitoring and reviewing the performance of the local government. 	<p><u>Administration Recommendation</u> - Supported.</p> <p>Clear definition of roles, supported by legislation allows for better understanding between Councillors, President/mayor and staff.</p> <p>The interpretation of the role needs to be succinct, providing useful clarity around roles and responsibilities.</p> <p>Linking this proposal back to Theme 1, there must be a meaningful consequences for breaches of the Act.</p>
	<p>5.2.3 - Elected Member (Councillor) Role</p> <ul style="list-style-type: none"> ● It is proposed to amend the Act to specify the roles and responsibilities of all elected councillors. 	<p><u>Administration Recommendation</u> - Supported.</p> <p>Clear definition of roles, supported by legislation allows for better</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	<ul style="list-style-type: none"> • While input and consultation will inform precise wording, it is proposed that the Act is amended to generally outline that every elected councillor is responsible for: <ul style="list-style-type: none"> ○ Considering and representing, fairly and without bias, the current and future interests of all people who live, work and visit the district (including for councillors elected for a particular ward) ○ Positively and fairly contribute and apply their knowledge, skill, and judgement to the democratic decision-making process of council ○ Applying relevant law and policy in contributing to the decision-making of the council ○ Engaging in the effective forward planning and review of the local governments’ resources, and the performance of its operations, services, and functions ○ Communicating the decisions and resolutions of council to stakeholders and the public ○ Developing and maintaining professional working relationships with all other councillors and the CEO ○ Maintaining and developing their knowledge and skills relevant to local government ○ Facilitating public engagement with local government. • It is proposed that elected members should not be able to use their title (e.g. “Councillor”, “Mayor”, or “President”) and associated resources of their office (such as email address) unless they are performing their role in their official capacity. 	<p>understanding between Councillors, President/mayor and staff.</p> <p>The interpretation of the role needs to be succinct, providing useful clarity around roles and responsibilities.</p> <p>Linking this proposal back to Theme 1, there must be a meaningful consequences for breaches of the Act.</p>
	<p>5.2.4 - CEO Role</p> <ul style="list-style-type: none"> • The <i>Local Government Act 1995</i> requires local governments to employ a CEO to run the local government administration and implement the decisions of council. 	<p><u>Administration Recommendation - Supported.</u></p> <p>Clear definition of roles, supported by legislation allows for better</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	<ul style="list-style-type: none"> • To provide greater clarity, it is proposed to amend the Act to specify the roles and responsibilities of all local government CEOs. • While input and consultation will inform precise wording, it is proposed that the Act is amended to generally outline that the CEO of a local government is responsible for: <ul style="list-style-type: none"> ○ Coordinating the professional advice and assistance necessary for all elected members to enable the council to perform its decision-making functions ○ Facilitating the implementation of council decisions ○ Ensuring functions and decisions lawfully delegated by council are managed prudently on behalf of the council ○ Managing the effective delivery of the services, operations, initiatives and functions of the local government determined by the council ○ Providing timely and accurate information and advice to all councillors in line with the Council Communications Agreement (see item 5.3) ○ Overseeing the compliance of the operations of the local government with State and Federal legislation on behalf of the council ○ Implementing and maintaining systems to enable effective planning, management, and reporting on behalf of the council. 	<p>understanding between Councillors, President/mayor and staff.</p> <p>The interpretation of the role needs to be succinct, providing useful clarity around roles and responsibilities.</p> <p>Linking this proposal back to Theme 1, there must be a meaningful consequences for breaches of the Act.</p>
5.3 Council Communication Agreements		
<ul style="list-style-type: none"> • The Act provides that council and committee members can have access to any information held by the local government that is relevant to the performance of the member in their functions. • The availability of information is sometimes a source of conflict within local governments. 	<ul style="list-style-type: none"> • In State Government, there are written Communication Agreements between Ministers and agencies that set standards for how information and advice will be provided. • It is proposed that local governments will need to have Council Communications Agreements between the council and the CEO. • These Council Communication Agreements would clearly specify the information that is to be provided to councillors, 	<p><u>Administration Recommendation</u> - Not Supported.</p> <p>The imposition of Council Communication Agreements seems onerous and inefficient. They may also simply create a dispute between Council and the CEO</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	<p>how it will be provided, and the timeframes for when it will be provided.</p> <ul style="list-style-type: none"> • 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. 	<p>should agreement not be reached on information provision. The Act should just simply legislate the type, timeframe and availability of information to Elected Members for State-wide consistency.</p> <p>The proposed reform also lacks clarity over the safeguarding of records. This needs to be articulated clearly in legislation.</p>
<p>5.4 Local Governments May Pay Superannuation Contributions for Elected Members</p>		
<ul style="list-style-type: none"> • Elected members are eligible to receive sitting fees or an annual allowance. • Superannuation is not paid to elected members. However, councillors can currently divert part of their allowances to a superannuation fund. • Councils should be reflective and representative of the people living within the district. Local governments should be empowered to remove any barriers to the participation of gender and age diverse people on councils. 	<ul style="list-style-type: none"> • It is proposed that local governments should be able to decide, through a vote of council, to pay superannuation contributions for elected members. These contributions would be additional to existing allowances. • Superannuation is widely recognised as an important entitlement to provide long term financial security. • Other states have already moved to allow councils to make superannuation contributions for councillors. • Allowing council to provide superannuation is important part of encouraging equality for people represented on council – particularly for women and younger people. • Providing superannuation to councillors recognises that the commitment to elected office can reduce a person's opportunity to undertake employment and earn superannuation contributions. 	<p><u>Administration Recommendation</u> - Not Supported.</p> <p>Council's position as resolved on 21 October 2021 is to:</p> <ul style="list-style-type: none"> • Advise WALGA that it does not support the proposed policy position that the <i>Local Government Act 1995</i> be amended to require local governments to pay Elected Members, into a nominated superannuation account, an amount equivalent to the superannuation guarantee determined with reference to fees and allowances paid to each Elected Member; and • Support advocacy to the Minister for Local

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		<p>Government to request that the Salaries and Allowances Tribunal, when allocating band ranges, consider sections 2.7 to 2.10 of the <i>Local Government Act 1995</i>, which outlines the roles and responsibilities of local governments, councillors, mayors, presidents and their deputies, in the context of foregone superannuation guarantee contributions.</p> <p>Sitting fees for Elected Members are currently paid within a minimum/maximum band that is set annually by the Salaries and Allowances Tribunal. Council's current policy position is for Elected Members to be paid the midpoint of the band. Utilising this assumption and the current superannuation guarantee contribution (SGC) of ten percent, the annual cost to the Shire of mandatory SGC for all Elected Members would be \$26,269.</p> <p>An alternative to legislative amendment to mandate superannuation guarantee contributions could be for the Tribunal to review the band levels in this context, and for individual local governments to set its payments to</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		<p>Elected Members at an appropriate level.</p> <p>An alternative to legislative amendment to mandate superannuation guarantee contributions could be for the Tribunal to review the band levels in this context, and for individual local governments to set its payments to Elected Members at an appropriate level.</p>
<p>5.5 Local Governments May Establish Education Allowances</p>		
<ul style="list-style-type: none"> Local government elected members must complete mandatory training. There is no specific allowance for undertaking further education. 	<ul style="list-style-type: none"> Local governments will have the option of contributing to the education expenses for councillors, up to a defined maximum value, 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. 	<p><u>Administration Recommendation</u> - Supported.</p> <p>This proposed reform allows Councillors to have the choice to seek further training if they see fit.</p>
<p>5.6 Standardised Election Caretaker period</p>		

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
<ul style="list-style-type: none"> • There is currently no requirement for a formal caretaker period, with individual councils operating under their own policies and procedures. • This is commonly a point of public confusion. 	<ul style="list-style-type: none"> • A statewide caretaker period for local governments is proposed. • All local governments across the State would have the same clearly defined election period, during which: <ul style="list-style-type: none"> ○ Councils do not make major decisions with criteria to be developed defining ‘major’ ○ Incumbent councillors who nominate for re-election are not to represent the local government, act on behalf of the council, or use local government resources to support campaigning activities. ○ There are consistent election conduct rules for all candidates. 	<p><u>Administration Recommendation</u> - Supported.</p> <p>This proposed reform would serve to depoliticise Council decision-making in the lead up to a local government election. The election caretaker period should begin with the closure of candidate nominations.</p>
<p>5.7 Remove WALGA from the Act</p>		
<ul style="list-style-type: none"> • The Western Australian Local Government Association (WALGA) is constituted under the <i>Local Government Act 1995</i>. • The Local Government Panel Report and the Select Committee Report included this recommendation. 	<ul style="list-style-type: none"> • The Local Government Panel Report recommended that WALGA not be constituted under the <i>Local Government Act 1995</i>. • Separating WALGA out of the Act will provide clarity that WALGA is not a State Government entity. 	<p><u>Administration Recommendation</u> - Not supported, subject to further clarity on the future impacts on the Local Government Insurance Scheme, tendering and pre-qualified supplier panels.</p> <p>The Shire of Manjimup is supportive of the WALGA position. WALGA is conducting its own due diligence on this proposal, previously identified in the Local Government Review Panel Report. The outcome of this reform would require a transition of WALGA from a body constituted under the Act to an incorporated association. It is important to the Local Government sector that the provisions relating</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		to the mutual self-insurance scheme and tender exempt prequalified supply panels remain in the Act and are not affected by this proposal. Further work is being carried out by WALGA to fully understand the effect this proposal will have on WALGA and the sector.
5.8 CEO Recruitment		
<ul style="list-style-type: none"> Recent amendments introduced provisions to standardise CEO recruitment. The recruitment of a CEO is a very important decision by a local government. 	<ul style="list-style-type: none"> It is proposed that DLGSC establishes a panel of approved panel members to perform the role of the independent person on CEO recruitment panels. Councils will be able to select an independent person from the approved list. Councils will still be able to appoint people outside of the panel with the approval of the Inspector. 	<p><u>Administration Recommendation - Not Supported.</u></p> <p>It is anticipated that local governments would be required to foot the cost of an independent person, in addition to any human resources consultant brought in to recruit a CEO. Should this proposed reform move ahead, all costs associated with the creation and maintenance of the panel should be borne by the State Government.</p>

Theme 6: Improved Financial Management and Reporting

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
6.1 Model Financial Statements and Tiered Financial Reporting		
<ul style="list-style-type: none"> The financial statements published in the Annual Report is the main financial reporting currently published by local governments. Reporting obligations are the same for large (Stirling, Perth, Fremantle) and small (Sandstone, Wiluna, Dalwallinu) local governments, even though they vary significantly in complexity. The Office of the Auditor General has said that some existing reporting requirements are unnecessary or onerous - for instance, information that is not relevant to certain local governments, or that is a duplicate of other published information. 	<ul style="list-style-type: none"> The Minister strongly believes in transparency and accountability in local government. The public rightly expects the highest standards of integrity, good governance, and prudent financial management in local government. It is critically important that clear information about the financial position of local governments is openly available to ratepayers. Financial information also supports community decision-making about local government services and projects. Local governments differ significantly in the complexity of their operations. Smaller local governments generally have much less operating complexity than larger local governments. The Office of the Auditor General has identified opportunities to improve financial reporting, to make statements clearer, and reduce unnecessary complexity. Recognising the difference in the complexity of smaller and larger local governments, it is proposed that financial 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. 	<p><u>Administration Recommendation</u> - Support, in principle.</p> <p>It is noted that local governments are to meet the Australian Accounting Standards Board (AASB) requirements. This is not clear how the standards required by the AASB will be factored into the legislative reform. It seems to be duplicating an existing process.</p> <p>In the event that the reform is approved, any templates produced by the DLGSC should align with the requirements of the AASB as well as meeting the audit needs of the Office of the Auditor General.</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	<ul style="list-style-type: none"> • Simpler Strategic and Financial Planning (item 6.2) would also improve the budgeting process. 	
6.2 Simplify Strategic and Financial Planning		
<ul style="list-style-type: none"> • Requirements for plans are outlined in the Local Government Financial Management and Administration Regulations. • There is also the Integrated Planning and Reporting (IPR) framework. • While many councils successfully apply IPR to their budgeting and reporting, IPR may seem complicated or difficult, especially for smaller local governments. 	<ul style="list-style-type: none"> • Having clear information about the finances of local government is an important part of enabling informed public and ratepayer engagement and input to decision-making. • The framework for financial planning should be based around information being clear, transparent, and easy to understand for all ratepayers and members of the public. • In order to provide more consistency and clarity across the State, it is proposed that greater use of templates is introduced to 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 adaptation by local governments. • It is proposed that the plans that are required are: <ul style="list-style-type: none"> ○ Simplified Council Plans that replace existing Strategic Community Plans and set high-level objectives, with a new plan required at least every eight years. These will be short-form plans, with a template available from the DLGSC ○ Simplified Asset Management Plans to consistently forecast costs of maintaining the local government's assets. A new plan will be required at least every ten years, though local governments should update the plan regularly if the local government gains or disposes of major assets (e.g. land, buildings, or roads). A template will be provided, and methods of valuations will be simplified to reduce red tape ○ Simplified Long Term Financial Plans will outline any long term financial management and sustainability 	<p><u>Administration Recommendation - Supported.</u></p> <p>It is recommended that the DLGSC consider creating a working group to deliver this reform or consult further with the public and sector with more specific detail as to how these plans are to be constituted, particularly Council Plans.</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	<p>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</p> <ul style="list-style-type: none"> ○ A new Rates and Revenue Policy (see item 6.3) that identifies the approximate value of rates that will need to be collected in future years (referencing the Asset Management Plan and Long Term Financial Plan) – providing a forecast to ratepayers (updated at least every four years) ○ The use of simple, one-page Service Proposals and Project Proposals that outline what proposed services or initiatives will cost, to be made available through council meetings. These will become Service Plans and Project Plans added to the yearly budget if approved by council. This provides clear transparency for what the functions and initiatives of the local government cost to deliver. Templates will be available for use by local governments. 	
6.3 Rates and Revenue Policy		
<ul style="list-style-type: none"> • Local governments are not required to have a rates and revenue policy. • Some councils defer rate rises, resulting in the eventual need to drastically raise rates to cover unavoidable costs – especially for the repair of infrastructure. 	<ul style="list-style-type: none"> • The Rates and Revenue Policy is proposed to increase transparency for ratepayers by linking rates to basic operating costs and the minimum costs for maintaining essential infrastructure. • 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. 	<p><u>Administration Recommendation - Supported.</u></p> <p>Council on 7 February 2019 (Resolution 27724) supported the introduction of Rates and Revenue Strategy.</p> <p>Councils’ deliberative rate setting processes reference their Integrated Planning Framework – a thorough strategic, financial and asset management planning process – and draw upon the community’s willingness and capacity to pay. A policy on this</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	<ul style="list-style-type: none"> The Local Government Panel Report included this recommendation. 	<p>matter would be considered a useful tool in managing ratepayer expectations by giving considered reasoning for an increase or reduction in rates raised by Council. This Rates Policy would best be contained within the Long Term Financial Plan as ultimately that document is setting the spend and subsequent rating level for the next 10 years.</p>
6.4 Monthly Reporting of Credit Card Statements		
<ul style="list-style-type: none"> No legislative requirement. Disclosure requirements brought in by individual councils have shown significant reduction of expenditure of funds. 	<ul style="list-style-type: none"> The statements of a local government's credit cards used by local government employees will be required to be tabled at council at meetings on a monthly basis. This provides oversight of incidental local government spending. 	<p><u>Administration Recommendation</u> - Supported.</p> <p>This proposed reform reflects widespread common practice for credit card transactions to be included in monthly financial reports and lists of accounts paid.</p>
6.5 Amended Financial Ratios		
<ul style="list-style-type: none"> Local governments are required to report seven ratios in their annual financial statements. These are reported on the MyCouncil website. These ratios are intended to provide an indication of the financial health of every local government. 	<ul style="list-style-type: none"> Financial ratios will be reviewed in detail, building on work already underway by the DLGSC. The methods of calculating ratios and indicators will be reviewed to ensure that the results are accurate and useful. 	<p><u>Administration Recommendation</u> - Supported.</p> <p>Financial ratios are increasingly used across Australia as an important performance indicator for public sector entities, including local government.</p> <p>Across Australia, local governments are required to calculate and publish different ratios. The lack of consistency makes the comparison of financial</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		<p>performance across local governments around the country more complex. Likewise, methods of valuation used to calculate ratios under the International Valuation Standard can vary, which means that ratios are a guide or indicator rather than a definitive account of financial health.</p> <p>Altering the financial ratios that local governments are required to calculate and report may improve awareness and understanding of local government financial performance.</p> <p>The choice of ratios used in Western Australia has been the subject of criticism. Some in the sector view the ratios as an ineffective metric that can be misrepresented and that do not give a true reflection of financial performance and asset management.</p> <p>The publication of the Financial Health Indicator on the MyCouncil website, which uses financial ratios in its calculations, has brought greater attention to financial health and highlighted the role that ratios can perform aggregating otherwise complex financial data.</p> <p>In the opinion of Shire Officers, if the Department of Local Government Sport and Cultural Industries and Office of Auditor General are going to use ratios as measurements for</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		<p>performance and sustainability of local governments, then the underlying data used to calculate the ratios must be reviewed. Due to the varying topography, asset base, community needs etc ratios should not be compared across Local Governments, rather they should measure the performance of the local government in question from one year to the next and viewed over many years to see performance trends.</p> <p>One of the most critical anomalies that must be addressed is the removal of depreciation from non-asset based ratios. The sector is made up of many different sizes and shapes of local government areas with different asset burdens, and due to the need to include roads in assets, small local governments in population may have major asset bases and appear unsustainable.</p> <p>Typically local government budgets fluctuate from year to year, ratios can be distorted by many things including Carry Forwards from previous years, Advance Payments from the Grants Commission or timing of grant payments. Local governments in conjunction with auditors should be able to remove the anomalies from a particular year to demonstrate core</p>

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CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		<p>business making the analysis of trends more effective.</p> <p>The overall revaluation process and depreciation calculation is flawed due to the significant variations in techniques and depreciation rates across the sector. A clear direction from the DLGSC or through reform must be given related to method of valuation and depreciation rates for there to be any ‘apples for apples’ comparison between local governments. Currently, some local governments see this as an opportunity to use an outcome based approach through asset management rather than a relief skewing the health performance impression given to rate payers.</p>

6.6 Audit Committees		
<ul style="list-style-type: none"> • Local governments must establish an Audit Committee that has three or more persons, with the majority to be council members. • The Audit Committee is to guide and assist the local government in carrying out the local government’s functions in relation to audits conducted under the Act. • The Panel Report identified that Audit Committees should be expanded, including to provide improved risk management. 	<ul style="list-style-type: none"> • To ensure independent oversight, it is proposed the Chair of any Audit Committee be required to be an independent person who is not on council or an employee of the local government. • Audit Committees would also need to consider proactive risk management. • To reduce costs, it is proposed that local governments should be able to establish shared Regional Audit Committees. • The Committees would be able to include council members but would be required to include a majority of independent members and an independent chairperson. 	<p><u>Administration Recommendation</u> - Not supported.</p> <p>WALGA does not support this proposed reform either, the Shire shares WALGA’s position in that audit committees of Local Government, led and overseen by the Council, have a clearly defined role with an Elected Member majority and chair.</p> <p>The Sector’s view is well established, 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 sector support for some independent members on the Audit Committee, however not a majority.</p> <p>The dual effect of the proposed reform is to guarantee a place for a majority of independent persons on Audit Committees, with the additional requirement that an independent person Chair this Committee. Presently, not all Local Government Audit Committees are able to include an independent person. 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.</p>

		<p>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.</p> <p>The proposal for the Audit Committees to also consider proactive risk management is supported.</p>
<p>6.7 Building Upgrade Finance</p>		
<ul style="list-style-type: none"> • The local government sector has sought reforms that would enable local governments to provide loans to property owners to finance for building improvements. • This is not currently provided for under the Act. • The Local Government Panel Report included this recommendation. 	<ul style="list-style-type: none"> • Reforms would allow local governments to provide loans to third parties for specific building improvements - such as cladding, heritage and green energy fixtures. • This would allow local governments to lend funds to improve buildings within their district. • Limits and checks and balances would be established to ensure that financial risks are proactively managed. 	<p><u>Administration Recommendation</u> - Not supported.</p> <p>Currently the local government can provide for self-supporting loans, granted under certain conditions.</p> <p>This proposed reform carries significant organisational financial risk and needs further development, with clarity as what ‘checks and balances’ would be included.</p>

6.8 Cost of Waste Service to be Specified on Rates Notices		
<ul style="list-style-type: none">• No requirement for separation of waste changes on rates notice.• Disclosure will increase ratepayer awareness of waste costs.• The Review Panel Report included this recommendation.	<ul style="list-style-type: none">• It is proposed that waste charges are required to be separately shown on rate notices (for all properties which receive a waste service).• This would provide transparency and awareness of costs for ratepayers.	<p><u>Administration Recommendation</u> - Supported.</p> <p>Already undertaken by the Shire of Manjimup.</p>