Department of
Local Government, Sport
and Cultural Industries

GOVERNMENT OF
WESTERN AUSTRALIA

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		

• 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:
  ○ 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:
  ○ 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.
	• It is proposed to establish a Chief Inspector of Local Government (the **Inspector**), supported by an Office of the Local Government Inspector (the **Inspectorate**).
	• The Inspector would receive minor and serious complaints about elected members.
	• The Inspector would oversee complaints relating to local government CEOs.
	• Local Governments would still be responsible for dealing with minor behavioural complaints.
	• The Inspector would have powers of a standing inquiry, able to investigate and intervene in any local government where potential issues are identified.
	• The Inspector would have the authority to assess, triage, refer, investigate, or close complaints, having regard to various public interest criteria – considering laws such as the *Corruption, Crime and Misconduct Act 2003*, the *Occupational Safety and Health Act 1984*, the *Building Act 2011*, and other legislation.
	• The Inspector would have powers to implement minor penalties for less serious breaches of the Act, with an appeal mechanism.
	• The Inspector would also have the power to order a local government to address non-compliance with the Act or Regulations.
	• The Inspector would be supported by a panel of **Local Government Monitors** (see item 1.2).
	• The existing Local Government Standards Panel would be replaced with a new **Conduct Panel** (see item 1.3).
	• **Penalties** for breaches to the Local Government Act and Regulations will be reviewed and are proposed to be generally strengthened (see item 1.4).
		This proposal will only be effective if the inspectorate is:
		• adequately resourced;
		• given sufficient legal powers to investigate and collect evidence;
		• protected by significant and well-publicised penalties to deter deliberate or reckless provision of false information or false allegations by complainants for personal gain or to cause harm to others. (such as used in the *Public Interest Disclosure Act 2003* or the *Corruption, Crime and Misconduct Act 2003*).
		• managed and staffed by people with both appropriate qualifications and extensive practical experience in local government administration in a range of local governments.
		
		Given the nature of local government, minor dissatisfaction of individuals with regulatory or administrative decisions can quickly escalate into seriously dysfunctional ongoing issues, including long-running vendettas

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
	• These reforms would be supported by new powers to more quickly resolve issues within local government (see items 1.5 and 1.6).	against specific members or employees that involve personal attacks well beyond the work environment. There is a fundamental flaw in the current legislation regarding misconduct by councillors. The CCC deals with serious misconduct. The Department deals with the extremely narrow range of specific "breaches" and should (but rarely does) deal with serious offences against the Act that attract serious penalties. Unlike other states, there is no agency with responsibility to deal with minor misconduct that is not a contravention of a rule of conduct within the restricted circumstances in which these apply. The assumption that councils will discipline their own members for Code of Conduct breaches is disingenuous and this clearly is not occurring. It would be highly counter-productive to a council working as a team if it did. Of particular concern is the unclear distribution of responsibility between the CCC and the Department over

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
		misconduct by councillors and who is responsible for investigation or other action needs to be addressed. The default action by both agencies appears to be automatic referral to a local government CEO requiring them to investigate the conduct of a member of their own employing body. This is highly inappropriate and places the CEO in an impossible conflict situation with his/her employing body which is insufficiently recognised by the law or the agencies involved. The Department appears unable or unwilling to administer the behavioural aspects of the Act rigorously. If there is no intent to prosecute, there is little point in providing for offences. Despite the commitment and hard work of individual departmental officers, few of them have practical experience working within a local government or a clear understanding of the environment in which local government employees and councillors work.
1.2 Local Government Monitors		

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS

• 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.
	• A panel of **Local Government Monitors** would be established.
	• Monitors could be appointed by the Inspector to go into a local government and try to resolve problems.
	• The purpose of Monitors would be to proactively fix problems, rather than to identify blame or collect evidence.
	• Monitors would be qualified specialists, such as:
	  ○ Experienced and respected former Mayors, Presidents, and CEOs - to act as mentors and facilitators
	  ○ Dispute resolution experts - to address the breakdown of professional working relationships
	  ○ Certified Practicing Accountants and other financial specialists - to assist with financial management and reporting issues
	  ○ Governance specialists and lawyers - to assist councils resolve legal issues
	  ○ HR and procurement experts - to help with processes like recruiting a CEO or undertaking a major land transaction.
	• Only the Inspector would have the power to appoint Monitors.
	• Local governments would be able to make requests to the Inspector to appoint Monitors for a specific purpose.
	Monitor Case Study 1 – Financial Management
	The Inspector receives information that a local government is not collecting rates correctly under the *Local Government Act 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.
		The kinds of problems that plague local governments are very rarely as simple and easily resolved as the case studies provided here suggest.
		An agile and mobile group of experts on call would be highly valuable to smaller local governments in regional areas, where it is difficult and impractical to have sufficient in-house expertise to deal with matters that come up infrequently.
		Large local governments generally do have the on-board expertise and experience to address these problems. What they don't have is adequate legislative backing or independent support systems to enable them to do what is necessary.
		While the idea of "monitors" is attractive at a surface level, there is a high risk that this will be superficial and ineffective. A trial is suggested, since the proposal appears primarily theoretical and does not appear to have been tested with people who actually deal with local government problems on a practical day to day basis.

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
	Monitor Case Study 2 – Dispute Resolution 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. 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.	The proposal also appears to assume that local government problems are inevitably caused by internal factors, and does not recognise the influence of pressure from external vested interests seeking personally beneficial outcomes. Informal peer support networks already exist in the local government sector. Formalising and providing practical support to these is likely to be more efficient and effective than appointing a group of people with content knowledge (eg land transactions) but no local government context knowledge (dealing with conflicting views and vociferous interests concerning land and development). Successful mediation depends on both parties wanting to resolve a dispute and both parties being prepared to act rationally and without bias and to follow through on commitments made during the mediation process. These prerequisites cannot always be assumed to be present. What options will be available to the monitor if they are not?

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
1.3 Conduct Panel		
• The Local Government Standards Panel was established in 2007 to resolve minor breach complaints relatively quickly and provide the sector with guidance and benchmarks about acceptable standards of behaviour. • Currently, the Panel makes findings about alleged breaches based on written submissions. • The City of Perth Inquiry report made various recommendations that functions of the Local Government Standards Panel be reformed.	• The Standards Panel is proposed to be replaced with a new Local Government **Conduct Panel**. • The Conduct Panel would be comprised of suitably qualified and experienced professionals. Sitting councillors will not be eligible to serve on the Conduct Panel. • The Inspector would provide evidence to the Conduct Panel for adjudication. • The Conduct Panel would have powers to impose stronger penalties – potentially including being able to suspend councillors for up to three months, with an appeal mechanism. • For very serious or repeated breaches of the Local Government Act, the Conduct Panel would have the power to recommend prosecution through the courts. • Any person who is subject to a complaint before the Conduct Panel would have the right to address the Conduct Panel before the Panel makes a decision.	Is this proposal intended to continue to apply only to minor breaches? If the Panel's maximum penalty is a 3 months suspension, then it does not appear to be set up to look at any potential serious local government offences. "Suitably qualified and experienced" is an extremely vague term and does not instil confidence that the new panel will be more effective than the current one. It is agreed that it is inappropriate for sitting councillors to serve on the Conduct Panel. However, two out of the three members of the LG Standards Panel have not been required in the past to have any on-the-job local government experience at all, and this was also inappropriate. The LGSP has never had representation from local government administration, although these are the people who must deal with the consequences of council member misconduct. The new Conduct Panel must address this deficiency.

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
		The Conduct Panel should be established, supported and managed like any other professional standards body, with extensive practical experience in the field an essential prerequisite of membership for a majority of the members. The idea that a panel of this nature can adequately operate with part-time members who have full-time senior professional positions is one of the reasons for the unacceptable delays by the LGSP in dealing with complaints. The fifth point of the proposed reforms appears to suggest that the Conduct Panel will have the capacity to assess whether there is sufficient evidence to support prosecution. If this is the case, there must be very clear guidelines concerning the standard of evidence required to support prosecution, and at least one of the panel members must not only have legal qualifications but experience in prosecution for professional misconduct. The Act provides for numerous offences with legislated financial and imprisonment penalties. It was clearly the intent of

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
		Parliament that these matters should be decided in a court. The Conduct Panel's discretion in recommending prosecution in cases where there is clear evidence of a serious local government offence (penalty >$5,000 or imprisonment for at least 1 year) should be limited. For example, the misunderstanding and consequent trivialising of the Briginshaw precedent that has been a feature of many past LG Standards Panel decisions should not be used in a misguided attempt to protect offending councillors from prosecution or to undermine the prerogative of a court to decide on the available evidence whether an offence against the Act has been committed.
1.4 Review of Penalties		
• There are currently limited penalties in the Act for certain types of non-compliance with the Local Government Act.	• 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	This proposal to make a short term suspension the main penalty for breaching the Act (and then only for repeated offences) is a serious weakening of the current penalties. The current Act provides for significant financial and imprisonment penalties that

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
	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.	reflect the seriousness of the offences. For example: $10,000 or imprisonment for 2 years (offence against ss.4.85, 4.86, 4.91(1), 5.65, 5.67, 5.69, 5.69A, 5.87A, 5.89, 5.93) $5,000 or imprisonment for 1 year (offence against ss 4.87, 4.90, 4.91(2), 5.90) The default penalty for offences against the Local Government Act is $5,000 (s.9.14). Section 2.22 provides for disqualification for a person convicted of a serious local government offence (defined as attracting a potential penalty of 1 year imprisonment or $5,000, whether or not the maximum penalty is imposed). However, the Department has historically declined to prosecute councillors for these offences regardless of the strength of the evidence, thus ensuring that councillors are never actually convicted of these offences in a court, with the result that the penalties provided for in the Act are never imposed. This in turn guarantees that no councillor can be disqualified

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
		under s.2.22(1)(b) for being convicted of a serious local government offence, because the offences are not prosecuted in court capable of convicting them. The Department has instead, over many years, arbitrarily insisted that all allegations of offences against the Act by council members be downgraded to complaints of "serious breach", which may, at the Departmental CEO's discretion, be the subject of an allegation to the State Administrative Tribunal. Referral to SAT is the MOST that can be done in response to a complaint of serious breach. SAT is not a court of competent jurisdiction to consider offences against the Local Government Act because SAT does not have the power to convict a councillor of an offence against the Act or to apply the financial and imprisonment penalties provided for by the Act. The penalties for offences against the Act are already substantial. However, offences against the Act are not being treated with the seriousness that Parliament intended because prosecutions are not initiated, so the penalties

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
		do not have the intended deterrent effect. A 3-month suspension is a very lenient penalty for a serious offence against the Act such as: • failing to declare a financial interest and then voting on a matter resulting in a financial benefit, or • providing false information in a return, or • refusing to vote on a matter in which a councillor has not financial or proximity interest, or • improperly using information, or • electoral offences. All the above offences currently have substantial financial and in some cases imprisonment penalties provided in the existing Act. To replace these penalties with a 3-month suspension and then provide for such a suspension to be imposed ONLY if the councillor has committed the offence multiple times trivialises very serious misbehaviour. This does not seem consistent with the intent of Parliament in approving the

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
		substantial penalties currently in the Act for serious breaches of public trust.
1.5 Rapid Red Card Resolutions		

• 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.
	• 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:
	  ○ 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.
		It is suggested that the model meeting procedures made under Part 2 of the Queensland Local Government Act be considered as a starting point, as these also concentrate on unsuitable and inappropriate conduct.
		
		Sporting references to "red cards" may be perceived as trivialising the dignity of a government process and the professionalism of elected members.

1.6 Vexatious Complaint Referrals		
• No current provisions.	• Local governments already have a general responsibility to provide ratepayers and members of the public with assistance in responding to queries about the local	The reform is supported, but dealing with such complaints is

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
• The Act already provides a requirement for Public Question Time at council meetings.	government's operations. Local governments should resolve queries and complaints in a respectful, transparent and equitable manner. • Unfortunately, local government resources can become unreasonably diverted when a person makes repeated vexatious queries, especially after a local government has already provided a substantial response to the person's query. • It is proposed that if a person makes repeated complaints to a local government CEO that are vexatious, the CEO will have the power to refer that person's complaints to the Inspectorate, which after assessment of the facts may then rule the complaint vexatious.	extremely resource intensive. Provision for adequate resources is essential. Protocols for the Inspectorate in dealing with complaints that have also been sent to multiple regulatory and complaints agencies, sometimes repeatedly, will need to be established to ensure consistency in approach. While it is extremely difficult to deal with in a legislative context, the influence of mental health disorders in false, trivial, exaggerated or groundless complaints by serial complainants needs to be recognised, with the Inspectorate having access to suitable professional expertise to deal with such individuals. A manual for dealing with unreasonable conduct by complainants was developed from a joint project of the Australian Parliamentary Ombudsmen. This has been adopted, with minor local adaptations, by each Australian jurisdiction including the WA Ombudsman, although arguably NSW and Victoria have better continued development of the manual based on experience. This very practical guide should form

CURRENT PROVISIONS	PROPOSED REFORMS	COMMENTS
		the basis of the Inspectorate's approach to such matters. Formal support for the adoption of this manual by local governments to guide their own dealings with unreasonable conduct would be extremely helpful rather than an attempting to reinvent such guidance with limited resources or understanding of the factors underlying unreasonable conduct by complainants.
1.7 Minor Other Reforms		
• 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.	• 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.	The Department already publishes Operational Guidelines on a variety of topics to meet this need. Some are outdated and need to be reviewed, but in general these are already an available and much appreciated resource for local governments. In what way will the proposed mechanisms be superior to the existing guidelines?

Theme 2: Reducing Red Tape, Increasing Consistency and Simplicity

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
2.1 Resource Sharing		
• 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.	• 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.	Legislative requirements for resource sharing need to be efficient and practicable in a local government operational context. Saving money needs to be balanced against operational efficiency and potential conflicts between the interests of the participating local governments. How will such interests be prioritised when incompatible needs must be met?
2.2 Standardisation of Crossovers		
• 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.	• It is proposed to amend the *Local Government (Uniform Local Provisions) Regulations 1996* to standardise the process for approving crossovers for residential properties and residential developments on local roads. • A Crossover Working Group has provided preliminary advice to the Minister and DLGSC to inform this. • The DLGSC will work with the sector to develop standardised design and construction standards.	Supported. The building industry also needs to be included in the development of these standards to ensure they are workable in a commercial environment.
2.3 Introduce Innovation Provisions		

• The *Local Government Act 1995* currently has very limited provisions to allow for innovations and responses to emergencies to (such as the Shire of Bruce Rock Supermarket).	• New provisions are proposed to allow exemptions from certain requirements of the *Local Government Act 1995*, for:
	  ○ Short-term trials and pilot projects
	  ○ Urgent responses to emergencies.
		Clear and consistent guidance and transparent and prompt decision-making by the Minister or Department will be essential to

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		provide certainty and allow for timely decision-making. Clear protocols, legislated decision times, possibly with an "approval by default" mechanism will be essential for this to work effectively.
2.4 Streamline Local Laws		
• 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.	• 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.	This proposal provides an incentive for a "tick and flick" review simply to meet legal requirements, as does the current 8-year review requirement. Introducing a sunset clause as proposed will incur significant risks and other consequences if, for example, parking local laws or dog local laws suddenly become non-operational overnight. Risk management measures need to be carefully considered before proceeding with this measure. The reason that local laws are not always comprehensively reviewed every 8 years is not due to lack of desire in local governments, but lack of resources. Unlike State agencies, which have access to the Parliamentary Counsel's Office to draft legislation, local governments

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		must either pay a great deal of money to external lawyers (and being competent at practicing law does not necessarily translate into being competent at drafting it) or must draft the legislation in-house using staff who are essentially self-taught. Model local laws should go through the legislated public consultation process as specified in the Act, on a State-wide basis. They should also be approved by the Joint Standing Committee on Delegated Legislation to provide certainty that they will not be overturned (this endorsement has been missing for the WALGA local law templates). Any additional advertising and consultation by individual local governments should be required only for the elements where the local government proposes to make changes to the model local law to address unique (permanent) local circumstances.
2.5 Simplifying Approvals for Small Business and Community Events		
• Inconsistency between local laws and approvals processes for events, street activation, and initiatives by local	• Proposed reforms would introduce greater consistency for approvals for: o alfresco and outdoor dining o minor small business signage rules	This is an appropriate topic for a model local law. However, over-prescription should be avoided because circumstances and

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
businesses is frustrating for business and local communities.	○ running community events.	community opinion differ between local governments.
2.6 Standardised Meeting Procedures, Including Public Question Time		
• Local governments currently prepare individual standing order local laws. • The *Local Government Act 1995* 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.	• 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.	This is supported in principle, but the standardised procedures need to be prepared in the context of practical understanding of how council and committee meetings are run and the varied capacity and experience of elected members in formal meeting participation. Standardised meeting procedures need to cover a broader range of matters, and with greater clarity and specificity, than are currently dealt with in the Act and Regulations. "Presides at meetings in accordance with this Act" appears in section 2.1(1)(a) of the existing Act as part of the role of the Mayor or President, but the Act tends to be silent on many matters pertaining to presiding at meetings. This gap is currently filled in most local governments with meeting procedures or standing orders local laws. If the State intends to replace these local laws with a centralised model local law or other vehicle for meeting

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		procedures, it is important that those gaps are filled. Model procedures that are limited to question time and "procedures generally" will be of little help to local governments in dealing with matters such as notice of motions, managing amendments and replacement motions, dealing with delegations and petitions, inappropriate meeting conduct (by councillors and other people), dealing with declarations of interest and when a council member may/should leave the meeting, order of business, adjournments, etc. If the State's concern is just with question time, then it would be better to just improve the way this is dealt with in the Act and Regs, and not attempt to supersede meeting procedures local laws with a limited product that does not provide an adequate replacement for the local laws. There are internal inconsistencies in the Act and Regulations concerning minutes, and particularly how confidential matters are recorded and accessed. These inconsistencies

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		need to be rectified and clarity provided. However, a truly comprehensive model local law for meeting procedures, or some other enforceable vehicle such as a code, would be welcomed, provided that it ensures the presiding member has sufficient legal power to control the meeting, including enforceable directions to cease inappropriate behaviour or to leave the meeting.
2.7 Regional Subsidiaries		
• 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 *Local Government (Regional Subsidiaries) Regulations 2017.* • So far, no Regional Subsidiary has been formed.	• Work is continuing to consider how Regional Subsidiaries can be best established to: ○ 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.	

Theme 3: Greater Transparency & Accountability

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
3.1 Recordings and Live-Streaming of All Council Meetings		

• Currently, local governments are only required to make written minutes of meetings.
• While there is no legal requirement for livestreaming or video or audio recording of council meetings, many local governments now stream and record their meetings.
• Complaints relating to behaviours and decisions at meetings constitute a large proportion of complaints about local governments.
• Local governments are divided into bands with the largest falling in bands 1 and 2, and smaller local governments falling bands 3 and 4. The allocation of local governments into bands is determined by The Salaries and Allowances Tribunal based on factors[1] such as:
  ○ Growth and development
  ○ Strategic planning issues
  ○ Demands and diversity of services provided to the community
  ○ Total expenditure
  ○ Population
  ○ Staffing levels.
	• It is proposed that all local governments will be required to record meetings.
	• Band 1 and 2 local governments would be required to livestream meetings, and make video recordings available as public archives.
	• Band 1 and 2 are larger local governments are generally located in larger urban areas, with generally very good telecommunications infrastructure, and many already have audio-visual equipment.
	• Band 1 and 2 local governments would be required to livestream meetings, and make video recordings available as public archives.
	• Several local governments already use platforms such as YouTube, Microsoft Teams, and Vimeo to stream and publish meeting recordings.
	• Limited exceptions would be made for meetings held outside the ordinary council chambers, where audio recordings may be used.
	• Recognising their generally smaller scale, typically smaller operating budget, and potential to be in more remote locations, band 3 and 4 local governments would be required to record and publish audio recordings, at a minimum. These local governments would still be encouraged to livestream or video record meetings.
	• All council meeting recordings would need to be published at the same time as the meeting minutes. Recordings of all confidential items would also need to be submitted to the DLGSC for archiving.
		Regulation around this livestreaming and associated records needs to:
		• consider the implications of defamation law;
		• protect and indemnify local governments from legal liability as the publisher of defamatory material (being the recorded and published words of third parties, whether council members or members of the public). Local governments and councillors do not enjoy the benefits of Parliamentary privilege.
		It is understood that the right of an individual to take legal action concerning a defamatory comment made by another individual cannot be denied, and that the original recording made by the local government may be necessary evidence required by a court. However, the Act should not recklessly expose a local government to being made a party to defamation action simply

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

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		because it was compelled by law to openly publish the defamatory material. The implications of local governments publishing non-defamatory but offensive audio-visual material (for example, racist, sexist or obscene statements made by individuals) should also be considered. If a requirement is legislated mandating the publication of audio-visual records of meetings, then provision must be made to allow certain types of editing of recordings. It is an essential risk-management tool to be permitted to remove material that may expose the local government to legal liability, or reputational damage, and in some cases to enhance technical quality (eg by removing background noise or adjusting volume where speech is difficult to hear). The financial impact of mandating such recording at a level of technical quality expected by consumers must also be recognised. What is the purpose of submitting recordings of confidential items to

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		the Department "for archiving"? Local governments are required to maintain records under the State Records Act. What public benefit is there in duplicating these records in the Department, which will incur a cost in managing these records in accordance with the State Records Act?
3.2 Recording All Votes in Council Minutes		
• 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.	• 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.	This reform needs to be supported with better guidance to councillors who have declared an impartiality interest (that is neither a financial nor a proximity interest as those are defined in the Act) on their right to temporarily leave the meeting during the discussion or to abstain from voting. There may be matters about which a councillor may be perceived not to be impartial, despite their best intentions to make their decision objectively. Examples include decisions on grants or other local government support, including leases or planning decisions, to sports clubs, community organisations or charities with which they or their family are involved, or decisions relating to matters involving religious, cultural

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		or political convictions of individual councillors. There is a lack of guidance in section 5.21 of the Act about whether councillors with a declared impartiality interest may choose to leave the meeting during consideration and decision-making in such situations.
3.3 Clearer Guidance for Meeting Items that may be Confidential		
• 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.	• 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.	The current list of confidential matters is appropriate, and is not particularly broad. Prior written consent of the Inspector, if required, needs to be constrained by strict timeframes so as not to unduly delay local government decision-making. There should be a presumption of approval if no advice to the contrary has been received by 24 hours prior to the meeting. What is the purpose of submitting audio recordings to the DLGSC, when the local government must store and manage them in accordance with the State Records Act? What will the DLGSC do with these records, given it will have little if any understanding of the context or

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		sensitivities of the matters contained in them? This appears to be an unwarranted imposition of extra cost on the Department to store and manage third party records for which it has no immediate purpose, and which would be available on request from the local government anyway.
3.4 Additional Online Registers		
• 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.	• It is proposed to require local governments to report specific information in online registers on the local government's website. Regulations would prescribe the information to be included. The following new registers, each updated quarterly, are proposed: ○ **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	Grants and funding provided by the local government to community groups is not limited to direct financial grants. The community grants register should also record indirect funding by local governments, such as highly subsidised or free rental of local government property and free building maintenance. Unlike financial grants, these subsidies are rarely subject to a competitive process and are generally not transparent. Significant accommodation subsidies should be recorded as the difference between the actual amount paid for the right to occupy a public building or land (whether

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	○ **Contracts Register** that discloses all contracts above $100,000.	under a lease, occupation licence or some other arrangement) and the equivalent rental value (either the independently assessed rental value or using an algorithm such as x% of replacement value). These hidden, non-competitive and often very high-value subsidies (potentially tens or hundreds of thousands of dollars annually in foregone rental costs and rates, as well as building maintenance costs) are a source of considerable inequity between community organisations. It also distorts competitive markets where the ratepayer-subsidised organisations compete with private businesses in the same market, such as events venues or hiring rooms to third parties. Community organisations that pay little or no rent to the local government but use those properties to generate substantial profits are effectively diverting the value of public assets to a small group of individuals for their personal benefit. This undermines the local government's responsibility to ensure that the value of public assets is equitably

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		distributed for the good of the community as a whole. Community organisations paying little or no rent for their occupation of local government buildings also have an unfair competitive advantage when competing for State or Federal funding to deliver community services where these grants are distributed on a competitive "service fee" basis. This effectively means that ratepayers are cross-subsidising State and Federal programs in a non-transparent manner, and ratepayers should have the right to see such subsidies.
3.5 Chief Executive Officer Key Performance Indicators (KPIs) be Published		
• It is a requirement of the *Local Government Act 1995* that CEO performance reviews are conducted annually. • The Model Standards for CEO recruitment and selection, performance review and termination require that a local government must review the performance of the CEO against contractual performance criteria. • Additional performance criteria can be used for performance review by agreement between both parties.	• To provide for minimum transparency, it is proposed to mandate that the KPIs agreed as performance metrics for CEOs: o Be published in council meeting minutes as soon as they are agreed prior to (before the start of the annual period) o The KPIs and the results be published in the minutes of the performance review meeting (at the end of the period) o The CEO has a right to provide written comments to be published alongside the KPIs and results to provide context as may be appropriate (for instance, the impact of events in that year that may have influenced the results against KPIs).	

Theme 4: Stronger Local Democracy and Community Engagement

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
4.1 Community and Stakeholder Engagement Charters		
• 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.	• 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.	
4.2 Ratepayer Satisfaction Surveys (Band 1 and 2 local governments only)		
• 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.	• 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.	
4.3 Introduction of Preferential Voting		
• 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	• 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.	While there are substantial benefits to a preferential voting system, the additional cost must be considered, particularly if it is not operated centrally such as through the Electoral Commission. Mechanisms should be established to minimise this cost to local governments.

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
may be regarded as a fairer and more representative system. Voters have more specific choice.		
4.4 Public Vote to Elect the Mayor and President		
• The Act currently allows local governments to have the Presiding Member (the Mayor or President) elected either: ○ by the electors of the district through a public vote; or ○ by the council as a resolution at a council meeting.	• 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.	
4.5 Tiered Limits on the Number of Councillors		
• 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.	• It is proposed to limit the number of councillors based on the population of the entire local government. • Some smaller local governments have already been moving to having smaller councils to reduce costs for ratepayers. • The Local Government Panel Report proposed: ○ For a population of up to 5,000 – five councillors (including the President) ○ population of between 5,000 and 75,000 – five to nine councillors (including the Mayor/President) ○ population of above 75,000 – nine to fifteen councillors (including Mayor).	

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
4.6 No Wards for Small Councils (Band 3 and 4 Councils only)		
• 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.	• 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.	
4.7 Electoral Reform – Clear Lease Requirements for Candidate and Voter Eligibility		

• 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.
	• 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:
	  ○ 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.	

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	• 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.	
4.8 Reform of Candidate Profiles		
• Candidate profiles can only be 800 characters, including spaces. This is equivalent to approximately 150 words.	• 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.	The character limit does, however, have the advantage of requiring prospective councillors to be succinct in delivering their message. This is a valuable skill for councillors to possess when undertaking their duties after election.
4.9 Minor Other Electoral Reforms		
• Other minor reforms are proposed to improve local government elections.	• Minor other electoral reforms are proposed to include: o The introduction of standard processes for vote re-counts if there is a very small margin between candidates (e.g. where there is a margin of less than 10 votes a recount will always be required) o The introduction of more specific rules concerning local government council candidates' use of electoral rolls.	

Theme 5: Clear Roles and Responsibilities

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
5.1 Introduce Principles in the Act		
• 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	• It is proposed to include new principles in the Act, including: ○ 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.	If these are to be added, it must be as outcome-focused principles rather than vague platitudes around the popular "issues of the day". There needs to be consistency between the principles, the intent in section 1.3(3), the role of council and councillors in sections 2.7-2.10, and the functions in section 3.1(1). The Queensland local government principles (s. 4 of their Local Government Act) may be a starting point: (a) transparent and effective processes, and decision-making in the public interest; and (b) sustainable development and management of assets and infrastructure, and delivery of effective services; and (c) democratic representation, social inclusion and meaningful community engagement; and (d) good governance of, and by, local government; and (e) ethical and legal behaviour of councillors, local government

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		employees and councillor advisors.
5.2 Greater Role Clarity		

• The Act provides for the role of council, councillor, mayor or president and CEO.
• The role of the council is to:
  ○ govern the local government's affairs
  ○ be responsible for the performance of the local government's functions.
	• 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).
		Greater role clarity is very much needed, but must be informed by practical experience.
		The current legislation does not adequately differentiate the boundaries between roles.
		Case studies and examples are essential to help councillors understand their roles, particularly the difference between representing community interests and advocating for the interests of individuals personally known to the councillor at the expense of others or of the general community.

	5.2.1 - Mayor or President Role • It is proposed to amend the Act to specify the roles and responsibilities of the Mayor or President. • While input and consultation will inform precise wording, it is proposed that the Act is amended to generally outline that the Mayor or President is responsible for: ○ Representing and speaking on behalf of the whole council and the local government, at all times being consistent with the resolutions of council	

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	○ 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.	
	5.2.2 - Council Role • It is proposed to amend the Act to specify the roles and responsibilities of the Council, which is the entity consisting of all of the councillors and led by the Mayor or President. • While input and consultation will inform precise wording, it is proposed that the Act is amended to generally outline that the Council is responsible for: ○ 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.	While providing a safe working environment for the CEO, it is also essential that the Act and the council support and enable the CEO to provide a safe working environment for employees. It is an ongoing concern that the CEO has limited ability to protect employees against bullying, harassment and unreasonable demands by both councillors and residents.
	5.2.3 - Elected Member (Councillor) Role • It is proposed to amend the Act to specify the roles and responsibilities of all elected councillors.	The preference of some council members to intervene in detailed operational matters, advocate for favoured groups and individuals at the expense of others, and their

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	• While input and consultation will inform precise wording, it is proposed that the Act is amended to generally outline that every elected councillor is responsible for: o Considering and representing, fairly and without bias, the current and future interests of all people who live, work and visit the district (including for councillors elected for a particular ward) o Positively and fairly contribute and apply their knowledge, skill, and judgement to the democratic decision-making process of council o Applying relevant law and policy in contributing to the decision-making of the council o Engaging in the effective forward planning and review of the local governments' resources, and the performance of its operations, services, and functions o Communicating the decisions and resolutions of council to stakeholders and the public o Developing and maintaining professional working relationships with all other councillors and the CEO o Maintaining and developing their knowledge and skills relevant to local government o Facilitating public engagement with local government. • It is proposed that elected members should not be able to use their title (e.g. "Councillor", "Mayor", or "President") and associated resources of their office (such as email address) unless they are performing their role in their official capacity.	reluctance to operate at a strategic level, is an ongoing challenge. Further clarification is needed to define that intervention in operational matters is not part of a councillor's role. It may be necessary to provide multiple case studies to illustrate what is acceptable and unacceptable behaviour.
	5.2.4 - CEO Role • The *Local Government Act 1995* requires local governments to employ a CEO to run the local government administration and implement the decisions of council.	The CEO also has a number of obligations (and powers) imposed or conferred by other Acts (eg, FoI, OSH, State Records, CCM Act, Public Health Act, etc), or delegated under other Acts (eg Environmental

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	• To provide greater clarity, it is proposed to amend the Act to specify the roles and responsibilities of all local government CEOs. • While input and consultation will inform precise wording, it is proposed that the Act is amended to generally outline that the CEO of a local government is responsible for: o Coordinating the professional advice and assistance necessary for all elected members to enable the council to perform its decision-making functions o Facilitating the implementation of council decisions o Ensuring functions and decisions lawfully delegated by council are managed prudently on behalf of the council o Managing the effective delivery of the services, operations, initiatives and functions of the local government determined by the council o Providing timely and accurate information and advice to all councillors in line with the Council Communications Agreement (see item 5.3) o Overseeing the compliance of the operations of the local government with State and Federal legislation on behalf of the council o Implementing and maintaining systems to enable effective planning, management, and reporting on behalf of the council.	Protection Act, Planning and Development Act) which also need to be recognised. It is noted that the proposed CEO role does not include policing council member behaviour, conducting investigations into alleged misconduct by council members or referring council members to regulatory bodies for contraventions of the law, or even initiating legal action against them. This is proper, since the council is the employing body of the CEO. However, despite this not being a listed role in this proposal, State agencies have developed expectations without a clear legislative base that the CEO, an employee of the council, should have a quasi-disciplinary role with respect to the members of their employing body. Please do not impose this conflict on CEOs. Effective local government depends on mutual trust and openness between council members and the CEO. Requiring CEOs to police their own employers sets up an adversarial relationship between the CEO and council, which is counter-productive. Such a relationship does not exist in the

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		State or national government sphere, and should not exist in the local government sphere.
5.3 Council Communication Agreements		
• 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.	• In State Government, there are written Communication Agreements between Ministers and agencies that set standards for how information and advice will be provided. • It is proposed that local governments will need to have Council Communications Agreements between the council and the CEO. • These Council Communication Agreements would clearly specify the information that is to be provided to councillors, how it will be provided, and the timeframes for when it will be provided. • A template would be published by DLGSC. This default template will come into force if a council and CEO do not make a specific other agreement within a certain timeframe following any election.	The type of information that is relevant to a member in the performance of their functions should be clearly defined. It is not, for example, appropriate that council members ask for private contact information for residents for the purposes of sending unsolicited material for political or electoral purposes. It is also inappropriate that a council member should demand access to confidential information about individual residents. This may include confidential complaints by or about the individual, confidential information relating to a person's health or financial situation, rates information, infringements that they may have received or other information that an individual should have a right to expect will not be shared simply because a council member wants to see it. Communications protocols should also cover the extent to which, and the circumstances under which, council members communicate

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		directly with local government employees, particularly more junior employees, and the channels of accountability through which they seek information or ask for things to be done. Intervention by councillors, if appropriate, should be restricted to communication at senior executive level only.
5.4 Local Governments May Pay Superannuation Contributions for Elected Members		
• 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.	• 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.	Voting on their own superannuation is surely a significant financial interest for council members. It would be more transparent and more equitable for the State to specify that superannuation is to be paid and the contribution rate relative to council allowances. Local government budgets will then need to be adjusted to provide for this expense. Councils can vote on whether their superannuation would be funded by diverting money away from services or by increasing rates.
5.5 Local Governments May Establish Education Allowances		
• Local government elected members must complete mandatory training. • There is no specific allowance for undertaking further education.	• 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.	Certain restrictions should apply to prevent council members taking advantage of public funds to derive personal benefits from ratepayer-funded education. For example, it is

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	• 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.	not reasonable to fund costly training only a few weeks before an election at which the councillor may be voted out. It is not the responsibility of ratepayers to pay to train council members for post-council careers. Councillors who have undertaken training at the expense of the local government should be required to provide written evidence (such as a completion certificate) to demonstrate that the training has been completed, including any assessment component, and the dates of completion.
5.6 Standardised Election Caretaker period		

• 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.
	• 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:
	  ○ 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.	

5.7 Remove WALGA from the Act		

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
• The Western Australian Local Government Association (WALGA) is constituted under the *Local Government Act 1995.* • The Local Government Panel Report and the Select Committee Report included this recommendation.	• The Local Government Panel Report recommended that WALGA not be constituted under the *Local Government Act 1995*. • Separating WALGA out of the Act will provide clarity that WALGA is not a State Government entity.	This should not lead to requiring local governments to fund a multitude of self-proclaimed representative and advocacy bodies. Such bodies have been proposed or established in recent years, generally with considerable opacity as to their operations, financial details and management, as "rivals" to WALGA. In at least one case, a concerted effort was made to pressure several local governments into funding one of these alternative bodies at the same level as WALGA, but without the offsetting benefits of receiving services or the transparency of operation that was afforded by constitution under legislation.
5.8 CEO Recruitment		
• Recent amendments introduced provisions to standardise CEO recruitment. • The recruitment of a CEO is a very important decision by a local government.	• 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.	Ideally, local government CEOs should be independently recruited by the Public Sector Commissioner, as State agency CEOs are, with the council permitted some input after suitable candidates had been shortlisted. This would limit the "politicisation" of the process.

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		In addition, the responsibilities and expectations that the CEO must police, investigate or report suspected councillor misconduct should be removed from the Act and misconduct of councillors should be dealt with by the CCC or the Conduct Panel.

Theme 6: Improved Financial Management and Reporting

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
6.1 Model Financial Statements and Tiered Financial Reporting		
• 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.	• 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.	Removing excessive complexity and duplication of reporting is strongly supported.

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	• **Simpler Strategic and Financial Planning** (item 6.2) would also improve the budgeting process.	
6.2 Simplify Strategic and Financial Planning		
• 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.	• Having clear information about the finances of local government is an important part of enabling informed public and ratepayer engagement and input to decision-making. • The framework for financial planning should be based around information being clear, transparent, and easy to understand for all ratepayers and members of the public. • In order to provide more consistency and clarity across the State, it is proposed that greater use of templates is introduced to make planning and reporting clearer and simpler, providing greater transparency for ratepayers. • Local governments would be required to adopt a standard set of plans, and there will be templates published by the DLGSC for use or adaption by local governments. • It is proposed that the plans that are required are: o Simplified **Council Plans** that replace existing Strategic Community Plans and set high-level objectives, with a new plan required at least every eight years. These will be short-form plans, with a template available from the DLGSC o Simplified **Asset Management Plans** to consistently forecast costs of maintaining the local government's assets. A new plan will be required at least every ten years, though local governments should update the plan regularly if the local government gains or disposes of major assets (e.g. land, buildings, or roads). A template will be provided, and methods of valuations will be simplified to reduce red tape o Simplified **Long Term Financial Plans** will outline any long term financial management and sustainability	Since we are dealing with the same audience, the financial planning and recording requirements for local governments should reflect those used by State agencies. Consistency of approach between State and local governments will enhance public understanding and reduce the resource-intensive process of devising special templates. The Department should seek Treasury's expertise in ensuring the planning and recording requirements are efficient, consistent with general financial practice in the public sector and do not increase red tape and expense for local governments. It is not necessary to reinvent mechanisms that are already in use in the State sphere.

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	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 ○ 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		
• 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.	• 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.	Local governments have generally long evolved past the “rates, rubbish and roads” model of service. Service expectations of residents and local businesses have increased significantly. Rates reflecting only “basic operating costs and minimum maintenance of essential infrastructure” will require a massive curtailing of the services that most local governments, and virtually all large local governments, currently provide.

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
	• The Local Government Panel Report included this recommendation.	It may be that residents would be happy to pay less for a lower level of service, but expecting local governments to continue to provide for community "wants" as well as community needs while capping their ability to fund these is unrealistic. Some high-service-level local governments must already rely on diverse income streams (such as property development and rentals) to provide the level of services their community demands, because rates do not provide sufficient revenue. If this is to become a requirement, there must be a definition of "essential infrastructure" because much local government infrastructure is not essential as that term is usually understood. A substantial amount would be classified as "lifestyle enhancement" rather than "lifeline" infrastructure, but residents' expectations now include the provision of such infrastructure.
6.4 Monthly Reporting of Credit Card Statements		
• No legislative requirement. • Disclosure requirements brought in by individual councils have shown significant reduction of expenditure of funds.	• 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.	This would appear to be inconsistent with the basic premise that councils are meant to have a strategic management role rather than an operational role.

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		Councils have a lot of matters to consider already. It does not appear to be a good use of council's time to be poring over and debating micro-transactions on credit cards every month. It will distract councils from the strategic and high-impact decision-making that they need to focus on. Good auditing practices should provide confidence that credit cards are not being misused. Councils should have a responsibility to ensure that such robust auditing practices are in place, rather than take the role of an (unqualified) auditor.
6.5 Amended Financial Ratios		
• 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.	• 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.	
6.6 Audit Committees		

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
• 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.	• 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.	Would audit committee chairs be drawn from a panel established by the Department? This would ensure the people chosen had adequate qualifications and experience, and allow systems to be established to manage conflicts of interest and deal with disputes. Will Audit Committee meetings be open to the public and minutes published?
6.7 Building Upgrade Finance		
• 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.	• 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.	Experience elsewhere of such arrangements has been mixed over the last two decades. It can be extremely high-risk, particularly if local governments do not have the in-house expertise to adequately assess the cost-benefits of the proposals and their ongoing maintenance costs after the initial investment. Local governments are neither banks nor charities and should not be expected to take on such roles. High quality building refurbishments, including "green energy fixtures" were once seen as being nice-to-have but non-economic. This is no longer the case. If property owners are unable to mount a business case sufficient to

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
		finance these improvements through normal mechanisms, then they are likely to be high-risk loans.
6.8 Cost of Waste Service to be Specified on Rates Notices		
• 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.	• 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.	