

Theme 1: Early Intervention, Effective Regulation and Stronger Penalties

| CURRENT PROVISIONS | PROPOSED REFORMS | CITY OF SUBIACO SUBMISSION |
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| 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). | <p>City of Subiaco (CoS) comments that if proposed change is to be made then:</p> <ul style="list-style-type: none"> Given the importance of the local government sector, the State should ensure that Governments invest adequately to enable an Inspector to be effective and timely. The jurisdiction of the Inspector ought to be clearly expressed to ensure that Inspector limits their involvement to dealing with behaviours of individual councillors or staff and/or working relationship issues between members of a council or between the council and its administration, rather than addressing the wisdom of decisions of the council (i.e. straying into judgments that are the remit of the electorate to make). Care needs to be taken not to render local government only administrators of State imposed rules that are also interpreted by the State – that is not local and not government - including by indirect means such as supervision by the State Government through an Inspector appointed by the State Government. There should be cost effective non-political oversight of the Inspector to mitigate risk of that office overstepping its jurisdiction (likely starting with the State Administrative Tribunal). |

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| | <ul style="list-style-type: none"> The existing Local Government Standards Panel would be replaced with a new Conduct Panel (see item 1.3). Penalties for breaches to the Local Government Act and Regulations will be reviewed and are proposed to be generally strengthened (see item 1.4). These reforms would be supported by new powers to more quickly resolve issues within local government (see items 1.5 and 1.6). | |
| 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. | <p>CoS comments that if proposed change is to be made then the State Government ought to absorb the cost of any Monitor because:</p> <ul style="list-style-type: none"> This will act as a disincentive for unwarranted and uninvited interference in individual local governments by the State Government or the Inspector. It is likely that the cause of perceived dysfunction (particularly smaller local governments) may be a consequence of resourcing pressures. As such, if the Inspector considers it appropriate that there be intervention in the form of a Monitor the State Government should provide that support. |

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| | <ul style="list-style-type: none"> • 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 The Inspector receives information that a local government is not collecting rates correctly under the <i>Local Government Act 1995</i>. 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 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.</p> | |

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| 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. • 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 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. | <p>CoS comments that if proposed change is to be made then:</p> <ul style="list-style-type: none"> • Any person who is subject to a complaint before the Conduct Panel should also have the right to provide evidence (in addition to the right to address). • There ought to be appeal rights to the SAT in the first instance and then the Supreme Court for both applicants and defendants. • Persons against whom complaints are made that are exonerated ought to be compensated for their reasonable costs (including legal costs) and actual losses. • An elected member against whom a complaint has been made should be entitled to waive the current secrecy requirements and be able to disclose the existence and substance of the proceedings. This will enable the elected member concerned to seek assistance and information in their defence of any complaint (other than from legal practitioners where such disclosure is permitted). Thus potentially saving significant legal costs. And the ability to disclose will discourage vexatious complaints. <p>Local Governments i.e. Councils should not judge minor behavioural complaints against elected members due to the potential for the process to be misused and for it to erode council cohesion. An external oversight model of all complaints (minor or otherwise) is preferable.</p> |

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| 1.4 Review of Penalties | | |
| <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>CoS considers elected members should still have access to their email account (while suspended) so that they can monitor correspondence and keep up to date with what is occurring in the LG – which will facilitate the best performance of their role, post suspension.</p> |
| 1.5 Rapid Red Card Resolutions | | |
| <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. | <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. | <p>CoS acknowledges that standardisation can be appropriate but that at as a general proposition care must be exercised to ensure balance so that local governments are not by stealth rendered to be only State Government directed administrations and to allow for locally acceptable variation.</p> <p>CoS opposes proposed introduction of a “red card” power for presiding members and say:</p> <ul style="list-style-type: none"> Red cards and ejection powers are best left for use on sporting fields. |

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| <ul style="list-style-type: none"> 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"> 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. | <ul style="list-style-type: none"> If a presiding member loses control of a meeting, they can and should simply adjourn the meeting until order is restored. This is a more appropriate behaviour than flashing red cards (which conduct does not itself ensure compliance and indeed may inflame the situation). There seems to be an underlying premise in the approach of the State Government to issues around behaviour that every presiding member is competent, impartial (non-political) and will not misuse the red card power. Clearly this premise is unrealistic. An absence of any focus on presiding member behaviours supports concern that there has not yet been serious consideration of the impact of a presiding member who does not communicate properly with its council, does not properly discharge the role of conduit between the council and the CEO, engages in pre- decision public attacks on the council and individual councillors based on assumptions of future outcomes, openly disagrees with decisions of the council (after they have been made) and attacks individual councillors who did not vote with them and/or makes knowingly and deliberate biased rulings during meetings. A loss of quorum may occur or the outcome of voting be affected (rectification of which would require / may lead to revocation motions thus involving continuing conflict and additional time and cost). If introduced a presiding member who uses the red card improperly ought to be subject to a major breach prosecution (with no discretion in the hands of the CEO of the Department not to prosecute). If introduced the council (being the governing body of the local government) ought to be able to disagree with the issue of the red card. |

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| 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 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. | <p>CoS comments:</p> <ul style="list-style-type: none"> There seems to be a mixing up between queries and complaints. The discussion mentions queries but does not propose any solution to "vexatious queries". Disagree with WALGA's position on the FOI Act where withdrawal of an access application will allow the recovery of costs. It is not clear and should be clarified, whether or not the cost recovery proposition for withdrawn applications applies only to vexatious applicants (however that is to be defined or determined, which definition may or may not in itself be a concern), This should not apply to non-vexatious applicants. In either case, this seems to be a perverse incentive for the applicant to continue with the application or at least to never withdraw it, thus putting the organisation (in this case the LG) to more time and therefore irrecoverable expense than if the application had been withdrawn at any earlier stage of the process. <p><u>WALGA Position:</u></p> <p><u>Current Local Government Position</u> Item 1.6 <u>expands upon</u> Advocacy Position 2.6.11 – 'Vexatious complainants in relation to FOI applications'</p> <p><i>WALGA advocates for the Freedom of Information Act 1992 (WA) to be reviewed, including consideration of:</i></p> |

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| | | <p>1. <i>Enabling the Information Commissioner to declare vexatious applicants similar to the provisions of section 114 of the Right to Information Act 2009 (QLD);</i></p> <p>2. <i>Enabling an agency to recover reasonable costs incurred through the processing of a Freedom of Information access application where the application is subsequently withdrawn; and</i></p> <p>3. <i>Modernisation to address the use of electronic communications and information.</i></p> <p>Comment 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 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. | <ul style="list-style-type: none"> CoS acknowledges that the provision of advice and guidance can be appropriate and very helpful but that as a general proposition care must be exercised to ensure balance so that local governments are not by stealth rendered to be only State Government directed administrations. Such directions ought to be subject to affordable and quick review (probably in the SAT) to guard against overreach and incorrect interpretation. It should be clarified what consequences if any flow from non-compliance with a direction or guidance note. |

Local Government Reform – Consultation on Proposed Reforms

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| | <ul style="list-style-type: none">• 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. | |

Theme 2: Reducing Red Tape, Increasing Consistency and Simplicity

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| 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. | No comment. |
| 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>CoS acknowledges that standardisation can be appropriate but that as a general proposition care must be exercised to ensure balance so that local governments are not by stealth rendered to be only State Government directed administrations.</p> <p>In respect of crossovers CoS understands and expects that any standardisation of process or design and construction standards would not affect local planning provisions regarding the location of parking (including not allowing crossovers on certain streets).</p> <p>Other justifiable differences between LGs regarding cross overs relate to cross over materials due to heritage precinct character preservation requirements or areas governed by design covenants, such as apply in redevelopment areas.</p> |

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| | | <p>Once any such area is handed back to the LG, this should not mean those design requirements no longer apply to any future (new/replacement) crossovers.</p> <p>The confusion of homeowners is likely overstated and limited to a relatively small number of cases. Construction businesses are more likely to be affected, although less likely to be confused by differences between LG's requirements as they would be used to dealing with any "complexity" caused by differing requirements between LGs.</p> |
| 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. | No comment. |
| 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>CoS understands and expects that the elimination of a requirement to consult would not preclude that step being taken if a local government wished to do so.</p> <ul style="list-style-type: none"> Model Local Laws should not preclude a LG from making their own local laws on the subject or from amending the Model. This will allow a LG to take account of local circumstances. It is noted that all local laws are subject to review (and approval) by Parliament or a Parliamentary Committee, thus providing a check on inappropriate or unnecessary laws being passed. Presumably this system of checks will continue for non-Model local laws. |

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| 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>CoS acknowledges that standardisation can be appropriate but that as a general proposition care must be exercised to ensure balance so that local governments are not by stealth rendered to be only State Government directed administrations.</p> <p>CoS accepts businesses who have commercial interest in more than one local area might find process differences frustrating but consider the difficulties are likely over stated. The more likely difficulty is that different local government have different substantive criteria and tolerances based on local circumstances. Local Governments should maintain control of the setting of substantive criteria and approval of decision.</p> |
| 2.6 Standardised Meeting Procedures, Including Public Question Time | | |
| <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>CoS acknowledges that standardisation can be appropriate but that at as a general proposition care must be exercised to ensure balance so that local governments are not by stealth rendered to be only State Government directed administrations.</p> <p>CoS considers that while a standard set of standing orders that cannot be diluted may be helpful, there should be scope for local additions. For example, in addition to statutorily required question time CoS has a tradition of allowing public statements.</p> |

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| 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>No comment.</p> |

Theme 3: Greater Transparency and Accountability

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| 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 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 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"> 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. | <ul style="list-style-type: none"> CoS has already introduced live streaming and provides video access to public parts of meetings. It should be clarified what is the purpose of submitting recordings of confidential meetings to the Department. (Note the reason for/need to provide these recordings is discussed and queried by WALGA in 3.3 below). If the Department is simply intending to archive them, this proposal is bureaucratic red tape and creates unnecessary and pointless time and expense for LGs. The sector's understanding is that the Department is already stretched and under- resourced. Therefore, the idea that a Departmental officer will review all confidential meeting recordings seems unlikely. Instead suggest that if this does not already exist, the Department be given the power to request and obtain etc any confidential council meeting recording or recordings subject to their being protection of confidentiality and in particular legal professional privilege. Ensure that the requirement to publish allows publication pre publication of the relevant meeting minutes. This is because COS recordings are (typically) available on the night of the meeting. And it should not have to re-publish with the minutes. |

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

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| | <ul style="list-style-type: none"> 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><u>WALGA Position (3.3):</u></p> <p><u>Current Local Government Position</u> There is currently no advocacy position in relation to Item 3.3.</p> <p><u>Comment</u> Clarifying the provisions of the Act has broad support within the sector. New reforms requiring Local Governments to video or audio record Council meetings (Item 3.1) will add to the formal record of proceedings that includes written Minutes. While being supported, the requirement to provide audio recordings of confidential matters to the DLGSC is queried on the basis that written and audio records can be readily accessed from a Local Government if required.</p> |
| 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>CoS already records votes and supports this become automatically required. Ensure that the automatic vote recording extends to confidential items/meetings.</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. | <p>CoS considers that meetings should be open as much as possible and that proper factual basis and reasons should be expressed and recorded if a meeting is to be closed.</p> |

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| | <ul style="list-style-type: none"> 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>CoS supports audio (or if available video) recording of closed parts of meetings (but does not support submission to the DLGSC as a matter of course. See above.)</p> |
| 3.4 Additional Online Registers | | |
| <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 Contracts Register that discloses all contracts above \$100,000. | <p>CoS supports improvements in openness and transparency but considers that there needs to be further clarification about what information would require disclosure with consideration being given to:</p> <ol style="list-style-type: none"> issues around the value of commercial confidence where the local government is the lessor; how a contracts register would link/interact with tender provision within the Act and tender limits; |

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| 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. 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"> 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) 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>CoS requires more time to consider this proposal. It ought to be deferred to all further consideration.</p> <p>CoS notes the complexity involved in developing KPIs that are realistic and objectively measurable, particularly in a complex position that is a local government CEO.</p> <p>CoS does not support publication of CEO performance reviews or KPI outcomes in circumstances where State government does not impose the same on departmental or public authority, agency or organisational heads.</p> |

Theme 4: Stronger Local Democracy and Community Engagement

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| 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. | No comment |
| 4.2 Ratepayer Satisfaction Surveys (Band 1 and 2 local governments only) | | |
| <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>CoS already conducts such or at least similar surveys (lately by Catalyse).</p> <p>The issue is how often they will be required to be done. Once every 3--4 years is adequate. They are expensive so this must be balanced against the potential benefits of such surveys.</p> <p>CoS does not support holding an Annual Community Meeting of the type WALGA is proposing as electors are able to come to the council to ask questions and/or raise questions at the Annual Electors Meeting.</p> <p><u>WALGA Position:</u></p> <p><u>Current Local Government Position</u></p> <p>Items 4.1 and 4.2 <u>generally align</u> with Advocacy Position 2.6.34 - 'Support responsive, aspirational and innovative community engagement principles'.</p> |

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| | | <p><i>The Local Government sector supports:</i></p> <ol style="list-style-type: none"> <i>1. Responsive, aspirational and innovative community engagement principles</i> <i>2. Encapsulation of aims and principles in a community engagement policy, and</i> <i>3. The option of hosting an Annual Community Meeting to present on past performance and outline future prospects and plans.</i> <p>Comment As indicted in Item 4.1 commentary, many Local Governments have already developed stakeholder engagement charters, or similar engagement strategies, that reflect their unique communities of interest. The development of guidance by the DLGSC, based on standards such as the International Standard for Public Participation practice, is supported in favour of taking a prescriptive approach or conducting a survey for the sake of a survey.</p> <p>Item 4.2 has potential to provide benchmarking of community satisfaction levels across Band 1 and 2 Local Governments.</p> |
| 4.3 Introduction of Preferential Voting | | |
| <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. | <ul style="list-style-type: none"> Preferential voting is proposed TO 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. | <p>CoS supports the current voting method due to its simplicity and apolitical nature. Other States local governments are/have become party political.</p> <p>The involvement of political parties also active at State level is likely to reduce focus on local interests and preferences and lead to funding of “party” placements and persons with aspirations to advance their own political careers.</p> |

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| <ul style="list-style-type: none"> • Preferential voting better captures the precise intentions of voters and as a result may be regarded as a fairer and more representative system. Voters have more specific choice. | <ul style="list-style-type: none"> • All other states use a form of preferential voting for local government. | <p>The local government system is not currently constructed on the basis of State or Federal Parliaments which expect the existence of an identified Government and an Opposition.</p> <p>If preferential voting was to be introduced constituents should not be forced to give votes to candidates that they do not wish to be elected. This would mean that preferential voting is optional.</p> |
| 4.4 Public Vote to Elect the Mayor and President | | |
| <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>CoS does not agree with the proposed change. There is no evidence that there is a fundamental problem with either method, and thus no evidence of a need to change. This is an issue that can and ought to be determined by constituents.</p> |

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| 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>It is difficult to understand how reducing the number of Councillors, which would occur in some LG Councils if the proposal was implemented, achieves the Panel Report's goal of improving representativeness. Necessarily, by definition more representatives improves representativeness.</p> <p>Greater numbers on council create the opportunity for more diversity and work sharing. Councillor expense (of a few extra Councillors) as a percentage of revenue and expenses is relatively minor. WALGA's Advocacy position is supported.</p> <p><u>WALGA Position:</u></p> <p><u>Current Local Government Position</u></p> <p>Item 4.5 <u>does not align</u> with Advocacy Position 2.5.1 – 'Councils consist of between six and 15 (including the Mayor/President)'</p> <p><i>Local Governments being enabled to determine the number of Elected Members required on the Council between six and 15 (including the Mayor/President)</i></p> <p>Comment</p> <p>The proposed reform to restrict Local Governments with populations under 5,000 to 5 Council Members does not reflect the varied communities of interest within this grouping. Some Local Governments are essentially regional centres such as the Shires of Katanning (9), Dandaragan (9), Merredin (9), Moora (9) and Northampton (9) (current Councillor numbers bracketed).</p> |

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| | | <p>Local Governments such as the Shire of Ngaanyatjaraku (9) manage substantial land areas, manage isolated communities such as the Shire of Meekatharra (7) and culturally diverse communities such as the Shire of Christmas Island (9). Some Local Governments with populations up to 5,000 warrant a greater number of Councillors to effectively share the representative role that Council Members play within their communities.</p> <p>The additional proposed reforms in population categories over 5,000 generally reflect the current Councillor numbers.</p> <p>Recommendation Recommend 5 to 7 Council Members for populations up to 5,000 and support the remaining proposed reforms.</p> |
| 4.6 No Wards for Small Councils (Band 3 and 4 Councils only) | | |
| <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>As CoS is presently deemed to be a Band 2 local government it is not presently affected. However if it were (ie. in the future) it would object to the abolition of the option of wards. In its recent ward and councillor review there was strong community support for the retention of wards.</p> |

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| 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>CoS queries whether a 12 month lease is adequate connection with the local government district to justify qualification for voting or office, given that an elected position is held for a 4 year period.</p> |

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| 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>CoS supports further investigation and consultation on this issue.</p> <p>CoS supports an ability for candidates to submit a longer candidate profile. It is very difficult to compile an 800 word profile while giving adequate information for an informed vote to be cast on the basis of that.</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 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) The introduction of more specific rules concerning local government council candidates' use of electoral rolls. | <p>No comment</p> |

Theme 5: Clear Roles and Responsibilities

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| 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. | CoS supports further investigation and consultation on this issue. |
| 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). | CoS supports further investigation and consultation on this issue. |
| | <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: | <p>CoS supports further investigation and consultation on this issue.</p> <p>CoS notes that it ought to be made explicit that the Mayor owes their loyalty to the Council (rather than the other way around).</p> |

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| | <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 ○ 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>It is noted that Councillors do not have a legislated or formal right of interaction with the CEO, other than at Council and perhaps Committee meetings (if the CEO attends).</p> <p>Currently the Act provides that the Mayor is the elected member that is to liaise with the CEO regarding the LGs affairs and the performance of its functions.</p> <p>Any reform should therefore specify that Councillors can liaise and interact with the CEO regarding the LG's affairs etc.</p> <p>It should not be the Mayor's responsibility to develop and maintain professional working relationships between Councillor's and between Councillors and the CEO (if that is indeed what the reform proposal is). This is too onerous a responsibility for the Mayor holding a position that offers only part time remuneration. The relationship between Councillors is the responsibility of Councillors.</p> <p>The Mayor should however have a responsibility to try and develop and maintain a good working relationship with other Councillors and with the CEO.</p> <p>The Mayor should also have an obligation to timeously communicate with Councillors matters of importance and significance to the LG of which they become aware. This lack of Mayoral communication was a problem in Subiaco previously.</p> |

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| | <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>CoS supports further investigation and consultation on this issue.</p> <p>If the role of the Mayor is to be expanded to “lead” the Council, then this should be expressly stated in the Act as a Mayoral role. And what is involved in this leadership role should be expressed.</p> <p>At present, the role includes showing leadership to the community but it is not stated to include leading the Council.</p> <p>CoS considers that changing the office of Mayor to one that leads the council would create confusion about whether the council is indeed the governing body of the local government and that the current model of having a Mayor that is loyal to the council is preferable.</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. 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: | <p>CoS supports further investigation and consultation on this issue in particular what (if any) words in the Act is proposed to be retained.</p> <p>However, the CoS does not support requiring councillors to represent the interests of persons other than residents, ratepayers and electors. The interests of workers and visitors ought to be subservient to those of residents, ratepayers and electors (ie. the constituents who have a vote).</p> |

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| | <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>That is not to say that councillors ought not consider the needs of workers and visitors but would do so in the context of the overall interests of residents, ratepayers and electors. It is difficult for Councillors to represent the needs of visitors as they do not have the same connection and communication with visitors that they do with residents and electors.</p> <p>CoS considers there needs to be care taken to develop "roles" (duties) that by stealth constrain dissent whether dissent within the council or dissent against views of the State Government. Hence the proposal to "positively" participate in the decision-making process is problematic. It also is contrary to the right to vote against an item at a Council meeting or to critique.</p> <p>A positive approach would always require a yes or supportive vote.</p> <p>A perhaps less problematic word, is to "constructively" contribute to the process. This better contemplates dissent and that a negative position may be taken when voting. However, any positive obligation in respect of subjective views is problematic if a democratic system of local government is to be retained. As to imposing the role on Councillors of communicating the decisions and resolutions of Council, this is problematic for 2 reasons. First, this cuts across the Mayor's stated role, – as stated in 5.2, to represent and speak on behalf of the whole council and the LG. Second this may result in inadvertent (or even deliberate) mixed and confusing messages being given publicly about those matters.</p> |

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| | | <p>CoS agrees that “<i>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.</i>” In addition, there should be consideration of the uses of personal social media accounts for political self-promotion, particularly by Mayors or Presidents who have a responsibility to speak for the council and/or local government.</p> <p>The Councillor role is part time and time wise very demanding. Many consider it as a community service. To impose additional requirements to maintain and develop their skills and knowledge etc, will be a disincentive to many who may have sought office. If greater skills and knowledge are mandatory, then Councillors must be better remunerated and any professional development paid for by the LG.</p> <p>It is questioned why this is considered necessary to legislate, given the lack of requirements for similar skill and knowledge development by State Parliamentarians, with their far greater responsibilities, power and full time well remunerated roles.</p> <p>Support and resources must be provided to Councillors to enable the public engagement contemplated. Also some explanation of the type of engagement contemplated is required before any more meaningful comment can be made on the proposal.</p> |

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| | <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. • 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>CoS supports further investigation and consultation on this issue. The Act currently sets out the “functions” of a CEO.</p> <p>It is unclear which if any of the current functions will be incorporated into the new provisions. Some of the current functions are not replicated in the proposed functions for eg ss5.41(h) - record keeping or ss5.41(g) - employing staff etc. Some of the proposed new functions attempt to address the same subject matter as the existing function in s5.41 but less effectively. It would be helpful to have an explanation as to why this different wording is preferred and how it will create different outcomes than the current provision.</p> |

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| 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, 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. | <p>CoS supports further investigation and consultation on this issue.</p> <p>If as appears to be the case, that none of the CEO's express proposed functions (discussed in 5.2 above), will directly replicate s5.41(h), then using the existence of this sub-section as a reason for requiring communications agreements, is misconceived.</p> <p>The existence of communication agreements per se will not eliminate differences of opinion as to whether and what information should be provided ie is it relevant or not (per s5.92). And in any event any communication agreement cannot override s5.92 unless this is provided for in the Act.</p> <p>If there is a contradiction in the Act between the CEOs record keeping function and the provision of relevant information to Councillors, this should be legislatively resolved whereby if the CEO determines in good faith to provide information under 5.92, this is not a breach of any record keeping function, obligation or legislative provision.</p> <p>This seems simpler than a Comms Agreement, which it is difficult to understand how it will resolve the issues.</p> <p>The prospect of a CEO not providing <u>a council</u> with information is very low because once a <u>resolution</u> is passed it is likely to be acted upon.</p> <p>The real area of conflict is between individual council members and CEOs who have the power to refuse an individual council member access by declaring that something is not relevant to the member's role as a councillor.</p> |

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| | | <p>This can retard councillor's abilities to obtain information for the purpose of considering whether to take something to the council through an elected member's motion. While it is appreciated that there needs to be balance so that the limited resources of a local government are not overly distracted, there does need to be some capacity for elected members to obtain information without having to first go to the council. Local governments are meant to be governed by councils not CEO's and this is an area where a CEO can improperly or inadvertently frustrate the efforts of individual councillors to advance the interests of the local government.</p> |
| 5.4 Local Governments May Pay Superannuation Contributions for Elected Members | | |
| <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>No comment.</p> |

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| 5.5 Local Governments May Establish Education Allowances | | |
| <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>CoS considers that all mandatory training expenses ought to be paid for by the local government (as is already the case in the CoS).</p> <p>Training is useful but also an income source for many entities who lobby for its expansion.</p> <p>The position of councillor is already extremely onerous and not well remunerated for the hours of work involved. Adding even more training obligations may not be helpful in attracting people to take on the role.</p> <p>Care needs to be taken to balance the need for adequate skills against the need not to make the role even more onerous than it already is.</p> <p>There is a disconnect between the proposed Councillor role discussed at 5.2 above, about “developing skills and knowledge” etc and the discretionary nature of financial support for Councillors undertaking such development.</p> |
| 5.6 Standardised Election Caretaker period | | |
| <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’. | <p>No comment</p> |

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| | <ul style="list-style-type: none"> ○ 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. | |
| <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. | No comment |
| 5.7 Remove WALGA from the Act | | |
| <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>CoS supports further investigation and consultation on this issue.</p> <p>COS supports the proposed reforms, subject to the mutual self-insurance scheme being recognised, able to continue and if necessary enabled in the Act.</p> |

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| 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>CoS requires more detail to consider this proposal. For example, will the positions be honorary and if not who will pay the cost?</p> <p>CoS has recruited under the new recruiting requirements and having been rebuffed by the Public Sector Commission, appointed a former Mayor (who is a Freeman of the City) to the panel. Their local knowledge and experience was useful.</p> <p>Councils appointing an independent person outside the panel should not require the approval of the Inspector. This adds unnecessary red tape.</p> |

Theme 6: Improved Financial Management and Reporting

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| 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. | Supported |

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| | <ul style="list-style-type: none"> • Online Registers, updated quarterly (see item 3.4), would provide faster and greater transparency than current annual reports. Standard templates will be published for use by local governments. • Simpler Strategic and Financial Planning (item 6.2) would also improve the budgeting process. | |
| 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 adaption 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. | <p>CoS supports further investigation and consultation on this issue.</p> <p>CoS notes that the use of the word “Plan” in the title of documents expressing aspirations, goals or responsibilities is confusing and misleading. Many of these documents do not have any real plan as to how or when things will be achieved. Without approval through the annual budget none of the aspirations, goals or responsibilities are certain to happen or be discharged.</p> <p>So for example the proposed:</p> <ul style="list-style-type: none"> • Council Plan might be better described as a Council Strategy • Asset Management Plan might be better described as an Asset Management Forecast. • Long Term Financial Plans might be better described as Long Term Financial Strategies or Forecasts <p>When something is actually a plan there ought to be sufficient detail to allow the community to understand how and when it is to be achieved and its expected cost. That will provide the community with opportunities to assess performance against clear criteria.</p> |

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| | <ul style="list-style-type: none"> ○ 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 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. | |

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| 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. The Local Government Panel Report included this recommendation. | <p>CoS supports further investigation and consultation on this issue.</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>Supported CoS notes it already reports credit card usage in its monthly reports.</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>CoS supports further investigation and consultation on this issue.</p> |

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| 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>CoS supports the WALGA position.</p> <p>CoS does not support the proposed changes regarding majority independent members particularly if the independent people are to be paid by the local government.</p> <p>The proposal does not disclose any qualification requirements for the so-called independent members. It should.</p> <p>The use of independent external and internal auditors to advise on audit and risk issues should be sufficient external oversight.</p> <p><u>WALGA Position:</u></p> <p><u>Current Local Government Position</u></p> <p>Item 6.6 does not align with Advocacy Position 2.2.4 – Accountability and Audit <i>That audit committees of Local Government, led and overseen by the Council, have a clearly defined role with an Elected Member majority and chair.</i></p> <p>Comment 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> |

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| | | <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?</p> <p>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>Recommendation</p> <ol style="list-style-type: none"> 1. Do not support majority independent members of the Audit Committee 2. Support Audit Committees of Local Government with an Elected Member majority including independent members, and to consider proactive risk management issues. |

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| 6.7 Building Upgrade Finance | | |
| <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>CoS supports further investigation and consultation on this issue.</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>CoS has no objection to this change and notes that it already shows waste charges separately on its rates notices.</p> |