

Email: actreview@dlgsc.wa.gov.au

Dear Local Government, Sport and Cultural Industries,

**Local Government Act Reforms - Proposed November 2021
Responses from Shire of Coolgardie - February 2022**

Background

The Council of the Shire of Coolgardie has carefully considered the proposals announced by the Hon Minister for Local Government in November 2021, for changes to the *Local Government Act 1995*.

At a Special Council Meeting on February 1 2022 the Council considered all the proposals, by referencing those that specifically will affect the Shire of Coolgardie and its residents and ratepayers, and more broadly the local government sector.

The Shire of Coolgardie values and appreciates the opportunity to express its views on these important issues and trusts that they will be given due regard.

General Comments and Observations

The Shire notes that with ordinary elections due in October 2023, it is a very tight timeframe to have relevant electoral provisions approved for drafting, passed through Parliament, Regulations drafted and enacted, and guidelines produced.

This is especially so for those local governments likely to be affected by changes to representation or wards, if formal proposals must be presented to the Local Government Advisory Board for consideration.

Proposals and Shire of Coolgardie (SoC) Views and Positions

Proposed Reform

1.1 Early Intervention Powers

- It is proposed to establish a Chief Inspector of Local Government (the **Inspector**), supported by an Office of the Local Government Inspector (the **Inspectorate**).
- The Inspector would receive minor and serious complaints about elected members.
- The Inspector would oversee complaints relating to local government CEOs.
- Local Governments would still be responsible for dealing with minor behavioural complaints.
- The Inspector would have powers of a standing inquiry, able to investigate and intervene in any local government where potential issues are identified.

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

Shire of Coolgardie views and resolved position

The SoC has been “subject” to a Department of Local Government, Sport and Cultural Industries (DLGSCI) Inquiry since April 1 2020 and despite raising concerns about the length of time taken to finalise the Inquiry, and any findings, no definitive advice has been provided.

This has had a detrimental effect on Council Members, especially those who faced election in October 2021, and who were unable to address any adverse comments by other election candidates, the media, or members of the public, including electors.

The SoC supports a wholesale review of the Department of Local Government (DLG) review and Inquiry process to ensure early intervention to identify and address problems in Local Governments (LGs).

The SoC also supports the provision of substantial, and appropriate resources to the DLGSCI to address problems and issues in LG.

The proposed Inspector and complementary services such as the Monitors seem well targeted to address the concerns held by the SoC with the current system and processes.

The SoC notes that several decades ago the DLG had “Inspectors” performing some of the proposed roles for the Monitors.

The Local Government Standards Panel (LGSP) inquiries into certain types of complaints has been a lengthy process with “unhelpful” outcomes, especially when a Council Member is directed to publicly apologise, and does so with little, or no sincerity.

Its abolition and replacement as proposed, is supported.

The SoC supports any outcome which provides:

- DLG support to the sector, especially to small rural, regional or remote local governments,
- an opportunity for early intervention
- greater certainty for LGs subject to “inquiry” as to the processes, timeframes, and outcomes.

1.2 Local Government Monitors

- A panel of **Local Government Monitors** would be established.
- Monitors could be appointed by the Inspector to go into a local government and try to resolve problems.
- The purpose of Monitors would be to proactively fix problems, rather than to identify blame or collect evidence.
- Monitors would be qualified specialists, such as:
 - Experienced and respected former Mayors, Presidents, and CEOs - to act as mentors and facilitators
 - Dispute resolution experts - to address the breakdown of professional working relationships

- Certified Practising Accountants and other financial specialists - to assist with financial management and reporting issues
- Governance specialists and lawyers - to assist councils resolve legal issues
- HR and procurement experts - to help with processes like recruiting a CEO or undertaking a major land transaction.
- Only the Inspector would have the power to appoint Monitors.
- Local governments would be able to make requests to the Inspector to appoint Monitors for a specific purpose.

Shire of Coolgardie views and resolved position

As above but Monitors should also include experienced and respected former Council Members (in addition to the proposed experienced and respected former Mayors, Presidents and Chief Executive Officers (CEOs)...).

The SoC notes that there are some excellent Council Members, who have never been a Mayor or President but would be well placed to assist in the role of Monitor in the appropriate context. The proposed reform should be amended to included same.

1.3 Conduct Panel

- The Standards Panel is proposed to be replaced with a new Local Government **Conduct Panel**.
- The Conduct Panel would be comprised of suitably qualified and experienced professionals. Sitting councillors will not be eligible to serve on the Conduct Panel.
- The Inspector would provide evidence to the Conduct Panel for adjudication.
- The Conduct Panel would have powers to impose stronger penalties – potentially including being able to suspend councillors for up to three months, with an appeal mechanism.
- For very serious or repeated breaches of the Local Government Act, the Conduct Panel would have the power to recommend prosecution through the courts.
- Any person who is subject to a complaint before the Conduct Panel would have the right to address the Conduct Panel before the Panel makes a decision.

Shire of Coolgardie views and resolved position

The SoC contends that the LGSP has, generally, been ineffective in its sanctions, and that the time frames for its decision making, way too long.

The SoC supports any initiatives which will ensure more effective “investigations” and timeframes, as well as better targeted outcomes, which not only serve to address specific behaviour but also send a message to the LG sector, and the communities we serve, that poor behaviour will not be tolerated.

1.4 Review of Penalties

- Penalties for breaching the Local Government Act are proposed to be strengthened.
- It is proposed that the suspension of councillors (for up to three months) is established as the main penalty where a councillor breaches the Local Government Act or Regulations on more than one occasion.
- Councillors who are disqualified would not be eligible for sitting fees or allowances. They will also not be able to attend meetings, or use their official office (such as their title or council email address).
- It is proposed that a councillor who is suspended multiple times may become disqualified from office.
- Councillors who do not complete mandatory training within a certain timeframe will also not be able to receive sitting fees or allowances.

Shire of Coolgardie views and resolved position

A wider variety of options for penalties for specific offences and behaviour is needed, and therefore supported.

The proposal that Council Members who fail to complete the mandatory 5 modules within 12 months of their election, will not be able to receive sitting fees or allowances has merit.

However, it is also a penalty that is “relatively” harsher for the unwaged or those for whom the sitting fees and allowances are a significant element of their income. For other Council Members, who are financially stable, their sitting fees and allowances may not be significant at all, and therefore the loss of same, is of little effect.

The SoC supports the proposal for broader based penalty options, including suspension of Council Members, and potential disqualification from office for multiple offences.

The SoC supports the financial “penalty” proposed for Council Members who fail to complete the mandatory 5 modules within 12 months of election but urges a broader approach to the issue and the proposed penalties to ensure there is equity in the proposals.

1.5 Rapid Red Card Resolutions

- It is proposed that Standing Orders are made consistent across Western Australia (see item 2.6). Published recordings of all meetings would also become standard (item 3.1).
- It is proposed that Presiding Members have the power to “red card” any attendee (including councillors) who unreasonably and repeatedly interrupt council meetings. This power would:
 - Require the Presiding Member to issue a clear first warning
 - If the disruptions continue, the Presiding Member will have the power to “red card” that person, who must be silent for the rest of the meeting. A councillor issued with a red card will still vote, but must not speak or move motions
 - If the person continues to be disruptive, the Presiding Member can instruct that they leave the meeting.
- Any Presiding Member who uses the “red card” or ejection power will be required to notify the Inspector.
- Where an elected member refuses to comply with an instruction to be silent or leave, or where it can be demonstrated that the presiding member has not followed the law in using these powers, penalties can be imposed through a review by the Inspector.

Shire of Coolgardie views and resolved position

The SoC has had no experience such situations, with Council meetings conducted in a civil and orderly fashion, with respect by all Council Members for each other positions, and decisions generally made amicably and with good regard to positions advanced by others.

Enhancing the role of the Presiding Member has merit, to assist Councils where disruptive behaviour occurs.

At the same time and given various provisions in the Standing Orders/Meeting Procedures of Councils, which effectively permit Council Members to override some decisions of the Presiding Member, it may be prudent to assess similar provisions, in the application of this proposal.

Where a Mayor or President is elected by electors (and it is noted the Minister’s proposals envisage more such manner of elections) he or she may not “enjoy” majority support of the Council. In such a situation, and to protect “arbitrary” decision making by the Mayor or President, the Council should be able to “override” such decisions, perhaps by absolute majority.

The SoC supports the proposal, in general, that the Presiding Member have greater authority to address poor behaviour of Council Members at a Council meeting.

The SoC supports Council, in limited circumstances being able to “override” the Presiding’s Member determination.

1.6 Vexatious Complaint Referrals

- Local governments already have a general responsibility to provide ratepayers and members of the public with assistance in responding to queries about the local government’s operations. Local governments should resolve queries and complaints in a respectful, transparent and equitable manner.

- Unfortunately, local government resources can become unreasonably diverted when a person makes repeated vexatious queries, especially after a local government has already provided a substantial response to the person's query.
- It is proposed that if a person makes repeated complaints to a local government CEO that are vexatious, the CEO will have the power to refer that person's complaints to the Inspectorate, which after assessment of the facts may then rule the complaint vexatious.

Shire of Coolgardie views and resolved position

SoC supports the proposal.

1.7 Minor Other Reforms

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

Shire of Coolgardie views and resolved position

The approach described will be in accord with a better-defined role for the DLGSCI in building capacity in the LG sector, especially small, regional, or remote local governments.

SoC supports the proposal.

2.1 Resource Sharing

- Amendments are proposed to encourage and enable local governments, especially smaller regional local governments, to share resources, including Chief Executive Officers and senior employees.
- Local governments in bands 2, 3 or 4 would be able to appoint a shared CEO at up to two salary bands above the highest band. For example, a band 3 and a band 4 council sharing a CEO could remunerate to the level of band 1.

Shire of Coolgardie views and resolved position

The SoC acknowledges the difficulty encountered by some remote, regional, and rural local governments in attracting CEOs (and other senior employees), as well as retaining same.

The proposal would provide an incentive to such LGs to consider sharing a CEO.

It is noted that the Salaries and Allowances Tribunal recently made decisions for additional remuneration for the Shires of Murray and Waroona, and the Shires of Cunderdin and Tammin to share a CEO each.

SoC supports the proposal.

2.2 Standardisation of Crossovers

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

Shire of Coolgardie views and resolved position

SoC supports the proposal.

2.3 Introduce Innovation Provisions

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

Shire of Coolgardie views and resolved position

SoC supports the proposal.

2.4 Streamline Local Laws

- It is proposed that local laws would only need to be reviewed by the local government every 15 years.
- Local laws not reviewed in the timeframe would lapse, meaning that old laws will be automatically removed and no longer applicable.
- Local governments adopting Model Local Laws will have reduced advertising requirements

Shire of Coolgardie views and resolved position

The current Local Law-making provisions are cumbersome, expensive to prepare, consult and formalise, and with unsure outcomes when considered by the Delegated Legislation Committee of Parliament.

SoC supports the Western Australian Local Government Association (WALGA) position on the proposals.

2.5 Simplifying Approvals for Small Business and Community Events

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

Shire of Coolgardie views and resolved position

SoC supports the proposal.

2.6 Standardised Meeting Procedures, Including Public Question Time

- To provide greater clarity for ratepayers and applicants for decisions made by council, it is proposed that the meeting procedures and standing orders for all local government meetings, including for public question time, are standardised across the State.
- Regulations would introduce standard requirements for public question time, and the procedures for meetings generally.
- Members of the public across all local governments would have the same opportunities to address council and ask questions.

Shire of Coolgardie views and resolved position

SoC acknowledges that uniformity and consistency across the sector has advantages to some, but it is often overstated, given the small number of ratepayers, residents, stakeholders, or applicants who operate across multiple local governments, and are subject to differing local laws.

A standardised approach to meeting procedures will have some value, although it is not clear what value would accrue from having standardised approaches to, say, public question time – given few, if any people ask questions at multiple Councils.

Care needs to be taken to ensure that the move to uniformity does not come at the “expense” of the general competence approach in WA LG.

SoC supports the proposal.

2.7 Regional Subsidiaries

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

Shire of Coolgardie views and resolved position

Regional subsidiaries have not eventuated for various reasons, since legislation, which was meant to facilitate same, commenced in 2017.

Other models for regional cooperation have been used and the SoC has significant experience in the GVROC.

SoC supports legislation to facilitate alternative mechanisms and processes for LG to cooperate in the design and delivery of services, shared resources etc.

3.1 Recordings and Live-Streaming of All Council Meetings

- It is proposed that all local governments will be required to record meetings.
- Band 1 and 2 local governments would be required to livestream meetings, and make video recordings available as public archives.
- Band 1 and 2 are larger local governments are generally located in larger urban areas, with generally very good telecommunications infrastructure, and many already have audio-visual equipment.
- Band 1 and 2 local governments would be required to livestream meetings, and make video recordings available as public archives.
- Several local governments already use platforms such as YouTube, Microsoft Teams, and Vimeo to stream and publish meeting recordings.
- Limited exceptions would be made for meetings held outside the ordinary council chambers, where audio recordings may be used.
- Recognising their generally smaller scale, typically smaller operating budget, and potential to be in more remote locations, band 3 and 4 local governments would be required to record and publish audio recordings, at a minimum. These local governments would still be encouraged to livestream or video record meetings.
- All council meeting recordings would need to be published at the same time as the meeting minutes. Recordings of all confidential items would also need to be submitted to the DLGSC for archiving.

Shire of Coolgardie views and resolved position

SoC notes that it will be required by the legislation to record meetings and to upload the audio recordings to the SoC website.

SoC notes that any audio recordings are likely to be “accessed” under FOI.

Although SoC Council meetings are well run, it is noted that other Councils may not enjoy the same, and audio recordings (and streamed meetings, as proposed for larger LGs) may assist to improve public scrutiny and the behaviour of Council Members.

SoC supports the proposal.

3.2 Recording All Votes in Council Minutes

- To support the transparency of decision-making by councillors, it is proposed that the individual votes cast by all councillors for all council resolutions would be required to be published in the council minutes, and identify those for, against, on leave, absent or who left the chamber.
- Regulations would prescribe how votes are to be consistently minuted.

Shire of Coolgardie views and resolved position

SoC foresees no issues with this requirement, especially in conjunction with the proposed requirement for mandatory streaming or audio recording which will facilitate same.

SoC supports the proposal.

3.3 Clearer Guidance for Meeting Items that may be Confidential

- Recognising the importance of open and transparent decision-making, it is considered that confidential meetings and confidential meeting items should only be used in limited, specific circumstances.
- It is proposed to make the Act more specific in prescribing items that may be confidential, and items that should remain open to the public.
- Items not prescribed as being confidential could still be held as confidential items only with the prior written consent of the Inspector.
- All confidential items would be required to be audio recorded, with those recordings submitted to the DLGSC.

Shire of Coolgardie views and resolved position

Given the proposed requirements for streaming or audio recording of Council meetings (uploaded to the LG website) it seems unnecessary for LGs to provide an audio recording of any confidential deliberations to DLGSCI.

SoC does not support the proposal.

3.4 Additional Online Registers

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

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

- **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.

Shire of Coolgardie views and resolved position

SoC supports the proposal.

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

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

Shire of Coolgardie views and resolved position

The SoC notes that this proposal is generally consistent with enhanced transparency and accountability. The only reservation held by the SoC is in relation to any findings, as part of the Performance Review that might be deemed personal or highlighting security or related matters - for example a performance review which found poor internet security at the Shire and which was published might lead to further security issues, if publicly known.

The SoC supports the proposal, on the basis that there is some discretion for Council in regard to publishing any findings which might be personal or which highlight security issues.

4.1 Community and Stakeholder Engagement Charters

- It is proposed to introduce a requirement for local governments to prepare a community and stakeholder engagement charter which sets out how local government will communicate processes and decisions with their community.
- A model Charter would be published to assist local governments who wish to adopt a standard form.

Shire of Coolgardie views and resolved position

The SoC is unconvinced of the necessity for this measure, especially in small LGs with comprehensive formal and informal community engagement processes already in place.

The SoC does not support the proposal.

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

- It is proposed to introduce a requirement that every four years, all local governments in bands 1 and 2 hold an independently-managed ratepayer satisfaction survey.
- Results would be required to be reported publicly at a council meeting and published on the local government's website.
- All local governments would be required to publish a response to the results.

Shire of Coolgardie views and resolved position

SoC notes that the proposal will only apply to Band 1 and 2 LGs.

On that basis the SoC supports the proposal.

4.3 Introduction of Preferential Voting

- Preferential voting is proposed be adopted as the method to replace the current first past the post system in local government elections.
- In preferential voting, voters number candidates in order of their preferences.
- Preferential voting is used in State and Federal elections in Western Australia (and in other states). This provides voters with more choice and control over who they elect.
- All other states use a form of preferential voting for local government.

Shire of Coolgardie views and resolved position

SoC has no wards, therefore FPTP voting does allow electors to vote up to the number of vacancies to be filled.

The contention that other States use preferential voting, carries no weight - most other States have compulsory voting at LG elections, and “all in, all out” elections, but the Minister is not proposing those – nor is the SoC advocating them either.

Preferential voting is not supported because:

- it takes longer to count and determine successful candidate/s
- it encourages “tickets” where multiple candidates run for election and swap preferences
- the outcome may not be easily accepted by media and members of the public, especially where a candidate receives a low number of first preferences and then “leapfrogs” other candidates in the allocation of preferences, to win.

SoC does not support the proposal.

4.4 Public Vote to Elect the Mayor and President

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

Shire of Coolgardie views and resolved position

SoC is not affected by this Proposal, which relates only to LGs in Bands 1 and 2.

Notwithstanding that the SoC is unaffected by the proposals, it does feel compelled to express its concern at it, based on several factors:

- it increases the likelihood of party politics in LG because candidates for elector elected Mayor/President will need access to substantial financial resources to fund an election campaign
- it increases the likelihood of an elector Mayor/President not having the support of the Council
- SoC supports retention of the existing system with Councils, and electors, determining the method of election of the Mayor/President.

4.5 Tiered Limits on the Number of Councillors

- It is proposed to limit the number of councillors based on the population of the entire local government.
- Some smaller local governments have already been moving to having smaller councils to reduce costs for ratepayers.
- The Local Government Panel Report proposed:
 - For a population of up to 5,000 – five councillors (including the President)
 - population of between 5,000 and 75,000 – five to nine councillors (including the Mayor/President)
 - population of above 75,000 – nine to fifteen councillors (including Mayor).

Shire of Coolgardie views and resolved position

SoC is directly affected by this proposal - having a population of less than 5,000, and currently 7 Council Members.

The SoC is a large and diverse LG with several towns as population centres, as well as remote indigenous, and other communities or settlements.

SoC has chosen to have no Wards to ensure all Council Members represent all electors and residents.

If the SoC was required to move to 5 Council Members, it would have significant implications for managing quorum and absolute majority issues.

SoC supports the WALGA recommendation that LGs with a population of up to 5,000 have 5 - 7 Council Members.

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

- It is proposed that the use of wards for councils in bands 3 and 4 is abolished.
- Wards increase the complexity of elections, as this requires multiple versions of ballot papers to be prepared for a local government's election.
- In smaller local governments, the population of wards can be very small.
- These wards often have councillors elected unopposed, or elect a councillor with a very small number of votes. Some local governments have ward councillors elected with less than 50 votes.
- There has been a trend in smaller local governments looking to reduce the use of wards, with only 10 councils in bands 3 and 4 still having wards.

Shire of Coolgardie views and resolved position

SoC does not have Wards and is therefore unaffected by the proposal.

SoC does note that some LGs have vaster, and more diverse communities than the SoC, and as such may make a sound case for the adoption or retention of Wards. Given the role of the LGAB in assessing such proposals and making recommendations, the SoC contends that the current arrangements continue.

SoC does not support the Proposal.

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

- Reforms are proposed to prevent the use of "sham leases" in council elections. Sham leases are where a person creates a lease only to be able to vote or run as a candidate for council.
- The City of Perth Inquiry Report identified sham leases as an issue.
- Electoral rules are proposed to be strengthened:
 - 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.

Shire of Coolgardie views and resolved position

SoC supports the proposal.

4.8 Reform of Candidate Profiles

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

Shire of Coolgardie views and resolved position

Soc supports the proposal.

4.9 Minor Other Electoral Reforms

- Minor other electoral reforms are proposed to include:
 - 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.

Shire of Coolgardie views and resolved position

SoC notes that there is currently no requirement for a recount where the margin is small, and such a decision is entirely at the discretion of the RO (noting also that a Court of Disputed Return has jurisdiction, where an appeal is made).

This can be confusing to candidates and the public, expecting a recount, but the RO may decline to do so.

A statutory provision would give certainty to the circumstances in which a recount would be required.

SoC supports the proposal.

5.1 Introduce Principles in the Act

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

Shire of Coolgardie views and resolved position

SoC supports the proposal.

5.2 Greater Role Clarity

- The Local Government Act Review Panel recommended that roles and responsibilities of elected members and senior staff be better defined in law.
- It is proposed that these roles and responsibilities are further defined in the legislation.
- These proposed roles will be open to further consultation and input.
- These roles would be further strengthened through **Council Communications Agreements** (see item 5.3).

Shire of Coolgardie views and resolved position

SoC supports the proposal.

5.2.1 - Mayor or President Role

- It is proposed to amend the Act to specify the roles and responsibilities of the Mayor or President.
- While input and consultation will inform precise wording, it is proposed that the Act is amended to generally outline that the Mayor or President is responsible for:
 - Representing and speaking on behalf of the whole council and the local government, at all times being consistent with the resolutions of council
 - Facilitating the democratic decision-making of council by presiding at council meetings in accordance with the Act
 - Developing and maintaining professional working relationships between councillors and the CEO
 - Performing civic and ceremonial duties on behalf of the local government

- Working effectively with the CEO and councillors in overseeing the delivery of the services, operations, initiatives and functions of the local government.

Shire of Coolgardie views and resolved position

SoC supports the proposal.

5.2.2 - Council Role

- It is proposed to amend the Act to specify the roles and responsibilities of the Council, which is the entity consisting of all of the councillors and led by the Mayor or President.
- While input and consultation will inform precise wording, it is proposed that the Act is amended to generally outline that the Council is responsible for:
 - Making significant decisions and determining policies through democratic deliberation at council meetings
 - Ensuring the local government is adequately resourced to deliver the local governments operations, services and functions - including all functions that support informed decision-making by council
 - Providing a safe working environment for the CEO;
 - Providing strategic direction to the CEO;
 - Monitoring and reviewing the performance of the local government.

Shire of Coolgardie views and resolved position

SoC supports the proposal.

5.2.3 - Elected Member (Councillor) Role

- It is proposed to amend the Act to specify the roles and responsibilities of all elected councillors.
- While input and consultation will inform precise wording, it is proposed that the Act is amended to generally outline that every elected councillor is responsible for:
 - 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.

Shire of Coolgardie views and resolved position

SoC supports the proposal.

5.2.4 - CEO Role

- *The Local Government Act 1995* requires local governments to employ a CEO to run the local government administration and implement the decisions of council.

- To provide greater clarity, it is proposed to amend the Act to specify the roles and responsibilities of all local government CEOs.
- While input and consultation will inform precise wording, it is proposed that the Act is amended to generally outline that the CEO of a local government is responsible for:
 - 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.

Shire of Coolgardie views and resolved position

SoC supports the proposal.

5.3 Council Communication Agreements

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

Shire of Coolgardie views and resolved position

Although no problems or issues have arisen at the SoC regarding such matters, clarification and/or a standardised template will be useful.

SoC supports the proposal.

5.4 Local Governments May Pay Superannuation Contributions for Elected Members

- It is proposed that local governments should be able to decide, through a vote of council, to pay superannuation contributions for elected members. These contributions would be additional to existing allowances.
- Superannuation is widely recognised as an important entitlement to provide long term financial security.
- Other states have already moved to allow councils to make superannuation contributions for councillors.
- Allowing council to provide superannuation is important part of encouraging equality for people represented on council – particularly for women and younger people.
- Providing superannuation to councillors recognises that the commitment to elected office can reduce a person's opportunity to undertake employment and earn superannuation contributions.

Shire of Coolgardie views and resolved position

SoC supports the proposal.

5.5 Local Governments May Establish Education Allowances

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

Shire of Coolgardie views and resolved position

SoC supports the proposal.

5.6 Standardised Election Caretaker period

- A statewide caretaker period for local governments is proposed.
- All local governments across the State would have the same clearly defined election period, during which:
 - 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.

Shire of Coolgardie views and resolved position

SoC does not have a caretaker policy but acknowledges that there may be merit in doing so.

SoC supports the proposal.

5.7 Remove WALGA from the Act

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

Shire of Coolgardie views and resolved position

The SoC does not have a position on this matter and will be guided by the views of WALGA.

5.8 CEO Recruitment

- It is proposed that DLGSC establishes a panel of approved panel members to perform the role of the independent person on CEO recruitment panels.
- Councils will be able to select an independent person from the approved list.
- Councils will still be able to appoint people outside of the panel with the approval of the Inspector

Shire of Coolgardie views and resolved position

SoC supports the proposal.

6.1 Model Financial Statements and Tiered Financial Reporting

- The Minister strongly believes in transparency and accountability in local government. The public rightly expects the highest standards of integrity, good governance, and prudent financial management in local government.

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

Shire of Coolgardie views and resolved position

The SoC supports a tiered approach to appropriate matters of financial compliance and reporting.

The approach suggested will ensure that small LGs such as the SoC are still required to provide transparency and accountability, but not in the same format, nor to the same level of complexity, as larger LGs.

SoC supports the proposal.

6.2 Simplify Strategic and Financial Planning

- Having clear information about the finances of local government is an important part of enabling informed public and ratepayer engagement and input to decision-making.
- The framework for financial planning should be based around information being clear, transparent, and easy to understand for all ratepayers and members of the public.
- In order to provide more consistency and clarity across the State, it is proposed that greater use of templates is introduced to make planning and reporting clearer and simpler, providing greater transparency for ratepayers.
- Local governments would be required to adopt a standard set of plans, and there will be templates published by the DLGSC for use or adaption by local governments.
- It is proposed that the plans that are required are:
 - Simplified Council Plans that replace existing Strategic Community Plans and set high-level objectives, with a new plan required at least every eight years. These will be short-form plans, with a template available from the DLGSC
 - Simplified Asset Management Plans to consistently forecast costs of maintaining the local government's assets. A new plan will be required at least every ten years, though local governments should update the plan regularly if the local government gains or disposes of major assets (e.g. land, buildings, or roads). A template will be provided, and methods of valuations will be simplified to reduce red tape
 - Simplified Long Term Financial Plans will outline any long term financial management and sustainability 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.

Shire of Coolgardie views and resolved position

SoC acknowledges that these proposals have merit.

SoC supports the proposal.

6.3 Rates and Revenue Policy

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

Shire of Coolgardie views and resolved position

SoC sees merit in this proposal especially where templates will be available for modification and of adoption.

SoC supports the proposal.

6.4 Monthly Reporting of Credit Card Statements

- The statements of a local government's credit cards used by local government employees will be required to be tabled at council at meetings on a monthly basis.
- This provides oversight of incidental local government spending.

Shire of Coolgardie views and resolved position

SoC currently requires the CEO credit card statement to be considered by the Audit Committee.

SoC has recently adopted more stringent controls over the use of corporate credit cards.

SoC supports the proposal.

6.5 Amended Financial Ratios

- Financial ratios will be reviewed in detail, building on work already underway by the DLGSC.
- The methods of calculating ratios and indicators will be reviewed to ensure that the results are accurate and useful.

Shire of Coolgardie views and resolved position

SoC supports the proposal.

6.6 Audit Committees

- To ensure independent oversight, it is proposed the Chair of any Audit Committee be required to be an independent person who is not on council or an employee of the local government.
- Audit Committees would also need to consider proactive risk management.
- To reduce costs, it is proposed that local governments should be able to establish shared Regional Audit Committees.
- The Committees would be able to include council members but would be required to include a majority of independent members and an independent chairperson.

Shire of Coolgardie views and resolved position

SoC does not currently have an independent member although consideration will be given soon to doing so.

Although the SoC is confident about obtaining the services of an independent Chair of the Audit Ctee, it is recognised that many small, regional or remote LGs will struggle to do so.

Similarly, the proposal that the majority of members of the Audit Committee (Ctee) should be independent members, will create particular problems and issues for some small and regional local governments.

Sharing an Audit Ctee has merit, although the logistics of doing so need some careful thought – separate meetings and agenda, or a single meeting with 2 parts to the agenda?

SoC does not support the proposal that a majority of the Audit Ctee be independent members, nor that every Audit Ctee have an independent Chair.

6.7 Building Upgrade Finance

- 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.

Shire of Coolgardie views and resolved position

SoC supports the proposal.

6.8 Cost of Waste Service to be Specified on Rates Notices

- It is proposed that waste charges are required to be separately shown on rate notices (for all properties which receive a waste service).
- This would provide transparency and awareness of costs for ratepayers.

Shire of Coolgardie views and resolved position

SoC notes the current arrangements regarding pensioner and senior rebates and assumes these proposed changes will not affect those arrangements.

There is merit from the standpoint of transparency, for separate rates and waste charges to be disclosed.

SoC supports the proposal.

If you wish to discuss this any further, please contact the undersigned on 9080 2111 or email mail@coolgardie.wa.gov.au

Yours sincerely,



Malcolm Cullen
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4 February 2022

cc CEO, WA Local Government Association info@walga.asn.au