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To whom it may concern

**Local Government Act Reform - Consultation**

Thank you for the opportunity for the City of Gosnells to provide feedback on the proposed reforms to the Local Government Act.

The reform proposals presented are generally high level concepts. Many of these concepts are considered beneficial to the effective operation of the Local Government sector and are supported in principle. However, the detailed legislative provisions which operationalise these concepts have the potential to generate inefficiencies in operation and increase red tape. Consequently, the City's submission conditionally supports many proposals as, until full details of the implementation proposals are known, it is not possible to provide unqualified support.

In light of this qualification, the City looks forward to further consultation on the proposals to operationalise the concepts, to ensure unintended consequences with negative effects are avoided. For example, the concept of the Local Government Standards Panel was to provide a swift and efficient mechanism for dealing with complaints within the sector. However, in operationalising the concept, the delivery of swift and efficient assessments was lost and, consequently, the Standards Panel is now proposed to be replaced.

The City's comments on specific proposals are attached.

Thank you for the opportunity for the City to provide comment.

Yours faithfully

**Ian Cowie PSM**  
Chief Executive Officer

(encl)



## Local Government Act Reform – Consultation Feedback

### Theme 1: Early intervention, effective regulation and stronger penalties

#### 1.1 and 1.3 Early Intervention Powers (*Local Government Inspector*)

#### 1.3 Conduct Panel

The City has advocated for an effective early intervention process that provides a timely response to disruptive and dysfunctional behaviours for several years. Historically, the Standards Panel has not demonstrated the ability to deal with such matters effectively. Consequently, the concepts of a Local Government Inspector and a new Conduct Panel are conditionally supported.

However, there is a lack of detail about the type of conduct to be investigated by this new Inspector. For instance, does it include discrimination, bullying or racial vilification? There are a range of bodies established to investigate and prosecute unlawful behaviour (such as the Police and the Corruption and Crime Commission). Providing additional resourcing to these bodies to specifically deal with unlawful behaviour in Local Government may represent a more efficient approach to creating a new investigative agency.

If the role of the Inspector is to investigate conduct which is considered poor but which is otherwise lawful, the extent of penalty applied will need careful consideration.

The establishment of the Local Government Inspector has the potential to encourage:

- vexatious complaints
- frivolous and nuisance complaints
- complaints from parties disaffected by Council decisions
- complaints about individual Councillors from parties with hidden (political) agendas
- complaints from parties with vested interests
- conspiratorial group complaints (false complaints) with unidentified motivations

Legislative provisions should be drafted to minimise these complaints.

#### 1.1 Early Intervention Powers

- ***Local Governments will remain responsible for dealing with minor behavioural complaints***

This proposal is strongly opposed as it reflects poor practice. That is, those directly involved in, or closely associated with a dispute are involved in the judgement process. This introduces bias, and almost certainly impacts negatively on procedural fairness and natural justice.



It is acknowledged that the State Government should not be responsible for dealing with, or paying for, the resolution of minor behavioural complaints within Local Government. However, the legislation should establish an alternative model for their resolution which provides objectivity and independence and which is operated by the sector rather than making individual local governments deal with their complaints with the inherent bias involved. The City would be happy to work with the Department to further develop this concept.

## **1.2 Local Government Monitors**

Conditionally supported.

## **1.5 Rapid Red Card Resolutions**

Providing the Mayor/President with additional powers to deal with disruptive behaviour is conditionally supported. However, the concept of a 'red card' is opposed as this trivialises the issue by reflecting a game or the treatment of children at a school.

## **1.6 Vexatious Complaint Referrals**

Vexatious complaints are a problem in Local Government and establishing a system to deal effectively with them is considered important. It may be worth considering a specific provision which grants the power to a CEO to determine vexatious complaints in accordance with set criteria to increase efficiency.

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## **Theme 2: Reducing red tape, increasing consistency and simplicity**

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### **2.2 Standardisation of Crossovers**

Conditionally supported.

### **2.3 Introduce Innovation Provisions**

Conditionally supported.

### **2.4 Streamline Local Laws**

Supported.



## 2.5 Simplifying Approvals for Small Business and Community Events

Conditionally supported.

## 2.6 Standardised Meeting Procedures, including Public Question Time

There is a degree of standardisation through current legislation. However, standardisation creates a one-size-fits-all situation which has created either inefficiencies or additional workloads across the sector. This is a problem the current legislative proposals are seeking to undo so it is important that similar problems are not created with these proposals.

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### Theme 3: Greater transparency and accountability

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#### 3.1 Recordings and Live-Steaming of all Council Meetings

The Minister's views on this are noted.

#### 3.1 Recordings and Live-Steaming of all Council Meetings

- ***Submitting confidential items to the DLGSC for archiving***

This proposal is opposed. If an Inspector, monitor or other authorised investigator wants access to evidence of activities associated with a confidential item, they should be able to get this evidence from the Local Government. The legislation should require Local Governments to archive their own confidential items. This would be much more efficient than using the Department as an archive repository.

#### 3.4 Additional Online Registers

The proposals are generally supported based on additional advice from the Minister about the information which will be captured in the registers.

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

This proposal is conditionally supported. It is noted that the City publishes both the CEO's KPIs and a high level assessment of the CEO's performance. Care is needed to ensure detailed performance assessment occurs within a standard HR environment (as occurs with Directors General) rather than in public.



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## **Theme 4: Stronger local democracy and community engagement**

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### **4.3 Introduction of Preferential Voting**

The Minister's views on this matter are noted.

### **4.4 Public Vote to Elect the Mayor and President**

The Minister's views on this matter are noted.

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

Conditionally supported.

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## **Theme 5: Clear roles and responsibilities**

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### **5.2 Greater Role Clarity**

Broadly supported.

### **5.3 Council Communications Agreements**

It is suggested that this proposal be supported through guidance notes rather than legislation.

### **5.4 Local Governments May Pay Superannuation Contributions for Elected Members**

It is suggested that the legislation establish a uniform position on superannuation for Elected Members for consistency.

### **5.5 Local Governments May Establish Education Allowances**

Conditionally supported.



## 5.6 Standardised Election Caretaker Period

This proposal is conditionally supported; however, clarification is required in relation to the comment that Councillors up for re-election are not to represent the local government. Would this prevent a Mayor whose term is coming to an end from undertaking civic and ceremonial duties during the caretaker period?

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## Theme 6: Improved financial management and reporting

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### 6.1 Model Financial Statements and Tiered Financial Reporting

Conditionally supported.

### 6.2 Simplify Strategic and Financial Planning

Supported.

### 6.3 Rates and Revenue Policy

This proposal is generally supported but the establishment of a simple and effective template will be critical.

### 6.6 Audit Committees

The proposal that Audit Committees contain a majority of independent members with an independent Chair is opposed. This significantly reduces the role of Elected Members. Further, no evidence is presented to demonstrate that Elected Members are not conducting this role effectively at present. As an aside, if independence is considered important here, it is even more important when adjudicating on minor behavioural problems.