



# **Local Government Reforms Public Conulstation**

CCIWA Sumbssion

**February 2022**

## Theme 1: Early Intervention, Effective Regulation and Stronger Penalties

CURRENT PROVISIONS	PROPOSED REFORMS	CCIWA COMMENTS
<b>1.1 Early Intervention Powers</b>		
<ul style="list-style-type: none"> <li>• 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"> <li>○ Suspend or dismiss councils</li> <li>○ Appoint Commissioners</li> <li>○ Suspend or, order remedial action (such as training) for individual councillors.</li> </ul> </li> <li>• The Act also provides the Director General with the power to:               <ul style="list-style-type: none"> <li>○ Conduct Authorised Inquiries</li> <li>○ Refer allegations of serious or recurrent breaches to the State Administrative Tribunal</li> <li>○ Commence prosecution for an offence under the Act.</li> </ul> </li> <li>• Authorised Inquiries are a costly and a relatively slow response to significant</li> </ul>	<ul style="list-style-type: none"> <li>• It is proposed to establish a Chief Inspector of Local Government (the <b>Inspector</b>), supported by an Office of the Local Government Inspector (the <b>Inspectorate</b>).</li> <li>• The Inspector would receive minor and serious complaints about elected members.</li> <li>• The Inspector would oversee complaints relating to local government CEOs.</li> <li>• Local Governments would still be responsible for dealing with minor behavioural complaints.</li> <li>• The Inspector would have powers of a standing inquiry, able to investigate and intervene in any local government where potential issues are identified.</li> <li>• 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.</li> </ul>	<p>CCIWA supports this reform.</p> <p>The Office of the Local Government Inspector, and Chief Inspector of Local Government must be independent, like other major integrity bodies in WA such as the Auditor General, the WA Ombudsman, the Commissioner of the Corruption and Crime Commission, and the Public Sector Commissioner.</p> <p>Ensuring independence would enhance ratepayers' confidence in the decisions made by the inspector.</p>

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<p>issues. Authorised Inquiries are currently the only significant tool for addressing significant issues within a local government.</p> <ul style="list-style-type: none"> <li>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.</li> </ul>	<ul style="list-style-type: none"> <li>The Inspector would have powers to implement minor penalties for less serious breaches of the Act, with an appeal mechanism.</li> <li>The Inspector would also have the power to order a local government to address non-compliance with the Act or Regulations.</li> <li>The Inspector would be supported by a panel of <b>Local Government Monitors</b> (see item 1.2).</li> <li>The existing Local Government Standards Panel would be replaced with a new <b>Conduct Panel</b> (see item 1.3).</li> <li><b>Penalties</b> for breaches to the Local Government Act and Regulations will be reviewed and are proposed to be generally strengthened (see item 1.4).</li> <li>These reforms would be supported by new powers to more quickly resolve issues within local government (see items 1.5 and 1.6).</li> </ul>	

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<b>1.6 Vexatious Complaint Referrals</b>		
<ul style="list-style-type: none"> <li>No current provisions.</li> <li>The Act already provides a requirement for Public Question Time at council meetings.</li> </ul>	<ul style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>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.</li> </ul>	<p>CCIWA supports this reform. However, the criteria used by the Inspectorate in determining whether a complaint is vexatious must be fair and clear.</p> <p>The Inspectorate must also have the capacity to require the local government to resolve the person’s complaint in the event it is not found to be vexatious.</p> <p>Businesses’ support for this reform would be further bolstered if it was also accompanied by measures to ensure Local Governments’ accountability for resolving complaints effectively and expeditiously (for example, requirements to report on metrics such as ‘time to resolve complaints’).</p>

## Theme 2: Reducing Red Tape, Increasing Consistency and Simplicity

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
<b>2.1 Resource Sharing</b>		
<ul style="list-style-type: none"> <li>The Act does not currently include specific provisions to allow for certain types of resource sharing – especially for sharing CEOs.</li> <li>Regional local governments would benefit from having clearer mechanisms for voluntary resource-sharing.</li> </ul>	<ul style="list-style-type: none"> <li>Amendments are proposed to encourage and enable local governments, especially smaller regional local governments, to share resources, including Chief Executive Officers and senior employees.</li> <li>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.</li> </ul>	<p>CCIWA supports this reform.</p> <p>Resource sharing arrangements should also cover large capital items such as waste management facilities, contracts and shared recreation services.</p> <p>However, there must be a requirement that any shared resourcing arrangements are underpinned by a business case that demonstrates positive economic, community and service outcomes, and that the assumptions made in developing the business case are validated.</p> <p>While the option to share a CEO may be suitable for some local governments, this may not be where the largest benefits could be created. Amendments should not de-prioritise enabling governments to share capital equipment and systems as opposed to senior staff.</p> <p>Consideration should be given to how these measures compliment or integrate with Regional Subsidiary arrangements.</p>
<b>2.2 Standardisation of Crossovers</b>		
<ul style="list-style-type: none"> <li>Approvals and standards for crossovers (the section of driveways that run between the kerb and private property) are inconsistent between local</li> </ul>	<ul style="list-style-type: none"> <li>It is proposed to amend the <i>Local Government (Uniform Local Provisions) Regulations 1996</i> to standardise the process for approving crossovers for residential</li> </ul>	<p>CCIWA strongly supports this reform.</p> <p>For businesses who operate across several jurisdictions small variations in regulations governing the same activity impose unnecessary costs on the business. These costs are compounded</p>

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<p>government areas, often with very minor differences.</p> <ul style="list-style-type: none"> <li>This can create confusion and complexity for homeowners and small businesses in the construction sector.</li> </ul>	<p>properties and residential developments on local roads.</p> <ul style="list-style-type: none"> <li>A Crossover Working Group has provided preliminary advice to the Minister and DLGSC to inform this.</li> <li>The DLGSC will work with the sector to develop standardised design and construction standards.</li> </ul>	<p>the smaller the business, because small businesses often do not have the scale, capacity or cashflow to effectively manage a broad range of minor variations across council areas.</p>
<h3>2.3 Introduce Innovation Provisions</h3>		
<ul style="list-style-type: none"> <li>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).</li> </ul>	<ul style="list-style-type: none"> <li>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"> <li>Short-term trials and pilot projects</li> <li>Urgent responses to emergencies.</li> </ul> </li> </ul>	<p>If this reform is progressed, it must be accompanied by assurances that the short-term trials and pilot projects fit inside a tightly defined risk criteria, and are time limited.</p> <p>This will ensure that any short-term trials and pilot projects driven by local government are not taking undue risks with ratepayers' money and that local government activities do not crowd out private enterprises.</p>
<h3>2.4 Streamline Local Laws</h3>		
<ul style="list-style-type: none"> <li>Local laws are required to be reviewed every eight years.</li> <li>The review of local laws (especially when they are</li> </ul>	<ul style="list-style-type: none"> <li>It is proposed that local laws would only need to be reviewed by the local government every 15 years.</li> </ul>	<p>CCIWA supports efforts to reduce inconsistencies across local laws, and removing unnecessary red-tape by sunseting laws that are not reviewed in a set timeframe.</p>

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<p>standard) has been identified as a burden for the sector.</p> <ul style="list-style-type: none"> <li>Inconsistency between local laws is frustrating for residents and business stakeholders.</li> </ul>	<ul style="list-style-type: none"> <li>Local laws not reviewed in the timeframe would lapse, meaning that old laws will be automatically removed and no longer applicable.</li> <li>Local governments adopting Model Local Laws will have reduced advertising requirements.</li> </ul>	<p>However, we have concerns with the specifics of this proposed reform, and in particular, the proposed length of time between reviews. That eight yearly reviews create a burden for the local government sector is not a sufficient argument for increasing the length of the review cycle, particularly given the far greater burden outdated local laws can often create for residents and businesses. If deemed unnecessary there should be no problem with laws lapsing or being removed in a shorter timeframe.</p> <p>We recommend the following adjustments, which would further encourage the adoption of standardised laws.</p> <p>For non-standard local laws, adopt a five-year review cycle with the laws being removed if not reviewed in that period.</p> <p>For standard local laws, increase the review cycle to 10 years.</p> <p>This process should also require local governments to justify the necessity of the local laws continuing. These justification thresholds should consider:</p> <ol style="list-style-type: none"> <li>Does the problem this local law was designed to fix still exist?</li> <li>If so, is the local law fixing the problem, and functioning as intended?</li> <li>Has the local law created unintended consequences that cannot be effectively mitigated?</li> </ol>

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<b>2.5 Simplifying Approvals for Small Business and Community Events</b>		
<ul style="list-style-type: none"> <li>Inconsistency between local laws and approvals processes for events, street activation, and initiatives by local businesses is frustrating for business and local communities.</li> </ul>	<ul style="list-style-type: none"> <li>Proposed reforms would introduce greater consistency for approvals for:               <ul style="list-style-type: none"> <li>alfresco and outdoor dining</li> <li>minor small business signage rules</li> <li>running community events.</li> </ul> </li> </ul>	<p>CCIWA strongly supports this reform.</p> <p>Consideration should be given to a 'negative regulatory approach' where all approvals in this category are approved in principle, if they fall within certain parameters.</p> <p>Additionally, the reforms should consider expanding standardised approvals processes to cover other low risk activities that are vital for vibrant local communities, such as mobile food businesses and minor change of use provisions.</p> <p>In addition, the reforms should consider what further planning exemptions made under the emergency management act in response to the COVID-19 pandemic could be made permanent.</p>
<b>2.7 Regional Subsidiaries</b>		



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<ul style="list-style-type: none"> <li>• Initiatives by multiple local governments may be managed through formal Regional Councils, or through less formal “organisations of councils”, such as NEWROC and WESROC.</li> <li>• These initiatives typically have to be managed by a lead local government.</li> <li>• 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>.</li> <li>• So far, no Regional Subsidiary has been formed.</li> </ul>	<ul style="list-style-type: none"> <li>• Work is continuing to consider how Regional Subsidiaries can be best established to: <ul style="list-style-type: none"> <li>○ Enable Regional Subsidiaries to provide a clear and defined public benefit for people within member local governments</li> <li>○ Provide for flexibility and innovation while ensuring appropriate transparency and accountability of ratepayer funds</li> <li>○ Where appropriate, facilitate financing of initiatives by Regional Subsidiaries within a reasonable and defined limit of risk</li> <li>○ Ensure all employees of a Regional Subsidiary have the same employment conditions as those directly employed by member local governments.</li> </ul> </li> </ul>	<p>We do not feel there is sufficient detail on this proposed reform to provide informed comment at this time.</p> <p>However, any reform should ensure that regional subsidiaries are not exempt from normal local government financing rules.</p> <p>In addition, consideration should be given as to whether regional subsidiaries are required if local government legislation is amended to enable the use of shared services. How these two reforms are intended to operate together is not clear.</p>

### Theme 3: Greater Transparency & Accountability

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
<b>3.4 Additional Online Registers</b>		
<ul style="list-style-type: none"> <li>Local governments are required to provide information to the community through annual reports, council minutes and the publication of information online.</li> <li>Consistent online publication of information can substitute for certain material in annual reports.</li> <li>Consistency in online reporting across the sector will provide ratepayers with better information.</li> <li>These registers supplement the simplification of financial statements in Theme 6.</li> </ul>	<ul style="list-style-type: none"> <li>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.</li> </ul> <p>The following new registers, each updated quarterly, are proposed:</p> <ul style="list-style-type: none"> <li><b>Lease Register</b> to capture information about the leases the local government is party to (either as lessor or lessee)</li> <li><b>Community Grants Register</b> to outline all grants and funding provided by the local government</li> <li><b>Interests Disclosure Register</b> which collates all disclosures made by elected members about their interests related to matters considered by council</li> <li><b>Applicant Contribution Register</b> accounting for funds collected from applicant contributions, such as cash-in-lieu for public open space and car parking</li> <li><b>Contracts Register</b> that discloses all contracts above \$100,000.</li> </ul>	<p>CCIWA supports this reform. More digitisation reduces red-tape for businesses, and higher levels of public disclosure increase local government accountability.</p> <p>More information should be made available online over time (e.g. metrics such as time to resolve complaints and time taken to process approvals).</p>

## Theme 4: Stronger Local Democracy and Community Engagement

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
<b>4.1 Community and Stakeholder Engagement Charters</b>		
<ul style="list-style-type: none"> <li>• There is currently no requirement for local governments to have a specific engagement charter or policy.</li> <li>• Many local governments have introduced charters or policies for how they will engage with their community.</li> <li>• Other States have introduced a specific requirement for engagement charters.</li> </ul>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• A model Charter would be published to assist local governments who wish to adopt a standard form.</li> </ul>	<p>CCIWA strongly supports this reform.</p> <p>Decisions made by local governments often have a very direct impact on their local businesses and residents.</p> <p>Taking their input into account in decision making processes is therefore imperative to making decisions that are in the best interests of rate-payers, as is effectively communicating the outcomes of decisions and reasons for them.</p>
<b>4.2 Ratepayer Satisfaction Surveys (Band 1 and 2 local governments only)</b>		
<ul style="list-style-type: none"> <li>• Many local governments already commission independent surveying consultants to hold a satisfaction survey of residents/ratepayers.</li> <li>• These surveys provide valuable data on the performance of local governments.</li> </ul>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• Results would be required to be reported publicly at a council meeting and published on the local government's website.</li> <li>• All local governments would be required to publish a response to the results.</li> </ul>	<p>CCIWA strongly supports this reform.</p> <p>These types of surveys provide an important and regular avenue for ratepayers to provide feedback on a local government's activity.</p> <p>To ensure that ratepayers fully see the value of these surveys, local governments once undertaking the survey must not only publish the results but also report on how and when they intend to address issues raised in the survey.</p>

## Theme 6: Improved Financial Management and Reporting

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
<b>6.3 Rates and Revenue Policy</b>		
<ul style="list-style-type: none"> <li>Local governments are not required to have a rates and revenue policy.</li> <li>Some councils defer rate rises, resulting in the eventual need to drastically raise rates to cover unavoidable costs – especially for the repair of infrastructure.</li> </ul>	<ul style="list-style-type: none"> <li>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.</li> <li>A Rates and Revenue Policy would be required to provide ratepayers with a forecast of future costs of providing local government services.</li> <li>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.</li> <li>A template would be published for use or adaption by all local governments.</li> <li>The <a href="#">Local Government Panel Report</a> included this recommendation.</li> </ul>	<p>CCIWA strongly supports this reform.</p> <p>CCIWA members highlight large and seemingly arbitrary rate rises by local governments as a major concern. Their perception is that local governments set their rates to cover desired and unnecessary expenses, as opposed to constraining their expenses to the current rate base.</p> <p>By ensuring greater accountability through transparency, this reform will ensure the latter approach becomes the norm and reduce the risk of businesses being impacted by large rate shocks designed to cover increasing costs that in the majority of cases could have been foreseen and appropriately managed.</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	COMMENTS
<b>6.7 Building Upgrade Finance</b>		
<ul style="list-style-type: none"> <li>The local government sector has sought reforms that would enable local governments to provide loans to property owners to finance for building improvements.</li> <li>This is not currently provided for under the Act.</li> <li>The Local Government Panel Report included this recommendation.</li> </ul>	<ul style="list-style-type: none"> <li>Reforms would allow local governments to provide loans to third parties for specific building improvements - such as cladding, heritage and green energy fixtures.</li> <li>This would allow local governments to lend funds to improve buildings within their district.</li> <li>Limits and checks and balances would be established to ensure that financial risks are proactively managed.</li> </ul>	<p>CCIWA does not support this reform.</p> <p>The reform expands the role of local government from the delivery of services to the provision of finance. The use of a local government's financial position to support the provision of loans that would not be provided through commercial channels raises concerns. Local governments do not have the expertise to deliver financial services, nor should they be able to risk ratepayer funding by providing concessional finance for projects that could not gain funding on the open market.</p> <p>All tiers of government can provide grants for specific activities, when the benefits to the community of doing so outweigh the costs.</p>