

## 11.1.2 CONDUCT OF 2023 LOCAL GOVERNMENT ORDINARY ELECTIONS

<b>Attachments:</b>	<a href="#">Appendix 1 Memorandum to Local Government CEOs on Election Arrangements</a> <a href="#">Appendix 2 Postal Vote Election Cost Estimate</a>
<b>Responsible Officer:</b>	<b>Steven Harding</b> <b>Chief Executive Officer</b>
<b>Author:</b>	<b>Joshua Brown</b> <b>Manager Governance, Risk and Procurement</b>
<b>Proposed Meeting Date:</b>	<b>24 February 2023</b>
<b>Location/Address:</b>	<b>N/A</b>
<b>Name of Applicant:</b>	<b>N/A</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>

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### REPORT PURPOSE

For Council to consider the appointment of the Western Australian Electoral Commissioner to conduct the 2023 ordinary local government elections in the District of East Pilbara, and the method by which the election is to be conducted.

### BACKGROUND

The next ordinary local government elections are scheduled for **21 October 2023**, and under the *Local Government Act 1995* (“the Act”), Council may determine the method by which the election is conducted: that is by postal election; or as a voting in-person election. The Act provides the following definitions:

**postal election** an election at which the method of casting votes is by posting or delivering them to an electoral officer on or before election day; or

**voting in person election** an election at which the principal method of casting votes is by voting in person on election day but at which votes can also be cast in person before election day, or posted or delivered, in accordance with regulations.

Council must also determine who is to be appointed returning officer, responsible for the conduct the election. Section 4.20 of the Act provides that in the event that a postal election is decided upon as the method of election, Council must appoint the Western Australian Electoral Commissioner to take responsibility for the conduct the election. Should Council determine to hold an in-person vote, the election may be conducted by the Electoral Commissioner, the Chief Executive Officer or some other approved person.

The determination of the method of election, and the appointment of the returning officer, must be completed on or before the eightieth day before the election is held – that is 1 August 2023. (The decision cannot be rescinded after this date). This report has been brought forward to the February 2023 ordinary council meeting in response to a memorandum received from the Hon John Carey MLA, Minister for Local Government, who has recommended that these questions be determined by councils by the March meetings. A copy of the Memorandum is attached as **Appendix 1**.

The 2023 ordinary elections will be for the offices of President and Councillors. The number of Councillors and the ward boundaries, are subject to the determination of the Local Government Advisory Board and the Minister for Local

## **APPOINTMENT OF WA ELECTORAL COMMISSIONER TO CONDUCT 2023** (Cont.)

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Government with respect to Council's Ward and Representation Review Proposal, which is expected to be in place well before the elections. Voting is not compulsory.

### **COMMENTS/OPTIONS/DISCUSSIONS**

Council has conducted postal elections since 2003, under the control of the Electoral Commission. At the last postal election in 2021, 498 voters participated out of an electorate of 2,614 electors.

In its report on the 2021 Local Government Ordinary Elections, the WA Electoral Commission noted that of all the country local governments:

**"[t]he Shire of East Pilbara was again the lowest [participation rate] in 2021 with 19.1%, compared to 21.9% in 2019".**

The average participation rate in country local government districts at the 2021 local government elections was 33.5%. The full report can be accessed at [https://www.elections.wa.gov.au/sites/default/files/2021\\_LG\\_Election\\_Report%20online%20vf.pdf](https://www.elections.wa.gov.au/sites/default/files/2021_LG_Election_Report%20online%20vf.pdf)

There advantages and disadvantages associated with both models.

#### Postal Election

Election packages, containing ballot papers, candidate information, return envelopes and general voting information, are posted by mail to all electors and provide a convenient method for most electors to vote should they choose to participate in the election. Once an elector has cast their vote, the completed ballot papers are placed in an Australia Post box for delivery to Perth for processing by the Electoral Commission, which must be appointed to run the election.

Postal elections are generally less costly than in-person elections, and are the preferred method of election for almost all local governments in Western Australia. The delivery and return of ballots relies upon an effective service from Australia Post.

The significant disadvantage of postal elections is that many remote communities are disenfranchised by having either no, or very limited Australia Post delivery services. In the past, the Shire has received notification of ballots not being received by electors, and completed ballot papers not being received by the Electoral Commission until after the declaration of the poll.

A further disadvantage of the postal election method, is that should an elector make an error and seek a replacement ballot, the elector must travel to a Shire administration office (or any other WA local government administration) for a replacement election package.

#### Voting in person Election

A voting in person election provides electors with the opportunity to cast their votes at a polling place as they would for a State or Federal election. In order to enfranchise the greatest number of electors' participation, it would be recommended that multiple polling places be established, including in Marble Bar, Newman and Nullagine and that a mobile polling service be provided for remote communities, possibly including Jigalong, Kiwirrkurra, Kunawarritji, Parnngurr, Punmu and Warralong.

## **APPOINTMENT OF WA ELECTORAL COMMISSIONER TO CONDUCT 2023** (Cont.)

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It is understood that other large remote local governments including Derby West Kimberley, Halls Creek and Menzies conduct voting in person elections to enable greater participation of remote communities.

Postal voting is still available for in person elections, although election packages must be requested.

In-person elections require additional resourcing, the costs of which will have to be budgeted in the 2023/24 budget, and for which suitable staff can be either seconded or recruited.

It should be noted there is no guarantee that an in person election would result in greater participation overall, which may possibly decline in absolute terms.

### Evaluation

Should Council determine that the method be an in person election, given this method has not been used by the Shire in recent time, it is recommended that the election performance be evaluated for reference by Council for when it next considers these questions for future elections.

### Appointment of WA Electoral Commissioner

Council must appoint a returning officer to conduct the elections in accordance with s.4.20 of the Act.

The Electoral Commissioner must be appointed as returning officer should Council approve a postal election as the method of voting. Should Council approve an in person election, the Council may appoint any of the following to conduct the election:

- WA Electoral Commissioner;
- Chief Executive Officer of the Shire of East Pilbara; or
- some other person, with their prior written agreement and the approval of the WA Electoral Commission.

The Electoral Commission is the State's independent agency responsible for the conduct of elections with established integrity measures and systems in place. Shire officers recommend the appointment of the Electoral Commissioner to conduct the election to promote confidence throughout the community of the integrity of the election process and ensure the necessary expertise is in place for the election.

The Electoral Commissioner has written to the Shire agreeing to be responsible for the conduct of the elections, in accordance with s.4.20(4) of the Act. The Commissioner's letter, which is attached as **Appendix 2**, also details the estimated cost of a postal election for the District at \$32,000 (including GST). At the time of writing the report, the Electoral Commission was preparing a cost estimate for the conduct of an in person election, which is anticipated to be considerably more expensive.

Shire Officers recommend that the Electoral Commissioner be declared as responsible for the conduct of the election, and that the method of election be by way of voting in person, to enable greater participation in the election of the Council for all electors, subject to a cost estimate up to \$60,000. Enfranchising

**APPOINTMENT OF WA ELECTORAL COMMISSIONER TO CONDUCT 2023**  
(Cont.)

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electors promotes participation in community decision making, and a culture of transparency and accountability in the governance practices of the Council.

Should the cost estimate exceed \$60,000, the matter will be referred back to Council for further consideration at the March 2023 ordinary meeting.

**OPTIONS**

1. Appoint the Electoral Commissioner to conduct a voting in person election, subject to a cost estimate up to \$60,000 or some other amount. This is the recommended option.
2. Appoint the Chief Executive Officer to conduct a voting in person election.
3. Appoint some other person to conduct a voting in person election, subject to approval by the Electoral Commissioner.
4. Appoint the Electoral Commissioner to conduct a postal election.

**STATUTORY IMPLICATIONS/REQUIREMENTS**

Recommendation is consistent with sections 4.20 and 4.61 of the *Local Government Act 1995*.

**POLICY IMPLICATIONS**

The recommendation is a departure from past Council decisions to conduct elections by postal vote. Past decisions are not binding and the reasons the recommendation has been made is to increase participation in elections and enfranchise remote communities and others to vote in the elections.

**STRATEGIC COMMUNITY PLAN****5: Governance**

## Governance

- G1 Vibrant local democracy, forward-thinking civic leadership, and transparent stewardship of the community's assets and resources.
- G1.1 Continued focus on good governance, transparency and community and stakeholder engagement in significant decisions, including place-based plans.
- G1.2 Facilitate collaboration and partnerships with industry and government in key issues for the Shire (such as transport, housing, economic development and tourism, social wellbeing, public spaces etc.).
- G1.3 Engage young people in civic leadership

**RISK MANAGEMENT CONSIDERATIONS**

Compliance – Moderate

Reputation – Moderate

**APPOINTMENT OF WA ELECTORAL COMMISSIONER TO CONDUCT 2023**  
(Cont.)

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**FINANCIAL IMPLICATIONS**

There are no current resources allocated, which will need to be considered as part of next budgetary process. The Electoral Commission provides the following estimates:

Postal ballot: \$32,000 (incl GST)

In-person election: To be confirmed by WAEC, but anticipated to be in the order of \$60,000.

**VOTING REQUIREMENTS**

Absolute Majority.

**OFFICER'S RECOMMENDATION**

That Council:

1. Pursuant to section 4.20(4) of the *Local Government Act 1995*, declares the Electoral Commissioner to be responsible for the conduct of the 2023 ordinary elections together with any other elections or polls which may be required for the District of East Pilbara;
2. Pursuant to section 4.61(2) of the *Local Government Act 1995*, determines that the method for conducting the 2023 ordinary elections for the District of East Pilbara is by way of a voting in person election, with multiple polling places, including in remote communities, subject to the cost estimate not exceeding \$60,000 (excl GST);
3. Authorises the Chief Executive Officer to bring the decision concerning the method of election back to Council, in the event the cost estimate exceeds \$60,000 (excl GST); and
4. Authorises the Chief Executive Officer to design and undertake an evaluation of election performance.



**Hon John Carey MLA**  
**Minister for Housing; Lands; Homelessness; Local Government**

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Our ref: 78-11008

3 February 2023

Dear Local Government Chief Executive Officers

**MEMORANDUM TO CHIEF EXECUTIVE OFFICERS**  
**ARRANGEMENTS FOR THE UPCOMING OCTOBER 2023 ORDINARY ELECTIONS**

As you know, the State Government is continuing to work with the local government sector to deliver the most significant package of local government reforms in more than 25 years. These reforms include several measures to strengthen local democracy and increase community engagement, including new requirements for:

- the introduction of optional preferential voting for all local government elections;
- directly-elected Mayors and Presidents for all Band 1 and 2 local governments;
- the abolition of wards for all Band 3 and 4 local governments; and
- aligning the size of councils with the size of the population of each district.

In September 2022, I wrote to all local governments to outline the implications of the reforms for each council, and pathways for implementing required changes. Since then, the majority of impacted councils have been working to consider how best to transition in changes. Many councils have since completed Ward and Representation Reviews, while others will have more substantial changes implemented through reform elections, or minor changes made to apply by default.

I would like to acknowledge and thank local governments for the constructive and proactive way they have approached this forward planning.

Further to my previous letter, the State Government is continuing to work to implement election reforms ahead of the October 2023 Ordinary Elections. The reforms will introduce Optional Preferential Voting (OPV) for all local government elections. OPV is similar to preferential voting used in State and Federal Elections, and for local government elections in every other Australian state. OPV provides that electors can preference as many or as few candidates as they decide, and there will be no transfer of preferences other than the preferences electors mark on their ballot paper.

The reforms will also include related new changes for the backfilling of vacancies, including:

- in the event that a member of the council is directly elected as the Mayor or President, the consequent vacancy can be filled by the next highest-polling candidate through the relevant district or ward council election held on the same day;
- if a vacancy arises within one year of a council member being elected at an ordinary election, that vacancy may be filled by the next highest-polling candidate; and
- the timeframes for which certain vacancies can remain unfilled ahead of an upcoming ordinary election will also be extended.

Together, these reforms will greatly reduce the need for extraordinary elections, saving costs for ratepayers and administrative burden for local governments in the longer term.

However, these changes will require specific attention on election night, and returning officers will need to identify the candidates who are next in line to fill further vacancies for inclusion on the declaration of results. Accordingly, I am writing to encourage all local governments to commence early planning for the practical arrangements for the conduct of the October 2023 Ordinary Elections.

As you would know, the council may declare the Electoral Commissioner as responsible to conduct postal elections under sections 4.20 and 4.61 of the *Local Government Act 1995* (the Act). Section 4.28 of the Act further provides that the local government is to meet the costs incurred by the Western Australian Electoral Commission (WAEC) in conducting such elections.

Alternatively, if council decides that the CEO (or other appointee) is to be the returning officer, local governments will have the option to purchase a licence for access to the WAEC's CountWA software to facilitate the counting of votes. CountWA software is used to count votes in State Elections, and involves data entry of preferences indicated on ballot papers. This provides for preferences to be counted and re-counted using the software.

If a local government decides to license the software instead of appointing the Electoral Commissioner to conduct the election, the CEO (or other appointee) will remain wholly responsible for the conduct of the count, the use of the software, the introduction of the new OPV counting and backfilling provisions, and dealing with any disputes or complaints. The WAEC will only be able to provide general assistance on accessing and using the software.

The WAEC will shortly be writing to all local governments to provide information for each council. The WAEC can also provide further information on each of these options. Please contact Phil Richards, Manager Election Events on 9214 0443 or at [Phillip.Richards@waec.wa.gov.au](mailto:Phillip.Richards@waec.wa.gov.au) if you have any queries.

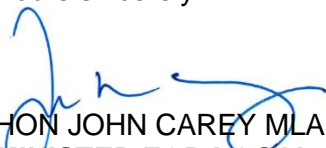
It is strongly recommended that the decision for whether to declare the Electoral Commissioner as responsible for your Ordinary Elections is put to Council at its March meeting. This will allow sufficient time for the WAEC to work with you to deliver the election, or provide you with a software licence, if preferred.

In considering potential arrangements, local governments should be mindful that the WAEC will require sufficient lead time to plan ahead. Accordingly, I strongly urge all local governments to make arrangements as early as possible, and consider the appointment of the WAEC to conduct the elections.

The Department of Local Government, Sport and Cultural Industries (DLGSC) is working closely with the WAEC to prepare further materials to assist local governments with the implementation of reforms. The DLGSC will provide further updates through LG Alerts to the sector and on the DLGSC's website. The DLGSC is also available to assist with any queries, including by email at [lghotline@dlgsc.wa.gov.au](mailto:lghotline@dlgsc.wa.gov.au) or by phone on 1300 762 511.

I have also written a letter to the Mayor or President of your local government, which contains the same information as this memorandum. That letter should be received shortly.

Yours sincerely



HON JOHN CAREY MLA  
MINISTER FOR LOCAL GOVERNMENT

LGE 028

Mr Steven Harding  
Chief Executive Officer  
Shire of East Pilbara  
PMB Box 22  
NEWMAN WA 6753

Dear Mr Harding

**Local Government Ordinary Election: 2023**

The next local government ordinary elections are being held on 21 October 2023. While this is still some distance in the future, I have enclosed an estimate for your next ordinary election to assist in your 2023/2024 budget preparations.

The estimated cost for the 2023 election if conducted as a postal ballot is \$32,000 inc GST, which has been based on the following assumptions:

- 3,100 electors
- response rate of approximately 30%
- 4 vacancies
- count to be conducted at the offices of the Shire of East Pilbara
- appointment of a local Returning Officer
- regular Australia Post delivery service to apply for the lodgement of the election packages.

An additional amount of \$675 will be incurred if your Council decides to opt for the Australia Post Priority Service for the lodgement of election packages.



The Commission is required by the *Local Government Act* to conduct local government elections on a full cost recovery basis and you should note that this is an estimate only and may vary depending on a range of factors.

Costs not incorporated in this estimate include:

- any legal expenses other than those that are determined to be borne by the Western Australian Electoral Commission incurred as part of an invalidity complaint lodged with the Court of Disputed Returns
- the cost of any casual staff to assist the Returning Officer on election day or night
- any unanticipated costs arising from public health requirements for the COVID-19 pandemic.

As you are aware, the Government is currently considering reforms to the *Local Government Act 1995*, which include how elections are to be conducted. In order to assist with your local government's budget planning, we have included, to the best of our knowledge, costs that will arise from the changes proposed in legislation. For example, if under the amendments your local government will be required to conduct a mayoral/presidential election this has been included.

Some local governments may also note an increase in costs from their 2021 ordinary costs. These include increases arising from inflation in recent years affecting salaries for Returning Officers and other staff, printing and packaging costs as well as the increase in postage announced by Australia Post. Additional costs from the Commission have been included arising from improved processing procedures and additional resources to supplement the Commission's education, complaints management, investigation and legal efforts.

In order for the Commission to be responsible for the conduct of your election, the first step required by the *Local Government Act 1995* is my written agreement to undertake the election.

As such, you may take this letter as my agreement to be responsible for the conduct of the ordinary elections in 2023 for the Shire of East Pilbara in accordance with section 4.20(4) of the *Local Government Act 1995*, together with any other elections or polls that may also be required. My agreement is subject to the proviso that the Shire of East Pilbara also wishes to have the election undertaken by the Western Australian Electoral Commission as a postal election.

In order to achieve this, your council would need to pass the following two motions by absolute majority:

- Declare, in accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the 2023 ordinary elections together with any other elections or polls which may be required
- Decide, in accordance with section 4.61(2) of the *Local Government Act 1995* that the method of conducting the election will be as a postal election.

It would be greatly appreciated if this item was considered at your March council meeting, to enable the Commission to have sufficient time to work with you to effectively conduct the election.

I look forward to conducting this election for the Shire of East Pilbara in anticipation of an affirmative vote by Council. If you have any further queries please contact Shani Wood Director, Election Operations on 9214 0400.

Yours sincerely



Robert Kennedy  
**ELECTORAL COMMISSIONER**

9 February 2023