

### 11.1.5 LOCAL GOVERNMENT REFORMS: ELECTION TRANSITION ARRANGEMENTS

Attachments:	<a href="#">Appendix 1 Ministerial Memo Change to Direct Election and Size of Council</a>
Responsible Officer:	Steven Harding Chief Executive Officer
Author:	Joshua Brown Manager Governance, Risk and Procurement
Proposed Meeting Date:	30 September 2022
Author Disclosure of Interest:	Nil

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### REPORT PURPOSE

For Council to consider its response to a memorandum from the Minister for Local Government of the intended transition arrangements for the popular election of the Shire President and reduction in the total number of elected councillors, as announced in the Western Australian Government's package of local government reforms.

### BACKGROUND

On 3 July 2022, the Hon John Carey MLA, Minister for Local Government, announced the final tranche of proposed local government reforms, which included the mandatory popular election of the President, and a reduction in the total number of councillors to a maximum of nine (9) for East Pilbara. (Districts with populations between 5,000 and 75,000 are limited to between five (5) and nine (9) elected councillors, including the President).

On 20 September 2022, the Minister wrote to the President and the Chief Executive Officer with details of the proposed timeline for the implementation of these changes in time for the October 2023 ordinary elections. A copy of the Minister's notice is attached as **Appendix 1**.

### COMMENTS/OPTIONS/DISCUSSIONS

The Minister's notice provides two pathways for impacted local governments to transition to the proposed arrangements for the election of the President and reduction in elected councillors. Both pathways will see the introduction of the reforms, with the voluntary option providing the current Council with oversight of the process. The second, the Reform Election Pathway will, by default see the decision making left to the Minister and/or the Department of Local Government, Sport and Cultural Industries ("the Department"), and the future Council of the next term. Both options will result in the introduction of popular election of the President, optional preferential voting, and a reduced number of councillors for the District of East Pilbara.

#### Voluntary Pathway

Local governments may commence the transition to electoral reform now so that the new arrangements are in place by the next ordinary election, due on Saturday, 21 October 2023. The current provisions of the *Local Government Act 1995* ("the Act")

allow for Council to initiate the first two steps: changing the method of election of the President, and determining the number of councillors and ward boundaries. Should Council choose the Voluntary Pathway, advice of this decision must be provided to the Department by Friday, 28 October 2022.

*Election of President*

Council may change the method of election of the President from election by the Council, to election by the electors of the District (section 2.11(2) of the Act).

*Determination of Ward Boundaries and number of Councillors*

Council may initiate a Ward and Representation Review now as the first step in the process to reduce the number of councillors to between 5 and 9 (section 2.2(3) and schedule 2.2 of the Act) and determine the ward boundaries going forward. A high-level plan should be formulated by Council and provided to the Department.

*Optional Preferential Voting*

This element will be introduced following the commencement of the Amendment Act.

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Should Council elect to take the Voluntary Pathway, the following steps must be undertaken before 28 October 2022 (which is the date of the next ordinary council meeting):

- Provide advice to the Department of Council's intention to undertake a voluntary process, including a high-level plan outlining the potential changes to be implemented for the ordinary elections to be held in 2023;
- Pass a resolution to change the method of electing the President to a direct vote by the electors of the District; and
- Initiate a Ward and Representation Review to determine the specific changes to the structure of the council for the 2023 and 2025 ordinary elections, to be completed and submitted to the Department by 14 February 2023. This will also require a Special Council Meeting to be held in January, and will be a very tight timeframe to meet.

Reform Election Pathway

The WA Government intends that each of the proposed changes will be implemented by the provisions of the Amendment Act, which means no action is required by a local government to effect the change in time for the 2023 ordinary elections. A local government may actively decide to take the Reform Election Pathway, or if no decision is made, this option will be activated by default.

*Election of President*

The method of election of the President will be automatically changed to a popular vote at the time the Amendment Act commences.

*Determination of Ward Boundaries and number of Councillors*

Prior to the ordinary election in October 2023, all councillor offices will be declared vacant and wards abolished, for the conduct of a district-wide election. The Minister's notice is not clear on the method of determining the number of councillors (between 5 and 9) to be elected at that ordinary election, nor on who will be

authorised to determine the number of councillors. Advice provided by the Department to officers preparing this report, indicated that a decision about the maximum number of councillors under the Reform Election Pathway option is yet to be determined. It is likely the Department will work with local governments to help determine the number of offices of council, which may include the local government making a submission to the Local Government Board.

Following the ordinary election in October 2023, the newly elected Council would then be able to consider whether to establish new wards, through a future Ward and Representation Review.

*Optional Preferential Voting*

This element will be introduced following the commencement of the Amendment Act.

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Should Council elect to take the Reform Election Pathway, the following steps must be undertaken before 28 October 2022 (which is the date of the next ordinary council meeting):

- Provide advice to the Department of Council's intention to undertake the Reform Election Pathway;

or

- Take no action.

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The following table provides a quick reference comparison between the two options available to Council:

Measure	Voluntary Pathway		Reform Pathway	
	Council	Minister	Council	Minister
Election of President by Popular Vote	√	No say	No say	√
Determination of Ward Boundaries for next election	√	No say	No say	√
Determination of number of Councillors	√	No say	No say	√
Introduction of Optional Preferential Voting	No say	√	No say	√
All Councillor positions declared vacant for 2023 Election	No say	No say	No say	√

Officer Recommendation

It is recommended that Council accepts the "Voluntary Pathway" to ensure the optimum number of councillors are in place for the 2023 ordinary election, to provide good representation for the different areas and community of such a large and diverse

District. This option provides the community and the existing Council with the opportunity to have its say on the ongoing level of community representation on the Council through a Ward and Representation Review, which will commence immediately. The alternative option is to accept the default position available through the "Reform Election Pathway", which will abolish ward representation, potentially reduce councillor numbers to five (5), and likely disenfranchise small and remote communities from appropriate representation on Council.

Should the officer recommendation be accepted, a high-level plan is to be agreed by Council and provided to the Department. It is recommended that Council adopt as its high level plan the following:

Conduct a half Council election at each of the October 2023 and October 2025 ordinary elections based on nine (9) Councillors and a ward system, subject to a Ward and Representation Review to be finalised by 14 February 2023.

### **STATUTORY IMPLICATIONS/REQUIREMENTS**

Recommendation is consistent with both the Minister for Local Government's proposed changes to the *Local Government Act 1995* ("the Act"), and the current provisions of sections 2.2 and 2.11, and schedule 2.2 of the Act.

### **POLICY IMPLICATIONS**

The recommended decision is a significant departure from the Council's established policy position in relation to the election of President by the Council, rather than by popular vote. However, the Minister has indicated that the change will take place irrespective of Council's view on the matter.

### **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.*

### **RISK MANAGEMENT CONSIDERATIONS**

There are no identified risk management considerations.

### **FINANCIAL IMPLICATIONS**

There are no current resources allocated to prepare for a Ward and Representation Review, which will need to be considered as part of next budget review.

### **VOTING REQUIREMENTS**

Absolute Majority.

**OFFICER'S RECOMMENDATION**

**That Council:**

- 1. Notes the Memorandum to Chief Executive Officers from the Hon John Carey MLA, Minister for Local Government dated 20 September 2022, instructing local governments of the two options available with respect to transitioning towards the proposed local government electoral reforms;**
- 2. Authorises the Chief Executive Officer to advise the Department of Local Government, Sport and Cultural Industries, of the Council's intention to undertake a voluntary process;**
- 3. Authorises the Chief Executive Officer to advise the Department of Council's high level plan to conduct a half Council election at each of the October 2023 and October 2025 ordinary elections, with nine (9) Councillors and a ward system, subject to the outcome of a Ward and Representation Review to be finalised by 14 February 2023;**
- 4. Pursuant to section 2.11(2) of the *Local Government Act 1995*, changes the method of filling the office of President used by the local government from the election by the council method to the election by the electors method;**
- 5. Authorises the Chief Executive Officer to initiate a Ward and Representation Review to determine the specific changes to the structure of the Council for the 2023 and 2025 ordinary elections, to be completed by 14 February 2023.**

**ABSOLUTE MAJORITY REQUIRED**



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

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Our Ref: 78-08502 (Category 4)

20 September 2022

Dear Local Government Chief Executive Officers

**MEMORANDUM TO CHIEF EXECUTIVE OFFICERS**  
**LOCAL GOVERNMENT REFORMS: ELECTION TRANSITION ARRANGEMENTS**  
**(ELECTION OF THE MAYOR OR PRESIDENT, AND CHANGES TO COUNCIL SIZE)**

On 3 July 2022, I announced the final package of proposed local government reforms, following a review of public submissions. As part of the reforms to strengthen local democracy and increase community engagement, new requirements will be introduced to provide for:

- The introduction of optional preferential voting;
- Directly elected Mayors and Presidents for band 1 and 2 local governments;
- Councillor numbers based on population; and
- The removal of wards for band 3 and 4 local governments.

Work on a Bill to amend the *Local Government Act 1995* (the Act) is ongoing, and a Bill is expected to be introduced into Parliament in early 2023.

Many of the reform proposals related to council representation are based on recent trends, and are intended to provide greater consistency between districts. Accordingly, for more than half of all local governments across Western Australia, the reforms will not require any specific change to the size or structure of the council.

However, the reform proposals do require some local governments to:

- Reduce the number of elected members on council in accordance with population thresholds; or
- Change from a council elected mayor or president to a directly elected Mayor or President (this reform affects only band 1 and 2 local governments); or
- Abolish wards (for band 3 and 4 local governments with wards); or
- Implement more than one of the above.

The Amendment Act will also provide that optional preferential voting will apply for all local government elections. As you may know, optional preferential voting means that all electors have the choice to number preferences for as many or as few candidates as they wish to.

I appreciate the significant interest in the reform proposals, and transitional arrangements for the upcoming 2023 ordinary elections. Many councils have expressed a proactive intent to implement reforms as early as possible.

I also acknowledge that, for some local governments, it may be desirable to implement changes to the size of the elected council over two ordinary election cycles.

**The Department of Local Government, Sport and Cultural Industries (DLGSC) has completed an initial review, and identified that your local government may need to change to the direct election of the Mayor or President, and reduce the number of council members under the proposed reforms.**

The Act already provides that local governments may:

- Resolve, by absolute majority of the council, to change the method of filling the office of the Mayor or President to a direct vote by the electors of the district, and
- Initiate proposals to change arrangements related to the size or structure of the council through a Ward and Representation Review.

Accordingly, I write to advise of two pathways your local government may consider for making these election transition arrangements.

### **Voluntary Pathway**

Your local government may formulate a plan to implement these changes on a voluntary basis. This pathway will require your local government to make the steps outlined below, and could involve staging any larger changes in the number of councillors over two ordinary elections. This pathway provides the greatest possible lead time to plan for next year's ordinary elections.

If your council wishes to undertake this process, it should, by 28 October 2022:

- Advise the DLGSC of its intention to undertake a voluntary process. This advice should include a high-level plan outlining the potential changes to be implemented for the ordinary elections to be held in 2023 (and in 2025, if applicable);
- Pass a resolution to change the method of electing the Mayor or President to a direct vote by the electors of the district under section 2.11(2) of the Act; and
- Initiate a Ward and Representation Review to determine the specific changes to the structure of the council for the 2023 and 2025 ordinary elections, to be completed by 14 February 2023.

I appreciate that significant effort is required to complete a Ward and Representation Review. The Ward and Representation Review would need to be initiated ahead of the 28 October 2022 date, and finalised by 14 February 2023, to ensure that the timeframes set out in the Act can be practically met. While the Ward and Representation Review can consider the size of the council, and any wards, any changes should not diverge from the proposed reforms.

Further information is attached to this letter to assist with this process.

### **Reform Election Pathway**

Alternatively, it is intended that the Amendment Act will provide for all changes to be implemented through reform elections in 2023. This pathway would provide that all of the council offices can be declared vacant, all wards (if applicable) can be abolished, and the number of council offices would be set based on the reform proposals.

Elections would then be held to fill all council offices, with a split between two and four year terms as might be necessary to re-establish an ordinary election cycle. The newly-elected council would then be able to consider whether to establish new wards, through a future Ward and Representation Review.

Your council may specifically decide to follow the Reform Election Pathway. If this is the council's intention, I request that you advise the DLGSC by 28 October 2022.

It is also intended that the Amendment Act will contain provisions for the Reform Election Pathway to apply if a local government:

- Does not advise of an intention to follow the Voluntary Pathway, or
- Decides to follow the Voluntary Pathway, but does not suitably complete a Ward and Representation Review by the dates outlined in this letter.

### **Next Steps**

In line with the above, I request that the council considers these matters, and provides formal written advice on the preferred pathway to the DLGSC by 28 October 2022. Given the timeframes already established in the Act, no extension to the dates specified in this letter will be possible.

The DLGSC is available to assist with these election transition arrangements. If you require any assistance, please contact Ms Julie Craig, Strategy and Research Officer, on 6552 7300 or at [advisoryboard@dlgsc.wa.gov.au](mailto:advisoryboard@dlgsc.wa.gov.au).

I have also written a formal 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**

Att: Timeline and steps – local government ward and representation reviews



## Timeline and steps – local government ward and representation reviews

The following steps will need to occur to allow all required local governments to meet the **30 June 2023** timeframe of publication in the Government Gazette of any proposed ward and representation review changes, ahead of the October 2023 local government elections. Please note that all stages that are currently followed for 'regular' reviews are included below.

Table 1 includes suggested timeframes which will need to be considered by all local governments that will be required to undertake a review ahead of the October 2023 elections.

All local governments should aim to have their completed reviews submitted to the Local Government Advisory Board (the Advisory Board) by no later than **14 February 2023**.

**Table 1 – proposed timeframes for local government actions**

<b>Due date (latest possible)</b>	<b>Requirements/actions</b>
28 October 2022	Council resolves to undertake a ward and representation review A comprehensive discussion paper is developed
December 2022	Completion of six week consultation period
December 2022 - January 2023	Draft review report is prepared, considered and adopted by council
14 February 2023	Formal review report is submitted to the Advisory Board

Please note that the above dates are suggestions only, as each council will have to consider their own calendars for their monthly meetings.

**Table 2 - Ward and representation review process – for local governments**

	<b>Existing requirements/actions</b>	<b>Timeframe</b>
1	The council resolves to undertake a ward and representation review	Variable
2	A comprehensive discussion paper is developed	Variable
3	Council advertises that it is conducting a review and the associated public submission period opens (minimum 6 weeks)	6 weeks
4	The discussion paper is made available to the community for consideration, and public submissions are invited on the matter	
5	Public submission period closes	
6	The Council assesses all submissions, considers options for change against the relevant factors to be considered, and drafts a report, which includes their decision, for the Local Government Advisory Board (the Advisory Board)	Variable
7	The formal report is presented to Council on the outcome of the public submissions and the proposed ward and/or boundary changes	Variable
8	Council resolves to adopt the report to the Advisory Board	Variable
9	The preferred option is submitted to the Advisory Board via the formal report, for the Board's consideration and recommendation	Variable
10	The Advisory Board considers the council's review report, and a recommendation is submitted to the Minister, which can either be accepted or rejected	Variable