



SPECIAL MEETING AGENDA

25 August 2020

NOTICE OF MEETING

A Special Meeting of the Shire of Cue

To be held on 25 August 2020

in the Council Chambers commencing at 6.30 PM

The purpose of the Meeting is to consider the following items:

- **Considering the Local Government Act Review Report and WALGA's response.**

Rob Madson

Chief Executive Officer

DISCLAIMER

The advice and information contained herein is given by and to the Council without liability or responsibility for its accuracy. Before placing any reliance on this advice or information, a written inquiry should be made to the Council giving entire reasons for seeking the advice or information and how it is proposed to be used.

Please note this agenda contains recommendations, which have not yet been adopted by Council.

SHIRE OF CUE

DISCLOSURE OF FINANCIAL INTEREST AND INTERESTS AFFECTING IMPARTIALITY

To: Chief Executive Officer

As required by section 5.65(1)(a) or 5.70 of the Local Government Act 1995 and Council's Code of Conduct, I hereby declare my interest in the following matter/s included on the Agenda paper for the Council meeting to be held on _____ (Date)

Item No.	Subject	Details of Interest	Type of Interest Impartial/Financial	*Extent of Interest

(see below)

* Extent of Interest only has to be declared if the Councillor also requests to remain present at a meeting, preside, or participate in discussions of the decision making process (see item 6 below). Employees must disclose extent of interest if the Council or Committee requires them to.

Name (Please Print)

Signature

Date

NB

1. This notice must be given to the Chief Executive Officer prior to the meeting or at the meeting immediately before the matter in which you have declared an interest is discussed, Section 5.65(1) (a) & (b).
2. It remains Councillors'/Employees' responsibility to make further declarations to the Council if a matter arises during the course of a meeting and no previous declarations have been made.
3. It is a Councillor's/Employee's responsibility to ensure the interest is brought to the attention of the Council/Committee when the Agenda item arises and to ensure that it is recorded in the minutes.
4. It remains the Councillor's responsibility to ensure that he/she does not vote on a matter in which a declaration has been made. The responsibility also includes the recording of particulars in the minutes to ensure they are correct when such minutes are confirmed.
5. It is recommended that when previewing Agenda, Councillors mark Agendas with items on which an interest is to be declared and complete the declaration form at the same time.
6. Councillors may be allowed to remain at meetings at which they have declared an interest and may also be allowed to preside (if applicable) and participate in discussions and the decision making process upon the declared matter subject to strict compliance with the enabling provisions of the Act and appropriately recorded resolutions of the Council. Where Councillors request consideration of such Council approval the affected Councillor must vacate the Council Chambers in the first instance whilst the Council discusses and decides upon the Councillor's application.

Remember: The responsibility to declare an interest rests with individual Councillors / Employees. If in any doubt seek legal opinion or, to be absolutely sure, make a declaration.

Office Use Only: Date/Initials

1. Particulars of declaration given to meeting _____
2. Particulars recorded in the minutes: _____
3. Signed by Chief Executive Officer _____

Local Government Act 1995 - SECT 5.23**Meetings generally open to the public**

5.23.(1) Subject to subsection (2), the following are to be open to members of the public:

- (a) All Council meetings; and
 - (b) All meetings of any committee to which a local government power or duty has been delegated.
- (2) If a meeting is being held by a Council or by a committee referred to in subsection (1) (b), the Council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following --
- (a) A matter affecting an employee or employees;
 - (b) The personal affairs of any person;
 - (c) A contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
 - (d) Legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;
 - (e) A matter that if disclosed, would reveal;
 - (i) A trade secret;
 - (ii) Information that has a commercial value to a person; or
 - (iii) Information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government;
 - (f) A matter that if disclosed, could be reasonably expected to;
 - (i) Impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
 - (ii) Endanger the security of the local government's property; or
 - (iii) Prejudice the maintenance or enforcement of a lawful measure for protecting public safety;
 - (g) Information which is the subject of a direction given under section 23 (1a) of the Parliamentary Commissioner Act 1971; and
 - (h) Such other matters as may be prescribed.
- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.

SHIRE OF CUE

REVOKING OR CHANGING DECISIONS MADE AT COUNCIL MEETINGS

Local Government (Administration) Regulations 1996 (**Regulation No.10**)

If a previous Council decision is to be changed then support for a revocation motion must be given by an **Absolute Majority** of Councillors (that is at least 4 Councillors) if a previous attempt to rescind has occurred within the past three months or, if no previous attempt has been made the support must be given by at least **1/3rd** of all Councillors (that is at least 4 Councillors).

Regulation 10(1a) also requires that the support for revocation must be in writing and signed by the required number of Councillors, including the Councillor who intends to move the revocation motion.

Any revocation motion must be carried by the kind of vote that put the motion into place in the first instance (that is, if carried originally by an Absolute Majority or Special Majority vote then the revocation motion must also be carried by that same kind of vote).

If the original motion was carried by a Simple Majority vote then any revocation motion must be carried by an Absolute Majority vote.

To the Presiding Member,

The following Councillors give notice of their support for the bringing forward to the Council meeting to be held on _____ of a motion for revocation of Council resolution number _____ as passed by the Council at its meeting held on _____

Councillor's Names

Councillor's Signature

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

**SHIRE OF CUE
Special Council Meeting
AGENDA**

To be held in the Council Chambers, 73 Austin Street Cue on
Tuesday 25 August 2020 commencing at 6:30pm

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1. DECLARATION OF OPENING

The Presiding Member welcomed those present and read the following disclaimer:

No responsibility whatsoever is implied or accepted by the Shire of Cue for any act, omission or statement or intimation occurring during this Meeting.

It is strongly advised that persons do not act on what is heard at this Meeting and should only rely on written confirmation of council's decision, which will be provided within fourteen (14) days of this Meeting.

PRESENT:

Councillor Ross Pigdon, Shire President

Councillor Les Price, Deputy Shire President

Councillor Ian Dennis

Councillor Ron Hogben

Councillor Leonie Fitzpatrick

Councillor Fred Spindler

Councillor Liz Houghton

STAFF:

Mr Rob Madson, Chief Executive Officer

Mr Richard Towell, Deputy Chief Executive Officer

GALLERY:

2. APOLOGIES AND APPROVED LEAVE OF ABSENCE

3. DISCLOSURE OF MEMBERS' INTERESTS

4. PUBLIC QUESTION TIME

5. CONFIRMATION OF MINUTES

6. APPLICATIONS FOR LEAVE OF ABSENCE

7. DEPUTATIONS

8. PETITIONS

9. ANNOUNCEMENTS WITHOUT DISCUSSION

10. REPORTS

10.1 LOCAL GOVERNMENT ACT REVIEW REPORT

APPLICANT: Shire of Cue
DISCLOSURE OF INTEREST: Nil
AUTHOR: Rob Madson - Chief Executive Officer
DATE: 21 August 2020

Matters for Consideration:

For Council to provide direction on developing a response to the Local Government Review Panel recommendations.

Background:

The final report of the Local Government Review Panel outlines recommendations to guide the development of a new Local Government Act for Western Australia. The report, by the Local Government Review Panel, follows on from significant legislative reforms passed by State Parliament last year, including mandatory training and a new gift declaration framework for all elected members.

The panel made 65 recommendations for the proposed legislation that are intended to focus on:

- Future-proofing local governments and promoting healthy, connected and engaged local communities.
- Integrity, inclusive local democracy, efficient service delivery and enhanced accountability across the local government sector.

The Local Government Professionals WA Policy and Legislative Review Committee, chaired by Ian Cowie, has reviewed the recommendations and provides preliminary comment for members' information and to assist them in developing any response to the Minister.

The Association will examine those recommendations it has not previously considered having a position on and provide a response to members and the Minister in that regard.

Comments:

The attachment at [Appendix 1](#) outlines the review panel's recommendations, WALGA's position, The Local Government Professionals WA Policy and Legislative Review Committee preliminary comments and concerns raised regarding recommendations.

Statutory Environment:

Local government Act 1995

Policy Implications:

Shire of Cue Policy Manual

Financial Implications:

Nil

Strategic Implications:

Nil

Consultation:

Nil

Officer's Recommendation:

Voting Requirement: Simple Majority

That Council provide direction on developing a response to the Local Government Review Panel recommendations.

Council Decision:

Voting requirement: Simple Majority

MOVED:

SECONDED:

APPENDIX 1

	Review Panel Recommendation	WALGA Position	LG Professionals WA Comments (preliminary, pending member consultation)	Concerns
1	The Panel recommends that the new Act be structured and drafted in such a way as to highlight the key strategic elements set out in Part A of this report, and that further consideration be given to the 'two Acts' options presented in Part A, at least as a transitional measure.	Support		
2	The Panel recommends the following statement of intent (vision) for a new Act: An Act to provide for a system of local government relevant to Western Australia that develops and supports sustainable, accountable, collaborative and capable local governments through democratic representation, the provision of services, opportunities and enhanced well-being for each and every community	Support		
3	The Panel recommends the adoption of the following objectives for a new Act: a. Democratic and accountable local government that recognises the diversity of and within Western Australia's communities. b. Recognition of the specific needs and culture of Western Australia's Aboriginal people. c. Promotion and improvement of the community's economic, social and environmental well-being. d. An adaptive and forward-looking legislative framework, which supports and enables councils to provide local leadership for the whole community, and to collaborate with each other and with other key stakeholders at a regional level. e. Open and transparent community participation in the decisions and affairs of local governments. f. Enhanced capability of the local government sector, with a focus on continuous improvement and sustainability. g. Efficient and effective service delivery and regulation that is responsive to current and future community needs.	Support		
4	The Panel recommends an Act that is considerably shorter, less prescriptive and minimises the use of regulations by establishing clear principles, robust processes, model charters, guidelines and templates.	Support	Shorter and less prescriptive legislation is considered valuable.	
5	The Panel recognises the diversity of local governments in Western Australia and supports a new Act which is responsive to this but does not recommend the adoption of a multi-tiered legislative framework.	Oppose	This policy position is welcomed but how this will occur is not explained. The multi-tiered legislative framework that the Association campaigned for has been rejected.	A multi-tiered legislative framework was widely promoted as a potential benefit of the Act review and would make a significant contribution to improving the sustainability of many local authorities. It is unrealistic to require the same compliance standards across the full gamut of local governments, moreso given the significant increase in the compliance load contained within the panel's recommendations.
6	The Panel recommends the inclusion of a statement of the role and principal functions of local governments that makes it clear their basic statutory responsibilities, retaining the overall power of general competency in the current Local Government Act.	Support		
7	The Panel recommends that the following overarching guiding principles are included in the new Act: To ensure the system of local government is sustainable, accountable, collaborative and capable, councils should: a. Provide democratic and effective representation, leadership, planning and decisionmaking; b. Be transparent and accountable for decisions and omissions; c. Be flexible, adaptive and responsive to the diverse interests and needs of their local communities, including the traditional owners of the land; d. Consider the long term and cumulative effects of actions on future generations; e. Ensure that, as a general rule, all relevant information is released publicly, readily available and easy to understand; f. Provide services in an equitable manner that is responsive and accessible to the diverse needs of the community; g. Seek to continuously improve service delivery to the community in response to performance monitoring; h. Collaborate and form partnerships with other councils and regional bodies for the purposes of delivering cost-effective services and integrated planning, while maintaining local representation of communities and facilitating community benefit; and i. Participate with other councils and with the State and Federal government in planning and delivery of services, setting public policy and achieving regional, State and Federal objectives.	Support		Decreeing that councils should consider the long term and cumulative effects of their actions on future generations is a very sweeping statement and may present a risk of triggering future litigation that should be addressed in drafting legislation.

	Review Panel Recommendation	WALGA Position	LG Professionals WA Comments (preliminary, pending member consultation)	Concerns
8	The Panel recommends: a. The Local Government Grants Commission and the Local Government Advisory Board should be combined into a single body responsible to the Minister and named the Local Government Commission, and including the functions of the Grants Commission in accordance with Commonwealth legislation. b. The role of the Local Government Commission should be to: (i) Provide recommendations on major local government boundary changes, amalgamations and other necessary reforms; (ii) Manage the distribution of Commonwealth grant funding to local governments in WA; and (iii) Monitor the overall health and performance of the local government sector by identifying key issues and trends, and advise the Government and sector peak bodies accordingly. c. Members should be appointed to the Local Government Commission on the basis of their skills rather than as representatives. d. The Local Government Commission should consider the financial viability of local governments in making recommendations to the Minister. e. The Minister and sector peak bodies should have the power to refer matters to the Commission for assessment and advice. f. The Commission should play an independent role in monitoring the capacity and the financial health of the sector in collaboration with the Auditor General. g. Minor boundary adjustments where both local governments agree should be handled by the department.	Support		
9	The Panel supports a legislative framework for a system of local government which promotes local democracy and has the in-built flexibility to enable different models of governance which facilitate community participation, provide for representation of the whole community, and for efficient and effective service-delivery for the community.	Conditionally support, but oppose any proposal to remove the poll provisions (Dadour provisions) in Clause 8, Schedule 2.1 of the Local Government Act;		
10	The Panel recommends that through their Partnership Agreement and the proposed Local Government Commission, State and local government consider options to facilitate structural reform that will strengthen the capacity and resilience of the local government system. Those options should include: a. Revised processes for boundary changes and mergers. b. Substantially increased cooperation between local governments through an enhanced model of joint subsidiaries. c. Provision for the establishment of community boards within local government areas.	Conditionally support, but oppose any proposal to remove the poll provisions (Dadour provisions) in Clause 8, Schedule 2.1 of the Local Government Act;	While the recommendation makes no specific proposals for change to facilitate amalgamations, a further consideration of options to deliver boundary changes and mergers is mentioned.	
11	The Panel recommends an additional legislative option for local governments to establish community boards.	Support	The formal establishment of community boards represents a new legislative concept. Supporting such boards could have significant workload implications for local government officers and increase complexity for senior officers who have to deal with two distinct bodies.	
12	The Panel recommends that the new Act should promote and mandate expanded regional cooperation between local governments by: a. Making increased collaboration a specific objective and principle. b. Providing an improved model of joint (regional) subsidiaries that can be used for strategic planning, resource sharing, shared services delivery and commercial enterprises (see also Recommendations 14 and 39). c. Requiring regional cooperation as part of IPR (see also Recommendation 35).	Support	Mandating cooperation diminishes local autonomy and could have significant workload implications for local government officers with, potentially, unclear benefits.	
13	The Panel recommends that consideration also be given to the potential need for a new form of 'regional authority' to enable collaboration on specific issues between governments and with other key stakeholders.	Support	It is unclear how such a 'regional authority' would operate and what role individual local governments would be asked to play	This should already be incorporated into the Mid West Development Commission's role.
14	The Panel recommends: a. The regional council model is discontinued. b. A flexible model of joint (regional) and single (local) subsidiaries be introduced in order to enable: (i) collaboration between local governments; and/or (ii) involvement of local government in economic development including commercial activities.	Support	This recommendation will have significant implications for employees of regional councils.	The panel has noted the need for appropriate transitional provisions for established regional councils. This would include the Murchison Regional Vermin Council.

	Review Panel Recommendation	WALGA Position	LG Professionals WA Comments (preliminary, pending member consultation)	Concerns
15	The Panel recommends that the new Act include a set of principles for intergovernmental relations that make clear local government's role and obligations as part of the broader system of government, and that underpin a range of ongoing arrangements such as the State Local Government Partnership.	Support	A clarification of role and obligations could be either beneficial or negative depending on what is contained in the clarification. This is not explained.	
16	The Panel recommends that the new Act recognises the unique status of Aboriginal people as traditional owners of the land and ensures that they are empowered to engage in decision-making in their local communities.	Support		The panel does not appear to have considered that Aboriginal people identify with different language groups/nations and may not be traditional owners of the land on which their local community is located. There is potential for creating division within the community between Aboriginal & Non-Aboriginal, and between Aboriginal language groups.
17	The Panel recommends that further consideration is given to the manner of recognition, and the options for inclusion, engagement and shared decision making between local governments and Aboriginal communities, through consultation with the Department of Premier and Cabinet and the Aboriginal Advisory Council of Western Australia, and with reference to practices in other states, the Northern Territory and New Zealand.	Support		
18	The Panel recommends further consideration is given to the issue of service delivery by local governments in remote communities, and appropriate adjustments to Integrated Planning and Reporting requirements.	Conditionally support, reiterate WALGA's current advocacy position that there be adequate funding of legislative responsibilities assigned to Local Governments in relation to service delivery to remote Aboriginal communities		
19	Optional preferential voting be adopted in place of the current first past the post system.	Conditionally support, support of a broad review of the property franchise including a community consultative process		Optional preferential voting encourages greater politicisation of local government elections and provides the potential for manipulation of the voting process in elections with a small voter turnout.
20	The principle of one vote per person be included in the legislation, subject to Recommendation 21 below	Oppose		
21	Property franchise voting should be replaced with the requirement for local governments to introduce mechanisms for regular and effective consultation with the business community.	Oppose		The panel notes that "If structures and processes are in place to ensure all segments of the community are engaged, there may no longer be a need to extend election franchise beyond residents of the district". This reflects the panel's focus on business owners and it is apparent that no consideration has been given to mining interests.
22	Local government elections are held once every four years, two years after but to otherwise accord with the timing of the State election.	Oppose		
23	All local government elections should be overseen by the Western Australian Electoral Commissioner.	Oppose	This recommendation runs counter to the request from Local Government Professionals WA that there be greater competition in terms of who can run an election. It will also take the conduct of elections away from local government officers and increase costs for smaller local governments.	
24	Provision in the new Act for electronic/online voting to be introduced in the future once the integrity of the process can be assured (including allowing for a pilot).	Support	The panel does not believe that electronic voting is currently mature enough to allow its introduction. This is disappointing and Local Government Professionals WA argued strongly for this policy position.	

	Review Panel Recommendation	WALGA Position	LG Professionals WA Comments (preliminary, pending member consultation)	Concerns
25	The Panel makes the following further recommendations in relation to elections: a. Postal voting be required, with lodgement of these votes to be allowed in person on and before election day. b. The election process extended to provide more time for the issuing and receipt of postal votes. c. The information local government candidates must provide at nomination should be expanded to ensure that adequate information is given for voters to make an informed decision. Candidate nomination forms should also include declaration of membership of a political party and these forms should be published and available during the election period.d. A caretaker policy should be introduced barring elected members up for re-election from representing the council at events, handing out council grants or donations and moving substantive notices of motion in the period before the election, and a requirement to comply with this policy should be included in the Code of Conduct. e. The donor and the candidate should co-sign each declaration of a gift made. f. Donations via crowd funding platforms should be regulated so far as possible.	Oppose (a). Support (b) to (f)	(d) - Such a policy is likely to have implications for a number of local governments. Further, as penalties are not attached to breaches of the Code of Conduct, it is difficult to see how the caretaker policy proposal will be effective. Under these circumstances, additional pressure is likely to be placed on local government senior officers.	Item (d) proposes barring elected members up for re-election from certain functions, as recommendation 22 proposes a four yearly election cycle, this would apply to every Councillor.
26	In respect to elected member representation, the Panel recommends: a. Population should be used to determine the number of elected member positions: (i) Population of up to 5,000 – 5 councillors (including President). (ii) Population of between 5,000 and 75,000 – 5 to 9 councillors (including Mayor/President). (iii) Population of above 75,000 – 9 to 15 councillors (including Mayor). b. Ward boundary reviews, to ensure equitable representation is maintained, should be conducted every four years by the Office of the Electoral Distribution Commissioners, with the support of the WAEC and should be conducted using similar processes and principles that are in place for state electoral boundaries as contained in the Electoral Act 1907. c. Current classification bands 3 and 4 should not have multiple wards unless the Local Government Commission permits it in the interests of ensuring local democracy is enabled in certain communities. d. The changes to wards and elected member numbers due to the above recommendations should be phased in.e. With the introduction of four-year elections, council elected mayors/presidents should be elected for two-year terms. f. No restriction should be placed on the number of terms an elected member or mayor/president can serve.	Oppose (c). Support (b) , (d), (e) & (f). Conditionally support (a), conditional upon a review of the relative benefits and merits of changes to reduce numbers of Elected Members on Council be supported, on the following basis: o Populations up to 5,000 – 5 to 7 Councillors (incl. President) o Populations between 5,000 and 75,000 – 5 to 9 Councillors (incl. Mayor/President) o Populations above 75,000 – up to 15 Councillors (incl. Mayor)	(b) - Currently, such reviews are required every eight years and are undertaken by the local government. This will take some pressure away from local government officers who may currently be required to undertake the reviews but the increased frequency will add to local government costs.	A Council of 5 members would be unworkable. If 2 Councillors were absent from a meeting, the power to determine both simple and absolute majority decisions could rest with an individual who could effectively hold the Council to ransom. Further, there are many examples throughout the state where several neighbouring shires could amalgamate and still not reach a population of 5000. The potential loss of representation would become a barrier to any amalgamation proposal, particularly given the proposal to also remove wards in Councils in that population bracket. The proposal for ward boundary reviews to be conducted more frequently and by external agencies presumably commits local government to funding the additional expenditure, which will be significant.
27	The Panel recommends further consideration should be given to strengthening the provisions of the City of Perth Act to reflect the unique role the City of Perth plays in the development of the State economy. In addition, consultation should be undertaken with the City of Perth and other relevant stakeholders as to whether property franchise voting should be retained in the City of Perth.	Oppose		
28	The Panel recommends significant changes in the Act to the current statements of roles and responsibilities for mayors/presidents, councillors and CEOs and that the Act should include a new statement of responsibilities for the 'council' which captures the roles and responsibilities of all councillors acting collectively as the council.	Support	These changes could have a very significant impact on local government officers. Any significant change requires further explanation about what is intended.	

	Review Panel Recommendation	WALGA Position	LG Professionals WA Comments (preliminary, pending member consultation)	Concerns
29	<p>The Panel recommends the following as the role of council: The council — (a) considers the diversity of interests and needs of the local community; (b) is accountable to the community for the local government’s performance; (c) ensures adequate opportunities and mechanisms for engagement with the local community; (d) ensures the timely development and adoption of the strategic plans, programs and policies of the council and promotes the effective and consistent implementation of these; (e) develops and adopts strategic plans and a budget for the local government; (f) keeps the local government’s resource allocation, expenditure and activities and the efficiency and effectiveness of its service delivery, under review; (g) provides strategic direction to the CEO in order to achieve high-quality administration and performance of the local government’s functions in accordance with the Local Government Act and local government’s policies; (h) carries out an annual performance review of the CEO and in agreement with the CEO adopts Key Performance Targets for the following year; (i) provides a safe working environment for the CEO, officers and councillors; (j) reviews annually the delegations of the council; and (k) performs such other functions as are given to a council by this Act or any other written law.</p>	Support		
30	<p>The Panel recommends the following as the role of councillors: A councillor — (a) without bias represents the current and future interests of all people who live, work and visit the district; (b) provides leadership and guidance to the community in the district; (c) facilitates communication between the community and the council; (d) accurately represents to the community the policies and decisions of the council; (e) participates in the development of strategic plans; (f) must be prepared to – (i) participate with an open mind in the local government’s decision-making processes; (ii) be an active and contributing member of the council; and (iii) make considered and well-informed decisions; (g) makes all reasonable efforts to acquire and maintain the skills necessary to perform the role of councillor; and (h) performs such other functions as are given to a councillor by this Act or any other written law.</p>	Support		<p>A significant change has been proposed to the role of a Councillor with regard to the people they represent. Where this is currently defined to be electors, ratepayers and residents, the proposal is for this to now be all people who live, work and visit the district. This recommendation also proposes that councillors represent people's current and future interests. In an increasingly litigious society, the potential risk of this triggering future litigation should be considered when legislation is drafted.</p>
31	<p>The Panel recommends the following as the role of the mayor/president: In addition to the responsibilities of a councillor, the mayor or president — (a) provides leadership and guidance to the community in the whole district; (b) carries out civic and ceremonial duties on behalf of the local government; (c) acts as the principal spokesperson on behalf of the council and explains and upholds the decisions of the local government; (d) encourages good working relations between councillors, and between the council and the CEO; (e) provides guidance to councillors about what is expected of a councillor including in relation to: (i) the role of a councillor; (ii) the councillor code of conduct; and (iii) standing orders (f) liaises with the CEO on the local government’s affairs and the performance of its functions; (g) presides at meetings in accordance with this Act; (h) leads the development of strategic plans; (i) promotes partnerships between the council and key stakeholders; (j) leads and facilitates the presentation of the annual Council budget; 28 P a g e (k) initiates the annual performance appraisal of the CEO; and (l) performs such other functions as are given to the mayor or president by this Act or any other written law.</p>	Support		

	Review Panel Recommendation	WALGA Position	LG Professionals WA Comments (preliminary, pending member consultation)	Concerns
32	The Panel recommends the following as the functions of the CEO: (1) The CEO's functions are to — (a) advise and assist the council in relation to the functions of a local government under this Act and other written laws; (b) ensure that timely and accurate advice and information is available to the council so that informed decisions can be made; (c) ensure that the mayor and other councillors are given the administrative and professional support necessary to effectively discharge their role; (d) advise the council on appropriate forms of community engagement; (e) advise and consult the mayor and council on the development and implementation of the strategic plans, programs, strategies and policies of the council; (f) prepare, in consultation with the mayor and council, the draft budget; (g) ensure that the policies and lawful decisions of the council are implemented in a timely and efficient manner; (h) conduct the day-to-day management of the local government in accordance with the strategic plans, programs, strategies and policies of the council; (i) ensure the effective and efficient management of the local government in a way that promotes — (i) the effective, efficient and economical management of public resources; (ii) excellence in service delivery; and (iii) continual improvement; (j) maintain systems to enable effective planning and accurate reporting of the financial and service performance of the local government to the council and community; (k) speak publicly on behalf of the local government when approved by the mayor or president to do so; (l) be responsible for the employment and management of local government employees, except with respect to the position of CEO, through management practices that — (i) promote equal employment opportunities; (ii) are responsive to the local government's policies and priorities; and (iii) provide a safe working environment; 29 Page (m) ensure the local government complies with this Act and any other written law; (n) ensure that records, proceedings and documents of the local government are properly kept for the purposes of this Act and any other written law; and (o) perform any other function specified or delegated by the council or imposed under this Act or any other written law as a function to be performed by the CEO. (2) The CEO must inform and consult the council when determining, or making, significant changes to — (a) the organisational structure for the staff of the local government; or (b) the processes, terms or conditions that are to apply to the appointment of senior executive officers; or (c) the appraisal scheme that is to apply to senior executive officers.	Oppose 2 (b) & (c). Support 1 (a) to (o) and 2 (a)	The functions suggested for CEOs appear reasonable on initial review.	While admirable, consideration should be given to the potential financial impact on a local government when CEOs are not only given a mandate to, but are required to, strive for "excellence in service delivery".
33	The Panel recommends that the following community engagement principles should be included in the new Act: a. Councils actively engage with their local communities; b. Councils are responsive to the needs, interests and aspirations of individuals and groups within its community; c. Community engagement processes have clearly defined objectives and scope; d. Participants in community engagement have access to objective, relevant and timely information to inform their participation; e. Participants in community engagement are representative of the persons and groups affected by the matter that is the subject of the community engagement; f. Participants in community engagement are entitled to reasonable support to enable meaningful and informed engagement; and g. Participants in community engagement are informed of the ways in which the community engagement process will influence council decision-making.	Support		The requirement for councils to be "responsive to the needs, interests and aspirations of individuals and groups within its community" needs clarity. Some individuals and groups hold positions that are at odds with the general well being of the community.
34	The Panel recommends a Community Engagement Charter be required as a mechanism for guiding and enhancing community participation in local decision-making, and that a model charter be prepared to set parameters and provide guidance on mechanisms to be used.	Support		
35	The Panel recommends the Annual Electors' Meeting is replaced by an Annual Community Meeting whereby: a. As a minimum, councils provide information on their achievements and future prospects; b. Councils report on the local government's financial performance and performance against relevant Council Plans; c. Both the mayor/president and the Chair of the Audit Committee address the meeting; d. There is ample time for questions; and e. Wider community participation is encouraged through different delivery mechanisms.	Oppose	Rather than eliminating such meetings, as Local Government Professionals WA proposed, the new recommendation could increase the prominence of these meetings.	

	Review Panel Recommendation	WALGA Position	LG Professionals WA Comments (preliminary, pending member consultation)	Concerns
36	<p>The Panel recommends the following IPR Principles are included in the new Act: a. Councils plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services to meet the diverse needs of the local community; b. Strategic planning identifies and incorporates, where appropriate, regional, State and Federal objectives and strategies concerning the economic, social, physical and environmental development and management of the community; c. Strategic planning addresses the community's vision; d. Strategic planning takes into account the resources needed for effective implementation; e. Strategic planning identifies and addresses the risks to effective implementation; and f. Strategic planning is a key accountability tool that provides for ongoing monitoring of progress and regular reviews to identify and address changing circumstances.</p>	Support		
37	<p>The Panel recommends: a. IPR be given greater prominence in the new Act as the centrepiece of 'smart' planning and service delivery. b. The new Local Government Commission and the department should take steps to improve understanding and skills across the sector to ensure consistent implementation of IPR requirements. c. IPR provisions in the Act should be expanded to include the issues currently covered in the regulations (suitably updated in accordance with these recommendations). d. IPR provisions and guidelines should be amended to, amongst other things – (i) Highlight the central goal of advancing community well-being (economic, social, cultural and environmental). (ii) Replace the current requirement for a Strategic Community Plan with a more flexible framework for 'Community Strategies'. (iii) Reframe Corporate Business Plans as broader 'Council Plans' prepared by each incoming council. (iv) Mandate deliberative community engagement in the preparation of both Community Strategies and Council Plans. (v) Require a 'regional issues and priorities' section within Council Plans, to be prepared in consultation with neighbouring/nearby local governments. e. Provision should be made for a baseline reporting system as part of the IPR framework, and local governments should be required over time to report against a 32 Page wider range of performance measures covering financial management, service delivery, governance and community wellbeing. f. Annual reports should include a statement of performance against the objectives, programs and projects set out in Community Strategies and Council Plans. g. The Audit, Risk and Improvement Committee (see Recommendations 53 and 54) should monitor the local government's performance in implementing the IPR framework, including compliance with relevant statutory obligations, and report its assessment to the community (for example, as an addendum to the council's annual report and/or as a statement to the Annual Community Meeting proposed in Recommendation 35). h. That all IPR plans be reviewed every four years (to align with the new election cycle), two years or one year depending on the plan.</p>	Support		
38	<p>The Panel recommends: a. As a minimum, local governments must seek to identify and provide, or offer, to all its citizens, a minimum level of services to meet statutory obligations. b. The Minister should have the power to direct a local government if it fails to provide or offer these services. c. The new Act should incorporate financial sustainability principles which also link to the IPR framework. d. Local government services and programs should be aligned to the IPR framework. e. Local governments conduct regular reviews of services and service levels including community consultation.</p>	Oppose (a) & (b). Support (c), (d) & (e)		<p>The report notes "The Panel strongly believed that all citizens in Western Australia are entitled to a minimum level of service delivery, whether it be a metropolitan local government or a remote community". It is a valid point, however local government should not be held accountable to this provision when the same can't be said of State Government service delivery.</p>
39	<p>The Panel recommends local governments should continue to play an active role in economic development at both local and regional levels. The IPR framework should encourage local governments to be cognisant of State Government plans when developing strategies for economic development.</p>	Support		

	Review Panel Recommendation	WALGA Position	LG Professionals WA Comments (preliminary, pending member consultation)	Concerns
40	The Panel recommends that the new Act should provide the freedom for local governments to be involved in commercial activities where it is in the public interest and subject to competitive neutrality principles.	Support		Strict adherence to competitive neutrality principles may hinder a local government's ability to assist communities financially disadvantaged by retail monopolies.
41	The Panel recommends that 'beneficial enterprises' not be introduced as a new mechanism for local government commercial activities, but that instead an updated and more flexible subsidiary model should provide for the following: a. Local government autonomy to establish a single or joint subsidiary to: (i) Carry out any scheme, work or undertaking on behalf of the council; (ii) Manage or administer any property or facilities on behalf of the council; (iii) Provide facilities or services on behalf of the council; and/or (iv) Carry out any other functions on behalf of the council. b. The subsidiary to be established through a charter. c. The charter to be certified by an independent and suitably experienced legal practitioner as within power and National Competition Policy. d. Public notice of the proposal to establish the subsidiary to ensure that there are no private operators that would be significantly disadvantaged. e. The subsidiary to be able to undertake commercial activities (within the limits of competitive neutrality and a thorough risk assessment). f. The subsidiary to have the ability to acquire, hold, dispose of or otherwise deal with property. g. Dividends able to be paid to member local governments. h. The requirement for employees of the subsidiary to be employed under the same award or agreement conditions as the relevant local government/s and within the jurisdiction of the Western Australian Industrial Relations Commission. i. No requirement for ministerial approval at the outset, but reserve powers for the Minister for Local Government to intervene if issues arise should be included.	Oppose (h). Support (a) to (g) & (i)	Local Government Professionals WA argued that the Act should be amended to allow councils to establish bodies corporate for commercial activities. The recommendation rejects this idea.	
42	The Panel recommends local governments should utilise the subsidiary models and, as a general rule, should not form entities outside this, such as under the Associations Incorporation Act, except as a means of establishing or maintaining partnerships with other local or regional organisations in those instances where the local government is not the dominant party.	Support		
43	The Panel recommends the following financial management principles be included in the new Act: a. Councils should have regard to achieving intergenerational equity, including ensuring the following: (i) Policy decisions are made after considering their financial effects on future generations; (ii) The current generation funds the cost of its services; and (iii) Long life infrastructure may appropriately be funded by borrowings. b. Revenue, expenses, assets, liabilities, investments and financial transactions are managed in accordance with the council's financial policies and strategic plans; c. Financial risks are monitored and managed prudently having regard to economic circumstances; d. Financial policies and strategic plans, including the Revenue and Rating Strategy and Investment policy, seek to provide stability and predictability in the financial impact on the community; and 36 Page e. Accounts and records that explain the financial operations and financial position of the council are kept.	Support		
44	Having regard to the need for sound financial decision-making and accountability, the Panel recommends the following: a. Local governments should be required to adopt or justify departures from a model investment policy to the Audit, Risk and Improvement Committee and relevant State Government Agency. b. Local governments should be able to use freehold land to secure debt. c. Debt should not be used for recurrent expenditure except in an emergency situation. d. Notice should continue to be required to be given for borrowings not included in the local government's annual budget. e. Building upgrade finance is permitted for specific purposes such as cladding, heritage and green improvements. f. Local governments should adopt program budgeting to more clearly show the actual cost of delivering a service or undertaking an activity. g. Local governments should report on the percentage of their expenditure spent on local businesses in their annual report.	Support		

	Review Panel Recommendation	WALGA Position	LG Professionals WA Comments (preliminary, pending member consultation)	Concerns
45	The Panel recommends that local government procurement thresholds, rules and policies are, where applicable, aligned with the State Government, including (but not limited to): a. Tender threshold (currently \$250,000); b. Procurement rules and methods for goods and services under the tender threshold; c. Procurement policies, including sustainable procurement, procuring from disability enterprises, buy local (where 'local' refers to Western Australia or a specific region of the state determined by the local government) and Aboriginal businesses; and d. Using TendersWA as the primary tender platform.	Support	While an increased tender threshold was supported by Local Government Professionals WA, it is unclear what new rules and methods would be introduced under this recommendation.	
46	The Panel recommends the development of a model procurement policy for all local governments. If a local government chooses to deviate from the policy it should be required to explain its reasoning to the responsible State Government agency.	Support	This reflects a one size fits all approach and could have a significant impact on those working in smaller local governments.	A model procurement policy developed for all local governments is likely to be unworkable in remote areas where vendors are scarce.
47	The Panel recommends enhancing legislation to regulate and guide the establishment and management of panel contracts.	Support		
48	The Panel recommends a requirement for local governments to have an open register of local businesses with local governments determining what is considered 'local' to their community.	Support	The report suggests that it will be up to local governments to determine what is considered 'local' to their community. This will place additional work on local government officers to establish and maintain a register.	
49	The Panel recommends breaches of the local government procurement rules to be referred to the Office of the Independent Assessor to use the appropriate powers under the new Local Government Act.	Support		
50	The Panel recommends: a. Rate capping should not be introduced. b. Local governments should be required to develop and publish a rates and revenue strategy, that would amongst other things replace the need to have fees and charges set in the annual budget. c. The Economic Regulatory Authority (ERA) should be asked to undertake a review of the rating system, including a thorough examination of the case for the current wide range of exemptions. d. The current rates exemptions should be retained until after the ERA review. e. Property owners seeking an exemption should be regularly required to prove they meet the criteria for an exemption. f. Local governments should charge a separate waste charge applying to all properties which have a waste service, including exempt properties. 39 P a g e g. The Valuer General should be asked to undertake a review of the rating methodology with the aim of smoothing out significant fluctuations in valuations.	Support	(d) - Local governments have long campaigned for a more appropriate system of rate exemptions. The panel has postponed a recommendation on this matter until a review is undertaken by the Economic Regulation Authority.	
51	The Panel recommends that local governments should be able to set reasonable fees and charges according to a rating and revenue strategy, with the oversight of the Audit, Risk and Improvement Committee.	Support		Responsibility for determining what is a reasonable fee is not addressed and requires clarification.
52	The Panel recommends that local governments and State Government apply cost recovery principles when setting fees and charges.	Support	While a State Government application of cost recovery principles to statutory fees and charges would be welcome, limiting a local government's fees and charges to cost recovery will be inappropriate in certain circumstances. Currently, the Act requires local governments to consider cost when setting fees and charges but the amount a local government sets is generally not limited to cost.	
53	The Panel recommends the role of audit committees be expanded to become Internal Audit, Risk and Improvement Committees and: a. The majority of the Committee members, including the Chair, should be independent of the local government and should be drawn from a suitably qualified panel. b. To address the impost on small local governments, the committee could be established on a regional basis.	Oppose (a) & (b)	This could have a significant impact on local government officers who support these committees. The requirement to have the majority of the committee as 'independent' members reduces the role of Councillors.	This recommendation usurps the governing role of council by handing control of the proposed Internal Audit, Risk and Improvement Committee to external parties. It is undemocratic and should be resisted.

	Review Panel Recommendation	WALGA Position	LG Professionals WA Comments (preliminary, pending member consultation)	Concerns
54	The Panel recommends the main roles of the Audit, Risk and Improvement Committee should include: a. Developing an audit plan which focuses on compliance, risk (including procurement), financial management, fraud control, governance and delivery of the Council Plans; b. Identifying continuous improvement opportunities and monitoring programs and projects in this area; c. Conducting the mandatory internal audits as outlined in the audit plan; and d. Providing advice to the council in relation to these matters.	Support	(c) - It is unclear how a committee will actually conduct an audit. These internal audits are normally undertaken by staff or consultants who report to the Audit Committee: an approach which represents good practice governance.	Mandatory internal audits in very small local governments would be a wasteful use of resources.
55	In relation to governance, the Panel recommends: a. Meeting procedures are standardised across all local governments, allowing for both a committee system and a public briefing system. b. Elected members should be required to lodge a declaration of interest as well as a confirmation of impartiality prior to meetings. c. Elected members who believe that they are unable to maintain impartiality on a particular matter should be permitted to withdraw from that part of the meeting provided a quorum is maintained. d. All votes should be recorded in the minutes on each motion with details of how each councillor voted. e. As a minimum, audio recordings of public parts of council meetings should be available on the local government's website when the minutes become available, with livestreaming to be encouraged. f. CEO contracts should be standardised and consistent with the Public Sector Commission's policy and relevant conditions for public sector employees. g. CEO contracts should be no more than five years and after two terms the local government must readvertise the position. h. The department should facilitate additional oversight in the recruitment and management processes of CEOs. This could include representation on the selection panel and/or screening of applicants. i. Primary and Annual Returns should include disclosure of membership of political parties and associations likely to be seen as exerting an influence on decisionmaking.	Oppose (c) & (g). Support (a), (b), (d), (e), (f), (h) & (i)	(a) - Local governments have different approaches to running their operations. It is unclear what a standardised system would require. It is also difficult to envision how the same, standardized system, would work effectively for very large and very small local governments at the same time. (f) - There is currently a model contract in place for local government CEOs established through Local Government Professionals WA. A standardized contract could have significant implications for CEOs and senior officers if it is less favourable than the current arrangement. (g) - There is no rationale given for this proposal within the report which reduces the autonomy of Council and adds unnecessary recruitment costs. It will also encourage turnover amongst CEOs who are approaching the conclusion of their second term with their local governments which is undesirable if a good relationship exists between the Council and the CEO.	Recording of council meetings is likely to result in increased FOI applications and potential litigation. The proposal to standardise CEO contracts consistent with public sector employees needs to be further clarified to determine if such contracts might hinder the ability of remote local governments to attract and retain suitable candidates. The benefit of departmental representation on the CEO selection panel is dubious, given the dearth of local government knowledge & experience in the DLGSC.
56	The Panel recommends the following in relation to training: a. New CEOs (including CEOs moving to a substantially larger local government) should be required to undertake training and ongoing professional development as recommended by the selection panel. b. There should be compulsory induction training and ongoing professional development for all councillors, including specific programs for mayors and presidents. c. Training modules for all councillors should include in-depth material on IPR and land use planning. d. The Minister should have discretion to exempt completion of training within the stipulated time on compelling grounds. e. Expanded use of peer review and support should be encouraged both to help improve the performance of individuals and local governments.	Support	(a) - Local Government Professionals WA had sought a legislative provision which required a council to establish a training budget and a training plan for officers. This recommendation purely focuses on training for CEOs.	
57	The Panel recommends that there should be an early intervention framework of monitoring to support local governments. The department should have additional powers to appoint and support the monitor with councils responsible for the direct costs of the monitor	Support	This would provide a new model for the Department to work with individual local governments to improve their performance. It is unclear how exactly the new model would work and what legislation is required to deliver this outcome.	

	Review Panel Recommendation	WALGA Position	LG Professionals WA Comments (preliminary, pending member consultation)	Concerns
58	The Panel recommends the Minister should have the power to direct local governments and make declarations in respect to the Local Government Act during a declared state of emergency.	Oppose	While this could be considered reasonable, it represents a very broad power which could be used in many different ways.	
59	The Panel recommends establishing an Office of the Independent Assessor that should: a. Be an independent body to receive, investigate and assess complaints against elected members and undertake inquiries. This removes the CEO from being involved in processing and determining complaints. b. Be a statutory appointment by the Governor. c. Upon assessment, refer the complaint back to the council (behaviour-related), the State Administrative Tribunal (SAT) (serious breaches), or to another appropriate body (such as, Corruption and Crime Commission, Public Sector Commission, Ombudsman) according to the subject of the complaint. d. Replace the Standards Panel by investigating and making determinations on Rules of Conduct breaches. SAT will determine the penalties. e. Amongst other powers, have the power to investigate, to order compulsory mediation and to deal with abuses of process. f. Be required to notify the CEO and council of any matters on a confidential basis.	Support	The Standards Panel has not worked well and, consequently, a new approach is considered valuable as long as it is designed and established to function effectively.	
60	The Panel recommends consideration should be given to the appropriate recognition and management of complaints by an elected member against a CEO or other senior officer, with one option for these to be investigated by the Office of the Independent Assessor.	Oppose	An independent process to deal with such complaints is supported.	
61	The Panel recommends: a. The new Act should set principles for determining classification bands for local governments. b. These classification bands should be used by the Salaries and Allowances Tribunal for determining councillor and CEO payments, as well as providing a framework for distinguishing between local governments in relation to other matters	Oppose		
62	The Panel recommends the increased harmonisation of local laws through the development of model local laws and deemed provisions.	Support	This recommendation does not take account of Local Government Professionals WA's two requests in this area. The first was to eliminate the requirement to consult on model local laws and the second was to eliminate the need to periodically review model local laws adopted.	WALGA appears comfortable that local governments will have the ability to modify model local laws to suit local conditions, however recommendation 63 demonstrates that this will not be easy or guaranteed. The Panel also supported "a restriction on the range of matters over which a local government could introduce a local law".
63	The Panel recommends requiring local governments to justify to the Joint Standing Committee on Delegated Legislation any variation from the model or deemed provisions.	Support	This provision reduces local government autonomy and will make it more difficult to introduce local laws which are not model laws.	
64	In relation to WALGA, the Panel recommends: a. WALGA not be constituted under the new Act; b. A transition period is provided to ensure continuity in operations of WALGA while it is re-formed under other legislation; and c. Recognition of WALGA's Preferred Supplier Program and mutual insurance coverage in the legislation should be accompanied by appropriate oversight measures, including auditing.	Support (c), carry out further consultation on (a) & (b)		
65	The Panel also identified the following operational matters to be considered when drafting the new Act: a. The powers of entry in the current Local Government Act should be retained. b. The current evidence requirements in legal proceedings should be retained, however the requirement for the CEO to certify the documents should be removed. This should be delegated and the range of items that can be certified expanded after consultation with local governments. c. The new Act should be updated to reflect the modern signing of contracts. d. A more streamlined ability to dispose of impounded goods needs to be developed for the new Act. e. The new Act should enable councillors and members of the community (in the case of public questions and deputations) to remotely participate in council and committee meetings. f. Employment entitlements for local government employees should be transferrable across all three levels of Government.	Support (a) to (e), carry out further consultation on (f)	(f) - This is considered beneficial for employees who wish to move between the spheres of Government.	

	Review Panel Recommendation	WALGA Position	LG Professionals WA Comments (preliminary, pending member consultation)	Concerns
			<p>A number of recommendations, including numbers 2, 3, 7, 29, 30, 31, 32 and 33, make very specific recommendations for change (for example, recommendation 3 makes very specific suggestions about the objects of new legislation). These will need to be considered carefully. It is also disappointing that there is no recommendation about dealing with vexatious complainants, as requested by Local Government Professionals WA. Local Government Professionals WA welcomed the McGowan Government's undertaking to review the Local Government Act and its objectives to modernise, empower and enable local governments, however, believes opportunities for improvement still remain, and as such we will continue to advocate on members' behalf for an improved legislative framework that meets the future needs of the sector.</p>	

11. MOTIONS BY MEMBERS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

12. MOTIONS FOR CONSIDERATION AT THE NEXT MEETING

13. NEW BUSINESS OF AN URGENT NATURE

14. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

15. CLOSURE

The Presiding Member thanked those present for attending the meeting and declared the meeting closed at

To be confirmed at Ordinary Meeting on the 15 September 2020

Signed:.....

Presiding Member at the Meeting at which time the Minutes were confirmed