

LOCAL GOVERNMENT AMENDMENT BILL 2023

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Jackie Jarvis (Minister for Agriculture and Food)**, read a first time.

Second Reading

HON JACKIE JARVIS (South West — Minister for Agriculture and Food) [5.44 pm]: I move —

That the bill be now read a second time.

I am pleased to introduce the Local Government Amendment Bill 2023 to the Legislative Council today. This bill will continue the delivery of the McGowan government's local government reforms that will make the most significant changes to the system of local government in Western Australia in more than 25 years. This bill is based on a very substantial body of prior work and significant consultation that has been undertaken by the McGowan government since 2017. This package of proposed reforms was developed in 2021, and was informed by a wealth of prior work and consultation. The reform proposals were developed from and drew on the findings of the Local Government Act review process that was conducted by the Department of Local Government, Sport and Cultural Industries between 2017 and 2020 and involved significant public consultation; the *Local government review panel: Final report*; the *Report of the inquiry into the City of Perth*; the Select Committee into Local Government's final report, *Inquiry into local government*; and engagement with ratepayers and the community directly.

The package of proposed reforms was then released for public comment from 10 November 2021 to 25 February 2022. Over 200 submissions were received through this process. The submissions received indicated broad support for the reforms, and feedback informed the refinement of proposals to ensure that we will be delivering the best possible outcomes for ratepayers, community groups, small businesses and local governments. In total, since 2017, more than 3 000 survey responses and written submissions have informed the government's work on delivering these significant reforms. The specific detail in the bill has also been developed through a series of workshops with sector peak bodies, the Western Australian Local Government Association and Local Government Professionals WA. The bill has been developed through an extensive process and reflects significant input from people across Western Australia.

This bill, which is tranche 1 of these reforms, will provide for the implementation of a range of electoral reforms for the upcoming October 2023 local government elections. It will also provide for the following range of related practical reforms: introducing principles into the act that will include recognising that Aboriginal Western Australians should have greater involvement in local decision-making; formally recognising the tiering of local governments in the act, based on the existing Salaries and Allowances Tribunal framework; reforming council planning to streamline the way local governments plan for their future service delivery; establishing community engagement charters that will set a clear standard for how local governments engage with a diverse range of people within their district; formalising a statewide caretaker period to be followed by all local governments during ordinary elections; tightening the eligibility rules for a person to be enrolled to vote or run as a candidate in a local government election on the basis of a lease, which will address the issue of sham leases identified in the inquiry into the City of Perth; establishing council communications agreements to provide an improved framework for how council members receive information and advice from the CEO; introducing specific requirements for the videostreaming of council meetings for bands 1 and 2, and audio recordings of all council meetings for bands 3 and 4; standardising the meeting procedures for all local council, committee and electors meetings across Western Australia, to be specified in regulations; providing council members with specific entitlements to take parental leave from meetings if they have recently welcomed a new child into their household; delivering transparency and accountability measures, including new requirements for all local governments to publish information online, such as for leases, grants and significant contracts through public registers; and setting a new requirement for the publication of performance indicators and results for all local government chief executive officers, with limited exemptions for confidential matters.

This bill will also amend the Local Government Act 1995 to insert new principles for recognising and involving Aboriginal people in decision-making; promoting economic, social and environmental sustainability within the broader context of good governance; responding to the challenges of climate change; and considering issues through a long-term view. Critically, these principles have been drafted in recognition that every local government must consider these important principles in the context of the unique circumstances of its district. For instance, local governments across Western Australia are continuing to involve First Nations people in decision-making by recognising and elevating the voice of Aboriginal people on local issues, developing and implementing reconciliation plans, and continuing to engage in relevant native title and land custodianship matters. This bill will also deliver on formalising the tiering of local governments to recognise the immense diversity of the 139 local governments that operate under this act.

These reforms seek to deliver a range of improvements designed to strengthen local democracy in council elections. Firstly, this bill will provide for the introduction of optional preferential voting, to bring local council elections more in line with state and federal elections. Optional preferential voting gives electors the greatest degree of choice to indicate their preferences at the ballot box. Secondly, this bill will deliver a number of reforms to provide greater consistency in council representation. This includes setting tiered limits on the number of councillors a local government can decide to have, based on the total population of its district. This will provide greater consistency between the size of a local government and the size of its council, providing for more even representation across Western Australia. Requiring band 1 and 2 local governments to have their mayor or president elected by the electors of their district will give ratepayers a direct line of sight to the person who fills this important leadership role. Wards will be abolished for band 3 and 4 local governments. Wards in small local governments can cover limited areas with small populations, which means that councillors are more likely to be elected unopposed or with a very small number of votes. These reforms are aligned with broader trends in the sector, such as the removal of wards for smaller councils, and are designed to provide greater consistency. These reforms will not impact on the size or structure of the council for more than half of all local governments across Western Australia.

Of the local governments that will be impacted, a substantial majority have been undertaking ward and representation reviews to determine the specific arrangements for their council into the future. I understand that the minister has already acknowledged and thanked the sector for the constructive way these changes have been approached. However, for impacted local governments that do not complete this process, the bill will provide for orders to be made to implement changes through a completely new election in which the terms of all councillors will end, to spill the council; any wards will be abolished, and the number of council positions to be set will be based on the new limits set in the act; and new elections will be held to fill all those vacancies. For local governments with simple changes, such as abolishing wards but making no other changes, the bill will provide that orders may be made to implement the change without a full spill election. The bill also includes a range of measures to address enrolment by non-resident occupiers to ensure accuracy of the roll and that only valid claims are accepted.

Today, local government plans are based on section 5.56 of the act, which includes only a short reference to “plan for the future of the district”. This is the basis of the framework of integrated planning and reporting. This bill will replace this ambiguous statement with council plans, which will supersede strategic community plans. Council plans will be relatively short plans that are based on a long-term view of the future issues and needs of the district. Council plans will be supported by more detailed plans, as specified in regulations. Clear templates will be developed for local governments to use or adapt if they wish to. This further work to reform local government planning, budgeting and reporting to make it more transparent and reduce red tape for councils will continue in close consultation with the sector.

The bill will also formalise community engagement charters. Importantly, these charters will provide a stronger framework for how a local government is to engage with people in its district, particularly to ensure that public engagement involves a diverse range of voices and is genuinely inclusive, and that engagement is not a platform for vocal minorities to dominate important community deliberations.

The bill will establish a statewide standard caretaker period in the act to clear up the current confusion about election periods resulting from individual councils having different policies and protocols for decision-making during ordinary elections. Local government caretaker periods will largely mirror the convention that has long been in place for state and federal governments. However, the bill has been carefully drafted to ensure that regulations can allow for the CEO and the administration of a local government to continue day-to-day work, including delivering a budget approved before the commencement of the caretaker period. As is the case in state government, the bill will provide that caretaker periods will apply only at ordinary elections.

The bill will also provide for council communication agreements, which are largely based on the system of ministerial communications agreements established under the Public Sector Management Act 1994, which is in place in state government. The purpose of council communications agreements is to set a clear standard for how all members of a council are to seek and receive information relevant to their role and function as an elected representative. The bill will provide that the council and CEO of a local government are to agree on a communications agreement after each caretaker period. If they do not, a default agreement published by the minister will come into effect. A draft default agreement has been developed in consultation with the sector. The bill will not modify freedom of information legislation.

The bill also represents a major change in how local council meetings are to be conducted. The bill provides for the standardisation of meeting procedures for all local council, committee and electors meetings. This is to provide ratepayers and stakeholders with greater clarity on how meetings are to be conducted, and to establish one set of rules for raising questions and making deputations at meetings. It is critical that the new statewide standard for meetings ensures that local governments can consider complex and contentious issues. Although discussions need to be honest and robust and consider a range of viewpoints, it is also important that meetings are respectful and enable everyone to provide their input and have their say at the meeting. Part of the new meeting procedures will

need to address disruptive and disorderly conduct at council meetings. Unfortunately, there have been occasions when a person has continually disrupted a meeting, even when the presiding member has tried to restore orderly and respectful discussion. Accordingly, the new meeting procedure regulations will be able to, if necessary, establish offences if a person continues to disrupt a local government meeting when other measures to address the issue have not been effective at restoring orderly discussion. Section 9.61 of the act already provides for offences to be defined in regulations. We recognise that it is crucial to get these new meeting procedures right. The meeting procedures will need to work across the state, and provide a clear and fair framework for dealing with disruptive and disorderly conduct at meetings. We will work to develop the statewide standard in consultation with key stakeholders.

The bill also provides for regulations to be made to require the live streaming and recording of meetings, providing greater transparency into decision-making processes at council meetings. The government intends to establish a tiered requirement for band 1 and 2 local governments to live stream video, while band 3 and 4 local governments will be required to publish audio recordings of meetings at a minimum. Regulations will provide that all proceedings on confidential items must be recorded and provided to the department if requested. These new provisions will also support investigations, particularly when there is a dispute about comments made during a meeting.

The bill will also amend the act to provide council members with the ability to take parental leave without modifying the existing provision for councils to grant a leave of absence for a council meeting. Providing this specific parental leave entitlement is intended to support a diverse range of people to serve on their local council.

The bill will also introduce several measures to bolster transparency and accountability to ratepayers. Firstly, the bill provides for a new requirement for local governments to disclose key information in public online registers, which will be updated on a regular basis. Regulations will specify the information that local governments will need to publish to ensure that everyone has a clear line of sight into how local governments are allocating resources and finances. Under these reforms, it is planned that the regulations will require all local governments to publish —

An online register of leases to capture information about the leases the local government has entered into, as either the lessor or the lessee. For example, the lease of local government property to an individual organisation can be controversial, so it is only fair that everyone has a clear view into how local government property is being managed.

An online grants register to outline all grants and funding provided by local government to third parties, such as community groups. Again, providing transparency is an important part of ensuring fairness.

An online register to report all contracts above a threshold value specified in the regulations. The regulations will also be able to specify the types of contracts that need to be disclosed. It is anticipated that the contracts register will report on all contracts for the supply of goods and services valued at \$100 000 and above. The register will not include individual employment contracts of local government employees.

An online register to capture all disclosures made by council members about their interests related to matters considered by council. Although this information will also remain in meeting minutes, collating it in one register will provide a further degree of transparency that will be easily accessible to ratepayers.

An applicant contribution register to account for funds collected from applicant contributions, such as cash-in-lieu contributions for public open space and car parking provision.

In the future, regulations may also provide for other information to be published in online registers. These registers will ensure that ratepayers and members of the public will have a clear view of important information about their local government.

The bill will also bolster transparency and accountability of the performance of local government CEOs. The role of the CEO is absolutely essential for a local government to work effectively. The CEO plays a critical role in developing and maintaining a strong culture of delivering for the community. It is also an important role of the council to employ and manage the CEO, including through setting performance indicators. For this reason, the performance indicators set for the CEO and the results achieved against them will be required to be published each year.

CEOs will be able to include comments or responses alongside the results when they are published. This will ensure that the CEO can explain how the effects of disruptions or events, such as COVID, a bushfire or unexpected challenges in delivering a new project or service, may have practically impacted the results achieved over the year. Local governments will also be able to seek an exemption for publishing a specific performance indicator if there is a clear reason. For instance, a CEO performance indicator may relate to confidential staffing matters within the local government. Exemption requests will be considered by the director general of the department. This will ensure that every council can work with its CEO to set performance criteria that relate to confidential internal matters if required.

This bill represents a major milestone in delivering local government reform. It will be followed by a second bill to deliver other reforms of the McGowan government's local government reform package, including the role of

the new local government inspector. These reforms reflect a wealth of prior work and public consultation. The bill before the house today will deliver significant, ongoing reforms to local governments across Western Australia. These reforms will deliver practical benefits for residents, ratepayers, small business, industry, elected council members and all those working across the sector.

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party.

I commend the bill to the house and table an explanatory memorandum.

[See paper [2112](#).]

Debate adjourned, pursuant to standing orders.

House adjourned at 6.00 pm
