



**Shire of Derby /
West Kimberley**

AGENDA

Special Council Meeting Thursday, 13 October 2022

I hereby give notice that a Special Meeting of Council will be held on:

Date: Thursday, 13 October 2022

Time: 4:30pm

**Location: Council Chambers
Clarendon Street
Derby**

Amanda Dexter

Chief Executive Officer



Our Guiding Values

We are **PROUD** of who we are and where we live.

We will create a **POSITIVE LEGACY** for our children and children's children.

We will go about our business with **INTEGRITY, TRANSPARENCY and AUTHENTICITY**.

We value and **RESPECT** what our community has to say and will strive to make things happen.

We are **PROUD** of and value the **KNOWLEDGE** of our diverse and strong people and cultures.

We value our **RELATIONSHIPS** and will work with others to achieve common goals and gain maximum impact.

We are **PROUD** of and **COMMITTED** to the responsible preservation of our unique natural environment and making sure our built environment reflects our current and future needs.

We are open for and encourage business, industry and all aspects of **COMMUNITY DEVELOPMENT**, particularly our thriving arts and cultural scene.

Disclaimer

No responsibility whatsoever is implied or accepted by the Shire of Derby/West Kimberley (Shire) for any act, omission or statement or intimation occurring during Council or Committee meetings.

The Shire disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or Committee meetings. Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council or Committee meeting does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or intimation of approval made by any Elected Member or officer of the Shire during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire.

The Shire warns that anyone who has any application lodged with the Shire must obtain and should only rely on written confirmation of the outcome of the application and any conditions attaching to the decision made by the Shire in respect of the application.

Notes for Members of the Public

PUBLIC QUESTION TIME

The Shire of Derby/West Kimberley extends a warm welcome to you in attending any Shire meeting. The Shire is committed to involving the public in its decision making processes whenever possible. The ability to ask questions during 'Public Question Time' is of critical importance in pursuing this public participation objective. The Shire sets aside a period of 'Public Question Time' to enable a member of the public to put questions. Questions should only relate to the business of the Shire and should not be a statement or personal opinion. Upon receipt of a question from a member of the public, the Presiding Member may either answer the question or direct it to an officer to answer, or it will be taken on notice.

Any comments made by a member of the public become a matter of public record as they are minuted by Council. Members of the public are advised that they are deemed to be held personally responsible and legally liable for any comments made by them that might be construed as defamatory or otherwise considered offensive by any other party.

MEETING FORMALITIES

Local government Council meetings are governed by legislation and regulations. During the meeting, no member of the public may interrupt the meetings proceedings or enter into conversation. Members of the public shall ensure that their mobile telephone or audible pager is not switched on or used during any Shire meeting.

Members of the public are hereby advised that the use of any electronic, visual or audio recording device or instrument to record proceedings of the meeting is not permitted without the permission of the Presiding Member.

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Notes for Elected Members

NATURE OF COUNCIL'S ROLE IN DECISION MAKING

Advocacy:	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
Executive/Strategic:	The substantial direction setting and oversight role of the Council such as adopting plans and reports, accepting tenders, directing operations, grants, and setting and amending budgets.
Legislative:	Includes adopting local laws, town planning schemes and policies.
Administrative:	When Council administers legislation and applies the legislative regime to factual situations and circumstances that affect the rights of people. Examples include town planning applications, building licences and other decisions that may be appealable to the State Administrative Tribunal.
Review:	When Council reviews a decision made by Officers.
Information:	Includes items provided to Council for information purposed only that do not require a decision of Council (that is for 'noting').

ALTERNATIVE MOTIONS

Councillors wishing to make alternative motions to officer recommendations are requested to provide notice of such motions in written form to the Chief Executive Officer prior to the Council meeting.

DECLARATIONS OF INTERESTS

Elected Members should fill in Disclosure of Interest forms for items in which they have a financial, proximity or impartiality interest and forward these to the Presiding Member before the meeting commences. Section 5.60A of the *Local Government Act 1995* states;

"a person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person."

Section 5.60B states;

"a person has a proximity interest in a matter if the matter concerns –

*(a) a proposed change to a planning scheme affecting land that adjoins the person's land;
or*

(b) a proposed change to the zoning or use of land that adjoins the person's land; or

(c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land."

Regulation 34C (Impartiality) states;

"interest means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association."

MEETING DATES

At its Ordinary Meeting of Council on 28 October 2021, Council adopted the following meeting dates for 2022;

Thursday	9 December 2021	5.30 pm	Council Chambers, Derby
January			Council in Recess
Thursday	24 February 2022	5.30 pm	Council Chambers, Derby
Thursday	31 March 2022	5.30 pm	Fitzroy Crossing
Thursday	28 April 2022	5.30 pm	Council Chambers, Derby
Thursday	26 May 2022	5.30 pm	Council Chambers, Derby
Thursday	30 June 2022	1:00pm	Remote Aboriginal Community (Location to be advised)
Thursday	28 July 2022	5.30 pm	Council Chambers, Derby
Thursday	25 August 2022	5.30 pm	Fitzroy Crossing
Thursday	29 September 2022	5.30 pm	Council Chambers, Derby
Thursday	27 October 2022	5.30 pm	Council Chambers, Derby
Thursday	24 November 2022	5.30 pm	Fitzroy Crossing
Thursday	8 December 2022	5.30 pm	Council Chambers, Derby

Council's Compliance and Strategic Review Committee and the Commercial Committee meet when required. Details of these meetings are advised as appropriate.

APPLICATION FOR LEAVE OF ABSENCE

In accordance with Section 2.25 of the *Local Government Act 1995*, an application for leave requires a Council resolution granting leave requested. Council may grant approval for Leave of Absence for an Elected Member for ordinary Council meetings for up to but not more than six consecutive meetings. The approval of the Minister is required for leave of absence greater than six ordinary Council meetings.

This approval must be by Council resolution and differs from the situation where an Elected Member records their apologies for the meeting. A failure to observe the requirements of the Act that relates to absence from meetings can lead to an Elected Member being disqualified should they be absent without leave for three consecutive meetings.

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1 DECLARATION OF OPENING, ANNOUNCEMENT OF VISITORS**2 ATTENDANCE VIA TELEPHONE/INSTANTANEOUS COMMUNICATIONS**

In accordance with regulation 14A of the Local Government (Administration) Regulations 1996 Council must approve (by Absolute Majority) the attendance of a person, not physically present at a meeting of Council, by audio contact. The person must be in a 'suitable place' as approved (by absolute majority) by Council. A 'suitable place' means a place that is located in a townsite or other residential area and 150km or further from the place at which the meeting is to be held.

3 DISCLOSURE OF INTERESTS

Section 5.65 and 5.70 of the *Local Government Act 1995* requires an Elected Member or officer who has an interest in any matter to be discussed at a Committee/Council Meeting that will be attended by the Elected Member or officer must disclose the nature of the interest in a written notice given to the Chief Executive Officer before the meeting; or at the meeting before the matter is discussed.

An Elected Member who makes a disclosure under section 5.65 or 5.70 must not preside at the part of the meeting relating to the matter; or participate in; or be present during, any discussion or decision making procedure relating to the matter, unless allowed by the Committee/Council. If Committee/Council allow an Elected Member to speak, the extent of the interest must also be stated.

3.1 Declaration of Financial Interests**3.2 Declaration of Proximity Interests****3.3 Declaration of Impartiality Interests****4 PUBLIC TIME****4.1 Public Question Time****4.2 Public Statements****5 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION**

REPORTS

6 EXECUTIVE SERVICES

6.1 LOCAL GOVERNMENT REFORMS: DIRECT ELECTION OF THE PRESIDENT, AND CONSEQUENTIAL CHANGES TO THE COUNCIL

File Number: 4125

Author: Neil Hartley, Director - Strategic Business

Responsible Officer: Amanda Dexter, Chief Executive Officer

Authority/Discretion: Executive

SUMMARY

The Minister for Local Government recently forwarded to all WA local governments, a Memorandum in regard to the forthcoming Local Government Act review changes to be implemented in time for the 2023 ordinary elections. Each Memorandum was personalised to the situation relevant to the local government, and in the Shire of Derby/West Kimberley's case, we were invited to consider how we wished to change to the new directly-elected President (and consequently reduce the size of the elected Council by one, to account for the President being directly elected).

This report recommends that Council choose the *Reform Election Pathway* option.

DISCLOSURE OF ANY INTEREST

The author has no financial or other interests to declare.

BACKGROUND

The Local Government Act 1995 is periodically reviewed. That has occurred several times since its implementation on 1 July 1996. The latest review (see attached for the Department's summary, titled "*Stronger local democracy and community engagement*") has resulted in part, in the Minister for Local Government, the Hon. Hon. John Carey MLA forwarding to all WA local governments on 20 September, 2022, a Memorandum (also attached) titled "*Local Government Reforms: Election Transition Arrangements (Direct Election of the President, and Consequential changes to the Council)*". Each Memorandum was personalised to the situation relevant to the local government recipient, and in the Shire of Derby/West Kimberley's case, we were advised that:

The Department of Local Government, Sport and Cultural Industries has completed an initial review, and identified that your local government may need to change to a directly-elected President, and consequently reduce the size of the elected council by one to account for the President being directly elected. This relatively small change should be implemented for the 2023 ordinary elections.

The Minister's Memorandum advises there are only two pathways that Council may consider for making these election transition arrangements.

1. **Voluntary Pathway** - formulate a high-level plan to implement these proposed legislative changes on a voluntary basis in time for the ordinary elections to be held in 2023, and advise the Department of Local Government of its decision by 28 October 2022 (noting

that the Act already provides that local governments may seek to change the method of filling the office of President to a direct vote by the electors of the district). This would include:

- a) Passing a resolution to change the method of electing the President to a vote by the electors of the district (under section 2.11(2) of the Act); and
- b) Initiating a *Ward and Representation Review* to determine the specific consequential changes to the structure of the council for the 2023 ordinary elections (and which needs to be completed no later than 14 February 2023).

If the 'voluntary pathway' is selected (which includes a representation review) the notification to DLG should include a high-level but relatively basic plan, covering matters such as:

- a) an acknowledgement of what changes the Shire of Derby-West Kimberley needs to make to implement the electoral reforms;
- b) whether the changes can be implemented over one or two ordinary elections (i.e. 2023 and 2025);
- c) anticipated timeline to complete the representation review (specifically, whether it can be completed by 14 February 2023); and
- d) identification of any significant risks to meeting that timeline.

The Minister highlights his appreciation of the significant effort required to complete a Ward and Representation Review in such a short timeframe, and notes particularly that:

- i. The review would actually 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; and
- ii. The review cannot propose a change which diverges from the reforms proposed by the State Government.

The Department of Local Government is developing a template discussion/consultation paper to assist local governments that need to conduct a ward and/or representation review for distribution as soon as possible.

2. **Reform Election Pathway** - Alternatively, the Local Government Amendment Act will provide for/regulate all changes to be implemented through reformed elections in 2023.

For Councils with no wards, like the Shire of Derby/West Kimberley, at least one elected member position would need to be abolished, while also declaring that the President is to be elected by a vote of the electors of the district.

Council may specifically decide to follow the Reform Election Pathway, in which case it simply needs to advise the DLG by 28 October 2022.

Choosing this option results in a "full spill" of all Councillor positions as part of the 2023 election process.

The Minister advises that the Amendment Act will contain provisions to address local governments that either (a) do not advise of an intention to follow the Voluntary Pathway, or (b) do not suitably complete the Ward and Representation Review by the deadline dates outlined in his memorandum.

Forty eight WA local governments are similarly impacted by these proposed changes, with 22 being made to allow ratepayers to directly elect their President (or Mayor) rather than that decision being made by Councillors.

Those local governments that cannot — or will not — voluntarily agree on such a plan will be made to “spill” their entire Council ahead of the October 2023 local government election, at which point all the required changes would be enacted simultaneously.

STATUTORY ENVIRONMENT

One of the functions of Parliament is to make laws. An Act of Parliament starts as a Bill in one of the Houses. A Bill is the draft of a proposed law. Most Bills deal with management of public affairs and the implementation of Government policy and are introduced by a Minister, but a member of either House is entitled to introduce a Private Member's Bill.

Local Government Act S. 2.11(2) (Alternative methods of filling office of mayor or president) provides for a Council, by absolute majority decision, to change 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.

Local Government Act S. 2.28 (Days on which terms begin and end) sets out the terms elected representatives, which are generally for Councillor Elected President (two years), Elector President (four years), and the Deputy President (two years). So with the new rules, Derby will now have a President elected by electors who will have a fixed four year term and there will be no option to have the President elected from amongst its Councillors.

POLICY IMPLICATIONS

There are no policy implications evident, but the practice of how the President is elected will be deleted from future Council processes and replaced with alternative processes to reflect that change.

FINANCIAL IMPLICATIONS

There are short and long term cost implications for the Shire.

In the longer term, there will be an increased cost to the running the Shire's future Council elections. There will in effect be two separate elections every second election year, a Councillors' election as has always occurred, plus a President's Election. The cost of Council's elections for every second election will therefore increase and whilst costs are not known at this stage, an increase of perhaps \$5 - 10,000 in the years the Presidential election is held, is anticipated.

In the short term, there are different costs for each option. If Option 1 is chosen, there will be costs to conduct the Ward and Representation Review, albeit mostly officer time. The 2023 Election will need to accommodate the President's election, so those costs will be more than what was incurred for the 2021 Election. If Option #2 is chosen, the Shire won't need to conduct the Ward/Representation review, but if a current 2025 Councillor is elected President, we will need to have a special election to re-elect a replacement Councillor, which would be almost as expensive as an ordinary biennial election.

STRATEGIC IMPLICATIONS

GOAL	OUR PRIORITIES	WE WILL
1. Leadership and	1.2 Capable, inclusive and	1.2.1 Provide strong civic leadership

Governance	effective organisation	
1. Leadership and Governance	1.1 Collaboration and partnership	1.1.1 Engage with our communities

RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
Organisation's Operations: Not choosing either option, or choosing Option #2 will lead to the State Government determining a “full spill” of Councillors at the 2023 elections and the potential of a high level of lost corporate knowledge on Council.	Possible	Major	High	Pursue the “voluntary” model as provided for by the State Government.
Legal & Compliance: Choosing Option #1 before the legislation is in place would result in the change being voluntarily implemented, but perhaps without the legislative need to do so.	Possible	Insignificant	Low	Pursue the “compulsory” model as provided for by the State Government.
Financial: If an existing Councillor with a term to 2023 is elected as President, a bi-election <u>may be</u> required to fill that vacancy.	Possible	Minor	Medium	Pursue the “compulsory” model as provided for by the State Government.
Reputation: Undertaking a Ward & Representational Review with a single possible outcome could result in community members claiming the	Almost Certain	Minor	Medium	Pursue to “compulsory” model as provided for by the State Government.

process is disingenuous.				
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CONSULTATION

If Option #1 is chosen, then community consultation to invite the views of the community is required in order to progress the process of a Local Government Act S. 2.11(2) Ward and Councillor Representation Review proposal. Community consultation is normally a critical part of such a process, and the topic of how the President should be elected would normally attract a good deal of attention. The state government's proposal to "invite" local governments to undertake a review process, but one which seems to have a predetermined core result, makes the local consultation process somewhat disingenuous, even if the democratically elected State Parliament does at the end of the day pass laws to legitimise such an outcome.

The officer recommendation is that the Council not undertake the review, but to instead opt for Option #2, avoiding the need for the Ward and Councillor Representation Review, but requiring it to have a full spill of all Councillors prior to the 2013 elections.

Advice from the Department of Local Government has been sought in the preparation of this report.

COMMENT

Whilst the best pathway forward is a decision for the Council to consider, in light of the make-up of the state's two houses of parliament it is considered unlikely these changes will be modified or withdrawn, therefore imposing (either as a voluntary act by Council, or as a compulsory change by the WA State Parliament) a change to the way that the President has been elected at the Shire of Derby/West Kimberley since the establishment of the West Kimberley Road District on 10 February 1887.

Advice from the Department of Local Government highlights that this matter has not been completely thought through by the State Government. For example, one response to the question about what would happen should a Councillor with a current 2025 term be elected to the position of President, the response was.... *"If you choose the voluntary pathway, the current President can nominate for the position of President at the October 2023 elections. If they are elected, then their current council member position becomes vacant. As part of the reforms we are looking at options to fill vacancies that arise in these circumstances to avoid the need for an extraordinary election"* albeit that this uncertainty is a reference to legislative drafting noting that reform announcements have already included the proposal to allow vacancies arising up to 12 months after an election to be filled by the next highest-polling candidate. So, whilst there might be the intention to assist local governments to avoid an extra-ordinary election (which is almost as expensive as a full biennial election) the legislation providing for that is not yet clear.

There does on the other hand seem to be more clarity for the Reform Election Pathway, where the position of the Department of Local Government was: *"If you choose the reform pathway, what will happen is that all the changes will be imposed in 2023. This will involve:*

- *Changing to a directly elected president*
- *Reducing the number of offices of council to 8*
- *All positions being deemed vacant*
- *All position re-elected at the October elections. Those with the most votes will get a 4 year term, and the remaining 4 would get a 2 year term."*

It is considered that the most appropriate way forward is to advise the Department of Local Government that Council has chosen Option #2. The main advantages and disadvantages are outlined below:

Issue	Advantages	Disadvantages
Option #1 - Voluntary Pathway	<p>No forced spill of 2025 retiring Councillors, thus preserving continuity and corporate knowledge.</p> <p><i>Note: considered to be an unlikely outcome, but it is a possibility.</i></p>	<p>Cost and time to undertake the ward/representation review.</p> <p><i>Note: it is considered that this review will be seen by many in the community as a “fait accompli” and disingenuous, and therefore will not be in anyone’s best interests to conduct.</i></p> <p>If a current 2025 retiring Councillor is elected President, there is the risk that the Shire may need to have a special election to re-elect a replacement Councillor for a two year period.</p> <p><i>Note: the details are unclear as to how this will occur, but hopefully it is a very low risk.</i></p>
Option #2 - Reform Election Pathway	<p>Saving of time and money to needing to conduct the ward/representation review.</p> <p><i>Note: Whilst cash costs will not be significant, the process will consume hundreds of staff hours to prepare, promote, respond to questions, and report to Council/State Government.</i></p> <p>Does not include the risk of requiring a Special Election should a 2025 retiring Councillor be elected to the position of President.</p> <p><i>Note: the details are unclear as to how this will occur, but hopefully it is a very low risk.</i></p>	<p>A forced spill of all Councillors results in the potential of losing valuable corporate knowledge and continuity.</p> <p><i>Note: considered to be an unlikely outcome, but it is a possibility.</i></p>

A Voluntary Pathway Plan is attached should Council resolve to follow that route, which is the alternative option available to it. This option would require an absolute majority decision and a draft resolution to achieve that could be:

That Council by absolute majority decision advises the Department of Local Government (in writing) by 28 October 2023:

1. *that it chooses to follow the Voluntary Pathway (which will see a change the method of electing the Shire President to “election by the electors method” and the reduction in the number of elected member positions by one (to provide for an elector Shire President));*
2. *that a representation review will be undertaken, inclusive of the proposed forthcoming changes to the Local Government Act to:*
 - (a) *change the method of electing the President to “election by the electors method”; and*
 - (b) *reduce the number of elected member positions by one (to provide for an elector President);*

Endorses the Voluntary Pathway Plan attached.

VOTING REQUIREMENT

Simple majority

ATTACHMENTS

1. Minister's Memorandum to Local Gvernments [!\[\]\(a9a7cf821bf949be41db724492f295be_img.jpg\)](#) [!\[\]\(2c367d84c99049f9805eec6142b5bc5d_img.jpg\)](#)
2. Department of Local Government's Reform Overview [!\[\]\(4d6500d074b243a4043016fae28892e4_img.jpg\)](#) [!\[\]\(96ebb722ad5476cd70154c5926aad591_img.jpg\)](#)
3. Voluntary Pathway Plan [!\[\]\(2da405ec9c9a12d2adbd80327dcc4669_img.jpg\)](#) [!\[\]\(e7169cc6d2a044fb61919fa59f1547fc_img.jpg\)](#)

RECOMMENDATION

That Council:

1. **advises the Department of Local Government (in writing) by 28 October 2023, that it chooses to follow the *Reform Election Pathway* (which will see a change the method of electing the Shire President to “election by the electors method” and the reduction in the number of elected member positions by one (to provide for an elector Shire President); and**
2. **notes that the Reform Election Pathway results in a “full spill” of all Councillors occurring as part of the 2023 Council Elections.**



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

Our Ref: 78-08502 (Category 3)

20 September 2022

Dear Local Government Chief Executive Officers

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

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, 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.

Level 7, Dumas House, 2 Havelock Street, West Perth, WA, 6005
Telephone: +61 8 6552 5300 Facsimile: +61 8 6552 5301 Email: minister.carey@dpc.wa.gov.au

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

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 a directly-elected Mayor or President, and consequently reduce the size of the elected council by one to account for the Mayor or President being directly elected. This relatively small change should be implemented for the 2023 ordinary elections.

The Act already provides that local governments may:

- Resolve, by absolute majority of the council, to change the method of filling the office of 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 council 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 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;
- Pass a resolution to change the method of electing the Mayor or President to a 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 consequential changes to the structure of the council for the 2023 ordinary elections, to be completed no later than 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.

For councils with wards, this pathway would provide that all council offices can be declared vacant, and all wards can be abolished. 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.

For councils with no wards, it may be possible to abolish one vacancy arising next year, while also declaring that the Mayor or President is to be elected by a vote of the electors of the district.

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 your 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.

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

Due date (latest possible)	Requirements/actions
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. It is also possible that some affected councils will have an earlier meeting in December 2022, and then no meeting in January 2023. This is why mid to late December is suggested as the date by which the draft review report should be considered by council.

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

	Existing requirements/actions	Timeframe
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



Department of
**Local Government, Sport
and Cultural Industries**



Local Government Reform

Stronger local democracy and community engagement

Election and community engagement reforms are proposed to empower ratepayers to participate in local democracy and decision-making.



Direct Election of the Mayor or President

All electors in large local governments will be able to vote directly for the Mayor or President, giving ratepayers more power to choose the leadership of their council. This reflects a broader trend, with councils such as Stirling and Rockingham already having moved to a public vote for the election of their Mayors.



No Wards for Small Local Governments

Wards in small local governments can cover very limited areas, with small populations. This means that councillors are more likely to be elected unopposed, or with a very small number of votes. In line with a broader trend, it is proposed that wards for all small local governments be abolished.



Preferential Voting

Local government members will be elected by 'optional preferential voting'. Electors can 'vote for one, vote for some, or vote for all' candidates on their ballot paper. This system strikes a balance between encouraging electors to vote, whilst ensuring the result reflects the community's views and preference.



Reforms to Ensure Valid Candidate and Voter Eligibility

Rules for who is eligible to vote or run for council will be tightened, ensuring that only legitimate residents or businesses will be eligible. New laws will prevent candidates from using sham leases in council elections. The basis for why a candidate is eligible to run will also be required to be publicly disclosed.



Consistent Number of Elected Members

To increase consistency, the number of elected members on any council will be set based upon the population within that local government. The Local Government Panel Report recommended a number of elected members as follows:

- population of up to 5,000 – 5,6 or 7 councillors (including the President)
- population of between 5,000 and 75,000 – 5 to 9 councillors (including the Mayor/President)
- population of above 75,000 – 9 to 15 councillors (including the Mayor)



Community Engagement Charter

Local governments will be required to establish a Charter which sets out how it will engage with ratepayers and the community about the local government's proposed policies, initiatives, and projects. A model Charter will be published to assist local governments who wish to adopt a standard Charter.



Other Amendments

There are also more reforms proposed to further enhance local government democracy and community engagement, including proposed minor changes to the annual meeting and the use of rate payer satisfaction surveys.

Questions? Get in touch with DLGSC via email to actreview@dlgsc.wa.gov.au

Change in the Method of Electing the President**Voluntary Pathway Plan**

This proposal supports the Council recommendation to advise the Department of Local Government that a representation review will be undertaken, inclusive of the proposed forthcoming changes to the Local Government Act to:

- (a) change the method of electing the President to “election by the electors method”; and
- (b) reduce the number of elected member positions by one (to provide for an elector President).

Plan Requirement	Shire's Response
a) an acknowledgement of what changes the Shire of Derby-West Kimberley needs to make to implement the electoral reforms;	(a) change the method of electing the Shire President to “election by the electors method”; and (b) reduce the number of elected member positions by one (to provide for an elector Shire President).
b) whether the changes can be implemented over one or two ordinary elections (i.e. 2023 and 2025);	The changes can be implemented over one ordinary election cycle (i.e. 2023).
c) anticipated timeline to complete the representation review (specifically, whether it can be completed by 14 February 2023); and	It is anticipated that the process to complete the representation review can be completed by 14 February 2023.
d) identification of any significant risks to meeting that timeline.	Significant risks include the Christmas/New Year period – where community members might not be available to be consulted with; the potential the wet weather season to restricting access to communications mediums; COVID19 impacts on staffing levels, travel, or community member availability; Department of Local Government having insufficient resources to respond to local governments on community member questions.

7 NEW BUSINESS OF AN URGENT NATURE**8 CLOSURE****8.1 Date of Next Meeting**

The next ordinary meeting of Council will be held Thursday, 27 October 2022 in the Council Chambers, Clarendon Street, Derby.

8.2 Closure of Meeting