

TOWN OF COTTESLOE



STRATEGIC PLANNING COMMITTEE MINUTES

MAYOR'S PARLOUR, COTTESLOE CIVIC CENTRE
109 BROOME STREET, COTTESLOE
6.00 PM, WEDNESDAY, 18 AUGUST 2010

CARL ASKEW
Chief Executive Officer

20 August 2010

STRATEGIC PLANNING COMMITTEE
TABLE OF CONTENTS

ITEM	SUBJECT	PAGE NO
1	DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS.....	1
2	RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED).....	1
3	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE.....	1
4	PUBLIC QUESTION TIME.....	1
5	PUBLIC STATEMENT TIME.....	1
6	APPLICATIONS FOR LEAVE OF ABSENCE.....	1
7	CONFIRMATION OF MINUTES OF PREVIOUS MEETING.....	2
8	ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION.....	2
9	PETITIONS/DEPUTATIONS/PRESENTATIONS.....	2
10	REPORTS OF COMMITTEES AND OFFICERS.....	3
10.1	GENERAL.....	3
10.1.1	CHIEF EXECUTIVE OFFICER'S ANNUAL PERFORMANCE REVIEW	3
10.1.2	WARD BOUNDARY REVIEW & NUMBERS OF ELECTED MEMBERS	9
11	ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN.....	22
12	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING.....	22
12.1.1	LOCAL GOVERNMENT REFORM – PARTICIPATION IN A REGIONAL TRANSITION GROUP (RTG)	22
13	MEETING CLOSURE.....	24

1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Officer announced the meeting opened at 6:29 PM.

**2 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE
(PREVIOUSLY APPROVED)****Present**

Mayor Kevin Morgan	Presiding Member
Cr Jay Birnbrauer	
Cr Greg Boland	

Officers Present

Carl Askew	Chief Executive Officer
Graham Pattrick	Manager, Corporate and Community Services
Andrew Jackson	Manager, Development Services
Geoff Trigg	Manager, Engineering Services
Lydia Giles	Executive Assistant

Apologies

Cr Jack Walsh

Leave of Absence (previously approved)

Nil

Officer Apologies

Nil

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4 PUBLIC QUESTION TIME

Nil

5 PUBLIC STATEMENT TIME

Nil

6 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Cr Boland, seconded Cr Birnbrauer

[Minutes May 19 2010 Strategic Planning Committee.doc](#)

The Minutes of the Ordinary meeting of the Strategic Planning Committee, held on 19 May 2010 be confirmed.

Carried 3/0

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil

9 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

10 REPORTS OF COMMITTEES AND OFFICERS

10.1 GENERAL

10.1.1 CHIEF EXECUTIVE OFFICER'S ANNUAL PERFORMANCE REVIEW

File No: PER/94
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Carl Askew
Chief Executive Officer

Proposed Meeting Date: 18 August 2010

Author Disclosure of Interest The author has an interest in the matter as it directly relates to his employment.

SUMMARY

This report recommends that Council confirm the establishment and appointment of the Performance Review Panel for the Chief Executive Officer's annual performance appraisal in order to make recommendations to Council in accordance with Clause 8 of the Chief Executive Officer's contract of employment. It further recommends that Council invite a representative from WALGA's Workplace Solutions to join the panel to provide independent facilitation and professional advisory services.

BACKGROUND

In February 2010 Council resolved as follows:

That Council:

- 1 Receive this Performance Review report and endorses the overall rating of; "satisfactory - meeting the performance requirements of the position of Chief Executive Officer of the Town of Cottesloe".*
 - 2 Conduct the next review of the CEO's performance by December 2010.*
 - 3 Adopt the following Key Result Areas for the 2010 appraisal period.*
 - 3.1 Finalise the gazettal of the Local Planning Scheme No. 3 including the preparation of draft policies to be ready by gazettal.*
 - 3.2 Manage the Local Government Reform Strategy as determined and supported by Council*
 - 3.3 Progress the preferred solution for Council's Depot services and redevelopment of the current site.*
 - 3.4 Complete the development of the new joint Library and Community Centre*
 - 3.5 Subject to external funding, implement a strategy to oversee the realisation of the Foreshore Concept Plan.*
 - 3.6 Revitalisation and ongoing management of the use of the Civic Centre and grounds.*
-

3.7 *Develop a short and long term asset management plan and accompanying financial plan that takes into account the community call for better quality public buildings inclusive of environmentally sensitive design (ESD) initiatives and universal design features.*

3.8 *Finalise and adopt a plan for the Town Centre and Station Street.*

3.9 *Develop, finalise and launch a new website for the Town.*

3.10 *Assess and manage the impact of the introduction of the Local Government Industry Award 2010.*

4 *Review the CEO's remuneration in accordance with the terms of the contract of employment*

5 *Conduct subsequent remuneration reviews as part of the appraisal process and tabled at each December Ordinary Meeting of Council.*

In March 2010 Council resolved as follows;

That Council note the remuneration review conducted by the CEO Performance Review Panel and endorse that no change in the CEO's remuneration package be made at this time.

In accordance with the Position Description for the Chief Executive Officer the principal Objectives of the position are;

- Provides visionary leadership and strategic management and direction for the Town of Cottesloe.
- Provides the primary link through effective engagement between the Council, Staff, Stakeholders and the Community to achieve the Town's goals and objectives.
- Responsible for ensuring the highest level of business excellence, integrity, corporate governance and accountability, which is demonstrated within an environment of transparency, trust, openness, honesty and fairness for all.
- Commits to "Broad Objectives for the Future" in the Future Plan 2006 – 2010, namely:
 - Protecting and enhancing the lifestyle of residents and visitors.
 - Resolving the divisive nature of the configuration of the railway and main roads.
 - Enhancing beach access and the foreshore.
 - Managing the complexities involved in pressures for development.
 - Managing infrastructure and council buildings in a sustainable way.
 - Earning the community's confidence in council.

Clause 7 of the CEO's contract reads as follows;

7. PERFORMANCE CRITERIA & KEY RESULT AREAS

The following performance criteria apply to this contract:

- Provide accurate and timely advice to Council based on available and appropriate information;
- Works collaboratively with Council;
- Facilitate the development and achievement of the Local Government's strategic plan through the involvement of stakeholders and the persistent application of effort;
- Maintain a work environment that facilitates the development of people and encourages them to perform at a high level;
- Ensure the effective and accountable application of financial and physical resources;
- Develop and implement continuous improvement strategies to enhance service delivery;
- Initiate the development, implementation and review of Policy.

These performance criteria may be varied and any other criteria may be included by agreement between the parties at any time during the term of this contract.

Key Result Areas

- Key Result Areas will be developed for each 12-month period of the Contract.
- Key Result Areas are not intended to cover all aspects of the position, only those which are most clearly linked to the achievement of the Local Government's strategic objectives and Future Plan.
- Key Result Areas will be tangible and measurable and within the Employee's area of control and authority.

Clause 12 of the CEO's contract reads as follows;

12. REMUNERATION

12.2.1 The remuneration package referred to in sub-clause 12.1 shall be reviewed annually by Council. A review shall not result in a decrease in the remuneration package.

As part of the Town's Future Plan 2006 to 2010 there are a number of *Strategic Priorities and Dynamic Priority Projects*. In relation to both the Action Plan and Dynamic Projects, the following strategies were identified by Council as ongoing priorities for 2010 at its May 2010 meeting.

Priority	Item	Related Objective
1	Finalise Local Planning Scheme No. 3 including the preparation of all draft policies	DP1 A
2	Progress options for the Council depot site	Objective 5.1
3	Implement a strategy to oversee the realisation of the Foreshore Concept Plan	Objective 3.1

4	Proactively pursue solutions for Curtin Avenue and the railway	Objective 2.1
5	Report on the proposed tasks identified in the Climate Change Vulnerability study and their impacts, priorities and applicability to the Town of Cottesloe	DP 2
6	Complete the development of new joint library facilities	Objective 5.2
7	Finalise and adopt a plan for the Town Centre and Station Street.	Objective 5.3
8	Enhance use of the Civic Centre	Objective 1.5
9	Implement a Community Safety Strategy	Objective 1.9
10	Develop sustainability and capacity criteria to assess major strategies	

STRATEGIC IMPLICATIONS

The achievement of Council's Future Plan is directly related to the performance of the Chief Executive Officer.

POLICY IMPLICATIONS

None known

STATUTORY ENVIRONMENT

The relevant sections of the Local Government Act read, in part, as follows:

5.23. Meetings generally open to the public

- (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.*
- (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.*

5.38. Annual review of certain employees' performances

The performance of each employee who is employed for a term of more than one year, including the CEO and each senior employee, is to be reviewed at least once in relation to every year of the employment.

5.39. Contracts for CEO's and senior employees

(1) Subject to subsection (1a), the employment of a person who is a CEO or a senior employee is to be governed by a written contract in accordance with this section.

(1a) Despite subsection (1) -

(a) an employee may act in the position of a CEO or a senior employee for a term not exceeding one year without a written contract for the position in which he or she is acting; and

(b) a person may be employed by a local government as a senior employee for a term not exceeding 3 months, during any 2 year period, without a written contract.

(2) A contract under this section -

(a) in the case of an acting or temporary position, cannot be for a term exceeding one year;

(b) in every other case, cannot be for a term exceeding 5 years.

(3) A contract under this section is of no effect unless -

(a) the expiry date is specified in the contract;

(b) there are specified in the contract performance criteria for the purpose of reviewing the person's performance; and

(c) any other matter that has been prescribed as a matter to be included in the contract has been included.

(4) A contract under this section is to be renewable and subject to subsection (5), may be varied.

(5) A provision in, or condition of, an agreement or arrangement has no effect if it purports to affect the application of any provision of this section.

(6) Nothing in subsection (2) or (3)(a) prevents a contract for a period that is within the limits set out in subsection 2(a) or (b) from being terminated within that period on the happening of an event specified in the contract.

(7) A report made by the Salaries and Allowances Tribunal, under section 7A of the Salaries and Allowances Act 1975, containing recommendations as to the remuneration to be paid or provided to a CEO is to be taken into account by the local government before entering into, or renewing, a contract of employment with a CEO.

Regulation 18D:

- The performance of the CEO be reviewed at least once a year;*
- The CEO will have a written contract of employment, which shall include performance criteria for the purpose of conducting a review. and,*

A Local Government is to consider each review on the performance of the CEO carried out under section 5.38 and is to accept the review, with or without modification, or to reject the review.

FINANCIAL IMPLICATIONS

Any change in remuneration will have an budgetary impact. The current budget allows for a CPI increase.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Mayor

STAFF COMMENT

As listed above, a number of organisational strategies were identified by Council as ongoing priorities for 2009/10 whilst a number of specific Key Result Areas (KRA's) for the CEO were also identified in February 2010. In addition, 2010 has seen ongoing challenges placed before Council, including the future of WESROC and the ongoing local government reform agenda.

The review process is conducted by the Review Panel under the auspices of the Mayor (whose role is to *"liaise with the CEO on the Local Government's affairs and the performance of its functions"*) and it is recommended that evaluation of performance should also invite input from all elected members.

In accordance with Council's February 2010 resolution, the CEO's performance and remuneration review should be completed by December 2010. Initial contact with Mr John Phillips, Executive Manager WALGA Workplace Solutions has confirmed his availability to support Council and the Review Panel with facilitation and professional advisory services.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

Moved Mayor Morgan, seconded Cr Birnbrauer

THAT Council:

- 1. Confirm the appointment of the Mayor, Deputy Mayor and Deputy Presiding Members of the Development Services and Works & Corporate Services Committees as members of the CEO's Performance Review Panel with its role/responsibility being to;**
 - a. Conduct the CEO's annual performance review based upon the performance objectives set for 2010.**
 - b. Make recommendations to Council on the CEO's contract, remuneration and performance objectives for 2011.**
- 2. Invite a representative from WALGA's Workplace Solutions to join the panel to provide independent facilitation and professional advisory services.**

Carried 3/0

10.1.2 WARD BOUNDARY REVIEW & NUMBERS OF ELECTED MEMBERS

File No: Sub/41
Attachments: [Report to Council May 2009 pdf](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Carl Askew
Chief Executive Officer
Proposed Meeting Date: 18 August 2010
Author Disclosure of Interest Nil

SUMMARY

In May 2009 Council resolved as follows:

That Council:

- 1. Note the information provided in relation to elected member numbers, wards and boundaries.*
- 2. Appoint the Mayor, Chief Executive Officer and Cr Birnbrauer as members of the Town of Cottesloe Project Team for the preparation of the Town's Reform Submission to the Minister for Local Government by 31 August 2009.*
- 3. Based upon its final Reform Submission and any subsequent decisions by the Minister, determine to commence the process of reviewing its elected member numbers, wards and boundaries in time for the October 2011 local government elections.*

This report addresses part three of Council's resolution and recommends that Council:

1. Commence the process of a review of wards and representation,
2. Give local public notice that a review is to be carried out and seek submissions from the public,
3. Receive a subsequent report which considers all submissions and relevant factors, and
4. Submit a report to the Local Government Advisory Board for its consideration..

BACKGROUND

The Minister for Local Government, the Hon John Castrilli MLA, announced a local government reform strategy on 5 February 2009. The reforms are based on amalgamations of local governments in WA, the reduction of elected members and the formation of appropriate regional groupings of local governments.

The Town of Cottesloe last undertook a formal review of its ward boundaries and representation in 2004. The review outcome and subsequent Council resolution was to;

Advise the Local Government Advisory Board that the Town of Cottesloe has made a review of its ward boundaries and representation is unable to recommend an order for change.

Council is required to review its ward boundaries and number of offices of councillors for each ward *from time to time so that not more than eight (8) years elapse between successive reviews*. The typical review process involves a number of steps;

- Council resolves to undertake a review on ward boundaries and the number of offices of councillor
- Prior to conducting a review a local government is to give local public notice that a review is to be carried out
- Public submission period opens (local advertising and website) – minimum of 42 days
- Information provided to community for discussion including a range of alternatives to the current ward system
- Public submission period closes – minimum of 42 days from date of notice
- Council considers all submissions and relevant facts and makes a decision
- Council submits a report to the Local Government Advisory Board for consideration (the Board considers that the ratio of councillors to electors is always significant and it is expected that each local government will have similar ratios of electors to councillors across the wards of its district with no resulting ratio being plus or minus 10% of the average ratio for that local government).
- If a change is proposed the Board submits a recommendation to the Minister for Local Government
- Any changes approved by the Minister, where possible, will be in place for the next ordinary election

Boundaries and representation are generally assessed against a number of criteria including;

- community of interest,
- physical and topographic features,
- demographic trends,
- economic factors, and
- the ratio of councillors to electors in the various wards.

According to the Department of Local Government in their circular of November 2008 related to *Review of Wards and Representation*, after the community comment period any feedback is assessed and summarized and presented to Council for consideration and resolution. Once a decision is made the local government may consider the impact of implementing any change at the next ordinary election. In some circumstances elected members may be unable to complete their term of office in view of the implementation of changes.

Once the local government has completed its review it must provide a written report about the review to the Local Government Advisory Board. If a local government expects changes to be in place in time for an ordinary election, it must submit its report to the Board by the end of December in the year prior to an ordinary election day. This will allow sufficient time for any changes to be considered and processed for the beginning of the election cycle.

The current situation at Cottesloe has a Mayor elected “by the community” plus a total of 10 Councillors elected from four (4) wards as follows:

Ward	Number of Electors	Number of Councillors	Councillor: Elector Ratio	% Ratio Deviation
North	2373	4	593	-10.37%
East	997	2	499	7.26%
South	1044	2	522	2.88%
Central	961	2	481	10.60%
	5375	10	538	

Note: Data is from the Electoral Commission and based upon eligible voters as of the October 2009 elections.

Attachment 1 shows the current ward boundaries. The % ratio deviation gives a clear indication of the % difference between the average councillor/elector ratio for the whole local government and the councillor/elector ratio for each ward. It can be seen that there is a significant imbalance in representation across the Town. According to the Advisory Board it is recommended that a balanced representation would be reflected in the % ratio deviation being within plus or minus 10%.

STRATEGIC IMPLICATIONS

Whilst Council has a Future Plan for the period 2006 – 2010 and has endorsed action plans through the budget process in 2010/11 to achieve its goals, any future strategic planning and subsequent actions will need to address the issue of structural reform, including changes to the number of elected members. The impact of changing the number of elected members affects elector representation ratios, Committee and Council membership/functions and, in some circumstances, elected members may be unable to complete their term of office based upon endorsed implementation timeframes.

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995, particularly Section 2.1 and Schedules 2.1 and 2.2.

Part 2 — CONSTITUTION OF LOCAL GOVERNMENT

Division 1 — Districts and Wards

2.1. State divided into districts

- (1) The Governor, on the recommendation of the Minister, may make an order —
 - (a) declaring an area of the State to be a district;
 - (b) changing the boundaries of a district;
 - (c) abolishing a district; or
 - (d) as to a combination of any of those matters.
- (2) Schedule 2.1 (which deals with creating, changing the boundaries of, and abolishing districts) has effect.

- (3) The Minister can only make a recommendation under subsection (1) if the Advisory Board has recommended under Schedule 2.1 that the order in question should be made.

2.2. Districts may be divided into wards

- (1) The Governor, on the recommendation of the Minister, may make an order —
- (a) dividing a district into wards;
 - (b) creating new wards in a district that is already divided into wards;
 - (c) changing the boundaries of a ward;
 - (d) abolishing any or all of the wards into which a district is divided; or
 - (e) as to a combination of any of those matters.
- (2) For the purposes of this Act —
- (a) an order that divides a district into wards is to be regarded as establishing a ward system for the district; and
 - (b) an order that abolishes all of the wards into which a district is divided and does not create new wards, is to be regarded as discontinuing the ward system for the district.
- (3) Schedule 2.2 (which deals with wards and representation) has effect.
- (4) The Minister can only make a recommendation under subsection (1) if the Advisory Board has recommended under Schedule 2.2 that the order in question should be made.

Schedule 2.1 — Provisions about creating, changing the boundaries of, and abolishing districts

[Section 2.1(2)]

1. Interpretation

In this Schedule, unless the contrary intention appears —

“affected electors”, in relation to a proposal, means —

- (a) electors whose eligibility as electors comes from residence, or ownership or occupation of property, in the area directly affected by the proposal; or
- (b) where an area of the State is not within or is not declared to be a district, people who could be electors if it were because of residence, or ownership or occupation of property, in the area directly affected by the proposal;

“affected local government” means a local government directly affected by a proposal;

“notice” means notice given or published in such manner as the Advisory Board considers appropriate in the circumstances;

“proposal” means a proposal made under clause 2 that an order be made as to any or all of the matters referred to in section 2.1.

2. Making a proposal

- (1) A proposal may be made to the Advisory Board by —
- (a) the Minister;
 - (b) an affected local government;
 - (c) 2 or more affected local governments, jointly; or

- (d) affected electors who —
 - (i) are at least 250 in number; or
 - (ii) are at least 10% of the total number of affected electors.
- (2) A proposal is to —
 - (a) set out clearly the nature of the proposal and the effects of the proposal on local governments;
 - (b) be accompanied by a plan illustrating any proposed changes to the boundaries of a district; and
 - (c) comply with any regulations about proposals.

3. Dealing with proposals

- (1) The Advisory Board is to consider any proposal.
- (2) The Advisory Board may, in a written report to the Minister, recommend* that the Minister reject a proposal if, in the Board's opinion —
 - (a) the proposal is substantially similar in effect to a proposal on which the Board has made a recommendation to the Minister within the period of 2 years immediately before the proposal is made; or
 - (b) the proposal is frivolous or otherwise not in the interests of good government.

** Absolute majority required.*

- (3) If, in the Advisory Board's opinion, the proposal is —
 - (a) one of a minor nature; and
 - (b) not one about which public submissions need be invited,

the Board may, in a written report to the Minister, recommend* that the Minister reject the proposal or that an order be made in accordance with the proposal.

** Absolute majority required.*

- (4) Unless it makes a recommendation under subclause (2) or (3), the Advisory Board is to formally inquire into the proposal.

4. Notice of inquiry

- (1) Where a formal inquiry is required the Advisory Board is to give —
 - (a) notice to affected local governments, affected electors and the other electors of districts directly affected by the proposal; and
 - (b) a report to the Minister.
- (2) The notice and report under subclause (1) are to —
 - (a) advise that there will be a formal inquiry into the proposal;
 - (b) set out details of the inquiry and its proposed scope; and
 - (c) advise that submissions may be made to the Board not later than 6 weeks after the date the notice is first given about —
 - (i) the proposal; or
 - (ii) the scope of the inquiry.
- (3) If, after considering submissions made under subclause (2)(c), the Advisory Board decides* that the scope of the formal inquiry is to be significantly different from that set out in the notice and report under subclause (1), it is to give —

- (a) another notice to affected local governments, affected electors and the other electors of districts directly affected by the proposal; and
 - (b) another report to the Minister.
- (4) The notice and report under subclause (3) are to —
- (a) set out the revised scope of the inquiry; and
 - (b) advise that further submissions about the proposal, or submissions about matters relevant to the revised scope of the inquiry, may be made to the Board within the time set out in the notice.

** Absolute majority required.*

5. Conduct of inquiry

- (1) A formal inquiry is to be carried out, and any hearing for the purposes of the inquiry is to be conducted, in a way that makes it as easy as possible for interested parties to participate fully.
- (2) In carrying out a formal inquiry the Advisory Board is to consider submissions made to it under clause 4(2)(c) and (4)(b) and have regard, where applicable, to —
- (a) community of interests;
 - (b) physical and topographic features;
 - (c) demographic trends;
 - (d) economic factors;
 - (e) the history of the area;
 - (f) transport and communication;
 - (g) matters affecting the viability of local governments; and
 - (h) the effective delivery of local government services,

but this does not limit the matters that it may take into consideration.

6. Recommendation by Advisory Board

- (1) After formally inquiring into a proposal, the Advisory Board, in a written report to the Minister, is to recommend* —
- (a) that the Minister reject the proposal;
 - (b) that an order be made in accordance with the proposal; or
 - (c) if it thinks fit after complying with subclause (2), the making of some other order that may be made under section 2.1.

** Absolute majority required.*

- (2) The Advisory Board is not to recommend to the Minister the making of an order that is significantly different from the proposal into which it formally inquired unless the Board has —
- (a) given* notice to affected local governments, affected electors and the other electors of districts directly affected by the recommendation of its intention to do so;
 - (b) afforded adequate opportunity for submissions to be made about the intended order; and
 - (c) considered any submissions made.

** Absolute majority required.*

7. Minister may require a poll of electors

In order to assist in deciding whether or not to accept a recommendation of the Advisory Board made under clause 6, the Minister may require that the Board's recommendation be put to a poll of the electors of districts directly affected by the recommendation.

8. Electors may demand a poll on a recommended amalgamation

- (1) Where the Advisory Board recommends to the Minister the making of an order to abolish 2 or more districts (“**the districts**”) and amalgamate them into one or more districts, the Board is to give notice to affected local governments, affected electors and the other electors of districts directly affected by the recommendation about the recommendation.
- (2) The notice to affected electors has to notify them of their right to request a poll about the recommendation under subclause (3).
- (3) If, within one month after the notice is given, the Minister receives a request made in accordance with regulations and signed by at least 250, or at least 10%, of the electors of one of the districts asking for the recommendation to be put to a poll of electors of that district, the Minister is to require that the Board's recommendation be put to a poll accordingly.
- (4) This clause does not limit the Minister's power under clause 7 to require a recommendation to be put to a poll in any case.

9. Procedure for holding poll

Where, under clause 7 or 8, the Minister requires that a recommendation be put to a poll —

- (a) the Advisory Board is to —
 - (i) determine the question or questions to be answered by electors; and
 - (ii) prepare a summary of the case for each way of answering the question or questions;
- and
- (b) any local government directed by the Minister to do so is to —
 - (i) in accordance with directions by the Minister, make the summary available to the electors before the poll is conducted; and
 - (ii) conduct the poll under Part 4 and return the results to the Minister.

10. Minister may accept or reject recommendation

- (1) Subject to subclause (2), the Minister may accept or reject a recommendation of the Advisory Board made under clause 3 or 6.
- (2) If at a poll held as required by clause 8 —
 - (a) at least 50% of the electors of one of the districts vote; and
 - (b) of those electors of that district who vote, a majority vote against the recommendation,the Minister is to reject the recommendation.
- (3) If the recommendation is that an order be made and it is accepted, the Minister can make an appropriate recommendation to the Governor under section 2.1.

10A. Recommendations regarding names, wards and representation

- (1) The Advisory Board may —
 - (a) when it makes its recommendations under clause 3 or 6; or

- (b) after the Minister has accepted its recommendations under clause 10, in a written report to the Minister, recommend the making of an order to do any of the things referred to in section 2.2(1), 2.3(1) or (2) or 2.18(1) or (3) that the Board considers appropriate.
- (2) In making its recommendations under subclause (1) the Advisory Board —
 - (a) may consult with the public and interested parties to such extent as it considers appropriate; and
 - (b) is to take into account the matters referred to in clause 8(c) to (g) of Schedule 2.2 so far as they are applicable.

11. Transitional arrangements for orders about districts

- (1) Regulations may provide for matters to give effect to orders made under section 2.1 including —
 - (a) the vesting, transfer, assumption or adjustment of property, rights and liabilities of a local government;
 - (b) the extinguishment of rights of a local government;
 - (c) the winding up of the affairs of a local government;
 - (d) the continuation of actions and other proceedings brought by or against a local government before the taking effect of an order under section 2.1;
 - (e) the bringing of actions and other proceedings that could have been brought by or against a local government before the taking effect of an order under section 2.1;
 - (f) if the effect of an order under section 2.1 is to unite 2 or more districts, the determination of the persons who are to be the first mayor or president, and deputy mayor or deputy president, of the new local government;
 - (g) the continuation of any act, matter or thing being done under another written law by, or involving, a local government.
- (2) Subject to regulations referred to in subclause (1), where an order is made under section 2.1 any local governments affected by the order (including any new local government created as a result of the order) are to negotiate as to any adjustment or transfer between them of property, rights and liabilities.
- (3) Where an order is made under section 2.1 the Governor may, by order under section 9.62(1), give directions as to any of the matters set out in subclause (1) if, and to the extent that, those matters are not resolved by regulations referred to in that subclause or by negotiation under subclause (2).
- (4) A contract of employment that a person has with a local government is not to be terminated or varied as a result (wholly or partly) of an order under section 2.1 so as to make it less favourable to that person unless —
 - (a) compensation acceptable to the person is made; or
 - (b) a period of at least 2 years has elapsed since the order had effect.
- (5) The rights and entitlements of a person whose contract of employment is transferred from one local government to another, whether arising under the contract or by reason of it, are to be no less favourable to that person after the transfer than they would have been had the person's employment been continuous with the first local government.
- (6) If land ceases to be in a particular district as a result of an order under section 2.1, any written law that would have applied in respect of it if the order had not been made continues to apply in respect of the land to the extent that its continued application would be consistent with —

- (a) any written law made after the order was made; and
 - (b) any order made by the Governor under subclause (8).
- (7) Regulations may make provision as to whether or not, or the modifications subject to which, a written law continues to apply in respect of land under subclause (6).
- (8) The Governor may, in a particular case, by order, vary the effect of subclause (6) and regulations made in accordance with subclause (7).

[Schedule 2.1 amended by No. 64 of 1998 s.52.]

Schedule 2.2 — Provisions about names, wards and representation

[Section 2.2(3)]

1. Interpretation

In this Schedule, unless the contrary intention appears —

“**affected electors**”, in relation to a submission, means electors whose eligibility as electors comes from residence, or ownership or occupation of property, in the area directly affected by the submission;

“**review**” means a review required by clause 4(4) or 6 or authorized by clause 5(a);

“**submission**” means a submission under clause 3 that an order be made to do any or all of the things referred to in section 2.2(1), 2.3(3) or 2.18(3).

2. Advisory Board to make recommendations relating to new district

- (1) When a local government is newly established, the Advisory Board —
- (a) at the direction of the Minister; or
 - (b) after receiving a report made by a commissioner appointed under section 2.6(4) after carrying out a review,

is, in a written report to the Minister, to recommend the making of an order to do all or any of the things referred to in section 2.2(1)(a), 2.3(2) or 2.18(1).

- (2) In making its recommendations under subclause (1) the Advisory Board is to take into account the matters referred to in clause 8(c) to (g) so far as they are applicable.

3. Who may make submissions about ward changes etc.

- (1) A submission may be made to a local government by affected electors who —
- (a) are at least 250 in number; or
 - (b) are at least 10% of the total number of affected electors.
- (2) A submission is to comply with any regulations about the making of submissions.

4. Dealing with submissions

- (1) The local government is to consider any submission made under clause 3.
- (2) If, in the council's opinion, a submission is —
- (a) one of a minor nature; and
 - (b) not one about which public submissions need be invited,

the local government may either reject the submission or deal with it under clause 5(b).

- (3) If, in the council's opinion, a submission is substantially similar in effect to a submission about which the local government has made a decision (whether an approval or otherwise) within the period of 2 years immediately before the submission is made, the local government may reject the submission.
- (4) Unless, under subclause (2) or (3), the local government rejects the submission or decides to deal with it under clause 5(b), the local government is to carry out a review of whether or not the order sought should, in the council's opinion, be made.

5. Local government may propose ward changes or make minor proposals

A local government may, whether or not it has received a submission —

- (a) carry out a review of whether or not an order under section 2.2, 2.3(3) or 2.18 should, in the council's opinion, be made;
 - (b) propose* to the Advisory Board the making of an order under section 2.2(1), 2.3(3) or 2.18(3) if, in the opinion of the council, the proposal is —
 - (i) one of a minor nature; and
 - (ii) not one about which public submissions need be invited;
- or
- (c) propose* to the Minister the making of an order changing the name of the district or a ward.

** Absolute majority required.*

6. Local government with wards to review periodically

A local government the district of which is divided into wards is to carry out reviews of —

- (a) its ward boundaries; and
- (b) the number of offices of councillor for each ward,

from time to time so that not more than 8 years elapse between successive reviews.

7. Reviews

- (1) Before carrying out a review a local government has to give local public notice advising —
 - (a) that the review is to be carried out; and
 - (b) that submissions may be made to the local government before a day fixed by the notice, being a day that is not less than 6 weeks after the notice is first given.
- (2) In carrying out the review the local government is to consider submissions made to it before the day fixed by the notice.

8. Matters to be considered in respect of wards

Before a local government proposes that an order be made —

- (a) to do any of the matters in section 2.2(1), other than discontinuing a ward system; or
- (b) to specify or change the number of offices of councillor for a ward,

its council is to have regard, where applicable, to —

- (c) community of interests;
- (d) physical and topographic features;
- (e) demographic trends;
- (f) economic factors; and
- (g) the ratio of councillors to electors in the various wards.

9. Proposal by local government

On completing a review, the local government is to make a report in writing to the Advisory Board and may propose* to the Board the making of any order under section 2.2(1), 2.3(3) or 2.18(3) it thinks fit.

** Absolute majority required.*

10. Recommendation by Advisory Board

- (1) Where under clause 5(b) a local government proposes to the Advisory Board the making of an order under section 2.2(1), 2.3(3) or 2.18(3), and the Board is of the opinion that the proposal is —

- (a) one of a minor nature; and
- (b) not one about which public submissions need be invited,

the Board, in a written report to the Minister, is to recommend the making of the order but otherwise is to inform the local government accordingly and the local government is to carry out a review.

- (2) Where under clause 9 a local government proposes to the Advisory Board the making of an order of a kind referred to in clause 8 that, in the Board's opinion, correctly takes into account the matters referred to in clause 8(c) to (g), the Board, in a written report to the Minister, is to recommend the making of the order.

- (3) Where a local government proposes to the Advisory Board the making of an order of a kind referred to in clause 8 that, in the Board's opinion, does not correctly take into account the matters referred to in that clause —

- (a) the Board may inform the local government accordingly and notify the local government that a proposal that does correctly take those matters into account is to be made within such time as is set out in the notice; and
- (b) if the local government does not make a proposal as required by a notice under paragraph (a), the Board may, in a written report to the Minister, recommend* the making of any order under section 2.2(1), 2.3(3) or 2.18(3) it thinks fit that would correctly take into account those matters.

** Absolute majority required.*

- (4) Where a local government fails to carry out a review as required by clause 6, the Advisory Board, in a written report to the Minister, may recommend* the making of any order under section 2.2(1), 2.3(3) or 2.18(3) it thinks fit that would correctly take into account the matters referred to in clause 8.

** Absolute majority required.*

11. Inquiry by Advisory Board

- (1) For the purposes of deciding on the recommendation, if any, it is to make under clause 10(3)(b) or (4), the Advisory Board may carry out any inquiry it thinks necessary.
- (2) The Advisory Board may recover the amount of the costs connected with an inquiry under subclause (1) from the local government concerned as if it were for a debt due.

12. Minister may accept or reject recommendation

- (1) The Minister may accept or reject a recommendation of the Advisory Board made under clause 10.

- (2) If the recommendation is accepted the Minister can make a recommendation to the Governor for the making of the appropriate order.

[Schedule 2.2 amended by No. 64 of 1998 s.53.]

FINANCIAL IMPLICATIONS

There will be costs associated with any proposal for ward boundary changes (including community consultation) and associated elections as a consequence of any change to elected member numbers.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The ideal number of elected members for a local government is for the local government to determine. There is a diverse range of councillor/elector ratios across Western Australia reflecting the sparsely populated remote areas and the highly populated urban areas. The structure of the Council's operations will provide some input into the number of elected members needed to service the local government.

As part of the community consultation period a discussion paper is prepared which outlines the factors considered and against which options are to be assessed, as well as including maps to show the current situation and possible alternative options. The Board considers that the ratio of councillors to electors is always significant and it is expected that each local government will have similar ratios of electors to councillors across the wards of its district. In the report in May 2009 Council considered a number of related issues including the use of Wards and a reduction in the number of members to either six or eight, exclusive of a directly elected Mayor. Any such change affects both the councillor/elector ratio as well as changes in actual ward boundaries.

In relation to timing, and as mentioned above, conducting a ward and representation review can be a lengthy process and, according to the Department of Local Government any changes to be implemented before the 2011 local government elections must be gazetted 80 days before the election date.

During the last twelve (12) months most Council's have been focussed on the Minister's reform agenda including potential amalgamation of local governments. Based upon Council's current position with regard to reform and the lack of willingness of its nominated partners to participate in a Regional Transition Group (RTG) process, little voluntary advancement can be achieved at this time. Given the time elapsed since Council last completed a ward/boundary review and in support of Council's current outstanding resolution it is recommended that Council now formally carry out such a review.

VOTING

Simple Majority

OFFICER RECOMMENDATION**Moved Mayor Morgan, seconded Cr Boland**

THAT Council:

1. Commence the process of a review of wards and representation.
2. Give local public notice that a review is to be carried out and seek submissions from the public.
3. Receive a subsequent report which considers all submissions and relevant factors, and;
4. Submit a report to the Local Government Advisory Board for its consideration.

COMMITTEE COMMENT:

Committee considered the report and made reference to Council's previous resolutions and discussion in terms of elected member numbers. Council's previously discussed position was for a reduction from ten (10) to eight (8) elected members across four (4) wards retaining a directly elected Mayor. Committee requested that this position be made clear in all community consultation (including discussion paper) so that residents and ratepayers were aware of Council's discussions.

AMENDMENT**Moved Mayor Morgan, seconded Cr Boland**

That a new item 2 be added which reads: "affirm its preferred position that Councillor numbers be reduced from ten (10) to eight (8) across the four (4) Wards, retaining a directly elected Mayor". Remaining items to be renumbered

Carried 3/0

COMMITTEE RECOMMENDATION

THAT Council:

1. Commence the process of a review of wards and representation.
2. Affirm its preferred position that Councillor numbers be reduced from ten (10) to eight (8) across the four (4) Wards, retaining a directly elected Mayor.
3. Give local public notice that a review is to be carried out and seek submissions from the public.
4. Receive a subsequent report which considers all submissions and relevant factors, and;
5. Submit a report to the Local Government Advisory Board for its consideration.

AMENDED SUBSTANTIVE MOTION WAS PUT

Carried 3/0

11 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING

Mayor Morgan moved a motion of urgent business responding to a letter from the Minister for Local Government inviting the Councils to reconsider engaging in the Regional Transition Group.

Moved Mayor Morgan, seconded Cr Birnbrauer

That the New Business of an Urgent Nature be accepted

Carried 3/0

12.1.1 LOCAL GOVERNMENT REFORM – PARTICIPATION IN A REGIONAL TRANSITION GROUP (RTG)

The Mayor tabled a letter from the Minister for Local Government requesting that the Councils of Claremont, Cottesloe, Mosman Park and Peppermint Grove reconsider engagement in the Local Government Reform program in view of the decisions by the cities of Nedlands and Subiaco to proceed to a Regional Transition Group (RTG). In addition, the CEO advised Committee on the resolution of Claremont Council from their meeting on 17 August which was:

1. Council advise the Minister for Local Government that the Town of Claremont confirms it is willing to enter into a Regional Transition Group
2. Council's preference remains to join with the Towns of Cottesloe and Mosman Park and Shire of Peppermint Grove to form a Regional Transition Group
3. In the event any one of the councils does not wish to participate then the RTG be with the remaining local governments.

The Mayor tabled a draft recommendation for discussion by Committee.

Moved Mayor Morgan, seconded Cr Birnbrauer

That Council:

1. **Note the letter from the Minister for Local Government inviting Cottesloe, Claremont, Mosman Park and Peppermint Grove councils to reconsider participating in a Regional Transition Group ("RTG")**

2. Reaffirm Council's willingness to join an RTG on terms as follow:
- (a). Council's preference remains to join with the Towns of Claremont and Mosman Park and Shire of Peppermint Grove to form an RTG
 - (b). In the event that any one of the Council's does not wish to participate then the RTG be with remaining two local governments
 - (c). The Town not formally entering into the RTG until the Council has undertaken prior community consultation confirming support for Cottesloe to enter into the RTG.
 - (d). The participants in the RTG being entitled (if they so choose after stage 1) to not proceed to amalgamate and to instead adapt the Business Plan for use by a regional council.
 - (e). The business plan being prepared on the basis that:
 - (f). The Cottesloe Civic Centre, grounds and the War Memorial Town Hall, will be preserved as a community asset accessible to the general community; and
 - (g). An amalgamation will not cause any forced redundancies of Council's staff.
 - (h). That the Minister notify the Town of Cottesloe of the quantum of state funding for any Regional Transition Group development of a Regional Business Plan prior to entering into any agreement.
 - (i). Request that the Minister for Local Government support and approve the boundary adjustments as resolved by Council in September 2009 as part of the RTG, to include the communities of Swanbourne in the north and North Fremantle in the south.
 - (j). That the Regional Transition Group agreement incorporate the scope to include a Regional Business Plan with boundary adjustments.
 - (k). That the Regional Transition Group agreement incorporate that election for any new local government take place prior to the commencement of the new Local Government.

Carried 3/0

The following additional amendment was proposed by Mayor Morgan:

That the words "other than Peppermint Grove" be inserted in part 2(b) after the word "Council's" and before the word "does".

The amendment was "lost" for want of a seconder.

13 MEETING CLOSURE

The Presiding Member announced the closure of the meeting at 7:00 PM.

CONFIRMED: PRESIDING MEMBER _____ *DATE: .../.../...*