

8.1 CITY OF VINCENT ORDINARY ELECTION 21 OCTOBER 2023 - APPOINTMENT OF ELECTORAL COMMISSIONER TO CONDUCT THE ELECTION BY POSTAL VOTE

- Attachments:**
1. Letter from WA Electoral Commissioner dated 9 February 2023 - conduct of City's 2023 ordinary election
 2. Letter from Minister for Local Government

RECOMMENDATION:**That Council:**

1. **APPROVES BY ABSOLUTE MAJORITY**, in accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the City of Vincent 2023 ordinary election, together with any other elections or polls which may also be required at this time;
2. **APPROVES BY ABSOLUTE MAJORITY**, in accordance with section 4.61(2) of the *Local Government Act 1995*, that the method of conducting the 2023 ordinary election will be as a postal election; and
3. **NOTES** that the estimated cost of the Electoral Commissioner conducting the City's 2023 ordinary election by postal vote is \$144,000 (including GST).

PURPOSE OF REPORT:

To consider the process and method for conducting the City of Vincent's (City's) 2023 ordinary election.

BACKGROUND:

Pursuant to section 4.7 of the *Local Government Act 1995* (LG Act) ordinary elections are to be held on the third Saturday of October every two years. The next ordinary election will be held on 21 October 2023. Local governments can choose to be responsible for the conduct of the ordinary election or appoint the Electoral Commissioner to conduct the ordinary election on its behalf. The method of conducting the election can either be via postal or in person voting.

DETAILS:

The Western Australian Electoral Commissioner wrote to the City on 9 February 2023 refer **Attachment 1** offering to conduct the election on the City's behalf in accordance with section 4.20(4) of the LG Act and setting out its estimated costs.

The Minister for Local Government Hon. John Carey MLA, recently wrote to all local governments advising of upcoming changes to the Local Government Act which may impact upon the 2023 Elections **Attachment 2**. These changes include:

- The introduction of optional preferential voting for all local government elections;
- Directly elected Mayors and Presidents for all Band 1 and 2 local governments;
- The abolition of wards for all Band 3 and 4 local governments; and
- Aligning the size of all councils with the size of the population of each district.

The introduction of preferential voting would be the only change affecting the City of Vincent.

Administration recommends that the Electoral Commissioner is appointed to conduct the ordinary election, on the basis that it has the following benefits:

1. the election is conducted by professionally trained staff appointed for that sole purpose;
2. the election is overseen by an independent body with the appropriate experience and resources; and
3. removes any conflict of interest that may arise or be perceived to arise between Council Members, Candidates and the Chief Executive Officer in his role as the Returning Officer, or other local government officers appointed in relation to the election.

The Electoral Commissioner has provided a cost estimate of \$144,000 (including GST) to conduct the 2023 ordinary election for the City. The calculation of this estimate, including the assumptions the estimate is based on, is set out in the letter at **Attachment 1**.

CONSULTATION/ADVERTISING:

Not applicable.

LEGAL/POLICY:

Section 4.20(4) of the LG Act allows local governments to appoint the WA Electoral Commissioner to conduct the election:

“4. *A local government may, having first obtained the written agreement of the Electoral Commissioner, declare* the Electoral Commissioner to be responsible for the conduct of the election, or all elections conducted within a particular period of time, and, if such declaration is made, the Electoral Commissioner is to appoint a person to be the returning officer of the local government for the election or elections.*”

* Absolute majority required

Section 4.28(c) of the LG Act governs the fees and charges associated with the election:

“4.28 *A local government is to –*

(a) ...

(b) ...

(c) *if a declaration under section 4.20(4) has been made in relation to the election, meet the expenses of the Electoral Commissioner in connection with the election to the extent required by regulations.*”

Section 4.61 of the LG Act sets out the choice of methods for conducting the election:

“4.61(1) *The election can be conducted as a –*
Postal election...

Voting in person election ...

(2) *The local government may decide* to conduct the election as a postal election.*”

*Absolute majority required.

RISK MANAGEMENT IMPLICATIONS:

Low: Appointing the Electoral Commissioner to conduct the 2023 ordinary election on behalf of the City is considered best practice. As the Electoral Commissioner has the requisite experience and will ensure compliance with the LG Act requirements it will have low risks for the City.

STRATEGIC IMPLICATIONS:

Conducting the 2023 ordinary election by postal vote should result in higher participation rates than in-person voting, and therefore this method aligns with the objectives and principles of the City’s *Strategic Community Plan 2018-2028*:

Innovative and Accountable

Our community is aware of what we are doing and how we are meeting our goals.

We are open and accountable to an engaged community.

FINANCIAL/BUDGET IMPLICATIONS:

The Electoral Commissioner estimates that the cost of conducting the 2023 ordinary election for the City by postal vote will be \$144,000 including GST.

LGE 028

Mr David MacLennan
Chief Executive Officer
City of Vincent
PO Box 82
LEEDERVILLE WA 6007

Dear Mr MacLennan

Local Government Ordinary Election: 2023

The next local government ordinary elections are being held on 21 October 2023. While this is still some distance in the future, I have enclosed an estimate for your next ordinary election to assist in your 2023/2024 budget preparations.

The estimated cost for the 2023 election if conducted as a postal ballot is \$144,000 inc GST, which has been based on the following assumptions:

- 26,100 electors
- response rate of approximately 30%
- 5 vacancies
- count to be conducted at the offices of the City of Vincent
- appointment of a local Returning Officer
- regular Australia Post delivery service to apply for the lodgement of the election packages.

An additional amount of \$5,625 will be incurred if your Council decides to opt for the Australia Post Priority Service for the lodgement of election packages.

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The Commission is required by the *Local Government Act* to conduct local government elections on a full cost recovery basis and you should note that this is an estimate only and may vary depending on a range of factors.

Costs not incorporated in this estimate include:

- any legal expenses other than those that are determined to be borne by the Western Australian Electoral Commission incurred as part of an invalidity complaint lodged with the Court of Disputed Returns
- the cost of any casual staff to assist the Returning Officer on election day or night
- any unanticipated costs arising from public health requirements for the COVID-19 pandemic.

As you are aware, the Government is currently considering reforms to the *Local Government Act 1995*, which include how elections are to be conducted. In order to assist with your local government's budget planning, we have included, to the best of our knowledge, costs that will arise from the changes proposed in legislation. For example, if under the amendments your local government will be required to conduct a mayoral/presidential election this has been included.

Some local governments may also note an increase in costs from their 2021 ordinary costs. These include increases arising from inflation in recent years affecting salaries for Returning Officers and other staff, printing and packaging costs as well as the increase in postage announced by Australia Post. Additional costs from the Commission have been included arising from improved processing procedures and additional resources to supplement the Commission's education, complaints management, investigation and legal efforts.

In order for the Commission to be responsible for the conduct of your election, the first step required by the *Local Government Act 1995* is my written agreement to undertake the election.

As such, you may take this letter as my agreement to be responsible for the conduct of the ordinary elections in 2023 for the City of Vincent in accordance with section 4.20(4) of the *Local Government Act 1995*, together with any other elections or polls that may also be required.

My agreement is subject to the proviso that the City of Vincent also wishes to have the election undertaken by the Western Australian Electoral Commission as a postal election.

In order to achieve this, your council would need to pass the following two motions by absolute majority:

- Declare, in accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the 2023 ordinary elections together with any other elections or polls which may be required
- Decide, in accordance with section 4.61(2) of the *Local Government Act 1995* that the method of conducting the election will be as a postal election.

It would be greatly appreciated if this item was considered at your March council meeting, to enable the Commission to have sufficient time to work with you to effectively conduct the election.

I look forward to conducting this election for the City of Vincent in anticipation of an affirmative vote by Council. If you have any further queries please contact Shani Wood Director, Election Operations on 9214 0400.

Yours sincerely



Robert Kennedy
ELECTORAL COMMISSIONER

9 February 2023



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

Our ref: 78-11008

Mayor Emma Cole
City of Vincent
PO Box 82
LEEDERVILLE WA 6902

City Of Vincent Records
RECEIVED

3 FEB 2023

14 FEB 2023

CTN Ref: _____

REC No: _____

Dear Mayor Cole

ARRANGEMENTS FOR THE UPCOMING OCTOBER 2023 ORDINARY ELECTIONS

As you know, the State Government is continuing to work with the local government sector to deliver the most significant package of local government reforms in more than 25 years. These reforms include several measures to strengthen local democracy and increase community engagement, including new requirements for:

- the introduction of optional preferential voting for all local government elections;
- directly-elected Mayors and Presidents for all Band 1 and 2 local governments;
- the abolition of wards for all Band 3 and 4 local governments; and
- aligning the size of councils with the size of the population of each district.

In September 2022, I wrote to all local governments to outline the implications of the reforms for each council, and pathways for implementing required changes. Since then, the majority of impacted councils have been working to consider how best to transition in changes. Many councils have since completed Ward and Representation Reviews, while others will have more substantial changes implemented through reform elections, or minor changes made to apply by default.

I would like to acknowledge and thank local governments for the constructive and proactive way they have approached this forward planning.

Further to my previous letter, the State Government is continuing to work to implement election reforms ahead of the October 2023 Ordinary Elections. The reforms will introduce Optional Preferential Voting (OPV) for all local government elections. OPV is similar to preferential voting used in State and Federal Elections, and for local government elections in every other Australian state. OPV provides that electors can preference as many or as few candidates as they decide, and there will be no transfer of preferences other than the preferences electors mark on their ballot paper.

The reforms will also include related new changes for the backfilling of vacancies, including:

- in the event that a member of the council is directly elected as the Mayor or President, the consequent vacancy can be filled by the next highest-polling candidate through the relevant district or ward council election held on the same day;
- if a vacancy arises within one year of a council member being elected at an ordinary election, that vacancy may be filled by the next highest-polling candidate; and
- the timeframes for which certain vacancies can remain unfilled ahead of an upcoming ordinary election will also be extended.

Together, these reforms will greatly reduce the need for extraordinary elections, saving costs for ratepayers and administrative burden for local governments in the longer term. However, these changes will require specific attention on election night, and returning officers will need to identify the candidates who are next in line to fill further vacancies for inclusion on the declaration of results.

Accordingly, I am writing to encourage all local governments to commence early planning for the practical arrangements for the conduct of the October 2023 Ordinary Elections.

As you would know, the council may declare the Electoral Commissioner as responsible to conduct postal elections under sections 4.20 and 4.61 of the *Local Government Act 1995* (the Act). Section 4.28 of the Act further provides that the local government is to meet the costs incurred by the Western Australian Electoral Commission (WAEC) in conducting such elections.

Alternatively, if council decides that the CEO (or other appointee) is to be the returning officer, local governments will have the option to purchase a licence for access to the WAEC's CountWA software to facilitate the counting of votes. CountWA software is used to count votes in State Elections, and involves data entry of preferences indicated on ballot papers. This provides for preferences to be counted and re-counted using the software.

If a local government decides to license the software instead of appointing the Electoral Commissioner to conduct the election, the CEO (or other appointee) will remain wholly responsible for the conduct of the count, the use of the software, the introduction of the new OPV counting and backfilling provisions, and dealing with any disputes or complaints. The WAEC will only be able to provide general assistance on accessing and using the software.

The WAEC will shortly be writing to all local governments to provide information for each council. The WAEC can also provide further information on each of these options. Please contact Phil Richards, Manager Election Events on 9214 0443 or at Phillip.Richards@waec.wa.gov.au if you have any queries.

It is strongly recommended that the decision for whether to declare the Electoral Commissioner as responsible for your election is put to Council at its March meeting. This will allow sufficient time for the WAEC to work with you to deliver the election, or provide you with a software licence, if preferred.

In considering potential arrangements, local governments should be mindful that the WAEC will require sufficient lead time to plan ahead. Accordingly, I strongly urge all local governments to make arrangements as early as possible, and consider the appointment of the WAEC to conduct the elections.

The Department of Local Government, Sport and Cultural Industries (DLGSC) is working closely with the WAEC to prepare further materials to assist local governments with the implementation of reforms. The DLGSC will provide further updates through LG Alerts to the sector and on the DLGSC's website. The DLGSC is also available to assist with any queries, including by email at lghotline@dlgsc.wa.gov.au or by phone on 1300 762 511.

Yours sincerely



HON JOHN CAREY MLA
MINISTER FOR LOCAL GOVERNMENT