

8.5 PROPOSED REPEAL OF LOCAL GOVERNMENT ELECTIONS POLICY

Attachments: 1. **Policy No. 4.2.14 - Local Government Elections**

RECOMMENDATION:

That Council REPEAL Policy No. 4.2.14 – Local Government Elections Policy at Attachment 1.

PURPOSE OF REPORT:

To seek Council approval to repeal Policy No. 4.2.14 – Local Government Elections at **Attachment 1**.

BACKGROUND:

In accordance with section 4.7 of the *Local Government Act 1995* (Act) ordinary elections are held on the third Saturday of October every two years. Local governments can either 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.

The Electoral Commissioner is responsible for conducting all local government postal elections in Western Australia and can also conduct voting in person elections on request under the Act.

The Local Government Elections Policy (Policy) was adopted by Council in February 2014 to provide guidance on the process for conducting Local Government Elections for the City.

The Policy was developed as a result of a Notice of Motion at the 29 October 2013 meeting requesting that the Chief Executive Officer create a guide for the conduct of Local Government Elections at the City of Vincent, including but not limited to:

1. advertising and promotional strategies of the City; and
2. matters relating to polling day.

The requirement of provisions outlined in clause 1.3 of the Policy Development and Review Policy were presented to Council Members through the monthly Policy Paper in March 2022. No comments were received.

DETAILS:

Part 4 of the Act prescribes the process that local governments are required to follow in relation to the election of its mayor or president, councillors, polls, and referendums. In particular:

- Divisions 2, 3, 4, 5 and 6 describe the different kinds of elections and direct when those elections are to be held;
- Division 7 is about the officials who conduct elections;
- Division 8 sets out the qualifications for enrolment to vote at elections;
- Division 9 deals with the process of preparing for and conducting an election;
- Division 10 deals with complaints about the results of elections;
- Division 11 sets out a number of offences in relation to elections and provides for investigation and prosecution of offences; and
- Division 12 deals with polls and referendums.

Prior to each election Administration prepares a report to Council to in relation to the conduct of the upcoming election.

The decision to declare a responsible person to conduct the election for the City must be made by resolution of Council by absolute majority vote.

Public notice of local elections is published in accordance with the requirements of the Act. The notices provide details about enrolling to vote, nominating to be a candidate in the elections, the ways in which a vote can be cast and the date of the election.

The substantive findings of Administrations review are as follows:

1. Type of Election

In accordance with section 4.20(4) and section 4.61(1) and (2) of the Act the decision to appoint a returning officer and to determine the method of conducting an election is to be made by absolute majority vote.

Prior to each election Administration prepares a report to Council to in relation to the conduct of the upcoming election. The report provides Council with sufficient and relevant information to make a decision, including alignment to the Strategic Community Plan, budget implications and community consultation and advertising.

2. Pre-Election promotion/advertising of Elections

Public notice of local elections is published in accordance with the requirements of the Act. The notices provide details about enrolling to vote, nominating to be a candidate, the ways in which a vote can be cast and the date of the election.

Clause 2.1 of the policy sets out the additional pre-election promotion and advertising that the City will undertake.

At its Council meeting held 14 September 2021 Council adopted its [Community Stakeholder and Engagement Strategy](#) and Policy. Pre-election promotions and advertising, in addition to the statutory requirements, should be guided by the principles of the [Community and Stakeholder Engagement Policy](#) and the objectives of the Community and Stakeholder Engagement Policy.

3. Information Sessions for potential candidates

Clause 2.2 of the policy requires the City to arrange information sessions for potential candidates to explain the election process and provide any other relevant information.

It is now compulsory for all candidates in local government elections to complete an online induction prior to nominating. The online induction is designed to make candidates aware of their obligations and commitments as a Council Member. The Candidate Induction is facilitated by the Department of Local Government, Sport and Cultural Industries (DLGSC) and is available on the DLGSC website.

In 2019 the Western Australian Local Government Association (WALGA) developed a free Webinar for prospective candidates.

The 2019 webinar focused on the following key areas:

- Parliament's role in creating legislation for local government;
- How to read the *Local Government Act 1995* and *Regulations*;
- Who does what at a local government;
- Council Member's personal responsibilities; and
- Consequences of improper conduct.

A prospective candidates webinar was held again prior to the 2021 elections. The 2021 webinar focused on the following key areas:

- Purpose of Local Government;
- Role of the Council and Council Members;
- Playing Your Role on Council;
- Conflicts of Interest;
- New Code of Conduct Behaviour Provisions Relating to Candidates; and
- Induction and Council Member Essentials Training.

Each session is recorded and available on the WALGA [website](#).

The Western Australian Electoral Commission (WAEC) has developed an online system called Nomination Builder to assist candidates to complete their nomination form which includes the candidate profile. The nomination builder can be accessed on the WAEC [website](#).

As part of local government best practice the City also schedules a specific City of Vincent Candidate Information Session prior to nomination day, involving the WAEC, the returning officer and other stakeholders.

4. Election Day

The conduct of each election is managed by a returning officer. This includes the conduct of the election day which should be determined in consultation with the appointed returning officer.

5. Swearing in Ceremony

Clause 4 of the policy determines the procedure to be undertaken when conducting a swearing in ceremony for newly elected Council Members.

Section 2.29 of the Act sets out the declaration requirements for newly elected members. The remainder of this clause is procedural and should be transferred to an Admin Procedure or Guidelines to facilitate the post-election process.

6. Appointment to Statutory Authorities, Committees and Advisory Groups

Division 4 of the Act sets out the requirements for forming a regional Council.

The membership requirements for the City's Advisory Groups are set out in clause 10 of the City's [Policy No. 4.2.12 – Advisory Groups](#). The Terms of Reference for each of the City's Advisory Groups is available on the City's website.

The remainder of this clause is procedural and should be transferred to an Admin Procedure or Guidelines to facilitate the post-election process.

7. Council Member Inductions

At its Council meeting held 8 February 2022, Council approved, for the purpose of advertising, proposed amendments to the Council Member Continuing Professional Development Policy. Part of these amendments include a new clause that the City will provide newly elected Council Members with a comprehensive induction program that will support in understanding Council Member roles and responsibilities; legislative obligations; personal responsibilities; and the strategic direction of the City.

The outcome of advertising and proposed adoption of amendments to this policy are included as an item in this agenda.

COMMENT:

Administration is of the opinion that there is no longer a requirement for a documented City position as the provisions of the Act govern the process for Local Government Elections and the guiding principles of the Community Stakeholder and Engagement Strategy and objectives of the Community and Stakeholder Engagement Policy guide administration in facilitating community engagement.

CONSULTATION/ADVERTISING:

No community consultation is required for the repeal of the policy.

LEGAL/POLICY:

There is no legislative or regulatory requirement for this policy.

Section 2.7(2)(b) of the *Local Government Act 1995* provides Council with the power to determine policies.

The City's [Policy Development and Review Policy](#) sets out the process for the development, review and repeal of the City's policy documents.

RISK MANAGEMENT IMPLICATIONS

Low: It is low risk for Council to repeal this Policy.

STRATEGIC IMPLICATIONS:

This is in keeping with the City's *Strategic Community Plan 2018-2028*:

Innovative and Accountable

We are open and accountable to an engaged community.

SUSTAINABILITY IMPLICATIONS:

Repealing this policy does not impact on the achievement of specific sustainability outcomes in the *City's Sustainable Environment Strategy 2019-2024*.

PUBLIC HEALTH IMPLICATIONS:

Repealing this policy does not impact on the achievement of the *City's Public Health Plan 2020-2025*.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

POLICY NO: 4.2.14**LOCAL GOVERNMENT ELECTIONS****OBJECTIVE**

To provide guidance concerning Local Government Elections for the City of Vincent.

POLICY STATEMENT

The Local Government Act 1995 (Part 4) and the Local Government (Elections) Regulations 1996 prescribe the Legal requirements for Local Government Elections.

In addition to the legal requirements as prescribed in the above Legislation the Council's position for Local Government Elections is as follows:

1. GOVERNANCE**1. Type of Election**

All Local Government Ordinary and Extraordinary Elections and Plebiscites shall be by postal vote, unless the Council resolves that there are extenuating or special circumstances which precludes this.

1.2. Conduct of Elections and Plebiscites

All Local Government Ordinary and Extraordinary Elections and Plebiscites shall be conducted by the West Australian Commission by postal vote, unless the Council resolves that there are extenuating or special circumstances which precludes this.

1.3. Model Resolutions for Elections

The model resolutions for Agenda Reports relating to Elections is as follows;

" That the Council;

1. *DECLARE in accordance with Section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner be responsible for the conduct of the Election for the City of Vincent; and*
2. *DECIDE, in accordance with Section 4.61(2) of the Local Government Act 1995, the method of conducting the Election/ for the City of Vincent as a postal election;"*

2. PRE-ELECTION**2.1 Promotion/Advertising of Elections**

In addition to the Statutory Requirements for advertising of the Election, the City shall advertise and promote Elections (and Plebiscites where appropriate), in accordance with the City's Policy No. 4.1.5 – Community Consultation – Part 6 and Part 7 as follows:

Subject	Minimum Requirement
Local Government Ordinary and Extra-Ordinary Elections and Plebiscites	<p>In addition to legislative requirements prescribed in the Local Government Act 1995 and Local Government (Elections) Regulations 1996, the following will be carried out;</p> <p><u>1. City of Vincent Website</u></p> <p>At least the 50th day before Election day, relevant information is to be placed on the City’s website.</p> <p><u>2. Advertising</u></p> <p>At least the 50th day before Election day, information/advertisement is to be placed in a local newspaper circulating in the City. The advertisements will be placed every fortnight up until Election day.</p> <p><u>3. Banner/Signage in</u></p> <p>At least the 50th day before Election day appropriate banner/signage is to be erected at Strategic locations (major roads, parks), as determined by the Chief Executive Officer.</p> <p><u>4. Posters/Displays</u></p> <p>At least the 50th day before Election day posters and displays are to be displayed in buildings owned by the City, including:</p> <ul style="list-style-type: none"> • Administration and Civic Centre • Library and Local History Centre; • Beatty Park Leisure Centre. <p><u>5. Media Statements</u></p> <p>Media Statements promoting the Election shall be issued by the Mayor and/or Chief Executive Officer. The Media Statements shall be regularly issued in the lead up to the Election.</p>

2.2 Information Session for Potential Candidates

The City will arrange for an information session to be held with potential candidates explaining the Election process and also including relevant information for Candidates. It should be noted that this information session maybe held jointly with other Local Governments.

2.3 Distribution of FAQ Brochure.

The City will promote the Department of Local Government Brochure, “Frequently Asked Questions about your Local Government” brochure.

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3. Election Day

- 3.1 Western Australian Electoral Commission (WAEC) – Returning Officer.
The Returning Officer appointed by the WAEC is responsible for the conduct of the Election, including on Election day.
- (a) The City of Vincent Administration and Civic Centre will be open to receive votes delivered by Electors, including on Polling day.
 - (b) The City of Vincent Administration and Civic Centre (Function Room) will be the prescribed location to conduct the counting of votes.
 - (c) Large signs will be displayed at the front of the Administration and Civic Centre on Election day, describing; "Local Government Elections – Polling Place".
 - (d) The City will not conduct any activities in the Administration and Civic Centre or its carpark or adjoining gardens, which may adversely impact on the conduct of the Elections or access to the premises.

POST ELECTION

4. Swearing in Ceremony

4.1 Ordinary Elections

The Council shall conduct an official function (swearing in ceremony) following Local Government Elections to enable newly elected Council Members to make a declaration in accordance with the provisions of the Local Government Act 1995.

- (a) The swearing - in ceremony for newly Elected Council Members will be held at a Special Meeting of the Council on the first Tuesday immediately following the Local Government Election, at 6pm, in the Council Chambers.
- (b) This ceremony is to be immediately followed by the election of the Deputy Mayor (as prescribed by law).
- (c) The immediate family and close friends of newly Elected Council Members are to be invited to attend the Swearing - in Ceremony and post Ceremony celebrations.
- (d) The post swearing - in ceremony celebrations shall be a modest buffet meal as determined by the Mayor, in the City's Administration and Civic Centre function room.

4.2 Extraordinary elections

- (a) In the case of an extraordinary Election, the swearing - in ceremony shall be conducted within seventy two (72) hours of the close of the poll.
- (b) At the first Ordinary Council meeting scheduled after the Swearing-in ceremony following an extraordinary Election, the Chief Executive Officer is to cause a report to be presented to the Council that provides opportunity for the newly Elected Councillor/s to be nominated and elected to a Committee of Council (in accordance with s.5.10(2) of the Local Government Act 1995) as well as to be nominated and elected as appropriate to any vacant positions as delegates to Advisory Groups and various organisations.

5. Election to Statutory Authorities, Committees, Advisory and Working Groups

- (a) The Chief Executive Officer shall prepare a report for consideration of the Council at the first Ordinary Meeting of the Council to enable Council Members to be nominated and elected to a Committee of Council (in accordance with s.5.10 (2) of the Local Government Act 1995) as well as to be nominated and elected as delegates to Advisory and Working Groups and various organisations.
- (b) The Chief Executive Officer shall liaise with the Mayor and provide a list of all Committees, Advisory and Working Groups, to enable the report to be circulated to the Council Members (if appropriate), prior to the Council Meeting.
- (c) The Council shall consider its Advisory and Working Groups and amend or discontinue as it sees fit.
- (d) The Council shall also authorise the Chief Executive Officer to advertise seeking nominations from the Community for such Groups.

6. Council Member Inductions

- (a) As soon as practicable after an election, the Chief Executive Officer will arrange an Induction Programme for newly elected Council Members, after their Swearing - in Ceremony.
- (b) The Induction Programme will cover the items/topics listed in the West Australian Local Government Association – Induction Ceremony Guideline. A copy of each Council Members Induction Program, Checklist will be filed in the City's Records.
- (c) Newly elected Council Members who wish to undertake additional training with the West Australian Local Government Association (Council Member Training Programme) or other approved organisations, may do so, in accordance with Council Policy No. 4.2.9 – '*Professional Development*'

Date Adopted:	12 FEBRUARY 2014
Date Amended:	-
Date Reviewed:	-
Date of Next Review:	FEBRUARY 2018