

**LOCAL GOVERNMENT LEGISLATION AMENDMENT BILL 2019**

*Returned*

Bill returned from the Council with amendments.

*As to Consideration in Detail*

On motion by **Mr D.A. Templeman (Minister for Local Government)**, resolved —

That the Council's amendments be considered in detail forthwith.

*Council's Amendments — Consideration in Detail*

The amendments made by the Council were as follows —

No 1

Clause 5, page 3, lines 11 to 13 — To delete “be given in accordance with the requirements prescribed for the purposes of this section.” and insert —

be —

- (a) published on the official website of the local government concerned in accordance with the regulations; and
- (b) given in at least 3 of the ways prescribed for the purposes of this section.

No 2

Clause 5, page 3, line 17 — To insert after “in accordance with” —  
section 1.7(a) and (b) and

No 3

Clause 21, page 8, lines 27 and 28 — To delete the clause.

No 4

Clause 23, page 9, lines 15 to 29 — To delete the clause.

No 5

Clause 25, page 12, lines 4 to 9 — To delete the clause.

**Mr D.A. TEMPLEMAN:** I move —

That amendment 1 made by the Council be agreed to.

The amendment to this clause effectively relates to notification of what is published. Following further consultation in the other place and after stakeholder input, this clause has been amended to introduce minimum requirements for public notices under the Local Government Act 1995 rather than only in regulations. Section 1.7 is amended to specify that all local public notices have to be published on the local government's official website. In addition, local governments must choose three other options, which will be outlined in the regulations. It is proposed that the following additional methods will be listed in the regulations: a notice in a newspaper circulating generally throughout the district; a state government website, such as the Western Australian Electoral Commission website in relation to election notices; a social media platform; a newsletter or newsletters available to the majority of residents in the district; noticeboards at every local government office and library within the district; and electronic mail distribution lists. Prescribing the options in regulations will allow for flexibility in changing technology and community expectations, while allowing the local government to select the methods best suited to their district. As members are aware, communication methods continue to rapidly improve and change dramatically. For example, in some parts of the state, there are no circulated newspapers so other appropriate methods would need to be considered.

Clause 5(a) contains the phrase “in accordance with the regulations” to enable the regulations to specify how long a notice needs to be retained on a website. That will also vary according to the type of notice, because some notices have a life, if you like, with regard to their requirements. Proposed section 1.8 sets out the requirements for a statewide public notice, and amends the current section 1.8 to specifically include in the act requirements for a local public notice. That is intended to specify this in the regulations, together with methods for reaching a statewide audience.

These amendments now make it clear in the act what the minimum requirements are, while still allowing flexibility for changing methods as time passes. Hon Donna Faragher raised some interesting points in the other place during that particular conversation.

**Mr W.R. MARMION:** I thank the minister for that explanation. I am pleased that he has outlined some of those prescribed ways of advertising. There has to be flexibility in the methods the minister outlined, depending on where people are, and I think the minister explained that quite well. Just to confirm, the minimum requirement will be that at least three of those prescribed ways will have to be used when it is advertised.

**Mr D.A. TEMPLEMAN:** That is correct, plus the website of the local government entity itself.

**Mr A. KRSTICEVIC:** It is great to have this legislation back here. It is good to see that, as usual, the Legislative Council has made some improvements to the legislation. The minister is obviously keen to accept the amendments. The minister and I earlier discussed some potential improvements to the bill. I mentioned notices previously, and it is great that it is guaranteed that there will be at least three methods. As the minister and many members in this place will know, people often do not pick up and pay attention to local government notices. There are examples in my electorate of councils sending out notices. I could then talk to 50 people who say they have not seen them because they were delivered in such a way that people thought they were junk mail and unimportant. It is important to have a multi-pronged attack, but it is also important to acknowledge that we need to be smarter about the ways in which we make this information available. Is that something the minister is hoping to keep track of to make sure that multiple notices are going out and that they are effective and the message is getting across so that the community does not get upset and say, “We didn’t know what was going on”?

**Mr D.A. TEMPLEMAN:** I thank the member for his question, and can I praise him. He asked if I would praise him, and I will! I praise him and members of the other place for their understanding of the importance of this legislation passing through Parliament within this time limit. As the member is aware, this clause and the body of legislation effectively constitutes landmark legislation. For the first time, we will have in place a range of measures that will modernise the local government sector and how it communicates with its communities. With regard to the member’s question, yes, this clause and indeed this part of the amending legislation seeks to provide future flexibility while ensuring there is a minimum requirement for the numbers of methods. It is true; there are always people who will say, “I never saw it; didn’t know about it”, et cetera. Along with our modernisation of the Local Government Act and of the messaging that we put out to communities about the importance of local government, I hope that is an additional incentive for people to become more informed about what happens in their local community with regard to local government decision-making. I think that it reminds people that local government is indeed part of participatory democracy. It is important that people through various means are made aware and make themselves aware of what their local government is doing, because, as the member knows, local government decisions affect all of us. I think there is flexibility here and an inbuilt capacity to be flexible in the future. I think that is a good thing and I think that the member agrees with that.

**Question put and passed; the Council’s amendment agreed to.**

**Mr D.A. TEMPLEMAN:** I move —

That amendment 2 made by the Council be agreed to.

**Mr A. KRSTICEVIC:** Can the minister explain the benefits of this amendment and how it will make the legislation better?

**Mr D.A. TEMPLEMAN:** I thank the member for the question. Following further consultation, these amendments to the bill will retain a senior employee as a class of employee in the Local Government Act 1995. The intention to remove the classification of “senior employee” from the Local Government Act 1995 was to more clearly separate the role of the council from that of the administration. However, after further consultation and discussion with individual members of Parliament, particularly those in the other place, it was decided to not proceed with this amendment at this time, because we considered their concerns. As the member would be aware, a range of concerns were raised during the local government reform process about tensions between the role and responsibility of elected members and CEOs, for example. With that in mind, that is why we decided to not progress this particular element and why it has been decided to not proceed with that amendment to the act at this time.

**Mr A. KRSTICEVIC:** If I remember correctly, when we discussed this in our extensive consideration in detail the last time around, the minister indicated that the removal of “senior employee” would complement the need to remove councillors’ interference in the activities of senior employees. I think the minister indicated at that time that it was a very positive change, that the sector was looking for that change and that the CEOs would then have control and management over all staff in their employ, and that it would lead to efficiencies. Can the minister tell me what members said that convinced the minister that his initial thoughts were wrong and that made him go down this path?

**Mr D.A. TEMPLEMAN:** We will be considering this matter further through the next phase of the review process. We have had a lot of feedback, as the member would be well aware, particularly on the issues around responsibility of the CEO, as opposed to the roles and responsibilities of local government elected members. We will be considering and reconsidering that as part of the wider package of reforms. I took on board that we were not going to die in the ditch in the other place on this, because the intent of this bill, particularly the range of measures related to universal training and other aspects, are very, very important. Through negotiation and discussion, I was happy to look at the elements that had been proposed originally in greater detail in the ongoing review process.

**Extract from Hansard**

[ASSEMBLY — Thursday, 27 June 2019]

p4892b-4896a

Mr David Templeman; Mr Bill Marmion; Mr Tony Krsticevic; Mr Shane Love

---

**Mr A. KRSTICEVIC:** With regard to “senior employee”, does the minister know how many of the 137 mainland councils have designated senior employees, and whether this will make any difference to the way they operate in the future?

**Mr D.A. TEMPLEMAN:** We do not have the detail that the member requests.

**Mr A. Krsticevic:** I got the impression there were not that many who had designated senior employees.

**Mr D.A. TEMPLEMAN:** I cannot answer the question; I cannot give the member a number. However, essentially, I reiterate that we recognise that these issues are worthy of further discussion.

**Mr R.S. LOVE:** Can the minister explain whether the change to this bill the government put through in the other place was due to community concern about the present imbalance of power between CEOs and councils, as expressed at a number of forums that I know the minister and the director general attended? Will the minister consider those concerns throughout the remaining phases to change the Local Government Act?

**Mr D.A. TEMPLEMAN:** The status quo under the current act will remain. That is what we are proposing. However, we acknowledge that in the review process we will have to further consult and discuss this issue with the various stakeholders. We recognise that various stakeholders have raised a real issue about that tension—that is, that demarcation that exists between the responsibilities of the CEO and elected members and those machinations when things go wrong. As the member would be aware, quite often there is potential dysfunction in this area when relationships are either not understood or respected and personalities clash. We acknowledge that the status quo will remain, but we will continue to deal with the roles and responsibilities as part of the review process, which as the member knows is continuing.

**Mr R.S. LOVE:** When the minister first considered this tranche of provisions, which we are now seeking to delete, he relied upon the advice of a group of trusted people to make those recommendations to and guide the department. Does the minister still have confidence in the ability of that group to accurately reflect community concerns, or will he be looking to widen that group of persons to include persons with a contrary view to that of some organisations, such as LG Professionals WA and the Western Australian Local Government Association?

**Mr D.A. TEMPLEMAN:** I remind the member that the status quo will remain; that is what we are proposing. That does not mean that we do not acknowledge the ongoing issues that have been raised by a range of stakeholders. The member has highlighted two stakeholders of many—WALGA and LGPro. A common theme in the submissions in the first phase of these reforms, which resulted in the bulk of these reforms to the Local Government Act, was that the provisions relating to senior employees were a common cause of conflict between the council and administration. The initial proposal was to address that. We have decided, through discussions and strong advocacy, that that is not appropriate at this point. That whole issue around relationships and responsibilities will be looked at in that second phase. That is where that has come from.

I think the member for Moore was referring to the reference group as the body that helped input —

**Mr R.S. Love** interjected.

**Mr D.A. TEMPLEMAN:** That is the reference group. That had wide representation. As the member knows, we had a public meeting at the University of Western Australia some months ago, which I attended, along with the member for Moore and the Liberal shadow minister. Some good debate was raised.

One of the arguments of that organisation was about how best ratepayers could be represented. I listened to that and was happy to accommodate our member on that organisation. Remember, that is not a decision-making body. It was very ably chaired by the member for Balcatta, a former deputy mayor of the City of Stirling and a very capable person. Those inputs helped inform the reform that we see before us today.

**Mr R.S. LOVE:** I might withhold my judgement on whether the chair of that group is a capable person. I am sure that most members in the chamber would have some confidence in his abilities, but that is not really the point I was trying to make. The minister has come to Parliament with some changes, which we were told were very necessary at the time, and that this was required to reflect the true purpose of a council and to reflect what was the appropriate relationship between a council and its employees. Is the minister now saying that the advice he gave at that time was wrong and that council has a wider remit to understand the operations of its organisation other than simply entrusting one employee and CEO?

**Mr D.A. TEMPLEMAN:** Member, this is a democratic process. This house debates matters and bills and then sends them to the other place, which is an independent group. I will not pass judgement on the other group, unlike the member, who passed judgement on the member for Balcatta, which I thought was unfair. The member made some quite nasty comments about the member for Balcatta. The member for Moore did not need to say that. I do not think that was appropriate. Anyway, that is his choice, if that is how the member chooses to behave. I would not behave in that way. I just do not think it does the member any good service. Members from the member for Moore’s party in the other place supported the amendments. I appreciate them supporting the amendments. I know there is some very, very fractious stuff going on in the member’s party at the moment, which I know he does not

want to talk about. I understand that the member for Moore was one member who changed his mind at some stage. Anyway, we will not go into that, because we are talking about the Local Government Legislation Amendment Bill.

**Mr R.S. Love** interjected.

**Mr D.A. TEMPLEMAN:** You are trying to be nasty. You don't have to be nasty, member for Moore.

**Mr R.S. Love:** I am not being nasty. We are discussing the clause.

**The ACTING SPEAKER:** Members!

Several members interjected.

**Mr D.A. TEMPLEMAN:** One of the disappointing things —

**Mr J.N. Carey** interjected.

**The ACTING SPEAKER (Ms M.M. Quirk):** Member for Perth, do you want to get out of here at some stage?

**Mr D.A. TEMPLEMAN:** I actually quite like the member for Moore. I do not have a great problem with him, but sometimes every now and then he thinks opposition just means to not only oppose but also to be nasty in opposing. We should always focus on argument. I have answered the member's question. We put forward a raft of proposals that were shaped by input from various stakeholders. I respectfully listened, which I think was appropriate, to concerns that were raised in the other place regarding issues around the CEO and, in this particular case, senior officers. I listened and heard. Some concerns came from the member for Moore's own party, and that is why we did this.

The member can attack me and say, "Why did you do it?", but the fact is that is democracy. That is what democracy is about. It demonstrates that quite often good legislation is made when there is deliberation by both houses about content, and the character of that content. The member does not do himself any great service by attacking a very hardworking member of the chamber who happened to be part of the reference group; members of which did not all agree on a whole range of matters but had the democratic opportunity to put forward their views and opinions and make recommendations. I think the member for Balcatta did a great job. It was nasty of the member for Moore to have a go at him. That said, National Party members in the other place, thankfully—which I appreciate—supported this change. I commend the change to the house.

**Mr R.S. LOVE:** To clarify, I did not attack the leader of that group, the government Whip; I just reserved judgement on his ability. There is a difference between attacking someone and doing that. If I gave the impression that I do not have any confidence in the member for Balcatta, I apologise. I have every confidence in the member for Balcatta and his good intent. I did not mean to indicate that. If that was the case and any offence was taken by the member for Balcatta, I completely withdraw any such comment. I do not want to leave this place before the break with that hanging over the discussions between myself and the member for Balcatta.

However, what I am trying to ascertain, I suppose, is the level of confidence that the minister retains in the way he has gone about the production of this first tranche of changes to the Local Government Act and the group that was involved in advising him. The minister said they were not decision-makers, but I dare say some strong recommendations must have come forward that then formed the basis for the minister to have legislation drawn up. The situation now is that a much wider review has moved forward. I am asking whether the minister retains confidence in that as a model to draw up the next tranche of regulations or is he involving himself with a wider group? Will there be a change in the way the minister comes forward with those recommendations? I know that is probably not, strictly speaking, pertinent to the role of a senior employee, but I do seek the minister's indulgence in providing an explanation about how he will go about that next phase.

**Mr D.A. TEMPLEMAN:** I do not have a problem with the member's question because I think it is reasonable. This is a landmark change for local governments in Western Australia. The provisions in this bill, which I am hopeful will pass shortly from this place and become law, will, for the first time, require a range of things which I think will fundamentally improve the quality of local government. That process has been informed by a wide range of stakeholders. The original proposal for the reference group was to have broad representation and not a narrow representative body. In my view, the Western Australian Local Government Association and LGPro are two of many stakeholders and peak organisations that have an interest in high-quality local government. They are important stakeholders, I do not deny that, but they are not the only ones. That is why on the reference group we had representation from the Western Australian Council of Social Service, the unions, the chambers of commerce and the WA Rangers Association. We had what I thought was a very good quality, broad representation.

Does that mean we are not going to tweak or look at how we process improvements in the second phase? Of course I am open to all of that. It is one of the reasons that I mentioned I added another representative body. I am not being antagonistic against that, because I want the best possible legislation for Western Australia. I want to make sure that, when I leave this position as Minister for Local Government, reform, modernisation and making the

sector agile is the focus and is delivered. I think that is reasonable. There will be differences of opinion about a range of issues, as was borne out in the consultation process, with some viewpoints strongly in favour of some elements, and other strongly opposed. That will happen in any democratic process. To answer the member's question, I am comfortable with the process that we have been through. We have made refinements to the process as we have gone along as well, and listened to comments and criticisms. I can ensure the member that, as we move through the second phase of the process, and the development of a green bill, et cetera, there will be increased opportunities for wideranging consultation. Now, the other place has decided on a select committee process to examine local government, and I am sure that that process itself will feed into our reform agenda on local government. I am confident, and I am open to ongoing improvements, but I think that the process has delivered. Look at universal training, council membership behaviour, CEO recruitment and performance management. These are the real focus, because I want to improve the quality of CEOs who actually end up leading a council. Processes should be in place for performance management and recruitment. It is a great reform, and I am assuming the member is not going to vote against it. I think it is a positive way forward in reform of local government in Western Australia.

**Mr R.S. LOVE:** One final question on the amendment we have before us. Will the minister undertake that he will not try to have this returned in the second phase?

**Mr D.A. TEMPLEMAN:** As I said earlier, we took it out of this package because there needs to be further work and discussion. Considerations of that nature, and considerations around the role and responsibility of CEOs, as opposed to the role and responsibility of elected members, will be essential in ongoing debate, discussion and consultation. That is an area where there seems to be a lot of concern. It has been raised in this place, in the second reading speech and in the debate on suspension and dismissal. I know that the member for Moore, the member for Roe, the member for Geraldton and others made comments about situations in which a CEO is seen to be too powerful, and muting, if you like, the elected members. I accept that it is a real issue, and we are going to address it as we go forward. I can assure the member of that.

**Question put and passed; the Council's amendment agreed to.**

**Mr D.A. TEMPLEMAN** — by leave: I move —

That amendments 3, 4 and 5 made by the Council be agreed to.

This is my last chance to speak on this legislation. This is great legislation for Western Australia. It is really important now, that at the next local government elections in October, there will be a universal training requirement and an induction requirement for candidates. The issues around council member behaviour are acknowledged and recognised. We have finally dealt with the gifts issue, so that we have a transparent method of the reporting of gifts. We have greater accountability to the community. Information will be readily available to ratepayers online, and they will not have to go into the office to physically see it. That is appropriate. I thank members of this chamber and the other place for their support in ensuring that this bill passes the house and becomes law.

**Question put and passed; the Council's amendments agreed to.**

**The Council acquainted accordingly.**