

Local Government Reforms: *Dance partners confirmed - Time to start the music*

Local Government Update

The announcement

Local Government Minister Tony Simpson MLA announced the State Government's plans for metropolitan local government reform today, ending more than 12 months of speculation.

One of the reforms which has and will continue to attract the most attention is the significant reduction in the number of local governments in the Perth metropolitan region through amalgamations and boundary realignments. Minister Simpson confirmed that the number of metropolitan local governments will be reduced from 30 to 14 in a process that is expected to be completed by July 2015.

It appears that the State Government has adopted a "carrot and stick" approach to reform, with an initial emphasis on the "carrot" to encourage voluntary amalgamations, but backed up with a bag of "sticks".

The first of these comprises amendments to the *Local Government Act* 1995 to effectively stifle community opposition to any proposed amalgamation. Changes to Schedule 2.1 of the Act will suspend the operation of the electors' poll provisions in the Perth metropolitan region.

The Minister has also previously indicated that State Government funding will not be made available for voluntary mergers which are not in line with the Government's announcements for the new local government boundaries. There is also the possibility of further amendments to the Act to force involuntary amalgamations if necessary. The Nationals have already indicated that they would support these legislative changes, making the passage of such legislation through parliament a virtual certainty.

Who does this affect?

- Local Governments

Article Highlights

- Local governments affected by amalgamation should start preparing for the changes now to minimise disruption to staff and services.
- Many of the issues confronting amalgamating local governments are similar to the issues arising in corporate mergers and restructuring in the private sector.
- Due diligence is a key component of the amalgamation process (whether voluntary or involuntary).
- Undertaking a thorough due diligence process will minimise risk to the amalgamating local governments and the new local government entity



With the changes intended to be operational by July 2015, all local governments affected by amalgamation should determine their positions and take steps to minimise any disruption to their staff or the delivery of services to their communities.

Is it possible to oppose the proposals?

This is a question that will require careful consideration in light of the announced and potential further amendments to the Act. At this stage it is sufficient to note that opposition will be difficult and that, ultimately, if the political will exists, the Barnett Government is able to ensure that the reforms are carried into effect.

"Due diligence"

The amalgamation process (whether voluntary or involuntary) will not be dissimilar from corporate mergers and restructures in the private sector. Like company mergers and restructuring, due diligence by all involved is a key initial part of the amalgamation process.

Due diligence will require an examination by local governments of their own operations and the operations of the local governments with which they are amalgamating (in whole or, particularly, in part), to identify critical issues and problems and minimise exposure to risks.

A few weeks ago we asked local governments what issues were keeping them awake at night in relation to foreshadowed amalgamations. The responses included several of the following, all of which will need to be considered during the due diligence process:

- **Finance and Accounting:** Identify all borrowings, contingent liabilities and dates for repayment of debts, identify and value all investments, review budgets, undertake audits of Trust Funds and Reserve Accounts and review rates and other fees and charges for each amalgamating local government.
- **The value and existence of assets:** Prepare an asset inventory for each amalgamating local government, identify redundant assets/infrastructure, review existing asset management plans, identify differences in depreciation rates and policies for each local government, review funding arrangements for asset replacement and identify all asset disposals in the last three years.
- **Human Resources:** assess total leave liability for the amalgamated local governments, the status of any current workers compensation claims, expiry dates of existing contracts of employment, identify obstacles to the integration of personnel and payroll information, and assess the impact of voluntary redundancies on the financial position and skill base of the new local government.

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- **Contracts and Leases:** Review all contracts entered into by the amalgamating local governments to identify expiry dates, provisions for renewal or extension, rights of assignment, rights of early termination, confidentiality, protection of intellectual property, warranties, liabilities and indemnities and the material or contingent liability of the local government under each contract.
- **Redundancy of information systems:** Review appropriateness and effectiveness of each local government's existing financial management and record keeping systems, identify opportunities for integration and capacity to accommodate the new local government entity, review IT systems to identify redundancies and requirements for upgrade and replacement to accommodate new local government entity; audit all software licences and support contracts for hardware and software to identify opportunities to create standardised systems for the new local government.
- **Existing and anticipated legal action:** Identify all current and future legal proceedings involving each local government, the status of each of these proceedings and the material or contingent liability (if any) of the new local government in each of these proceedings.
- **Insurance:** Prepare a schedule of all current insurance policies held by each of the amalgamating local governments focusing on type and date of each policy, amount of cover, renewals and premiums, review claims history under each policy and advise insurers of the amalgamation and changes to policies to ensure effective cover is in place for new local government entity.
- **Local Laws & Policies:** Identify all local laws and policies for the amalgamating local governments and note any overlap and any inconsistencies across the amalgamating local governments, develop an interim policy for the application of local laws and policies within the areas of the former local government districts pending the establishment of local laws and policies for the new local government. Review delegations and authorisations registers.
- **Planning Schemes:** Develop an interim policy for the application of town planning schemes within the areas of the former district pending the final approval of a replacement planning scheme for the new local government.



Want to Know More?

Don't miss the presentation by Julius Skinner, Local Government Partner at Jackson McDonald, on the potential impacts of structural reform at the WALGA Conference – Governance & Strategy Programme on Thursday, 8 August 2013 (9.00 am – 1:00 pm).

Julius' presentation at 11:25am will discuss the likely issues arising from what will be the most fundamental change to metropolitan local government in Western Australia's history and expand upon the issues discussed above.

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