



An office for
advocacy and
accountability in
Aboriginal affairs in
Western Australia:
Discussion Paper
Interim Submission

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1.0 Introduction

The Western Australian Local Government Association (the Association) is the united voice of Local Government in Western Australia. The Association is an independent, membership-based group representing and supporting the work and interests of 138 Local Governments in Western Australia.

The Association provides an essential voice for 1,222 Elected Members and approximately 22,000 Local Government employees, along with over two million constituents of Local Governments in Western Australia. The Association also provides professional advice and offers services that provide financial benefits to Local Governments and the communities they serve.

The Association is thankful to the Department of Premier and Cabinet, Aboriginal Policy Unit (the Department) for enquiring into initiatives that facilitate greater advocacy for Aboriginal people and community and for inviting feedback from the Local Government sector. The Association has gathered feedback from its members to provide a response to the: *An office for advocacy and accountability in Aboriginal affairs in Western Australia: Discussion Paper*.

2.0 Background

Aboriginal knowledge, underpinned by an ancestral responsibility, holds an intrinsic obligation for Aboriginal peoples care for Country. This is enshrined in the *Aboriginal Heritage Act 1972* (AHA, currently under review) and the *Koorah, Nitja, Boordahwan (Past, Present, Future) Recognition Act 2016* which recognises the Noongar people as the traditional owners of lands in the south-west of Western Australia.

A review of the *Aboriginal Heritage Act 1972* (AHA) is currently underway and is an opportunity to amend legislation and lead the way in cultural heritage planning and protection. The role and responsibility of Local Government to address outcomes for community capacity building and wider health and wellbeing may be further supported by this process.

The Department has released a discussion paper outlining a proposal for a new statutory office to strengthen government's accountability to Aboriginal Western Australians and to advocate for Aboriginal people's interests in Government policy and performance. The office would be independent from the Government of the day, have statutory powers and work with a specific focus on Aboriginal people and the issues that matter to them.

The discussion paper outlines the Departments' position on instating an office for advocacy and accountability in Aboriginal affairs and to seek feedback about the proposal. All feedback will inform a model for the new office that will be considered by the Government, together with the anticipation of new funding and supporting legislation as required.

The key messages outlined in the discussion paper are:

- frank recognition that government is not serving Aboriginal people as well as it should
- a commitment to support and embed Aboriginal leadership and self-determination in health, wellbeing and safety, and
- enshrine the rightful place of Aboriginal people and communities.

This will be a new way of working, primarily for Commonwealth and State Government agencies, with Aboriginal communities through stronger policy development, decision making and resource allocation.

The accountability and advocacy units' main aim is to ensure Aboriginal voices drive decisions for the health and wellbeing of Aboriginal people whilst providing transparent monitoring and accountability of outcomes through governance and monitoring.

In brief, the functions of the proposed office will be:

- provision of publically available information
- to not subpoena or investigate into matters in the public realm, but to be a mechanism of specialist inquiry by using facts and information for good argument that has the best interest of Aboriginal communities in mind
- it will not be considering individual matters, or matters of one person
- it will not be a representative body for the Aboriginal communities, it will however be operating in the best interests of Aboriginal people and their communities
- it will not be an alternative means of engaging with Aboriginal people and/or communities, and
- it will however be a mechanism for better understanding the priorities and be a conduit for practical implementation about system improvements through to State Government in the best interest of Aboriginal people.

A number of submissions were received by member organisations as outlined in Appendix A. There is in principle support for the establishment of an independent office, with Local Governments drawing particular attention to six key areas as outlined in the discussion below.

3.0 Discussion

The Association, on behalf of its members, provides in principle support to the proposal to establish an independent office to advocacy for Aboriginal affairs in Western Australia. It is however acknowledged that an ongoing review of the office will be required to maintain relevance over time. There are also some concerns that the proposal may be idealistic with the potential to be less successful than intended. In order to maintain the best possible outcome the following key points were determined as priorities for Local Government in the consideration of an independent office of this nature:

1. strategic cultural planning for critical and key infrastructure and programs
2. provision of brokerage between parties for key relationships and/or projects
3. the potential for State Government to address the data gaps in collection and dissemination, determined by Local Government boundaries
4. how Local Governments will communicate with the proposed independent office
5. positive naming of the newly proposed office, and
6. inclusion principles applied to the appointment of the Head of Power.

3.1 Strategic cultural planning for critical and key infrastructure and programs

The provision of critical and key infrastructure is the fundamental remit of all three tiers of Government in serving communities. The consideration of Aboriginal heritage and culture in the strategic planning through to construction and implementation of projects is a vital component of success. It is widely recognised there is a gap in the strategic planning of such infrastructure and the early consultation with traditional owners in the process.

The Association considers the inclusion of strategic planning for critical and key infrastructure as fundamental to the success of the new organisation.

3.2 Provision of brokerage between parties for key relationships and/or projects

Local Governments are often seen as the tier of Government closest to the community. In conducting its functions in accordance with the Local Government Act and other relevant legislation this often calls for the appropriate consultation with Aboriginal peoples. Some Local Governments have formalised Reconciliation Action Plans to assist in conducting these function whilst others have identified Aboriginal Engagement Officers.

The Association determines brokerage between parties for key relationships and projects for Local Government as a critical component of the new organisation.

3.3 Data warehousing

The instatement of an independent office is seen by the Local Government sector as an opportunity to address data gaps in the collection and dissemination of data, and for this to be determined by Local Government boundaries. Whilst it is appreciated that boundaries across sectors and between agencies may differ, acknowledgement of Local Government boundaries as the third tier of Government is critical to service alignment. The provision of consistent and quality data by Local Government boundary will support locally driven community initiatives, enable effective evaluation and drive continuous improvement.

The Association supports the inclusion of regular and timely data collection and reporting to enable localised evaluation in program design and implementation that drives continuous improvement.

3.4 How Local Governments will communicate with the proposed independent office

The effectiveness and efficiency of communication and information transfer between Local Government and the Office is an important consideration. Local Governments are often required to respond and operate in fluid environments as a direct response to the communities they serve. Therefore access to an operational communication channel with Local Government is deemed essential.

The Association requests a Communication Plan with Local Government be considered in the initial pre planning stages of an Office and to include WALGA and local Aboriginal Advisory Groups as stakeholders.

3.5 Positive naming of the new Office

With regard to the potential name of the new organisation it is the request of the sector for this to be inclusive and positively framed, in such that use of the word accountability is not supported. To which suggestions include:

- The Office of Aboriginal Advocacy
- dual naming to include words with meaning to the broader Aboriginal community
- to be developed in consultation with the Aboriginal community and/or Aboriginal people employed with NGO and government organisations, or
- Western Australian Aboriginal Advocacy Commission (WAAAC).

3.6 Principles for appointment of Head of Power

Local Governments propose that Aboriginal organisations and other interested parties are provided with the opportunity to structure an appointment process and elect a committee to engage an officer in a transparent manner. For the appointment of the Head of Power, further engagement and consultation should be conducted with:

- Aboriginal leaders across the state
- Aboriginal employees of Aboriginal organisations
- Aboriginal Community

With broader involvement also including:

- Aboriginal and non-Aboriginal professional community development practitioners
- The Department of Premier and Cabinet Aboriginal Policy Unit
- Public Sector Commission and the *Public Sector Management Act 1994* (PSM Act).
- Equal Opportunity in Public Employment (DEOPE)
- Equal Opportunity Commission
- Human Rights Commission
- Aboriginal Local, State and Commonwealth Government employees
- Local Government RAP Working Groups
- Local Government Advisory Groups and Committees

There was a significant amount of discussion around the clause “the holder of the office should be an Aboriginal person” and queries to the correctness of this clause with reference to diverse and equal opportunity. A suggestion is that every effort must be made first to find an Aboriginal Head of Power, and if not possible, then the position should be open to others. It is recognised by the sector that only Aboriginal people can fully understand the challenge their communities face and the appointment of the appropriate person in this position underpins the organisations success.

The Association seeks clarification around the statutory powers of the Head of Power, size of the organisations workforce and the appointment process for positions and that the principles for appointment of the office bearer as outlined above are considered.

4.0 Conclusion

An organisation with a focus on Aboriginal affairs is required and the Local Government sector commends the Minister raising this as a State Government priority.

Having a broad scope is useful and conducive to addressing the true nature of interrelated issues. The discussion paper outlines the establishment of an organisation that would be well placed to identify challenges, prioritise and systemically advocate for change. The promise of permanence, independent of the Government of the day, is a notion that many people feel is necessary, not just for Aboriginal affairs, with increasing frustration arising from ongoing Australian Government instability.

The Local Government sector welcomes a supportive system that fairly and equitably improves the social, economic, cultural and human outcomes for Aboriginal people and by Aboriginal people that can be made possible by reducing and removing technical barriers in the current system.

As a final note, the Association acknowledges the Minister's commitment to address the advocacy needs for Aboriginal people and key issues facing Aboriginal communities with a three tiered system of governance. It is anticipated that if this proposal is successful the newly appointed office will drive policy for Government and hold others to account for the services they deliver to Aboriginal people. To which, the Local Government sector, through the Association, provides in principle support, for the aspirations outlined in the discussion paper and looks forward to remaining engaged in the developments moving forward.

5.0 Appendix A: Local Government responses

Shire of Kalamunda

Shire of Mosman Park

Shire of Nannup

City of Perth

City of Rockingham

City of Wanneroo

Shire of Wagin

6.0 Appendix A: City of Perth Submission



City of Perth

4 September 2018

Ms Ricky Burges
Chief Executive Officer
WA Local Government Association

via e-mail: kdavis@walga.asn.au

Dear Ms Burges

Aboriginal Accountability and Advocacy Submission

Thank you for the opportunity to provide input into WALGA's submission to the Department of the Premier and Cabinet, on the *Discussion Paper for an office for advocacy and accountability in Aboriginal affairs in Western Australia*.

The City of Perth supports initiatives that facilitate greater advocacy for Aboriginal peoples, by Aboriginal people in their local communities. As a result the City of Perth supports WALGA's request to the Department of the Premier and Cabinet to seek further clarification on the points below:

1. Coordination and use of data.

The potential for State Government to address gaps in the collection and dissemination of data, determined by Local Government boundaries, is significant. This can help ensure consistent data is collected and collated across regional and metropolitan Local Authority areas, where it currently does not exist.

Such data can support locally driven communities initiatives to evaluate projects and to improve outcomes. The City also supports any opportunity to reduce the burden of 'consultation fatigue' on Aboriginal people and organisations.

2. Communication protocols.

How expediently and effectively Local Governments will be able to communicate with the proposed independent office is a pragmatic concern. The City has been actively engaging with the local Aboriginal community and working in collaboration with stakeholders, community and other levels of government through the adoption and launch of its Reflect Reconciliation Action Plan (Reflect RAP) in April 2018.

To improve the City's service, respect and recognition to the Whadjuk Nyoongar peoples of Perth, a straightforward communication plan from the Department of the Premier and Cabinet to facilitate direct engagement with the proposed new entity would be highly instrumental.

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Our Ref: 217919/2018 Your Ref: AA & AS

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3. Cultural awareness and facilitation

The ability to provide brokerage between parties for key relationships and projects is particularly relevant for local government. Through the *Reflect RAP*, the City has a strong focus on building the foundations for relationships, respect and opportunities, whilst focusing on building a positive internal culture and awareness of Aboriginal and Torres Strait Islander histories and cultures, particularly Nyoongar cultures.

The City would welcome an entity that would provide improved brokerage between Aboriginal and non-indigenous parties for key relationships, programs and deliverables across the tiers of government.

4. Strategic advice and guidance

The inclusion of strategic cultural planning for critical and key infrastructure and programs will play an important role in the success of future projects of State and Local Government. The City is privileged to be home to sites of cultural and historical significance to the Whadjuk people including; Gargatup (Kings Park), Matagarup (Heirisson Island), Pinjar (the lakes - location of the Perth train station and surrounds) and Byerbrup (ridge line linking Gargatup and Matagarup).

The City is keen to see how the proposed entity can better facilitate strategic cultural planning (across the tiers of government) for key infrastructure and programs which are championed by the Whadjuk Nyoongar peoples for their traditional lands.

In addition to this letter, the City has also provided a direct response to the Department of the Premier and Cabinet. I look forward to hearing from you and a successful outcome from your submission.

Yours sincerely



Robert Mianich
A/Chief Executive Officer

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7.0 Appendix B: City of Wanneroo Submission

Advocacy and Accountability in Aboriginal Affairs City of Wanneroo comments

1. What are your views about the outline of the office's basic features?

In principle the idea appears to fill a gap that is identified in the report. The business and functions of the office, if implemented well, would be of great benefit to increase accountability of government in respect to Aboriginal issues and affairs.

The City of Wanneroo welcomes a supportive system that fairly and equitably improves the social, economic, cultural and human outcomes for Aboriginal people.

2. What should be the formal name of the office be?

- This should be developed in consultation with the Aboriginal community and/or Aboriginal people employed with NGO and government organisations.
- A suggestion could be "Western Australian Aboriginal Advocacy Commission" (WAAAC).

3a. How should Aboriginal people and organisations be involved in the appointment process of the office holder?

The Department of Premier and Cabinet Aboriginal Policy Unit should engage and consult with:

- Aboriginal leaders across the state
- Aboriginal employees of Aboriginal organisations
- Aboriginal Community

3b. Who should be involved?

- Aboriginal and non-Aboriginal professional community development practitioners
- The Department of Premier and Cabinet Aboriginal Policy Unit
- Public Sector Commission and the Public Sector Management Act 1994 (PSM Act).
- Equal Opportunity in Public Employment (DEOPE)
- Equal Opportunity Commission
- Human Rights Commission
- Aboriginal Local, State and Commonwealth Government employees and RAP Working Groups can also provide advice

The potential for State Government to address the data gaps in collection and dissemination, determined by Local Government boundaries:

This would be useful in regards to data gathering, however, collection of data doesn't necessarily ensure any real outcomes

How will Local Governments communicate with the proposed independent office?

It would more effective if administration/civil servants are able to communicate with the office (as opposed to needing to communicate through elected members or political officials).

To provide brokerage between parties for key relationships/projects:

This would be useful as the office is likely to have thorough knowledge of all stakeholders and assist in identifying synergies across networks and organisations.

The inclusion of strategic cultural planning for critical and key infrastructure and programs:

This would be useful at a state level, however, the functions of the office, according to the paper, are more of a monitoring and assessing functions and doesn't appear to include any scope for any creative/developing purpose.