Local Government
Amalgamation Guide

August 2013
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1. About the Guide

This Guide has been produced by the Department of Local Government and Communities (the Department) to assist and guide local governments through the processes involved in the amalgamation of two or more local governments.

Local government amalgamations have not been a common occurrence in Western Australia. Since 1972 there have been only nine amalgamations, all of which involved the merging of only two local governments. This Guide has drawn on some of the experiences from recent amalgamations; such as the Shire of Albany and the Town of Albany in 1998, the City of Geraldton and the Shire of Greenough in 2007, the Town and Shire of Northam in 2007, the Shires of Broomehill and Tambellup in 2008 and the City of Geraldton-Greenough and the Shire of Mullewa in 2011.

A proposal for the amalgamation of two or more local governments can only be dealt with by the Local Government Advisory Board (the Board) under Schedule 2.1 of the Local Government Act 1995 (the Act). Section 2.12 of this Guide contains further information on the statutory processes associated with making a proposal.

The Board is a statutory body established under Section 2.44 of the Act. Its primary role is the provision of advice to the Minister for Local Government and Communities on local government constitutional matters such as the establishment of districts and ward and boundary changes. It does this by assessing proposals and making recommendations to the Minister who may either accept or reject these recommendations. Schedule 2.1 of the Act contains provisions about creating, changing the boundaries of, and abolishing districts.

The information contained in this publication is not a step by step guide on how to progress an amalgamation of two or more local governments, nor does it cover every issue likely to be encountered during the process of amalgamation. The Department has identified the key issues that need to be addressed to ensure that the process of amalgamation produces a seamless transition to the new local government. If advice or clarification is required on any matter referred to in this Guide, contact should be made with the Department. For further information on the role of the Department in the amalgamation process refer to section 2.11 of this Guide.

The Guide has been prepared on the assumption that a new local government will be formed as a result of the merging of two or more local governments.

Amalgamations involve some complex issues and demand meticulous and careful planning to ensure that service delivery standards are maintained during the process and employees are treated in a fair and equitable manner during transition.
In any amalgamation the success or failure will be largely dependent on the commitment and willingness of the employees of the affected local governments to embrace the process.

The process of amalgamation is a stressful time for employees and elected members, who may experience feelings of insecurity brought about by the uncertainty that comes with change. During this time it is imperative that the leadership group responsible for overseeing the amalgamation have the vision, drive and skills to engineer a seamless and effective transition.

Employees must be made to feel part of the process and this can easily be achieved with regular and clear communications on the progress of the amalgamation.

The leadership group must ensure that it provides frequent, clear and honest information to all employees during the amalgamation process. If this approach is followed, they are less likely to spend time speculating on outcomes and this allows them to focus on their day to day tasks.

Employees will be expected to maintain service delivery standards and cope with increasing demands associated with implementing the amalgamation. It is critical that the leadership group understands this and is sympathetic to the additional demands that will be placed on staff. Strategies should be considered for reducing the impact of these demands.

Past experience shows that members of the community and other stakeholders are more likely to lodge complaints about service delivery and other issues during the merger process. An effective communication strategy will assist in allaying these concerns.

The amalgamation will not be achieved without incurring some significant and contingent costs which need to be identified as part of the implementation planning stage. It may not be possible to accurately estimate all costs at this point, however it is important to identify and quantify these costs wherever possible.

The amalgamation process should also deliver cost savings in a number of areas and steps should be taken to expedite any cost saving measures associated with the amalgamation as soon as possible. These cost savings can then be applied to meeting any transition costs and investment into improved services. Effective planning is essential if the amalgamation is to be implemented within an acceptable timeframe and minimal disruption.
2. Strategic Issues

2.1 Change Management

The change management process will be challenging. The merging of two or more organisations to form a new entity is a complex task and will be a new experience for many employees. They will inevitably experience a wide range of emotions both before and after the merger. It is important that the change management team has the skills and experience to deal with issues of organisational change. The Department has developed a HR Change Management Plan for amalgamating local governments which will assist the change management team.

Some employees will feel disenfranchised and also anxious about their employment situation before and after the amalgamation. Others may see the amalgamation as a window of opportunity and embrace it enthusiastically.

It is likely that the amalgamation process may result in a negative reaction from stakeholders other than employees. Careful consideration should be given to implementing strategies that promote and encourage the inclusion of employees and other stakeholders in the change management process.

Those charged with responsibility for coordinating the change management process should:

- have a vision and the focus and persistence to ensure it is realised;
- keep everyone focussed on the mission;
- constantly communicate progress and outcomes;
- show respect for the former organisations and work towards creating a new and positive culture for the new organisation;
- display a positive and forward looking attitude;
- develop and apply a consistent set of principles for dealing with change;
- be compassionate to the needs and concerns of staff;
- deal quickly and positively with employee resistance when it emerges; and
- where possible, involve all employees in the change management process.
2.2 Chief Executive Officer

The selection and appointment of the CEO is critical to the success of the amalgamation. The CEO will be expected to drive the amalgamation process in conjunction with the commissioner/s and then, the new council when it is elected. The CEO will also have to deal with the day to day operations of the new local government and ensure that service standards are maintained. This is of course in addition to all his/her other responsibilities associated with the amalgamation.

The functions of the CEO are set out in section 5.41 of the Act and read as follows:

- Advise the council in relation to the functions of a local government under the Local Government Act 1995 and other written laws;
- Ensure that advice and information is available to the council so that informed decisions can be made;
- Cause council decisions to be implemented;
- Manage the day to day operations of the local government;
- Liaise with the mayor or president on the local government’s affairs and the performance of the local government’s functions;
- Speak on behalf of the local government if the mayor or president agrees:
- Be responsible for the employment, management, supervision, direction and dismissal of other employees;
- Ensure that records and documents of the local government are properly kept for the purpose of the Local Government Act 1995 and any other written law; and
- Perform any other function specified or delegated by the local government or imposed under the Local Government Act 1995 or any other written law.

The timing and any decision on appointment of the CEO will be affected by the circumstances of the amalgamating local governments.

The commissioner/s may decide on an appropriate time frame for advertising the position of CEO or leave this task to the new council when it is elected. In these circumstances the position will be filled on an acting basis until it is advertised for permanent filling.
The commissioner/s or the council may elect to appoint a CEO from the displaced CEOs of the former local governments. Where the circumstances of the new local government require that the CEO position be advertised, the process should be expedited and the position filled as quickly as possible. Section 5.36 of the Act and Regulations 18A, 18B,18C and 18F of the Local Government (Administration) Regulations 1996 contain the relevant provisions dealing with the appointment of the CEO. The Department has also produced an operational guideline; “Appointing a CEO” which explains the process of selecting and appointing a CEO.

There are definite advantages in filling the CEO position as soon as possible. The CEO will be involved in the amalgamation process from the early stages and will have a greater sense of ownership of the outcome. By filling the position as early as possible there is also less risk that the knowledge and experience accumulated during the amalgamation process will be lost if an acting CEO is left in place for an extended period and is ultimately replaced when the position is advertised.

More information on the filling of the CEO position is contained in section 4.8 of this Guide.

2.3 Combining Cultures

This is an extremely important issue and should be treated accordingly. The recognition of the different cultures demonstrates a willingness to bring the amalgamating organisations together taking care not to devalue the sense of pride and commitment the employees have for their former organisations. This will contribute to the creation of a positive working environment and there is a greater likelihood that these values and sense of commitment will evolve in the new local government.

There will be sensitivities about the differences in work practices and policies of the amalgamating organisations and it is important to address this quickly and compassionately. The new local government should embrace the values and history of the former local governments, while at the same time building a culture for the new organisation.

The amalgamation process will be a testing and stressful time for employees and consideration should be given to adopting effective strategies for involving staff in the process of merging the workforces of the former local governments.

The process of integrating the different cultures should commence as soon as possible. Involving all employees in this process from day one will ensure that the development of a new culture has the best possible chance of success.
2.4 Commissioners

The establishment of the new local government will initially be overseen by the commissioner/s who will perform the role of the council until the inaugural election of the council is held, which must occur no later than 12 months after the establishment of the new local government. Section 4.3(2) of the Act contains the relevant provisions relating to the inaugural election.

In this section of the Guide, commissioners are referred to in the plural but this also takes into account the singular. Depending on the number of local governments involved in an amalgamation, one or more commissioners may be appointed. The eligibility requirements for appointment as a commissioner are set out in clause 1(1) of Schedule 2.4 and reads as follows:

“Any person is eligible for appointment as a commissioner if he or she is qualified to be elected as a member of the council of the local government concerned or would be so qualified if he or she were an elector of the district.”

The commissioners are appointed by the Governor on the recommendation of the Minister for Local Government and Communities. The Department is responsible for coordinating the appointment of commissioners.

Commissioner appointments generally apply from 1 July or an earlier date as specified in the Order. However a declaration whereby offices are declared vacant where a district is to be abolished has no effect if it is made more than two years before the date on which the district is abolished.

Where more than one commissioner is appointed, either three or five joint commissioners may be appointed. In these circumstances, one must be appointed as the chairperson and another is to be appointed as the deputy chairperson. Section 2.40 of the Act deals with the appointment of joint commissioners. Clause 6 of Schedule 2.4 of the Act makes provision for procedures at meetings where joint commissioners are appointed.

The functions of the commissioners are set out in section 2.38 of the Act as follows:

(1) The function of a commissioner of a local government is to exercise the powers and discharge the duties of the council of the local government and its mayor or president.

(2) A commissioner is to be regarded as being the council.

(3) Unless section 2.43 applies, or the contrary intention appears, a reference in this Act or another written law to a local government, a council or a member of a council includes reference to a commissioner.
To assist the commissioners to settle into their new role as quickly as possible it is recommended that an induction pack be prepared for each of the commissioner/s and provided to them on commencement.

The induction pack should contain (but not be limited to) the following information:

- Local Government Act 1995 and regulations and other relevant statutes;

<table>
<thead>
<tr>
<th>Local Government Act 1995 and regulations and other relevant statutes;</th>
<th>In relation to the former local governments, copies of and/or, information relating to the:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• standing orders;</td>
</tr>
<tr>
<td></td>
<td>• local laws;</td>
</tr>
<tr>
<td></td>
<td>• code of conduct;</td>
</tr>
<tr>
<td></td>
<td>• policy manual;</td>
</tr>
<tr>
<td></td>
<td>• town planning texts and policies;</td>
</tr>
<tr>
<td></td>
<td>• staffing information;</td>
</tr>
<tr>
<td></td>
<td>• organisation structure;</td>
</tr>
<tr>
<td></td>
<td>• plan for the future;</td>
</tr>
<tr>
<td></td>
<td>• delegations register;</td>
</tr>
<tr>
<td></td>
<td>• most recent annual budget;</td>
</tr>
<tr>
<td></td>
<td>• most recent annual report; and</td>
</tr>
<tr>
<td></td>
<td>• any other information considered relevant.</td>
</tr>
</tbody>
</table>

Much of the information will need to be reviewed as part of the amalgamation process. However, in the interim this information will assist the commissioners to gain an understanding of the prevailing governance frameworks and financial positions of the amalgamating local governments.

From the time they are appointed, the commissioners will have to work closely with the CEO or acting CEO and the other senior employees charged with the task of implementing the amalgamation. It is recommended that the commissioners deal with the following issues at the first council meeting:

- Appointment of interim CEO;
- Adoption of budget;
- Adoption of standing orders;
- Adoption of Code of Conduct;
- Adoption of policies and delegations;
• Determination of meeting procedures; and

• Appointment of Audit Committee.

There has been a preference in recent years to appoint commissioners that were elected members of the former local governments. The Chair is normally an independent person with no connection to the former local governments. When commissioners are appointed from outside the former local government districts this should be taken into account when organising meetings, briefings, functions and other activities requiring their attendance.

Commissioners appointed from outside the district may also require more detailed briefings and information during the early stages of their appointment to familiarise themselves with the local issues and to carry out their duties in an effective and timely manner.

Each commissioner will have their own skill set and it is worth considering how best these skills can be utilised to facilitate the amalgamation process. Consideration should be given to allocating portfolios to the commissioners (where more than one commissioner is appointed) so that their skills can be used most effectively.

As is the case with elected members, the commissioners will be required to register a primary return and annual return (where appropriate) to ensure compliance with the financial interest provisions contained in sections 5.75 and 5.76 of the Act.

Commissioners must take an oath or affirmation of allegiance before commencing in office. The relevant provisions are set out in section 2.42 of the Act. Regulation 13 of the Local Government (Constitution) Regulations 1998 requires that the declaration be made before an authorised person which includes a local government CEO, councillor or State Government public servant.

Clause 5 of Schedule 2.4 of the Act requires that the Minister for Local Government and Communities determine the remuneration and allowances for the commissioners. The costs associated with remuneration and allowances are met by the new local government or the existing local governments if the commissioner/s are appointed prior to the amalgamation.

While the commissioners perform the role of the council during the term of their appointment, certain provisions of the Act which apply to councillors, do not apply to commissioners.
These provisions are set out in section 2.43 of the Act and state –

(1) Part 2, Division 5 does not apply to a commissioner except to the extent required by Schedule 2.4, clauses 1 and 3(c).

(2) Part 2, Division 6 does not apply to a commissioner.

(3) Part 5, Division 6 does not apply to an interest that a commissioner has in a question relating to a payment or reimbursement under Schedule 2.4, clause 5.

In relation to (1) above, this means that the provisions applying to the qualifications for holding office on council do not apply.

In relation to (2) above, this means that the provisions applying to the terms of office on the council and vacation of office do not apply.

In relation to (3) above, this means that the financial interest provisions included in Part 5 Division 6 of the Act do not apply to a question relating to the remuneration, payment of allowances and reimbursement of expenses paid to commissioners.

2.5 Developing a Plan for the Future

Section 5.56 of the Act requires all local governments to plan for the future. A Governor’s Order will exempt a new local government from developing a plan for the future for the first 12 months. This provides the time required for the new local government to develop a plan in consultation with the community prior to adopting a final plan.

Regulations introduced in 2011 require local governments to have a Strategic Community Plan and Corporate Business Plan as part of their Integrated Planning and Reporting Framework. Local governments must also have an Asset Management Plan, Long Term Financial Plan and Workforce Plan to inform organisational priorities identified in the Corporate Business Plan.

Amalgamating local governments’ Strategic Community Plans and Corporate Business Plans can be used to facilitate the implementation process and assist when consulting with the community.

The Integrated Planning and Reporting Framework provides opportunity to integrate other corporate plans to the overall Strategic Community Plan and Corporate Business Plan of the new local government.
2.7 Developing an Implementation Plan

When it becomes evident that the amalgamation will proceed, the affected local governments should develop an implementation plan to project manage and govern the amalgamation. This can be achieved by forming a transition working party, taskforce or some other appropriate group of people with the requisite skills and knowledge to oversee the implementation.

The plan is described as the blueprint for merging the local governments into a single entity. There is no specific process or methodology for developing the plan. However, a structure that addresses the following elements should be considered in the development of the plan:

<table>
<thead>
<tr>
<th>Elements</th>
<th>Considerations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Desired Outcomes</td>
<td>What are the outcomes to be included in the plan?</td>
</tr>
<tr>
<td>Activities</td>
<td>What activities need to be undertaken to progress the amalgamation?</td>
</tr>
<tr>
<td>Costs</td>
<td>Where possible identify and estimate the costs associated with the amalgamation.</td>
</tr>
<tr>
<td>Lead Person</td>
<td>Who has primary responsibility for overseeing the development of the plan?</td>
</tr>
<tr>
<td>Team</td>
<td>Who are the team members and what are their roles and responsibilities? The members of a team must have the requisite skills and knowledge relevant to the activity eg human resources, finance, information technology etc.</td>
</tr>
<tr>
<td>Start Date and Goal Date</td>
<td>This sets time frames for activities and when they are due for completion.</td>
</tr>
</tbody>
</table>

It is essential that the plan identifies and quantifies the costs (where possible) associated with the amalgamation. This information will facilitate improved decision making and ensure that the costs can be managed effectively. The sooner cost saving measures can be identified and implemented, the better. These savings can then be applied to offset costs associated with the amalgamation process and be redirected to organisational efficiencies.

It is imperative that all senior employees (and other employees if considered necessary) and the commissioner/s (or council) are involved in the development and implementation of the plan. All employees should have a thorough understanding of how the plan will impact on their area/s of responsibility and their role (if any) in implementing it. It is recommended that
the commissioner/s or council endorse the plan as it is important that the processes and time frames contained in the plan are committed to and managed effectively.

The plan should be considered an absolute priority to ensure the amalgamation is not frustrated by delays associated with poor planning. The plan will identify and assist in scheduling key operational tasks to facilitate a smooth transition.

To facilitate the effective evolution of the new local government, it is important that all documents and information relating to the amalgamation, particularly those associated with the decision making processes are available to the new council when it is elected. The new council (when elected) will have its own views on issues such as policies and structures and access to this information will be invaluable.

2.8 Due Diligence

Due diligence is an important consideration in the amalgamation process. It involves examining the operations of the amalgamating local governments to determine potential risk exposure and to ensure that all critical issues are identified and considered as part of the amalgamation.

Due diligence is a component of risk management and should be applied to issues such as (but not limited to):

- the financial position of the affected local governments;
- the value and condition of assets;
- the redundancy of business systems;
- legal proceedings in progress and any potential legal actions;
- the impact of the amalgamation on contracts, leases, industrial agreements and awards;
- debtors and creditors;
- outstanding insurance claims; and
- any other contentious issues.

The implementation plan should interface with the due diligence process to ensure that risk exposure is minimised. The responsibility for implementing an effective due diligence process rests with the CEO and senior staff. It is worth considering allocating responsibility for specific portfolios, such as
finance, human resources, contracts and compliance to teams or individuals as this will ensure a structured approach to the process.

Prior to embarking on the due diligence process, consideration must be given to:

- How the due diligence process will be conducted.
- Defining the responsibilities of every person involved in the due diligence process.
- Establishing clear lines of reporting.
- Ensuring that any documentation relevant to the process is clear, concise and readily available to decision makers.

Many of the actions recommended under the various sections of this Guide are highly relevant to any due diligence process contemplated by local governments involved in amalgamations.

A sample due diligence checklist has been included at Appendix 3 of this Guide to assist with the process. The list is not exhaustive and can be modified to suit.

2.9 Risk Management Plan

If the amalgamating local governments already have risk management plans in place these will complement the due diligence process and provide a useful tool during the implementation of the amalgamation. Conversely, the due diligence process may be used as a framework for the development of a risk management analysis and plan if these are not already in place.

When developing the risk management plan for the new local government it should be constructed in such a way that it:

- adds value to the local government;
- is a critical component of the organisational processes;
- guides decision making;
- addresses uncertainty;
- is logical and well structured;
- contains the best available up to date information;
- is appropriate to an organisation’s needs;
The strategic issues should:

- recognise and respond to human factors; and
- be transparent and inclusive.

The development of a risk management plan for the new local government is not considered a priority in the first six months of the amalgamation however it should be considered within the first 12 months of the amalgamation. This is a significant task, especially if there are no risk management plans in place for any of the amalgamating local governments. The task of developing the risk management plan can be achieved through a staged approach.

To facilitate the development of a risk management plan it is recommended that a risk management policy be developed which establishes the policy framework under which the plan is developed.

It is important that the senior management group coordinating the amalgamation recognise that risk exposure may be significant, particularly in the early stages of the amalgamation when the burden on employees will be greatest.

### 2.10 Involving Stakeholders in the Amalgamation

The success of the amalgamation process relies heavily on the input from stakeholders. If the input from stakeholders is not sought the amalgamation process will falter in the very early stages and it may be difficult to turn this around.

The principal stakeholders of a local government include:

- employees of the local government;
- electors, residents, non-resident landowners and business owners;
- elected members;
- community organisations;
- contractors and lessees; and
- government agencies.

The level of involvement and expectation by stakeholders will vary, depending on the degree of their association with the amalgamating local governments.

The following communication strategies will ensure that stakeholders are kept informed of developments about the amalgamation:

- regular staff updates, meetings and information sessions;
• regular newsletters to the community and meetings with community groups to discuss progress, options and outcomes of earlier decisions; and

• regular press releases relating to the achievement of milestones in the amalgamation process.

Council meetings are also effective forums for stakeholders to raise issues and concerns about the amalgamation. Public question time may become an attractive alternative and procedures for public question time should be implemented during the early stages of the amalgamation. Regulations 5, 6 and 7 of the Local Government (Administration) Regulations 1996 set out the requirements for public question time.

The development of a draft Communication Plan to inform stakeholders about the progress of the amalgamation is highly recommended. The plan should set out the communication goals and the strategies adopted to keep stakeholders informed about the amalgamation.

The draft Communication Plan should identify how the various forms of media can be used to keep stakeholders informed and how information will be disseminated.

The Department has developed a draft Communication Plan to assist local governments and a copy is included at Appendix 4 of this Guide. The Plan refers to a “Structural Reform Working Group” as the body responsible for the transition to amalgamation. The Plan assumes that there will be a “group” responsible for the transition. The Plan can be modified to suit the circumstances of each amalgamating group of local governments.
2.11 Organisation Structure

The organisation structure must be treated as a priority and should reflect the business model that will be adopted by the new local government. It will also facilitate and expedite the filling of positions.

Developing an appropriate organisation structure can be a time consuming exercise. The existing structures of the amalgamating local governments will have different approaches to service delivery. For example, one local government may operate on a business unit approach while the other may not. The task of developing a structure will be more effective if there is an agreed position on the standards and levels of service delivery and the business model most capable of delivering these services.

The structure of the new local government must be capable of delivering the integrated planning outcomes associated with the new local government’s plan for the future.

Purpose and Principles of Organisation Design

The structure of an organisation must have the capacity to achieve its operational and strategic objectives.

The development of an organisation chart will assist stakeholders to understand how the new organisation will be structured and how it will:

- Achieve its vision, strategic direction and corporate goals.
- Build a culture.
- Deploy its resources.
- Define its reporting relationships.
- Clarify its job roles and responsibilities.
- Identify channels of communication.
- Identify career options; and
- Allow operational flexibility to respond to stakeholder demands.

Adherence to the following principles will underpin the development of an effective organisation structure:

- Structures must be logical and easily understood.
- The structure should be designed to enhance service delivery.
- There should be minimal overlap in functions.
• Flatter structures tend to be more effective in terms of service delivery.

• Spans of control should be as broad as possible.

• Responsibility should reflect authority.

• Line and support functions should be separated to provide a clear framework for the definition of core business.

• Observable and measurable outcomes should be established for all positions based on their clearly defined accountabilities and key performance expectations; and

• The structure should encourage team approaches and interaction rather than hierarchical controls and vertical communication.

Section 5.2 of the Act requires a council to ensure that an appropriate structure is in place for administering the local government. Given that an elected council will not be in place as at 1 July, the responsibility for the development or part development of the new structure will rest with the CEO, Commissioners and possibly the senior employees.

It is important to ensure that the process applied to the development of the new structure does not create conflicts of interest or perceptions of conflict of interest. The use of an external person to coordinate or facilitate this task is worth considering. This person will be responsible to the CEO and commissioners or perhaps the former councils if the structure is developed well in advance of the amalgamation.

The appointment of an external person may also help to lessen any possible perception that employees of the former local governments might in some way benefit from a new organisation structure.

Once the implementation plan and the organisation structure have been developed, the amalgamation process will be well placed to move forward.

Finally, once a structure is in place it may be subject to review and change post amalgamation in order to establish the best possible structure for the organisation as it moves forward.

2.12 Role of the Department of Local Government

The Department of Local Government and Communities is able to assist amalgamating local governments on operational issues covered in this Guide.

A number of Departmental publications have been produced which complement the information in this Guide.
The most relevant publications are previous amalgamation Inquiry Reports produced by the Local Government Advisory Board, Local Government Guidelines and Departmental Circulars. These can be downloaded from http://dlgc.wa.gov.au/Content/Publications/Listing.aspx

2.13 Role of the Local Government Advisory Board

The Local Government Advisory Board (the Board) is a statutory body established under section 2.44 of the Local Government Act 1995 (the Act).

The Board’s functions are set out in the provisions contained in section 2.45 of the Act and require that it consider proposals for boundary changes, ward and representation changes and the naming of districts. The Board can also inquire into any matter as directed by the Minister for Local Government.

The legislative provisions for dealing with boundary changes, including amalgamations are set out in Schedule 2.1 of the Act.

Before a proposal for amalgamation is considered by the Board it must comply with the provisions of clause 2 of Schedule 2.1 of the Act which state –

A proposal may be made to the Advisory Board by —

(a) the Minister;
(b) an affected local government;
(c) 2 or more affected local governments, jointly; or
(d) affected electors who —
   (i) are at least 250 in number; or
   (ii) are at least 10% of the total number of affected electors.

(2) A proposal is to —

(a) set out clearly the nature of the proposal, the reasons for making the proposal and the effects of the proposal on local governments;
(b) be accompanied by a plan illustrating any proposed changes to the boundaries of a district; and
(c) comply with any regulations about proposals

Once the Board is satisfied that a proposal complies with the above provisions it will normally resolve to proceed with a formal inquiry into the proposal.
The Inquiry process requires that the Board call for public submissions on a proposal and also conduct public hearings to give the opportunity for interested parties to participate in the inquiry.

The public hearings will normally be held in each of the local government districts affected by the amalgamation. The hearings are chaired by members of the Board and provide interested parties with an opportunity to present their views on the amalgamation in person. They are not a forum for debate.

The Board will also consider any request for a private hearing.

When the Board carries out an inquiry it must consider submissions and take into account –

- community of interests;
- physical and topographic features;
- demographic trends;
- economic factors;
- the history of the area;
- transport and communications;
- matters affecting the viability of local governments;
- the effective delivery of services; and
- any other matters it considers relevant.

The Board has developed guiding principles for each of the above issues and these are included at Appendix 1.

At the conclusion of the public submission period the Board will consider all the public submissions and any other information provided by the affected local governments and carry out any other research, as required, to enable it to prepare its inquiry report on the amalgamation. The report will either recommend to the Minister for Local Government and Communities that a proposal for amalgamation be accepted or rejected.

When the Board recommends to the Minister that an amalgamation proposal be accepted, the Board is required to give notice to affected local governments, affected electors and the other affected electors of districts directly affected by the recommendation about the recommendation. The notice to affected electors has to notify them of their right to request a poll about the recommendation.
A request for a poll must be received by the Minister for Local Government and Communities within one month of the notice.

Where a poll is requested, the Board must determine the question or questions to be answered by electors and a summary of the case for each way of answering the question. This summary must be provided to electors before the poll is conducted.

The WA Electoral Commission is responsible for conducting the poll which can either be in person or postal.

For a poll to be valid at least 50% of the electors of one of the districts must vote and if the majority vote against the recommendation, the Minister must reject the recommendation.

If there is no poll, the poll is invalid or the poll returns a majority decision in favour of the recommendation, the Minister can either accept or reject the recommendation.

After the Minister considers the Board’s recommendation, the Board’s inquiry report is published on the Department’s website and can be accessed by the public.

Section 8.3 of this Guide also contains further information about the poll provisions contained in Schedule 2.1 of the Act.
3. Operational Issues

3.1 Access to Information

During an amalgamation it is likely that requests for information from council members, committee members and the public will be more prevalent. Division 7 of Part 5 of the Act contains the provisions for dealing with access to information.

(1) A person who is a council member or a committee member can have access to any information held by the local government that is relevant to the performance by the person of any of his or her functions under this Act or under any other written law.

(2) Without limiting subsection (1), a council member can have access to -

(a) all written contracts entered into by the local government; and

(b) all documents relating to written contracts proposed to be entered into by the local governments.

Section 5.94 of the Act deals with access to information by the public and states:

A person can attend the office of a local government during office hours and, unless it would be contrary to section 5.95, inspect, free of charge, in the form or medium in which it is held by the local government and whether or not it is current at the time of inspection –

(a) any code of conduct;

(aa) any regulations prescribing rules of conduct of council members referred to in section 5.104;

(ab) any register of complaints referred to in section 5.121;

(b) any register of financial interests;

(c) any annual report;

(d) any annual budget;

(e) any schedule of fees and charges;

(f) any plan for the future of the district made in accordance with section 5.56;
(g) any proposed local law of which the local government has given Statewide public notice under section 3.12(3);

(h) any local law made by the local government in accordance with section 3.12;

(i) any regulations made by the Governor under section 9.60 that operate as if they were local laws of the local government;

(j) any text that —
   (i) is adopted (whether directly or indirectly) by a local law of the local government or by a regulation that is to operate as if it were a local law of the local government; or
   (ii) would be adopted by a proposed local law of which the local government has given Statewide public notice under section 3.12(3);

(k) any subsidiary legislation made or adopted by the local government under any written law other than under this Act;

(l) any written law having a provision in respect of which the local government has a power or duty to enforce;

(m) any rates record;

(n) any confirmed minutes of council or committee meetings;

(o) any minutes of electors’ meetings;

(p) any notice papers and agenda relating to any council or committee meeting and reports and other documents that have been —
   (i) tabled at a council or committee meeting; or
   (ii) produced by the local government or a committee for presentation at a council or committee meeting and which have been presented at the meeting;

(q) any report of a review of a local law prepared under section 3.16(3);

(r) any business plan prepared under section 3.59;

(s) any register of owners and occupiers under section 4.32(6) and electoral rolls;

(t) any contract under section 5.39 and variation of such contract;
Section 5.95 of the Act contains extensive provisions about the public’s rights to inspect information under section 5.94. Regulation 29 of the Local Government (Administration) Regulations 1996 deals specifically with public access to information. Regulation 29 states:

(u) such other information relating to the local government —

(i) required by a provision of this Act to be available for public inspection; or

(ii) as may be prescribed.

(1) Subject to subregulation (2), the information prescribed for the purposes of section 5.94(u)(ii) is —

(a) the information contained in a register to which section 5.18 applies;

(b) the information contained in a register to which section 5.46(1) applies;

(ba) the information contained in an electoral gift register established and maintained under regulation 30G(1) of the Local Government (Elections) Regulations 1997;

(baa) the information contained in a register maintained under regulation 12(5) of the Local Government (Rules of Conduct) Regulations 2007;

(bb) the information contained in a register of notifiable gifts referred to in regulation 34B(5);

(bc) details of a regional price preference policy adopted in accordance with Part 4A of the Local Government (Functions and General) Regulations 1996;

(c) unconfirmed minutes of council or committee meetings;

(d) notice papers and agenda relating to any council or committee meeting and reports and other documents which —

(i) are to be tabled at the meeting; or

(ii) have been produced by the local government or a committee for presentation at the meeting, and which have been made available to members of the council or committee for the meeting;
(e) the information contained in a tenders register kept under the Local Government (Functions and General) Regulations 1996.

(2) A person’s right to inspect information referred to in section 5.94 does not extend to the inspection of information referred to in subregulation (1)(c) if the meeting or that part of the meeting to which the information refers —

(a) was closed to members of the public; or

(b) in the CEO’s opinion, could have been closed to members of the public but was not closed, unless the information to be inspected is a record of a decision made at the meeting.

(3) A person’s right to inspect information referred to in section 5.94 does not extend to the inspection of information referred to in subregulation (1)(d) if, in the CEO’s opinion, the meeting or that part of the meeting to which the information refers is likely to be closed to members of the public.

29A. Limits on right to inspect local government information (Act s. 5.95)

(1) For the purposes of section 5.95(5)(b), the following information is prescribed as being of a private nature —

(a) the name, address and other personal details of the employee; and

(b) details regarding a bank, or other financial institution, where the employee’s remuneration and other benefits are to be credited.

(2) For the purposes of section 5.95(6), the following information is prescribed as information that is confidential but that, under section 5.95(7), may be available for inspection if a local government so resolves —

(a) information referred to in section 5.94 that would reveal the determination by the local government of a price for the sale or purchase of property by the local government; and

(b) information referred to in section 5.94 about the discussion of such a matter; and

(c) information referred to in section 5.94 which deals with anything in respect of which a meeting has been closed under section 5.23.
Freedom of Information

The new local government will require a Freedom of Information (FOI) Coordinator to deal with FOI applications. An FOI coordinator will assist the local government respond to information requests made under FOI.

An important statutory task is developing an information statement for the new local government. Section 94 of the Freedom of Information Act 1992 sets out the provisions relating to content of the information statement. This should not be a difficult task and may only require minor amendments to an existing statement.

There is a requirement under section 96 of the Freedom of Information Act 1992 to publish a copy of the information statement at intervals of not more than 12 months. This means that the information statement must be published within 12 months of the formation of the new local government.

3.2 Public Relations

It is important to keep all stakeholders informed of developments surrounding the amalgamation. Their levels of interest will vary from minimal to substantial. It is worthwhile developing strategies for general communications as well as for media. It is also important to consider how council representation at community events will be dealt with. The commissioner should fill this role until the new council and a mayor or president is elected.

It is likely that the media, particularly the local newspapers, will take a keen interest in the progress of the amalgamation. Communications with the media
should be handled by the commissioner/s. If the commissioners are unavailable, media inquiries should be directed to the CEO.

The Communications Plan (Appendix 4) will prove particularly useful during the early stages of the amalgamation to ensure that the protocols for dealing with the media are understood and information provided to the media is accurate and consistent.

As part of establishing the new local government it is appropriate that the local government be formally “launched” as soon as practically possible after it has been established. This will provide an ideal springboard for the future of the new local government and its engagement with community by presenting a unified approach. The commissioner/s will have to decide on the most suitable process for achieving this.

### 3.3 Customer Service

The new local government will need to establish its own customer service culture and it will be well placed to achieve this by developing its own customer service charter. Ideally the charter should be developed within the first few months of establishing the new local government.

The real challenge will come when the amalgamating local governments begin to operate as a single entity. Not only will employees have to cope with the many issues associated with the amalgamation, there will be an expectation from customers that there will be no diminution in service delivery standards.

This is probably an unfair expectation in the very early stages of the amalgamation and may well prove difficult to achieve. Over time, as the organisation stabilises, the objective should be to deliver services of a higher standard than those provided by the former local governments.

From 1 July onwards (or maybe even earlier) it is likely that there will be significant changes in service delivery as a result of the amalgamation. It is important to advise customers of these changes as early as possible. The changes may involve alterations to hours of operations and new locations for administration and depot operations.

The following areas may also be affected by the amalgamation and steps should be taken to advise stakeholders of any changes to arrangements:

- Recreation centres;
- Libraries;
- Infant health centres;
• Child care centres;
• Senior citizen centres;
• Rubbish tips;
• Refuse collection;
• Airports;
• Swimming pools; and
• Community halls.

### 3.4 Corporate Badging

As part of developing a new identity and culture for the new local government, consideration will need to be given to a design and theme of the new corporate badging for stationery, publications, clothing, website, signage and forms etc.

The development of the new corporate badging is a task that should be allocated to a team of employees. They may elect to use an external person to develop options for consideration. Once options have been developed a process should be agreed upon for selecting and implementing the new badging. The timing of the process should be considered as part of any arrangements associated with the establishment of the new local government.

There will be costs associated with the development and implementation of the new badging and these should be factored into the implementation plan. Experience has shown that the logistics associated with changing signage etc may be significant and will more than likely incur substantial contingent costs.

Another issue that should be considered is the potential change in status of the newly amalgamated local government. The coming together of two or more local governments may result in the new local government qualifying as a shire, town or city on the basis of population. Section 2.4(3) and (4) of the Local Government Act 1995 deal with these issues and state –

> (3) A district can only be designated a city if —
> (a) the district is in the metropolitan area and has more than 30 000 inhabitants more than half of whom live in an urban area; or
Clause 2.4(6) deals with the determination of population and states –

(6) The number of inhabitants of a district at a particular time is to be taken as that established by the Government Statistician appointed under the Statistics Act 1907 according to the information then available to that person.

3.5 Delegations and Authorisations under the Local Government Act 1995

It is important to differentiate between a delegation and an authorisation under the Act for the purpose of this section.

A delegation involves the “passing” of a statutory responsibility from one person (the delegator) to another person (the delegatee). An authorisation involves the appointment of a person to perform specific functions. Both a delegation and an authorisation must be confirmed in writing.

Delegation by the local government to the CEO

Section 5.42 of the Act deals with delegations by a local government to the CEO and states –

(1) A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43. * Absolute majority required.

(2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.
There are limits on what powers may be delegated to a CEO. The provisions of section 5.43 state —

A local government cannot delegate to a CEO any of the following powers or duties —

(a) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;

(b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;

(c) appointing an auditor;

(d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;

(e) any of the local government’s powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;

(f) borrowing money on behalf of the local government;

(g) hearing or determining an objection of a kind referred to in section 9.5;

(h) any power or duty that requires the approval of the Minister or the Governor; or

(i) such other powers or duties as may be prescribed.

Delegation by the CEO of powers and duties to other employees

Section 5.44 of the Act deals with delegation by the CEO to other employees and states —

(1) A CEO may delegate to any employee of the local government the exercise of any of the CEO’s powers or the discharge of any of the CEO’s duties under this Act other than this power of delegation.

(2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.
Delegation by the Local Government to certain committees

Section 5.17 of the Act deals with delegation by a local government to certain committees and states —

(1) A local government can delegate —
   (a) to a committee comprising council members only, any of the council’s powers or duties under this Act except —
      (i) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government; and
      (ii) any other power or duty that is prescribed;
   (b) to a committee comprising council members and employees, any of the local government’s powers or duties that can be delegated to the CEO under Division 4; and
   (c) to a committee referred to in section 5.9(2)(c), (d) or (e), any of the local government’s powers or duties that are necessary or convenient for the proper management of —
      (i) the local government’s property; or
      (ii) an event in which the local government is involved.
It should be noted that where committees have councillors as members, these committees will cease to exist from the date of establishment of the new local government or in the event that all the positions on council are declared vacant, from a date prior to the date the new local government is established.

All delegations and authorisations, particularly those relevant to Sections 5.42, 5.44 (delegations) and 9.10 (authorisations) of the Act will need to be reviewed to reflect the new structure and the movement of employees.

Local Government (Constitution) Regulation 6(4)(h) deals with the issue of delegations and authorisations following an amalgamation. It allows existing delegations and authorisations to remain valid following an amalgamation and states –

“a person who, immediately before commencement, holds an appointment made under a written law by local government A for the purposes of enforcing or administering that written law, becomes a person appointed by local government B for those purposes.”

In this example local government A is abolished and forms part of local government B as would be the case in an amalgamation.

While this provision allows for a smooth transition to the new local government, arrangements should be made to review all delegations and authorisations as soon as possible to reflect staff movements.

Delegations Register

Local governments are required to maintain a register of delegations to CEO’s and other employees. The CEO is responsible for the upkeep of the register.

Section 5.46 of the Act deals with this issue and states –

(1) The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.

(2) At least once every financial year, delegations made under this Division are to be reviewed by the delegator.
A delegations register should be established for the new local government as soon as practically possible.

The Department has published an Operational Guideline (Number 17) on the issue of delegations and it is a recommended reference source on this issue. It can be downloaded from the Department’s website at: www.dlg.wa.gov.au/Content/Publications/Listing.aspx

3.6 Delegations and Authorisations under other Legislation

There will be delegations and authorisations relevant to local government under other legislation that will need to be reviewed. The following Acts all contain various provisions relating to delegations or authorisations which impact on local governments:

- Dog Act 1976
- Animal Welfare Act 2002
- Emergency Management Act 2005
- Bush Fires Act 1954
- Health Act 1911
- Litter Act 1979
- Caravan Parks and Camping Grounds Act 1995
- Building Act 2011

This list is by no means exhaustive but it does identify the more significant pieces of legislation which should be considered when reviewing delegations and authorisations.
3.7 Policies

Section 2.7(1)(2)(b) of the *Local Government Act 1995* identifies the determination of a local government’s policies as one of the roles of the council.

A single policy framework should be the objective of the new local government as early as possible. It is likely that there will be a degree of duplication of policies and some may only require minor amendments to satisfy the needs of the new local government. In other cases, such as planning policies, the process of developing a common policy framework may be more complex and involve significantly more time and effort. The former local governments will have established policies and these may well serve as model documents for any new policies.

It is important to distinguish the difference between policy and process as part of review of policies.

<table>
<thead>
<tr>
<th>What is Policy?</th>
<th>What is Procedure?</th>
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<tbody>
<tr>
<td>A policy is typically described as a deliberate plan of action to guide decisions and achieve a rational outcome/s.</td>
<td>A procedure is a particular way of accomplishing something. It should be designed as a series of steps to be followed as a consistent and repetitive approach or cycle to accomplish an end result. Once complete, it will result in a set of established methods for conducting the affairs of the local government.</td>
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It is possible that some new or interim policies will have to be approved by the commissioners until such time as the new council is elected. The new council may well want to review some, or all of the policies approved during the term of the commissioners given that its council’s role to determine the policies of a local government.

If time and resources are limited, prioritising policy reviews should be considered. Policies that must be consolidated and amended in order for the local government to deal with statutory requirements from day one should be afforded the highest priority. It is also worth considering adopting a pro-forma format for all policy documents.
3.8 Accommodation

Consideration will need to be given to the space requirements for employees, council chambers and other areas such as reception, meeting rooms, records storage, IT etc. Once the organisation structure has been determined the local government will be in a better position to determine its accommodation requirements.

Where suitable accommodation may already exist, it is still likely that there will be costs associated with accommodating any additional staff and service delivery arrangements. These costs should be identified in the implementation plan.

Assistance with office design and space planning and the development of principles governing the allocation of offices and/or provision of open planning should also be considered.

When the new local government co-locates there may be a requirement to accommodate a number of staff in the short term that may not be part of the organisation long term. This needs to be taken into account as part of the planning for the accommodation.

Accommodation should be afforded a high priority. It is important to facilitate the “bringing together” of staff as quickly as possible so that the new organisation can be established and operate from a single administrative location. Consultation with employees during this phase is essential so that they feel part of the process.

Co-locating all employees will improve efficiencies and allow the integration of work related systems to occur quickly. Processes will need to be put into place immediately so that the amalgamating local governments are operating as a single entity, even though they may be operating from more than one location, in the early stages of the amalgamation.

3.9 Depot Based Operations

Amalgamating local governments are likely to have several works depots for the delivery of services relating to roads, footpaths, parks, gardens, drainage and refuse collection.

Part of the implementation planning will involve determining the new local government’s needs in respect of its depot based operations. This is a significant task and consideration of how services will be delivered should form how depots will be utilised into the future. A process of reviewing the replacement program for all machinery and equipment deployed in the depots should be undertaken in the first instance. It is possible that this area
may produce some realisable savings as a result of the duplication of machinery and equipment when the local governments are amalgamated.

### 3.10 Town Planning Schemes

The process of implementing a new planning scheme will involve consultation with external agencies and the public. Until such time as a new scheme is in place, the existing schemes will apply to their respective areas.

*Local Government (Constitution) Regulation 6(5)(c)* contains the following provisions relating to planning schemes for amalgamated local governments:

> “if immediately before commencement that part of district A is subject to a town planning scheme that is in force under the Town Planning and Development Act 1928 —

(i) \textit{the scheme has effect in respect of that part as if it were a scheme prepared by local government B in respect of that part, approved by the Minister under that Act, and published under that Act on commencement;}

(ii) \textit{in so far as the scheme applies to that part, local government B is taken to be the responsible authority for the purposes of that Act; and}

(iii) \textit{in so far as the scheme applies to that part, a reference in the scheme to local government A is to be taken to be a reference to local government B;”}

The reference to district A and B above assumes that as a result of an amalgamation the whole of district A is included in district B.

The amalgamation will create a requirement to operate with two or more town planning schemes. There will be a need to develop schemes that are consistent within the new district. This is a major task and involves complex and time consuming processes. If the new local government has a significant amount of development activity within its district it is worth considering an external person to undertake this task so that existing planning staff can concentrate on their day to day operations.

This situation may be difficult to avoid and those involved in planning matters will have to be particularly vigilant to ensure that errors are not made when dealing with the different schemes. In may be worth considering relevant training to assist staff work with multiple schemes across districts. Refer also to section 7.4 which addresses integrating amalgamating local governments’ local laws.
Whilst it is difficult to apply a suitable timeframe for reviewing and developing new planning schemes, it is recommended that every effort be made to work towards a consolidated scheme as soon as is practicable.

3.11 Waste Management Plans

The preparation of Waste Management Plans is governed by the *Waste Avoidance and Resource Recovery Act 2007*. The Act provides for:

- Waste avoidance and Resource Recovery;
- Establishment of the Waste Authority;
- The provision of waste services by local governments;
- Levies on waste; and
- Repeal of other legislation as required.

The objects of the Act are to contribute to the sustainability, and the protection of human health in Western Australia and the move towards a waste-free society by –

- Promoting the most efficient use of resources, including resource recovery and waste avoidance:
- Reducing environmental harm, including pollution through waste; and
- The consideration of resource management options against the following hierarchy –
  - avoidance of unnecessary resource consumption
  - resource recovery
  - disposal.

While it is not mandatory for a local government to have a waste plan there are provisions in the *Waste Avoidance and Resource Recovery Act 2007* whereby the CEO of the Waste Authority can, by written notice, require a local government to include in its Plan for the Future a Waste Plan.

Where a local government has a waste plan in place and is part of a regional grouping affected by an amalgamation, consideration will need to be given as to the changes required to an existing plan. Where parties are added or removed from a plan it will have to be amended accordingly.
3.12 Statutory Compliance Issues

The following are critical statutory compliance issues that will require urgent attention:

- register of financial interests (Section 5.88 of the Act);
- tenders register (Regulation 17 of the Local Government (Functions and General) Regulations 1996);
- register of token gifts (Local Government (Administration) Regulations 1996);
- register of delegations (Section 5.46 of the Act).

The new local government will also need to arrange a new common seal if it assumes a new name.

There are many other compliance issues that will need to be examined during the integration phase, the above lists those that are time critical in the early stages of amalgamation.

3.13 Regional Road Groups

There are ten regional road groups, the boundaries of which align with the Main Roads A regional boundaries.

They are:

- Gascoyne
- Goldfields-Esperance
- Great Southern
- Kimberley
- Metropolitan
- Mid West
- Pilbara
- South West
- Wheatbelt North
- Wheatbelt South
An amalgamation of local governments would only impact on a Regional Road Group where local governments from different road groups amalgamate.

In the event that this situation does arise, a decision will have to be made in consultation with Main Roads WA as to which Regional Road Group the new local government should belong.

3.14 Regional Local Governments and Regional Organisations

Where amalgamating local governments have resource sharing arrangements in place with other local governments, or are members of regional organisations (VROCS and ROCS), consideration will need to be given to the impact the amalgamation will have on these arrangements.

Where one or more of the amalgamating local governments are members of a regional local government, consideration will need to be given to the impact the amalgamation may have on the establishment agreement developed in accordance with the provisions of Section 3.64 of the Act and whether to continue or terminate its participation in the agreement.

A new local government will have the same right to withdraw from a regional local government as the former amalgamated local governments. If the new local government decides that it does not want to participate as a member of an established regional local government it can simply withdraw from the agreement in accordance with the terms and conditions of the establishment agreement.

The situation with ROCS and VROCS is less of an issue as these are established in a less formal environment and any change in membership resulting from the abolition or creation of a new entity is not a complex process.
4. Human Resources

4.1 Awards and Agreements

As both Local Government Act 1995 and Federal industrial arrangements need to be considered, a case by case approach may need to be taken within each new local government and depending on the specific arrangements in place, for each local government in an amalgamation.

The potential disparity in employment awards, agreements and contracts may have a significant impact on the amalgamation costs of the affected local governments. These circumstances can identify complex and sensitive industrial issues and consideration should be given to external assistance if the requisite skills do not exist within the affected local governments.

It is recommended that an assessment be undertaken of all the awards and agreements applying to the new local government. It is important that the human resource area or the person responsible for human resources is fully conversant with the content of all awards and agreements and the impact they have on the employees covered by each. This will be particularly beneficial as part of the process of consolidating all employees onto a single payroll system. This also applies even if the personnel and payroll functions are outsourced to other organisations.

4.2 Code of Conduct

Section 5.103 of the Act requires each local government to have a code of conduct for elected members, committee members and employees. Local governments approach this differently; some local governments have a single code of conduct encompassing each of these groups while others have a separate code for elected members and committee members and a separate code for employees.

Regardless of the approach adopted by a local government, the task of consolidating codes of conduct should not be difficult or time consuming. The relevant information should already be contained in the existing codes of conduct and provide sufficient content to develop a code for the new local government.

Based on the assumption that each local government will already have a code of conduct in place, the process might be as simple as choosing the most appropriate version from amongst the existing local governments and adopting it for the new local government.
4.3 Dealing with Grievances

There are substantial processes and issues associated with the amalgamation, many of which will impact on employees in some form or another. Those with the responsibility for implementing the amalgamation need to be aware of this and put in place a process for dealing with employee concerns and grievances.

If a process for dealing with grievances and concerns is not established they may escalate into major issues. It is recommended that a person with training in grievance resolution be engaged to provide this service. Ideally this would be someone other than an employee of the affected local governments.

An effective grievance resolution process will also show that the new local government values its employees and is keen to resolve issues, if and when they occur.

**An effective grievance process will deliver the following outcomes:**

<table>
<thead>
<tr>
<th>Opportunity to be heard</th>
<th>An opportunity to be heard requires that a complainant or respondent whose interests may be adversely affected by a decision shall be afforded an opportunity to be heard and allowance made for sufficient time to accommodate both complainant and respondent.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Absence of bias</td>
<td>Absence of bias means that the grievance resolution process guarantees a complainant access to decision making by persons who are unbiased/objective in relation to the matter to be decided.</td>
</tr>
<tr>
<td>Expeditious handling of complaints</td>
<td>Expeditious handling of complaints requires that grievances be brought to a point of clear resolution without undue delay.</td>
</tr>
<tr>
<td>Confidentiality</td>
<td>The grievance process must ensure that appropriate levels of confidentiality are maintained during and after the course of dealing with a grievance.</td>
</tr>
</tbody>
</table>

4.4 Development of Job Descriptions

Job descriptions will have to be prepared for each position within the new structure. The existing job descriptions of the former local governments may provide a suitable model for the new positions. It is also worth considering accessing other local governments for model job description forms.

The human resource area should coordinate the preparation of job descriptions. It is also essential to involve those employees who have a
detailed knowledge of the roles of the various positions. Job descriptions should be developed around the requirements of the position and not a particular person.

There should be a documented process for determining the classifications of all new positions. The classification should reflect the role and responsibilities of the position and not be determined with a predisposition for any individual.

The process of determining classifications must be consistent for all positions and care should be taken to ensure that any potential for bias in the process is removed.

4.5 Displaced Employees

After all positions have been filled there may be employees who do not have a position under the new structure. It is recommended that a policy be developed for dealing with employees who find themselves in this situation. Consultation with the relevant unions throughout the process (where required) will ensure that any employment issues arising from the amalgamation can be dealt with effectively, mitigating the likelihood of industrial disharmony.

The policy should also address other issues such as contract termination payouts and voluntary severance. The provision for these payments will be covered in the relevant contract of employment, award or agreement. Section 5.50 of the Act also requires that a local government prepare a policy where such payments are made in addition to the relevant contract of employment, award or agreement. Section 5.50 of the Act states –

Payments to employees in addition to contract or award

(1) A local government is to prepare a policy in relation to employees whose employment with the local government is finishing, setting out —

(a) the circumstances in which the local government will pay an employee an amount in addition to any amount to which the employee is entitled under a contract of employment or award relating to the employee; and

(b) the manner of assessment of the additional amount,

and cause local public notice to be given in relation to the policy.

(1a) A local government must not make any payment of the kind described in subsection (1)(a) unless the local government has adopted a policy prepared under subsection (1).
The amount payable to CEOs and senior employees, if their contract is terminated prior to the expiry date, is specified in regulation 18B of the Local Government (Administration) Regulations 1996. The amount prescribed is not to exceed, and is to be the lesser of, either:

- the value of one year’s remuneration under the contract; or
- the value of the remuneration remaining on the contract the person would have received had it not been terminated.

It is suggested that contact be made with the Department for advice on how these provisions might impact on termination payments for any displaced employees within the new local government. This is particularly important given the differing provisions contained in various awards, agreements and contracts that may apply to employees of amalgamating local governments.

The impact of natural attrition should be considered as this may affect any forecast of excess employees following an amalgamation. It is important that an estimate of the costs associated with severance packages form part of the estimate of costs of amalgamation.

Where a fixed term contract employee has less than two years remaining of their contract, Clause 11(4) only applies to that remaining contract period.

Where employees are displaced, consideration should be given to providing access to voluntary counselling services to assist them through what is a difficult and stressful time.
4.7 Filling Positions

The filling of positions may well prove to be one of the most challenging tasks associated with the amalgamation. This may be an uncomfortable time for employees as they go about the business of carrying out their daily tasks, unsure of how and where they will ultimately fit into the new organisation.

The process of filling positions should be treated as an absolute priority and the need for frequent and accurate information to be provided to employees cannot be overstated. Ideally, positions should be filled using the top down approach, i.e. fill senior positions first and work down through the organisation.

Local Government Act provisions

Schedule 2.1, Clause 11 (4) provides that a contract of employment that a person has with a local government is not to be terminated or varied as a result (wholly or partly) of an order under section 2.1 of the Act so as to make it less favourable to that person unless compensation acceptable to the person is made or a period of at least 2 years has elapsed since the order had effect.

Schedule 2.1, Clause 11 (5) provides that the rights and entitlements of a person whose contract of employment is transferred from one local government to another, whether arising under the contract or by reason of it, are to be no less favourable to that person after the transfer than they would have been had the person’s employment been continuous with the first local government.

Local Government (Constitution) Regulations, Regulation 6 (4) (g) provides that a person who, immediately before commencement, has a contract of employment with local government A, is to be taken to have an identical contract of employment with local government B.

The importance of retaining key employees is essential to the success of the amalgamation and this should be taken into account when considering the process to be applied to the filling of positions. A fair and equitable process will reduce the risk and support transparent decision making and confidence in the new organisation going forward. The filling of CEO and Senior Officer positions is covered in detail in the Act and the Local Government (Administration) Regulations 1996. The process of identifying and transferring people (other than the CEO) into like positions should be accompanied by detailed policies and procedures.

Copies of the policies and procedures should be distributed to all employees before the process begins. It is also recommended that information sessions be provided to allow staff to ask questions and clarify any issues relating to the filling of positions.
The following issues should be considered when developing policies and procedures for filling positions:

- Permanent staff should be considered first if employees are to be transferred into like positions.
- How the process for transfers will be conducted where there is more than one suitable employee.
- Where positions cannot be filled by transfer, they should be advertised and subject to a merit selection process; and
- No employee should benefit from an increase in classification unless the position is advertised and subject to merit selection.

There is of course the option of advertising all positions however this should be considered in light of costs and effectiveness. During the process of filling positions there will be a degree of natural attrition which may have both positive and negative outcomes.

Section 5.40 of the Act sets out the principles affecting employment by local governments and they are:

(a) employees are to be selected and promoted in accordance with the principles of merit and equity;
(b) no power with regard to matters affecting employees is to be exercised on the basis of nepotism or patronage;
(c) employees are to be treated fairly and consistently;
(d) there is to be no unlawful discrimination against employees or persons seeking employment by a local government on a ground referred to in the Equal Opportunity Act 1984 or on any other ground;
(e) employees are to be provided with safe and healthy working conditions in accordance with the Occupational Safety and Health Act 1984;

Adherence to the above principles will ensure that the process of filling positions is fair and equitable.

It is worth considering the use of an external person to coordinate the processes associated with the filling of positions. This can help ensure objectivity and remove any perceptions of bias.
The importance of establishing strict timeframes for filling positions is paramount. If timeframes are not adhered to employees may become frustrated which will be counterproductive to developing a unified and harmonious workplace.

The CEO

The appointment and remuneration of a CEO (and senior employee) during the transition stage can be managed according to current provisions in the Local Government Act 1995 and within the framework of the Salaries and Allowances Act 1975.

The position can be filled by either –

- Appointing an acting CEO from the former local governments; or
- Advertising the position for permanent filling.

The focus of the role, responsibilities and knowledge and skills requirements of a CEO during the transition period is different from that of a CEO managing a local government in routine management and operational circumstances. Therefore consideration may be given to appointing an interim CEO with requisite skills to work effectively with all involved and drive the full review, planning and transition process towards the establishment of a new local government entity. Following the transition stage consideration could then be given to appointing a permanent CEO.

Local Government (Administration) Regulations 18A and 18C contain the following provisions relating to the advertising and selection process to be applied to the appointment of a CEO:

18A. Advertisement for position of CEO or senior employee —

(1) If a position of CEO, or of senior employee, of a local government becomes vacant, the local government is to advertise the position —

(a) on a notice board exhibited to the public at the local government’s offices, if the position is —

(i) to be filled on a part time basis by a person who is also employed by another local government; or

(ii) an acting position for a term not exceeding one year;

or

(c) otherwise, in a newspaper circulating generally throughout the State.
Section 7 and 8 of the Act specifies CEO remuneration determined by the Salaries and Allowances Tribunal (SAT) under section 7A of the Salaries and Allowances Act 1975.

Following the poll provisions and agreed commencement date of the new local government, the Department will formally advise SAT of the arrangements when the Governor’s Order appears in the Government Gazette. This will assist SAT issue its remuneration determinations based on a revised banding for the new local government.

### 4.8 Equal Employment Opportunity Management Plans


It is expected that amalgamating local governments will already have their Equal Employment Opportunity Management Plans in place and given that the Plans follow a standard format with identified outcomes, the transition process can be addressed with relatively little disruption given the standard nature of the outcomes.

\[
\begin{align*}
(2) \text{ An advertisement referred to in subregulation (1) is to contain } - \\
(a) & \text{ the details of the remuneration and benefits offered;} \\
(b) & \text{ details of the place where applications for the position are to be submitted;} \\
(c) & \text{ the date and time for the closing of applications for the position;} \\
(d) & \text{ the duration of the proposed contract;} \\
(e) & \text{ contact details for a person who can provide further information about the position; and} \\
(f) & \text{ any other information that the local government considers is relevant.}
\end{align*}
\]
The major task confronting the new local government is to integrate the outputs of each of the amalgamated local governments into a single strategic approach to creating a workplace that is equitable and diverse.

The Public Sector Commission has information and publications on the issue of Equal Employment Opportunity and these can be found at: www.publicsector.wa.gov.au/publications-resources

4.9 Occupational Health and Safety

Under the *Occupational Safety and Health Act 1984* it is incumbent on an employer as far as practicable to provide and maintain a working environment in which the employees are not exposed to hazards.

The Act makes provision for Occupational Safety and Health Representatives and also Safety and Health Committees in order to ensure employer responsibility for maintaining a safe workplace.

Safety and Health Committees are not mandatory under the *Occupational Safety and Health Act 1984* unless an employee requests that one be established, the employer decides to establish one, or the Worksafe Commissioner directs that one be established.

Where two or more local governments amalgamate and there are differing arrangements in place for Committees and Representatives, consideration will need to be given to the transition arrangements and whether a Committee will be established for the new local government.

4.10 Disability Access and Inclusion Plans

It is envisaged that the amalgamating local governments will have disability access and inclusion plans in place. The information contained in the existing plans should provide the basis for a plan to be formulated for the new local government.

A copy of the new plan is to be submitted to the Disability Services Commission within 12 months of establishment in accordance with section 28 of the *Disability Services Act 1993*.

Where it has been necessary to modify existing accommodation or construct new accommodation this may impact on the new plan. It may also be necessary to review strategies relating to access to information and services for people with sight and hearing impairments.
5. Systems

5.1 Financial Systems

The integration of financial systems will be a priority and requires careful planning, particularly if the amalgamating local governments are using different financial systems. Until a decision is made as to the most appropriate solution to integrate financial systems, they will have to be run in parallel pending a full transition to a single system.

Consideration may need to be given to the purchase of a new system if existing systems are unable to accommodate the new local government. This may involve significant costs and implementation resources as well as staff training requirements. These costs should be identified in the implementation plan.

In conjunction with any planning for a new financial system, the following issues will also need to be considered:

- consolidation of creditors and debtors;
- consolidation of property and rating databases and systems;
- adoption of a standard chart of accounts;
- procedures for end of month rollover and financial reporting;
- establishing common bank accounts;
- process for bank reconciliations;
- arranging new cheque stationery;
- arranging new financial forms; and
- establishment of EFT facilities.

Regulation 5(2)(c) of the Local Government (Financial Management) Regulations 1996 requires that the CEO undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of a local government regularly (and not less than once every four years) and report to the local government the results of those reviews.

The new local government will have to apply for an ABN and GST registration and this can be done prior to the establishment of the new local government. The Business Activity Statement will have to be prepared for the
abolished local governments up until 30 June and for the new local government from 1 July.

The FBT return, group certificates and staff tax declarations may also be affected by the amalgamation. It is highly recommended that contact be made with the Australian Tax Office for clarification on any of the above issues.

5.2 **Rating Systems**

The amalgamated local government will require a unified rating system as soon as possible. If, in the short term, the migration of data to a consolidated system is not possible prior to the inaugural budget being prepared, rating information will need to be accessed from the existing databases and manually compiled into a single budget. If issuing rate notices for the new local government using data extracted from separate systems, ensure consistency of local government information across all statements i.e. payment due date, methods of payment and instalment arrangements.

5.3 **Human Resource Management Systems**

The introduction of Workforce Planning as part of the Integrated Planning and Reporting framework has established that many local governments have only a payroll system for human resource management purposes and that few local governments have available workforce information. The payroll system in use is common across approximately 108 local governments.

Amalgamating local governments will be able to draw on their workforce planning as they review the outcomes of community consultation; consider their Strategic Community Plan priorities; and draw together common priorities and workforce information and requirements for the new amalgamated organisation.

It will be important to consolidate personnel and payroll information for administration purposes as quickly as possible.

5.4 **Communication Systems**

Telephone systems including mobile phone contracts will all have to be reviewed with a view to rationalising and integrating existing resources and systems. Until such time as the local governments are co-located there will be a need to integrate the telephone systems to link the various physical locations that form part of the new local government. As part of the co-location, a review of the adequacy of the existing telephone systems will need to be undertaken. This will determine if existing systems can be
expanded to accommodate additional staff across multiple sites or whether a new system will need to be purchased. If it is necessary to purchase or lease a new system, this will need to be considered as part of the integration planning.

The amalgamation should also produce opportunities for cost savings (operating) on communications and a review of all telecommunication contracts or arrangements should be undertaken to determine whether there are any significant logistic or cost issues relating to the supply of telecommunication services.

Consideration should also be given to specialised communication requirements such as two way radio, satellite communications and remote area communications.

The task of rationalising and integrating communication systems is a priority. In the early stages of the amalgamation it is essential to link the separate administrations and where possible depots, until co-location occurs.

There may also be leasing issues and contract issues associated with the provisions of telecommunications equipment and services which should be reviewed. This issue is addressed in more detail in section 7 of this Guide.

5.5 Complaint Handling Systems

Systems and processes for dealing with complaints fall into two categories:

- Complaints about the local government.
- Complaints about the conduct of elected members.

Generally the procedure dealing with complaints about the operations and activities of the local government will be included in a customer service charter.

The procedure for dealing with complaints about the conduct of elected members is covered in Part 5 of Division 9 of the Act. While there is no requirement for a local government to develop detailed documentation on its procedures, there should a minimal guide for a procedure dealing with these issues.

The primary focus should be on procedures and systems dealing with operational complaints concerning local government activities. The development of a new customer service charter which includes information on how and where complaints should be lodged with the new local government should assist with this task.
It is essential to have an effective complaint handling system in place from 1 July (even if only as an interim measure) as it is likely that complaints will be more prevalent during the implementation stages of the amalgamation. As the new local government begins to operate more effectively the frequency of complaints should reduce significantly.

5.6 Information Technology Systems

Considerable planning and attention to detail will be required to plan for the integration of multiple IT systems. This ensures ‘minimal’ disruption to the day to day activities of the amalgamating local governments and service delivery to the community. It is reasonable to assume that the information resources of the amalgamating local governments will be stored and retrieved electronically. The implementation and transition to new systems should be arranged to occur when it will have minimal impact on the local governments, e.g. the weekend or after hours.

With regard to ICT systems, the process of amalgamation will create some significant challenges for local governments, including

- Identifying the most cost effective means of integrating IT systems and data; and

- Determining how the IT resources of the amalgamating entities can be used most effectively.

Establishing an IT review and implementation working group to manage these transitional issues is paramount. Group membership should include people with extensive knowledge of acquisition and application of IT and be tasked with

- Development of an ICT Transitional plans that identifies the immediate, short-term, mediu-term and long-term requirements for the amalgamated local government.

- Identifying effective IT solutions that are manageable into the future, and takes into account new and emerging technologies.

- An audit of all hardware, software,IT infrastructure and mobile computing devices currently in use;

- Audit of all software licences, support agreements and ICT contracts

- Audit of communication links and infrastructure

- An audit of existing IT policies, procedures and protocols;

- An audit of staff IT skills;
• Identifying and managing risk

• A review of any existing IT reports and plans from the amalgamating local governments;

All existing contracts for the provision and support of hardware and software should be identified and examined to determine what impact the amalgamation will have on the terms and conditions contained in these contracts.

A key consideration of the working group is identifying appropriate, effective and affordable IT solutions for the amalgamated local government.

Consideration should be given to the ICT Strategic Framework for Local Government, which provides high level framework for the effective management of information and technology within local government, to ensure ICT systems are controlled and maintained in line with corporate objectives and emerging trends.

The ICT Strategic Framework establishes an ICT Baseline which identifies the minimum requirements for the effective provision of information management and information technology services to effectively support local government operations.


In the event that the amalgamating local governments do not have IT staff with the necessary skills to ensure a seamless transition to a single entity, consideration will need to be given to the use of external assistance to compensate for any skill gaps.

Potentially, the cost of integrating and implementing new IT systems will be one of the most significant costs associated with an amalgamation.

5.7 Records System

A new local government will commence operations on 1 July; correspondence and reports captured from this day forward into an integrated document management system ensures certainty of access to information and will better support business continuity.

Refer to the State Records Office (SRO) Guidelines for record keeping and archival storage requirements in accordance with the State Records Act 2000.
Prior to embarking on a ‘scan all’ approach to hard copy documents, consideration needs to be given to:

- What is the nature of the records to be back scanned. (ie permanent or temporary records?)
- What is the age of the records. (SRO Guidelines advise records older than five years should not be back scanned.)
- How often will the electronic record be accessed.
- Who will be accessing the electronic records.
- What purpose will the documents be accessed.

The State Records Office and National Archives websites contain information regarding back scanning and the technical requirements to ensure accessibility of electronic information and preservation of archives.

Where different numbering systems and classification systems are in place a decision will have to be made as to the most appropriate classification system.

Other tasks to be considered are:

- Design and print new file covers (assuming hard copies are part of the system).
- Develop processes and procedures during the transition process for how correspondence and other information will be stored, recorded and tracked.
- The collection and distribution of mail in the early stages of the amalgamation may pose a number or problems due to the processes adopted by the former local governments.
- Review and implement a retention and disposal schedule for the new local government.
- Storage of records post amalgamation.

The task of amalgamating records systems is a labour intensive exercise and will more than likely require specialist skills and additional assistance during the transition period. This ensures minimal disruption to operations while at the same time compliance with the State Records Act 2000.
Within six months after its creation, the new local government is to submit a draft record keeping plan to the State Records Office as required under section 21 of the *State Records Act 2000*.

All local governments are required to have a Records Keeping Plan in place so it should be a relatively easy exercise to develop a plan for the new local government based on the existing plans.

The amalgamation of records systems is unlikely to be completed in the first six months following the amalgamation. It is important however, that a commitment is given to complete this task as quickly as possible to support business operations and access to information.

Local governments should be aware that clause 24 of Schedule 9.3 of the Act requires that the previous records, registers and documents of a former local government are to be kept by the continuing authority. This ensures that these records are appropriately preserved and maintained, notwithstanding any other requirements under the *State Records Act 2000*.

### 5.8 Asset Management Systems

All assets and stock inventory will need to be consolidated into a single system. It is essential that an audit be undertaken of all assets and stock for each of the amalgamating local governments to ensure assets and stock can be reconciled.

It is likely that each local government will have variances in asset class groupings and use different methods and rates of depreciation for different classes of assets which will be standardised in due course. This is more of an accounting matter and is dealt with under section 6.5 of this Guide in more detail.

It may also be necessary to revalue some assets and the ideal time to do this is during the process of bringing all the assets into the one system. Regulation 17A of the *Local Government (Financial Management) Regulations 1996* requires asset valuations to be based on fair value in accordance with the Australian Accounting Standards. From 30 June 2015 all assets are to be valued at fair value.

A review should be undertaken of the systems used (assuming different systems are used) by the amalgamating local governments to determine the most appropriate system for the new local government.

The ROMAN system is used by the majority of local governments for recording all road data. Refer to section 5.9 for further advice on this issue.

The *Local Government (Administration) Regulations 1996* require local governments to have in place a Corporate Business Plan which integrates matters relating to resources, including asset management. All local
governments should have developed asset management plans in accordance with the Department’s Asset Management Framework and Guidelines and Advisory Standard.

The task of consolidating all asset and stock information is a medium priority and should be completed in the first six months following the amalgamation.

5.9 Road Pavement Management System (ROMAN)

Where amalgamating local governments are using ROMAN (and most do) and have compatible data, the task of amalgamating that data should be relatively uncomplicated.

The critical tasks in amalgamating road data are:

- Renumbering the roads to give each road a unique number.
- Adjusting SLKs (straight line kilometres) on through roads.

Main Roads WA (MRWA) can negotiate with amalgamating local governments regarding the changes to road numbering and adjusting SLKs and MRWA can make the relevant changes in IRIS.

Local governments will have to make the parallel changes in their ROMAN program. This will complete the amalgamation of the road statistics such as length, width etc.

It is envisaged that that the majority of amalgamations will require a consultant to carry out the task of amalgamating the road condition data and fill in any gaps in the road data.
6. Finance

6.1 Annual Budget

The budget for the new local government will have to be prepared and adopted by 31 August each year. If this is not possible an approval for an extension of time must be sought from the Minister for Local Government and Communities as required by section 6.2(1) of the Act. Given that the budget has to be completed by 31 August (unless an extension is granted), compiling separate budgets extracted from data of the former local governments, prior to 1 July, and consolidating it into an inaugural budget of the new local government may be less problematic. Prior to compiling the inaugural budget, consideration should be given to integrating the former local government’s suite of Integrated Planning and Reporting plans including Long Term Financial Plans to inform budget priorities.

One issue that will need to be addressed is the difference in rating regimes and these will need to be standardised when developing the inaugural budget. This will include standardising rates in the dollar for GRV and UV, discounts for early payment of rates and interest on overdue rates. Differential rates should also be considered to ensure that there are no obvious anomalies. See 6.19 for rules governing differential general rates and options for phasing in standardised rates. Fees and charges should also be reviewed to ensure a consistent approach.

It is important that the budget/s include accurate carryover balances as an error could have significant impact when calculating the rate deficit. It is recommended that the Department of Local Government and Communities operational guideline No 8, “Net Current Assets” (Opening and Closing Funds) used in the Annual Budget and Annual Financial Report be used as a reference to mitigate against any risks in this regard.

Establishing an integrated financial reporting system is a key component of a successful amalgamation. A dedicated working group should be established to assess the financial reporting and system needs of the new local government to inform the overall implementation plan.

6.2 Annual Financial Report

Annual reports and annual financial reports of the former local governments are required at June 30 of the financial year prior to the date of amalgamation. This is likely to be a task required of the new local government. The financial reports must be submitted to the auditor by 30 September unless the Minister for Local Government and Communities
approves an extension in accordance with the provisions of section 6.4(3) of the Act. The CEO of the new local government will be required to sign the statements that accompany the financial reports of the former local governments.

A copy of the annual financial reports together with the auditor’s reports must also be forwarded to the Department within 30 days of receipt of the auditor’s report.

The first annual financial report of the new local government will not be due for submission to its auditors until 30 September of the year following the amalgamation.

For the new local government there are a number of accounting issues that will need to be addressed during the first year of the amalgamation some of which include differing accounting policies, differing depreciation rates and differing provisions for employee entitlements.

6.3 **Annual Report**

An annual report is required for each of the former local governments by the new local government for the financial year prior to the date of amalgamation. This should be undertaken following completion of audits and issues of audit reports.

Section 5.27 of the Act also requires that a general electors meeting be held not more than 56 days after the local government (commissioner/s) accepts the annual reports.

The CEO is required under Section 5.55 of the Act to give local public notice of the availability of the annual reports as soon as practicable after the reports have been accepted by the local government.

6.4 **Auditors**

There may be issues with consolidating contracts of the former local government’s auditors and these will need to be resolved before the process of appointing an auditor for the new local government begins. Under the Act existing contracts continue to apply to the new local government, however in these circumstances there would be an oversupply of auditors and this will need to be addressed.

The new local government may have to terminate the audit contracts of the former local governments and communicate this decision to the Director General of the Department in accordance with regulation 8 of the *Local Government (Audit) Regulations 1996*. 
The new local government should undertake the process of appointing an auditor as soon as practically possible. It would be possible for the former local governments to commence a tender process to select an auditor for the new local government. However, selection of the most suitable tender should be made by the new local government. The new local government should appoint an auditor(s) by name and not by reference to ‘partner’ as otherwise this may inhibit the application of section 7.4 of the Act.

The audits of the former local governments should be completed by the current auditors. It should be noted that section 7.7 of the Act makes provision for the Director General of the Department to appoint an auditor if a local government does not make such an appointment by 30 November in any year.

To ensure compliance with the section 7.1A of the Act, an audit committee will need to be established as soon as possible after the new local government is established. Regulation 16 of the Local Government (Audit) Regulations 1996 lists the functions of an audit committee. Initially this will require that the commissioner/s and any other members be appointed to carry out the role of the audit committee. The members are not to include the CEO or other employees of the local government.

The new local government should also give consideration to establishing an internal audit process to support the audit committee. Although this is not considered an absolute priority it is desirable that this be addressed within twelve months of the amalgamation.

6.5 Rates

Rating issues have the potential to cause varying levels of angst amongst ratepayers within the new local government due to the differing rating policies and regimes of the former local governments.

Regulation 52A of the Local Government (Financial Management) Regulations 1996 enables amalgamating local governments to levy differential general rates by specified towns and parts of a district. This allows greater flexibility for amalgamating local governments to achieve uniform rating over a transitional period of up to five years.

The inaugural budget will prove somewhat of a challenge given the different rating policies and regimes of the former local governments. It is imperative that the revenue raised is sufficient for the new local government to provide adequate levels and standards of service while also meeting its obligations under the Act.
The rating policies of the former local governments should be examined as part of the process of developing new rating policies. The objective is to achieve an equitable rating outcome for all ratepayers within the new district.

As part of the transition process it is recommended that the following actions be considered:

- Carry out an audit of all properties in the new rate book to ensure valuations are up to date;
- Determine whether there is any action pending on overdue rates to recover the debt or to exercise the powers under section 6.64 of the Act to transfer or sell the land;
- Determine whether there is any legal action pending on rate recovery and any contingent liabilities for legal expenses or costs on unsuccessful claims; and
- That rates considered irrecoverable e.g. mining rates are written off so that rate revenue and rate debtors are not overstated.

It is recommended that revaluation dates be discussed with the Valuer General with a view to all valuations within the new district having the same review date.

The amalgamating local governments may have specified area and differential arrangements in place and consideration will need to be given on the appropriate treatment. It is recommended that advice be sought from the Department on these issues if there is any doubt as to how these should be dealt with during the transition process.

Where a method of valuation applies to land in a former local government prior to amalgamation, that method of valuation will continue to apply after amalgamation. Regulation 5(4)(b) of the Local Government (Constitution) Regulations 1998 contain the relevant provisions.

6.6 Revenue

As part of the general transition process and inaugural budget preparation, the new local government will have to assess all revenue streams and how these might be affected by the amalgamation; and the new local government’s capacity to deliver services.

Under normal circumstances it will not be necessary to make any adjustments for revenue except when there are transactions between the amalgamating local governments that require appropriate treatment in accordance with accounting principles and the application of Australian Accounting Standards on amalgamation.
It is important to establish whether there are committed funds and revenue received in advance for specific projects that should be set aside where no liability has been recognised.

6.7 Reserve Accounts

Past experience has shown that the application of the reserve accounts of the former local governments can be a sensitive issue. This situation arises due to the council and ratepayers view that the funds should be applied in accordance with the purpose they were originally intended and that the benefit should flow back to the ratepayers who contributed in the first instance. The application of reserve funds is an issue that ideally the amalgamating local governments will have to negotiate between themselves prior to amalgamation.

The reserve accounts will transfer to the new entity and the provisions set out in section 6.11 of the Act will apply to the application of the funds. Any change to the purpose of these funds will require either the giving of one month’s public notice of the change in purpose or use being disclosed in the next annual budget.

Regulation 18 of the *Local Government (Financial Management) Regulations 1996* contains provisions relating to the circumstances in which a local government is not required to comply with the provisions of section 6.11. These include the emergency provisions as set out in section 6.8(1)(c) of the Act and where the amount to be used does not exceed $5000.

Where money has been placed in a reserve account and those monies have been raised through a specified area rate, the provisions of section 6.11 of the Act which deal with the change in use and purpose of reserve accounts do not apply and the funds must be applied in accordance with the purpose for which they were raised.

6.8 Trust Funds

All trust funds will transfer to the new local government and the provisions set out in section 6.9 of the Act will apply to all money and assets held in trust. The first annual report of the new local government will have to comply with regulation 37 of the *Local Government (Financial Management) Regulations 1996* and include for each class of trust, a statement of –

- the amounts brought forward on 1 July;
- the amounts received during the financial year;
- the purpose for which the money was held or received;
• the amounts paid out during the financial year; and
• the closing balance at 30 June.

6.9 Chart of Accounts

When local governments are amalgamated an existing chart of accounts may be used or a completely new chart of accounts developed. The latter is probably the preferred option.

Should a new chart of accounts be developed it will need to accommodate all asset, liability, income, revenue and equity accounts.

The chart of accounts must accommodate all services to be provided by the new entity with sub codes to aggregate data by program, nature and type.

Revenue and expenditure by program for activity and nature and type codes are covered in chapter 5 of the WA Local Government Accounting Manual.

Transfer of assets to new accounts should reflect the written down value of non-current assets at cost or fair value. For reporting purposes and appropriate disclosure assets at cost should be separated from assets at valuation.

It is recommended that that all records be retained for future reference which includes information prepared under the previous chart of accounts for the former local governments. In order to facilitate a smooth transition the creation of a conversion table from the old charts to the new chart of accounts will ensure that all line items have been properly coded and are subject to an audit trail.

6.10 Monthly Financial Reporting

In accordance with regulation 34(1) of the Local Government (Financial Management) Regulations 1996, the new local government is required to prepare a statement of financial activity each month for presentation to council at its next ordinary meeting. Initially these will be prepared for the commissioner/s until such time as the inaugural council is elected.

Regulation 34 of the Local Government (Financial Management) Regulations 1996 states the detail required in a local government’s monthly activity statement. In the early stages of the amalgamation, the activity statement report should, at the very least, show the cash position for the new local government. The full level of detail however, is to be reported as soon as possible once the budget is adopted.
6.11 Australian Accounting Standards Applying to Amalgamations

Regulation 5A of the Local Government (Financial Management) Regulations 1996 requires local government annual budgets, annual financial reports and other financial reports to comply with the Australian Accounting Standards.


The amendments specify the accounting requirements for restructures of local governments as follows:

(a) local governments shall recognise assets and liabilities transferred from another local government and any gain or loss;

(b) local governments shall recognise the assets transferred initially, either at the amounts at which the assets were recognised by the transferor local government as at the date of the transfer, or at their fair value; and

(c) assets and liabilities transferred during the reporting period shall be disclosed separately by class. Any gain or loss shall be disclosed in the statement of comprehensive income and the transferor shall be identified.

This Standard makes amendments to AASB 3 Business Combinations (March 2008, as amended) as a result of a review by the Board as to the suitability of applying the requirements in that Standard for business combinations among not-for-profit entities by retaining the status quo in respect of accounting for restructures of local governments originally included in AAS 27 which has now been withdrawn.

AASB2008-11 now provides for non-profit entities as part of the revision of AASB 3.
Amendments to AASB3 - Business Combinations include:

Aus 63.1 Where assets and liabilities are transferred to a local government from another local government at no cost, or for nominal consideration, pursuant to legislation, ministerial directive or other externally imposed requirement, the transferee local government shall recognise assets and liabilities and any gain or losses.

Aus 63.2 Assets transferred to a local government from another local government at no cost, or for nominal consideration by virtue of legislation, ministerial directive or other externally imposed requirement shall be recognised initially either at the amounts at which the assets were recognised by the transferor local government as at the date of transfer, or at their fair values.

Aus 63.3 A restructure of local governments involves the transfer of assets and liabilities of a local government to another local government, at no cost or for nominal consideration, by virtue of legislation, ministerial directive or other externally imposed requirement. This gives rise to assets and liabilities and a gain or loss for the transferee local government. A restructure of local governments may take the form of a new local government being constituted and other local governments being abolished as a result of a State Government’s policy to effectively amalgamate a number of local governments.

Aus 63.4 A restructure of local governments involves a change in the resources controlled by the local governments involved in the restructure. The transferor local government will decrease its assets by carrying amounts of the assets transferred. The transferred assets will usually be recognised by the transferee at their carrying amounts in the books of the transferor at the time of transfer. Such amounts provide a practical basis for recognising the transfer of assets, particularly when many assets are involved, as is usually the case in a restructure of local governments. However, the recognition of transferred assets at fair value is permitted by this standard.
### Amendments to AASB3 - Business Combinations include:

<table>
<thead>
<tr>
<th>Paragraph</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aus 63.5</td>
<td>The restructure of local governments referred to in paragraphs 63.3 and 63.4 above do not involve transfers between the local government and its ownership but give rise to a gain or loss that is recognised in the statement of comprehensive income.</td>
</tr>
<tr>
<td>Aus 63.6</td>
<td>Assets and liabilities transferred during the reporting period and recognised in accordance with Aus 63.1 above shall be disclosed separately, by class, by way of note or otherwise, and the transferor local government shall be identified.</td>
</tr>
<tr>
<td>Aus 63.7</td>
<td>Any gain or loss recognised in accordance with Aus 63.1 above shall be separately disclosed in a statement of comprehensive income.</td>
</tr>
<tr>
<td>Aus 63.8</td>
<td>The disclosures required by paragraph Aus 63.6 will assist users to identify the assets and liabilities recognised as a result of a restructure separately from other assets and liabilities and to identify the transferor local government. In addition, the disclosures required by Aus 63.7 above will assist users to identify separately the gain or loss which results from a restructure of local governments.</td>
</tr>
<tr>
<td>Aus 63.9</td>
<td>Local governments are not required to apply paragraphs 59 to 63 and the related Appendix B Application Guidance paragraphs of this Standard when disclosing information about restructures of local governments.</td>
</tr>
</tbody>
</table>

### AASB 3 Business Combinations

A business combination must be accounted for by applying the acquisition method, unless it is a combination involving entities or businesses under common control.

The core principle is that an acquirer of a business recognises the assets and liabilities assumed at their acquisition-date fair values and discloses information that enables users to evaluate the nature and financial effects of the acquisition.
The guidance of AASB 127 consolidate and separate financial statements that shall be used to identify the acquirer i.e. the entity that obtains control of the acquiree. If a business combination has occurred but applying the guidance in AASB 127 does not clearly indicate which of the combining entities is the acquirer. The factors in B14-B18 of AASB 3 are to be applied in making such a determination.

6.12 Bank Accounts

Bank accounts should not be merged until such time as they have been audited. There will be uncleared cheques and electronic transfers made to these accounts and action will need to be taken to make sure that all outstanding cheques are cleared and creditors using electronic transfers are aware of the impending changes.

Where reserves bank accounts have been established for specific purposes these will need to be quarantined where necessary to ensure that any commitments can be met.

Action will need to be taken to amend details on bank accounts and investments to reflect the name of the new local government. This can only be undertaken once an ABN has been obtained. The institutions involved will have to be formally notified of the name of the new local government.

6.13 Borrowings

As part of the due diligence process all borrowings should be reviewed in relation to the terms, conditions and extent of borrowings to determine the debt level of the new local government.

The various lending institutions will need to be advised of the arrangements relating to the former local governments and the establishment of the new local government.

Debt consolidation may provide opportunities for savings on loan repayments.

6.14 Capital Works Projects

During the amalgamation process capital works projects in progress will need to continue in line with contractual arrangements. Local governments should factor this into their implementation planning to ensure that these projects are quarantined from delays and other impediments arising from amalgamation.
6.15 Commercial Enterprises

The commercial enterprises (major land transactions and trading undertakings) of each local government (if any) will need to be reviewed to determine what effect the amalgamation will have on the operations of each activity and whether any strategies should be put into place to ensure the amalgamation does not have an adverse impact on these activities.

*Regulation 9 of the Local Government (Financial Management) Regulations 1996* require that separate financial records be kept for each trading undertaking and major land transaction.

6.16 Compliance Audit Return

All local governments are required to complete a compliance audit for the period 1 January to 31 December each year as required by Regulation 14(1) of the Local Government (Audit) Regulations.

Given that the Return applies for the period 1 January to 31 December, a final return for the former local governments will not have to be prepared in accordance with the above as the amalgamating local governments will cease to exist from 1 July.

6.17 Expenditure

Receipts transmitted via mail and electronic means should present very little problem. It is recommended that arrangements for people to make payments in person be advertised as soon as possible and prior to the rates accounts being sent out.

Arrangements for payments by the local government will have to be put in place as a priority to ensure that payments are not delayed. All creditors, particularly recurrent creditors should be advised of the establishment of the new local government. New cheque stationery (if used) will need to be arranged and any issues relating to electronic funds transfers and credit and debit cards resolved.

Where a local government is in the transition phase of amalgamation and commissioners are in place pending the appointment of the inaugural council, it is recommended that a delegation be given to the CEO to make payments from the Municipal and Trust Funds and that the CEO prepare a list of payments for the information of commissioners in accordance with the provisions of Regulation 13 of the *Local Government (Financial Management) Regulations 1996* which state –
Lists of accounts

(1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —
   (a) the payee’s name;
   (b) the amount of the payment;
   (c) the date of the payment; and
   (d) sufficient information to identify the transaction.

(2) A list of accounts for approval to be paid is to be prepared each month showing —
   (a) for each account which requires council authorisation in that month —
      (i) the payee’s name;
      (ii) the amount of the payment; and
      (iii) sufficient information to identify the transaction;
   and
   (b) the date of the meeting of the council to which the list is to be presented.

(3) A list prepared under subregulation (1) or (2) is to be —
   (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
   (b) recorded in the minutes of that meeting.

The new local government will be required to develop procedures and processes for the payments of accounts in accordance with the provisions of Regulation 11 of the Local Government (Financial Management) Regulations 1996 which state –

Payment of accounts

(1) A local government is to develop procedures for the authorisation of, and the payment of, accounts to ensure that there is effective security for, and properly authorised use of —
   (a) cheques, credit cards, computer encryption devices and passwords, purchasing cards and any other devices or methods by which goods, services, money or other benefits may be obtained; and
   (b) petty cash systems.
6.18 Fees and Charges

The newly established local government should determine uniform fees and charges for the services to be delivered. It will be necessary to review relevant policies to ensure that the level of fees and charges accord with any policies currently in place. An analysis of all fees and charges should be undertaken concurrently with the budget process to ensure that they generate an acceptable level of revenue to supplement the overall income position of the local government.

Sections 6.16 and 6.17 of the Act deal respectively with the imposition and setting of fees and charges and state –

6.16. Imposition of fees and charges

(1) A local government may impose* and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed.

* Absolute majority required.

(2) A fee or charge may be imposed for the following —

(a) providing the use of, or allowing admission to, any property or facility wholly or partly owned, controlled, managed or maintained by the local government;
(b) supplying a service or carrying out work at the request of a person;
(c) subject to section 5.94, providing information from local government records;
(d) receiving an application for approval, granting an approval, making an inspection and issuing a licence, permit, authorisation or certificate;
(e) supplying goods;
(f) such other service as may be prescribed.

(3) Fees and charges are to be imposed when adopting the annual budget but may be —
(a) imposed* during a financial year; and
(b) amended* from time to time during a financial year.
* Absolute majority required.

6.17. Setting the level of fees and charges

(1) In determining the amount of a fee or charge for a service or for goods a local government is required to take into consideration the following factors —
(a) the cost to the local government of providing the service or goods;
(b) the importance of the service or goods to the community; and
(c) the price at which the service or goods could be provided by an alternative provider.

(2) A higher fee or charge or additional fee or charge may be imposed for an expedited service or supply of goods if it is requested that the service or goods be provided urgently.

(3) The basis for determining a fee or charge is not to be limited to the cost of providing the service or goods other than a service —
(a) under section 5.96;
(b) under section 6.16(2)(d); or
(c) prescribed under section 6.16(2)(f), where the regulation prescribing the service also specifies that such a limit is to apply to the fee or charge for the service.

(4) Regulations may —
(a) prohibit the imposition of a fee or charge in prescribed circumstances; or
(b) limit the amount of a fee or charge in prescribed circumstances.
6.19 Financial Assistance Grants

The WA Local Government Grants Commission has a policy of maintaining the General Purpose component of the Financial Assistance Grant for a period of five years for local governments that amalgamate. In year six, the General Purpose Grant will be calculated in accordance with the Commission’s applied methodology for the new local government.

The Commission’s methodology for calculating the General Purpose Grant was reviewed in 2011 and has been applied to the 2012/2013 grant determinations. The Balanced Budget methodology has been retained but it is calculated in a significantly different manner than in previous years.

The Commission has a policy whereby after year five following the amalgamation, the maximum reduction imposed on the new local government will be 15%. Under this policy the Commission will assess the impact of a reduction in grants on the amalgamated local government and determine whether further financial concessions may need to apply.

This same policy does not apply to the Road Grant component of the Financial Assistance Grants. The Road Grant will be calculated in accordance with the Asset Preservation Model and will be contingent on the combined road inventory of the new local government from the date of amalgamation. As is normally the case it is incumbent on local governments to keep their road inventories up to date.

6.20 Grants

This section deals with all other grants other than the Financial Assistance Grants provided through the WA Local Government Grants Commission.

It is imperative that an audit be undertaken of the status of all grants administered by the amalgamating entities to ensure that any milestones or reporting conditions have been complied with. This should form part of the due diligence process.

Contact should be made with the grant provider/s to advise them of the change in name of the new local government and whether the amalgamation might have any impact on the terms and conditions of any grants.

The rollover of any unspent grant funding and the refund of any unspent grant funding to the ensuing financial year has implications for reporting purposes and must be taken into account in the preparation of the annual financial report.
6.21 Insurance

This is an important issue; all insurance coverage should be thoroughly reviewed with a view to consolidating and rationalising all insurance policies. The objective of such a review is to determine the adequacy of coverage of existing policies. This should be addressed as quickly as possible. The risk exposure should be minimal given that each local government will already have insurance coverage in place.

It is likely that the consolidation of insurance policies may deliver some cost savings to the new local government.

It is important to identify any outstanding, complex or significant insurance claims or related issues as part of the due diligence process.

6.22 Investments

An audit must be undertaken of all investment activities undertaken by the amalgamating local governments. The investments will become assets of the new local government and advice will need to be sent to the relevant financial institutions advising them of the abolition of the former local government and the establishment of the new local government from 1 July.

It is likely that any documents relating to investments will need to be amended to accommodate the name of the new local government and any other issues arising from the amalgamation.

The new local government should have an investment policy and this may be fast tracked if one of the amalgamating local governments already has an investment policy in place. While this is not mandatory it is highly recommended.

Section 2.5 of the WA Local Government Accounting Manual provides an overview of how an investment policy should be constructed. It also contains a reference to the relevant Accounting Standards for reporting investment information and disclosure requirements.

Local Government (Financial Management) Regulations 19 and 49 both contain provisions relating to investments as follows:

19. Management of investments

(1) A local government is to establish and document internal control procedures to be followed by employees to ensure control over investments.
Both of these regulations have implications for the amalgamating local governments. Regulation 19 requires that the new local government to establish control procedures for investments. Any existing control procedures of the former local governments can be used as the base for establishing procedures for the new local government.

Regulation 49 requires investment information to be included in the annual financial report. This information will have to be consolidated in the first annual financial report of the new local government. When preparing the first annual report of the new local government, the following issues should be considered:

- All investments are to be valued at fair (market) value;
- Do the investments require write down; and
- Are there any contingent liabilities relating to investments.

### 6.23 Taxation Considerations

The new local government will have to apply for an ABN and GST registration. This will need to be completed prior to the establishment of the new local government. This can be progressed once the Governor’s Order creating the new local government is published in the Government Gazette. A Business Activity Statement is to be prepared for the abolished local governments up until 30 June and for the new local government from 1 July.

The FBT return, group certificates and staff tax declarations may also be affected by the amalgamation. It is highly recommended that contact be made with the ATO for clarification on any of the above if the new local government is unsure how to deal with these issues.
7. Legal Issues

7.1 Contracts

It is essential that a full examination be undertaken of all contracts. This can form part of the due diligence process. This process ensures that the new local government has identified its legal obligations and any other issues of significance contained in contracts that could impact on the operations of the new local government.

For the purpose of this section, contracts are considered to be either contracts of employment or contracts for goods and/or services. This section does not apply to employees employed under awards and agreements.

As part of the process of filling positions it is recommended that an audit be taken of all employment contracts (other than CEO’s and Senior Employees) and temporary staff to determine the status of all employment contracts and the impact on the new local government.

Contracts of Employment

CHIEF EXECUTIVE OFFICER and SENIOR EMPLOYEES

The employment of the CEO and the Senior Employees of a local government is governed by the terms and conditions of their employment contracts. Section 5.39 of the Act contains the following provisions relating to the employment contracts of CEO’s and Senior Employees –

Contracts for CEO’s and senior employees

(1) Subject to subsection (1a), the employment of a person who is a CEO or a senior employee is to be governed by a written contract in accordance with this section.

(1a) Despite subsection (1) —

(a) an employee may act in the position of a CEO or a senior employee for a term not exceeding one year without a written contract for the position in which he or she is acting; and

a person may be employed by a local government as a senior employee for a term not exceeding 3 months, during any 2 year period, without a written contract.
Section 7 and 8 of the Act specifies CEO remuneration determined by the Salaries and Allowances Tribunal (SAT) under section 7A of the *Salaries and Allowances Act 1975*.

Following the poll provisions and agreed commencement date of the new local government, the Department will formally advise SAT formally of the arrangements when the Governor’s Order appears in the Government Gazette. This will assist SAT issue its remuneration determinations based on a revised banding for the new local government and subsequent CEO remuneration.
Regulation 18B of the *Local Government (Administration) Regulations 1996* is to be considered should the need arise to terminate the contract of a CEO or Senior Employee. The relevant provisions state –

**Matters to be included in contracts for CEO’s and senior employees — s. 5.39(3)(c)**

> For the purposes of section 5.39(3)(c), a contract governing the employment of a person who is a CEO, or a senior employee, of a local government is to provide for a maximum amount of money (or a method of calculating such an amount) to which the person is to be entitled if the contract is terminated before the expiry date, which amount is not to exceed whichever is the lesser of —

(a) the value of one year's remuneration under the contract; or  
(b) the value of the remuneration that the person would have been entitled to had the contract not been terminated.

This provision stipulates the maximum payout a CEO or Senior Employee can receive is 12 months, or where a contract has less than 12 months to run, that period of the contract until expiry.

**OTHER EMPLOYEES**

It is also important to review the need to retain contractors and temporary employees. In the event that contractors or temporary employees will not be required within the new local government, their contracts should be examined to determine the financial impact on the new local government.

**Contracts for Goods and/or Services**

This section applies to a local government as the ‘contractee’.

Contractors engaged on a fee for service or contract of service should not be affected by the amalgamation. They will however have to be formally advised of the amalgamation and the impact, if any, on their existing contract with the former local governments. Regulation 6 of the *Local Government (Constitution) Regulations 1996* makes provision for a contract (other than an employment contract) entered into by one of the former local governments to apply to the new local government.

Regulation 6 of the *Local Government (Constitution) Regulations 1998* contains provisions relating to property, contracts and legal actions commenced by or against a former local government. The provisions require
that any obligations or responsibilities of the former local governments become the obligations and responsibilities of the new local government.

7.2 Leases

This section applies to a local government as the lessee and as the lessor.

An audit should be undertaken of all lease agreements to determine their impact on the new local government. Where more than one lease exists for like property the new local government will need to determine the appropriate course of action after considering the terms and conditions of these leases.

Unless there are specific clauses in any of the existing lease agreements which preclude assignment of a lease it will become the responsibility of the new local government. Regulation 6 of the Local Government (Constitution) Regulations 1998 apply to leases (refer section 7.1).

All relevant institutions, businesses, etc must be advised of the amalgamation arrangements and the name of the new local government (assuming there is a new name).

The most common forms of lease are the Finance Lease, Operating Lease and leases on commercial property.

Where the local government is the lessor of any property it will need to determine what impact the amalgamation will have on these lease agreements. It is unlikely that there would be any substantial impact other than amendments relating to the change in name of the local government.

7.3 Legal Proceedings

Where the amalgamating local governments have legal proceedings in progress, either against or initiated by the local governments, the responsibility for these actions will vest with the new local government.

Regulation 6(4)(f) of the Local Government (Constitution) Regulations 1998 contains provisions which deal with legal proceedings instigated by, or against the amalgamating local governments. Legal proceedings may involve both direct and indirect costs for the new local government and these need to be identified as part of the due diligence process.

7.4 Local Laws

When two or more local governments amalgamate the local laws will need to be reviewed to ensure that there is a single local law dealing with a particular
issue and not multiple laws addressing the same issue but with different provisions.

Regulation 7 of the Local Government (Constitution) Regulations 1998 makes provision for the local laws of amalgamated local governments to continue in their former districts until such time as they are repealed or amended.

Regulation 7 states –

7. **Effect of section 2.1 order on local laws**

   (1) In this regulation —

   **commencement** means the commencement of the order referred to in subregulation (2).

   (2) If as a result of an order made under section 2.1 an area of the State is declared to be a district (“**district A**”) and the area includes —

   (a) a part of the area of a district (“**district B**”) the boundaries of which are changed by the order;

   (b) the whole, or a part, of the area of a district (“**district C**”) that is abolished by the order; or

   (c) a combination of the areas described in paragraphs (a) and (b),

   then on commencement —

   (d) the local laws that applied in that part of the area of district B immediately before the commencement continue to apply in respect of that part of the area of district B that is included in district A;

   (e) the local laws that applied in the whole, or that part, of the area of district C immediately before the commencement continue to apply in respect of the whole, or that part, of the area of district C that is included in district A;

   (f) the local laws of local government C continue to apply in respect of the whole, or that part, of the area of district C that is included in district A; and

   (g) the local laws of local governments B and C, in so far as they continue to apply in respect of those areas —

   (i) are to be administered and enforced by local government A; and

   (ii) subject to Division 2 of Part 3 of the Act, may be amended or repealed by local government A, as if they were local laws of local government A.”
One of the key issues the new local government will have to consider is the inconsistencies in duplicate local laws and how it can best deal with this until such time as they are replaced by a single new law.

The inconsistency in local laws can be a significant administrative burden and the sooner any anomalies in this regard are addressed the better. The period just before and just after amalgamation will be extremely busy for everyone and with that comes the task of juggling competing demands. The task of reviewing, amending and/or repealing existing local laws is a major project and should be treated as a matter of urgency. It is suggested that where resources and time are in short supply that consideration be given to dealing with the most important laws first. Those laws that are less important can be dealt with at a later date.

It is further recommended that a comparison of like laws be undertaken and a preferred model selected for the new law. Amendments may still be required to produce a suitable model that will meet the needs of the new local government. Once the new laws are in place any old laws of the former local governments will have to be repealed.

The process of making a local law requires that a local government follow the steps set out in section 3.12 of the Local Government Act 1995, namely:

- at a council meeting the person presiding is to give notice to the council meeting of the purpose and effect of the proposed local law;

- Statewide and local public notice is given stating that:
  
  1. the local government proposes to make a local law, and a summary of the purpose and effect of the local law is included;
  
  2. a copy of the proposed local law can be inspected or obtained from the local government; and
  
  3. submissions about the proposed local law may be made to the local government, before a date given in the notice, being not less than six weeks after the publication of the notice (Note: in calculating the six week period, add extra days for both publishing day and closing day, and when closing day falls on a public holiday).

- as soon as the notice is given, a copy of the proposed local law, together with the notice and NCP form, must be given to both the Minister for Local Government and Communities and to any other Minister administering the Act under which the local law is made;

- a copy of the proposed local law is to be provided to any person requesting it;
after the last day for submissions, the local government must consider any submissions and may, by an absolute majority, proceed with the local law as proposed or make alterations that are not significantly different from what was first proposed;

the adopted local law is published in the Government Gazette and a copy is provided to the Minister(s);

another local public notice is given:

(1) stating the title of the local law;
(2) summarising its purpose and effect;
(3) specifying the date on which it comes into operation; and
(4) advising that copies of the local law may be inspected or obtained from the office of the local government.

documents (Explanatory Memorandum, checklist etc) are sent to the Parliament's Joint Standing Committee on Delegated Legislation.

When the new laws are developed in draft form they should be provided to the local government's legal advisers for an opinion on:

• Consistency with other legislation;
• Legality;
• Clarity;
• Appropriateness of any proposed infringement; and
• Procedural matters associated with the new local law.

The Department maintains a local laws register on its website at www.dlg.wa.gov.au/Content/Legislation/LocalLaws

This may assist in the drafting of any new laws. The register records details of when each local law was made, amended or repealed. The gazettal date, page number of the gazette, title and date of repeal (where applicable) are recorded for each local law made by a local government.

The Department does not maintain electronic copies of the actual legislation. Details of any particular local law are available through the Government Gazette or can be accessed by contacting the relevant local government.

The Government Gazette is available on-line through the State Law Publisher. Their website can be accessed at www.slp.wa.gov.au
8. Electoral Matters

8.1 Inaugural Elections

As part of the amalgamation process, when a local government is abolished, all offices of members of the council of the abolished local government cease to exist. Regulation 6(4)(a) of the *Local Government (Constitutional) Regulations 1998* contains the relevant provisions.

The date for the election of elected members will be included in the order creating the new local government. This will provide enough time for a number of tasks to be undertaken leading up to the inaugural election including:

- determination of ward structure (if any);
- amalgamation of the electoral rolls;
- amalgamation of the owners and occupiers rolls;
- determination of election mode (postal or in person); and
- determination of the method of electing the mayor or president (this may be addressed in the order establishing the new local government).

Where possible the inaugural election should be planned to occur in line with the date of the next ordinary election, i.e. the third Saturday in October. If this is not practical an alternate date will be included that allows the electoral requirements to be complied with but it must not be more than one year after the new local government is established.

Sections 4.2 and 4.3 of the Act deal with inaugural elections.

Ideally, the inaugural election should be held as soon as possible after the new local government is established.

The term of each councillor is usually four years, with half of the councillors from each council standing for election every alternate ordinary election year.

Under the electoral provisions contained in the Act, there are three groups who are eligible to enrol to vote in local government elections:

1. Residents who are on the Legislative Assembly roll for a property within the district or ward (the electorate);
2. Owners or occupiers of rateable property within an electorate who are on a State or Federal roll outside the electorate; and
(3) Owners or occupiers of rateable property within an electorate who are not on a State or Federal roll (non-Australian citizens) but who:

- were enrolled on the last completed roll of the local government before May 1997; and
- have owned or occupied rateable property within the district continuously since that roll was prepared.

With the exception of the last group, all owners and occupiers of rateable property must be on a State or Federal electoral roll.

To establish eligibility to vote as an owner or occupier, a person must make an enrolment claim to go onto the owners and occupiers roll. The legislation also requires these claims to be renewed at regular intervals to maintain the accuracy of the rolls. An enrolment eligibility claim by a non-resident owner or occupier remains valid after the amalgamation for the period as set out in section 4.33(2A) of the Act.

Persons enrolled may cast votes using postal, absentee or early voting options, as well as voting in person. A person owning two properties which fall in two different wards of one local government may cast a vote in each ward. Similarly, a person owning two properties in two local government districts can cast a vote in each district. If a person owns two or more properties in any one ward, he or she is only entitled to one vote in that ward.

Local governments can decide to request the Western Australian Electoral Commission to conduct their elections on a postal basis.

The Returning Officer oversees the election process. This is normally the Chief Executive Officer (CEO) of the local government but the council may, with the approval of the Electoral Commissioner, appoint another person to fill the role of returning officer. An alternative Returning Officer could be another staff member, a CEO from another local government, the Electoral Commissioner or any other person approved by the Electoral Commissioner. In the case of full postal elections, the Electoral Commissioner has to conduct the election and appoint a Returning Officer.

8.2 Wards and Representation

When a new local government is established and a decision is made to implement a ward structure within the Creation Order, the Order must also include a clause stipulating the number of councillors and how many are to be allocated to each ward. This Order is made to the Governor on the recommendation of the Minister for Local Government and Communities. The Minister can only make this recommendation if the Board has recommended under Schedule 2.2 of the Act that such an order be made.
Section 2.2(1)(a) of the Act makes provision for an order to be made to divide a district into wards. Section 2.18 of the Act makes provision for an order to be made specifying the number of offices of councillor the new local government will have.

When the Board is conducting its inquiry into a proposal for an amalgamation it will take into account a request by the amalgamating local governments regarding representation arrangements.

It should be noted that the Board when considering a request for a ward structure will apply the one vote one value principle unless there are exceptional circumstances. In applying this principle, the Board requires that representation ratios be within a plus or minus 10%.

Where a request for a ward structure is approved by the Board as an exceptional circumstance it will be contingent on a ward review being undertaken at some time in the future to ensure compliance with the one vote one value principle.

If the local governments decide to implement a district ward (ie no wards) this will also have to be included in the Creation Order.

8.3 Polls

In the event that the Local Government Advisory Board recommends an amalgamation of two or more local governments, the Minister for Local Government and Communities is required to notify electors of the affected local governments of their right to request a poll on the recommendation. Clause 8 of Schedule 2.1 of the Act contains the relevant provisions.

Elector are given one month after the Poll Notice to request that the Minister put the recommendation to a poll.

If a poll is requested, the local government/s are required to appoint the WA Electoral Commission to be responsible for the poll. The poll can either be postal or in person.

A valid poll requires 50% of electors of the effected communities must vote. If one or more of the polls returns a majority “no” vote, the result is binding on the Minister and the amalgamation will not proceed.

The Minister can also require that a recommendation of the Board to amalgamate two or more local governments be put to a poll of electors in the affected local governments to assist in deciding whether or not to accept the Board’s recommendation. The result of a poll in these circumstances is not binding on the Minister. Clause 7 of Schedule 2.1 of the Act contains the relevant provisions.
9. The Council

9.1 Committee Meetings

All committees of the former local governments will cease to exist from 1 July or an earlier date if an order is made under section 2.36A of the Act to declare all offices on the respective councils to be vacant prior to 1 July.

Following the inaugural election of the council of the new local government, consideration will need to be given to an appropriate committee structure for the new local government.

9.2 Council Meetings

The commissioner/s will need to determine the frequency of council meetings over a period of twelve months and make arrangements for this information to be advertised by way of public notice in accordance with regulation 12 of the *Local Government (Administration) Regulations 1996*.

Until such time as a new council is elected the meetings of joint commissioners will constitute council meetings. Clause 6 of Schedule 2.4 of the Act sets out the procedures for meetings of joint commissioners. Where only one commissioner is appointed, the commissioner will perform the role of the council and appropriate documentation is to be maintained which details all decisions made by the commissioner as if he or she were the council.

Soon after 1 July is an ideal time to review the standing orders of each local government to develop a model that suits the new local government. This could also be done as part of the review of local laws referred to in section 7.4. The existing standing orders of the former local governments should contain suitable provisions for the new standing orders which makes the task relatively easy.

It is recommended that public question time procedures are developed as soon as possible following the amalgamation. Electors are likely to have questions about the amalgamation in the early stages and procedures will facilitate ordered discussion. The relevant legislative provisions are included at section 5.24 of the Act and regulations 5 to 7 of the *Local Government (Administration) Regulations 1996*. 
9.3 Elected Members Fees, Allowances and Expenses

The Salaries and Allowance Tribunal (SAT) is responsible for determining elected member fees, allowances and expenses prescribed under 7B of the Salaries and Allowances Act 1975. SAT establishes a scale of payments and provisions for reimbursement of expenses in accordance with the Act and Local Government (Administration) Regulations 1996.

The SAT’s determination of fees and allowances for elected members reflects the classification banding of the local government they represent.

There are minimum and, in some cases, maximum amounts that apply to payments a member is entitled to receive. Where the reimbursement of expenses is not specifically identified in legislation, each local government has the discretion to determine whether to reimburse the expense and the level of payment that it considers appropriate.

The new local government should develop policies to deal with the payment of meeting fees, allowances and expenses where it has discretion on the level of any payments to be made. These policies will provide guidance for elected members and employees and members of the community about this issue.

The legislative provisions relating to the payment of members fees, allowances and expenses are contained within sections 5.98 to 5.102 of the Act and regulations 30 to 34AD of the Local Government (Administration) Regulations 1996.

The Department has also produced an operational guideline that deals with the payment of meeting fees, allowances and expenses to elected members and this can be accessed on the Department’s website at www.dlgc.wa.gov.au

9.4 Method of Electing the Mayor or President

When an order is made to establish a new local government, the order is to specify whether the first mayor or president is to be elected by the electors of the new district or elected by the councillors of the new council.

The method of electing the mayor or president can be changed at a later date by the council or on the basis of a proposal submitted by electors of the district. Sections 2.11, 2.12 and 2.12A of the Act contain provisions which deal with the method of electing the mayor or president.
9.5 **Representation at Community Functions**

In the absence of a mayor and president, the commissioner (where only one commissioner is appointed), or the chairman of commissioners (where 3 or 5 commissioners are appointed) will be expected to represent the new local government at community events and in his or her absence, the CEO will be responsible for representing the new local government.

Even though every care has been taken in the production of this document, the Department of Local Government and Communities in the State of Western Australia expressly disclaims any liability in respect to any error, omission or inaccuracy.

WA Department of Local Government and Communities
July 2013
Appendices

The following items can be found in the Appendices:

APPENDIX 1 –
Local Government Advisory Board (LGAB) Guiding Principles

APPENDIX 2 –
Local Government Advisory Board Amalgamation Process Flowchart and Time Frame

APPENDIX 3 –
Sample Due Diligence Checklist

APPENDIX 4 –
Amalgamation Draft Communications Plan
Local Government Advisory Board Guiding Principles

Under the *Local Government Act 1995*, the Local Government Advisory Board (the Board) must consider a range of prescribed matters when undertaking a formal inquiry. These include:

(a) community of interest;
(b) physical and topographic features;
(c) demographic trends;
(d) economic factors;
(e) the history of the area;
(f) transport and communication;
(g) matters affecting the viability of local governments; and
(h) the effective delivery of local government services.

The Board applies these factors to the issues of boundary definition, ward representation and the structure of local government.

(a) Community of Interest

The term community of interest has a number of elements. These include a sense of community identity and belonging, similarities in the characteristics of the residents of a community and similarities in the economic activities. It can also include dependence on the shared facilities in an area as reflected in catchment areas of local schools and sporting teams, or the circulation areas of local newspapers.

The external boundaries of a local government need to reflect distinct communities of interest wherever possible. Neighbourhoods, suburbs and towns are important units in the physical, historical and social infrastructure and often generate a feeling of community and belonging. The Board believes that wherever possible, it is best not to divide these units between local governments.

(b) Physical and Topographic Features

The external boundaries of a local government need to be clearly identifiable, and in many cases physical and topographical features are appropriate identifiable boundaries.

Physical and topographic features may be natural or man-made and will vary from area to area. Water features such as rivers and catchment boundaries may be relevant considerations in establishing boundary alignments. Beach suburbs, coastal plain and foothills regions, parks and reserves may be relevant, as may other man-made features such as railway lines or freeways.
In natural geographic regions land use, environmental and transport systems may be integrated but the local government structure may be fragmented between two or more local governments. The Board supports local government structures and boundaries that facilitate the integration of human activity and land use.

(c) Demographic Trends

Western Australia is a State experiencing significant on-going population growth. Some local governments have the potential to benefit from this growth, and increase and diversify the local rate base. However, this also means that at the local level many communities have grown or are growing beyond the established local government boundaries. The fragmentation of what is essentially one community into two or more local government units creates problems in service planning and coordination, both for local government and also for State and Federal governments.

Several measurements of the characteristics of human populations, such as population size, and its distribution by age, sex, occupation and location provide important demographic information. Current and projected population characteristics will be relevant as well as similarities and differences between areas within the local government.

In relation to population changes, local governments are required to review their wards and representation every eight years. The Board expects that each local government will attempt to have similar ratios of electors to councillors across the wards of its district. Local governments will need to outline its reasons in situations where this is not appropriate (for example, where representation for a small community is important).

(d) Economic Factors

Economic factors can be broadly interpreted to include any factor that reflects the character of economic activities and resources in the area. This may include the industries that occur in a local government area, the rates paid by different sectors, and the distribution of community assets and infrastructure such as road networks.

In the Board’s view, some boundaries between rural and country urban local governments are somewhat artificial. The local economy of the town may be largely tied to the primary industry activities of the surrounding areas, while the rural residents depend on the town for their goods and services.

The external boundaries of a rural local government should recognise the economic and social interdependence of town and country, and have regard to other boundaries such as, regional and State and Federal electoral boundaries and areas of regional cooperation.
(e) The History of the Area

The history of an area can be a relevant consideration, although the Board believes that in the majority of cases this will not be a primary justification for changing or retaining local governments and local government boundaries.

The nature of historical ties between communities is important to understand, irrespective of where the local government boundaries lie. A community within a local government may have a strong historical identity; alternatively there may be strong historical links between two or more communities in adjacent local governments. It is important to note that historical identity is not necessarily lessened if an area does not have its own local government. The historic town of Guildford within the Shire of Swan is an example of where the historical identity of a townsite can be maintained within a much larger local government.

(f) Transport and Communication

Whilst communications are increasingly conducted by electronic means, transport linkages and the road and rail systems in particular, are still very important in Western Australia. The transport linkages between towns or areas (including port access, neighbouring towns, railways and major roads) may be a significant barrier to movement and therefore an appropriate boundary between local governments.

(g) Matters Affecting the Viability of Local Governments

In general terms the Board will have regard to:

- Revenue base;
- Assets and liabilities; and
- Population size and the geographical spread (current and future projections).

A local government needs to be able to raise sufficient funds from its own resources to administer its district and to carry out the basic local government functions and a range of other discretionary functions.

The viability of a local government should not be judged by its population alone without reference to the mix of residential, commercial, industrial or agricultural rate capacity in the district to ensure viability. The Board does not believe it is necessary to specify a minimum population or minimum income requirement, since this will vary according to the circumstances of the local government.

General purpose grants are a vital component of the revenue base of many local governments. However, being heavily dependent on grants can increase the vulnerability of a local government through the loss of control over revenue and
significant exposure to changes in funding policy. Reliance on grants needs to be minimised to ensure financial autonomy.

Each local government also requires sufficient resources to access the professional skills required to deliver effective and competitive services though they do not need to be employed by a single local government. Sharing professional staff with other local governments and contracting out are other viable options.

The current environment of micro-economic reform (including competition policy, performance measurement and customer focus) requires local governments to keep in touch with the economic and management developments associated with these reforms to remain effective and competitive.

The Board will examine budgets and financial information to gain an understanding of the current and future financial health of a local government. Other data relevant to viability will be sought where appropriate, for example, from the Road Management System (ROMAN).
The Local Government Advisory Board (the Board) receives a proposal for two or more local governments to amalgamate.

The Board considers the proposal and resolves to conduct a formal inquiry and gives notice to affected local governments and affected electors.

The Board commences the formal inquiry by:
- inviting public submissions
- holding public meetings and forums
- meeting with key stakeholders
- meeting with affected local governments
- inviting submissions from relevant government departments or agencies

The Board completes its inquiry report and makes a recommendation to the Minister.

The Board determines question(s) to be answered and prepares a summary for and against the amalgamation.

- A valid poll returns a majority vote against the Board’s recommendation
  - Minister is to reject the Board’s recommendation
  - Minister advises affected local governments and the Department of Local Government of the decision
  - No further action

- Poll is invalid

- A valid poll returns a majority vote in favour of the Board’s recommendation
  - Minister can accept or reject the Board’s recommendation
  - Minister advises affected local governments and the Department of Local Government of the decision
  - New local government established from 1 July

- The Board recommends an order be made in accordance with the proposal OR The Board recommends the making of some other Order
  - The Board gives notice of its recommendation and notifies electors of their right to request a poll.
  - Minister receives a request for a poll
  - Minister does not receive a request for a poll
<table>
<thead>
<tr>
<th>Local Government Advisory Board</th>
<th>Time Frame</th>
</tr>
</thead>
<tbody>
<tr>
<td>Formal Inquiry Process</td>
<td></td>
</tr>
<tr>
<td><strong>Board Conducts Inquiry</strong></td>
<td></td>
</tr>
<tr>
<td>1. Board receives and considers proposal.</td>
<td>1 week</td>
</tr>
<tr>
<td>2. Board resolves to conduct a formal inquiry and advises local governments accordingly.</td>
<td>1 week</td>
</tr>
<tr>
<td>3. Board develops Notice of Inquiry and Information Paper.</td>
<td>6 weeks</td>
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<tr>
<td>4. Advertise public submission period.</td>
<td>6 weeks</td>
</tr>
<tr>
<td>5. Arrange public hearings (normally one in each of the affected local governments) Private hearings can also be arranged.</td>
<td>6 weeks</td>
</tr>
<tr>
<td>6. Board meets with each local government and other major stakeholders (if considered necessary) individually to discuss the proposal.</td>
<td>6 weeks</td>
</tr>
<tr>
<td>7. Analyse public submissions and submissions from local governments and other stakeholders.</td>
<td>6 weeks</td>
</tr>
<tr>
<td>8. Prepare Inquiry Report.</td>
<td>6 weeks</td>
</tr>
<tr>
<td>9. Board considers Inquiry Report and makes amendments where necessary. Board accepts Report.</td>
<td>6 weeks</td>
</tr>
<tr>
<td>10. Report forwarded to Minister.</td>
<td>1 day</td>
</tr>
<tr>
<td><strong>Minister Considers Rec.</strong></td>
<td>3 days</td>
</tr>
<tr>
<td>11. Board recommends the amalgamation. (If the Board recommends rejection of the amalgamation the Minister must accept the recommendation and local governments are advised that the amalgamation will not proceed and no further action is required.)</td>
<td>3 days</td>
</tr>
<tr>
<td>12. Local governments are advised of the Board’s recommendation.</td>
<td>3 days</td>
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</tbody>
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Continued…
<table>
<thead>
<tr>
<th>Holding of Poll</th>
<th>Time Frame</th>
</tr>
</thead>
<tbody>
<tr>
<td>13. Board prepares and advertises notice advising electors of their right to a poll.</td>
<td>6 weeks</td>
</tr>
<tr>
<td>14. No poll requested - Minister accepts recommendation.</td>
<td></td>
</tr>
<tr>
<td>15. Poll is requested.</td>
<td></td>
</tr>
<tr>
<td>16. Board prepares yes and no case in relation to the amalgamation and provides this to the affected local governments.</td>
<td>1 week</td>
</tr>
<tr>
<td>17. Local government/s appoint/s the WA Electoral Commission or person approved by the WA Electoral Commission to conduct a poll/s.</td>
<td>8 weeks</td>
</tr>
<tr>
<td>18. Poll/s return a majority yes vote or is invalid – Minister may accept the recommendation to amalgamate. (If there is a valid poll and it returns a majority no vote, local governments are advised that the amalgamation will not proceed and no further action is required.)</td>
<td>1 week</td>
</tr>
<tr>
<td>19. Local Governments are advised of the Minister’s acceptance of the recommendation.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Governor’s Orders and Gazettal</th>
<th>Time Frame</th>
</tr>
</thead>
<tbody>
<tr>
<td>20. Landgate prepares technical descriptions.</td>
<td>2 weeks</td>
</tr>
<tr>
<td>21. Parliamentary Council prepare the Governor’s orders in accordance with recommendations and other transitional issues.</td>
<td>2 weeks</td>
</tr>
<tr>
<td>22. Parliamentary Council prepare the Governor’s orders in accordance with recommendations and other transitional issues.</td>
<td>2 weeks</td>
</tr>
<tr>
<td>23. The Governor’s Orders are published in the Government Gazette and the new local government is established from 1 July.</td>
<td>1 week</td>
</tr>
</tbody>
</table>

1. Estimated maximum timeframe with no poll 28 weeks
2. Estimated maximum timeframe with poll 35 weeks
Sample Due Diligence Checklist

☐ Contracts and Agreements

• Identify all contracts and agreements (not employment) –
  © Date, parties and capacities
  © Manner in which contract was executed
  © Consideration
  © Term
  © Provisions for renewal
  © Provisions for change of control
  © Rights of assignment
  © Confidentiality
  © Protection of intellectual property
  © Termination provisions

• Identify all warranties, liabilities and indemnities

• Identify all material or contingent liabilities arising from any contract

• Identify any unusual provisions contained in any contracts or agreements

• Identify any significant capital commitments under binding contracts

☐ Finance and Accounting

• Borrowings
  © Identify all amounts outstanding
  © Assess Interest rates on all loans and all other forms of borrowings
  © Assess the prepayment provisions and penalties for all borrowings
  © Prepare an inventory of dates for repayment of interest and capital on all borrowings

• Investments
  © Compare investment policies of the amalgamating entities
  © Prepare reports to council on the performance and value of all investments
  © Review the procedures for control over investments of the amalgamating entities
  © Nature and location of all investments
  © Transactions relating to all investments
- Audit the balance and transactions of all Trust Funds
- Audit balance and transactions of all Reserve Accounts
- Audit the financial records for each major commercial and land transaction
- Review the audited financial statements for the previous three years
- Review the annual budgets for the previous three financial years
- Assess the outcome of the most current budget reviews
- Review all changes in accounting methods and policies for the previous three years
- Consider the content of management letters and/or special reports by auditors for the previous three years
- Review the results of all internal audit reports over the previous three financial years
- Review the procedures for each of the amalgamating entities for the authorization and payments of accounts
- Consider any written advice received from auditors for the previous three years
- Review ageing schedules for accounts receivable for the previous three years
- Identify all contingent liabilities for each of the amalgamating entities.
- Review rate charges and other fees and charges.

☑️ Human Resources

- Identify all employment contracts –
  - Term
  - Conditions
  - Remuneration
  - Termination provisions
- Examine existing agreements and expiry dates
- Identify salary and wages anomalies between the amalgamating entities
- Assess the leave liability for the new entity
• Identify the issues and impediments affecting the integration of personnel and payroll information

• Identify the status of any current workers compensation claims

• Review the human resource policies of each of the amalgamating entities with a view to consolidation

• Assess the impact of voluntary severance applications from a financial and skills perspective

☑️ Assets

• When was the last asset inventory undertaken for each of the amalgamating entities

• Are asset management plans in place for the amalgamating entities

• Identify the differences in depreciation rates and policies for the amalgamating entities

• What funding arrangements are in place for asset replacement

• Review all property disposals in the previous three years

☑️ Information Systems

• Review appropriateness and effectiveness of existing financial management systems to determine their capacity to accommodate the new entity

• Review the appropriateness and effectiveness of existing records information systems to determine their capacity to accommodate the new entity

• Review the IT infrastructure to determine redundancy and specifications for upgrade to service the new entity

• Undertake an audit of all software licenses and support contracts for both hardware and software

☑️ Legal Proceedings

• Identify all legal proceedings involving the amalgamating entities

• Prepare a status report on all legal proceedings
☑ Regulatory Compliance

- Examine the completed Annual Compliance Audit Returns for each of the amalgamating local governments completed in the previous calendar year to determine whether there are any significant compliance issues.

☑ Insurance

- Prepare a schedule of all current insurance policies setting out the following information:
  - Policy type
  - Effective date of policy
  - Contact for claims administration
  - Date premiums are due
  - Amount of cover

- Examine the claims history for each policy for the previous two financial years

- Advise insurer/s of the amalgamation and arrange changes to policies to ensure appropriate coverage for classes of insurance for the new entity

☑ Local Laws

- Identify all local laws of the amalgamating entities

- Develop an interim policy for the application of local laws within the areas of the former districts until a review is undertaken of all existing local laws and new local laws are created for the new local government

☑ Miscellaneous

Develop an interim policy for the application of town planning schemes within the areas of the former districts until a review is undertaken of all existing planning schemes and new planning schemes are developed for the new local government.
Shires of ___________________________

Amalgamation Draft Communications Plan

1. Introduction and Intent

The Structural Reform Working Group (SRWG)* has been established to plan for and guide the change process for transition to the new local government on 1st July _______. This “Communications Plan” aims to inform all stakeholders of the reform process in a timely and effective manner.

* The term Structural Reform Working Group has been used to describe the body responsible for implementing the amalgamation.

2. Background

Provide an overview of the process and circumstances which led to the amalgamation

3. Legislative Requirements

The _______ Shires submitted a proposal to the Local Government Advisory Board to amalgamate from 1 July_____ and the Board recommended that the amalgamation should proceed. The Minister for Local Government and Communities accepted the Board’s recommendation and the new local government will be established from 1 July______.

4. Communication Goals

The key objectives for this “Communications Plan” are as follows:-

- To achieve broad community awareness of the SRWG, its role and related activities;
- To achieve a high level of understanding amongst local government staff of the SRWG, its role and related activities;
- To provide stakeholders with regular updates on key stages or milestones of the amalgamation process;
- To brand the SRWG process as a “partnership” that actively involves all local governments as well as staff advocates (unions);
To effectively manage any issues / concerns by ensuring such matters are addressed in a responsive and responsible manner;

To highlight and encourage opportunities for community / staff input; and

To position the amalgamation process as being transparent, open and cooperative.

5. Branding

All communications authorised by the SRWP directly to stakeholders should carry the logos of each of the existing local governments.

6. Media Relations

The SRWG Chair, or in that person’s absence, the Deputy Chair, are the only persons authorised to speak to the media on behalf of the SRWG. Approved press releases are to be forwarded to all relevant media outlets, SRWG members, and each local government’s CEO as soon as possible following its release. Media releases must be signed off by the Chair of the SRWG.

It is recognised by the SRWG that representatives from each local government have responsibility to inform their own communities and stakeholders regarding amalgamation matters that are not directly linked to the SRWG.

7. Distribution of Information

Information will be distributed to SRWG members in a timely manner. The preferred method of distribution is subject to the agreement by members of the SRWG.

8. Notice of Meetings and Agendas

Wherever possible, notification of a SRWG meeting will be made at least **five** days before the scheduled meeting. There may be cases where a matter requires urgent consideration by the SRWG and meetings may be convened at shorter notice.

Notification of a meeting will be made to all SRWG members, proxy members and Chief Executive Officers. Respective local governments will be responsible for passing notice of meeting and distributing agendas to members where no email contact is available unless that member has requested that agendas etc. be posted directly to their home address.

Wherever possible, meeting agendas will be distributed at least **five** days prior to a meeting of the SRWG so that all members have sufficient time to consider the matters to be discussed.
9. Minutes of Meetings

Minutes of SRWG meetings will be confirmed at the following meeting of the SRWG and final copies will be forwarded to each local government and also posted on their websites.

Unconfirmed minutes of meetings will be distributed to all members and proxy members who attended the meeting within FIVE days after the meeting. Unconfirmed minutes will be posted on each local government’s website within SEVEN days after the meeting.

10. Local Government Websites

Each local government’s website will include (but not be limited to) the following information:-

- Publication of minutes of meetings of the SRWG;
- Newsletters and other information updates;
- Contact details for members of the Structural Reform Working Group;
- Links to relevant Departmental website;
- Area for staff to access information relating specifically to the workforces;
- Frequently asked questions in relation to the voluntary sustainable amalgamation of the four Shires.

It is proposed that the newly formed local government website will be operational from 1 July 20XX.

11. Email Addresses

Once an Interim CEO has been appointed, an independent email address for the interim CEO will be established to avoid confusion for correspondents and to increase transparency as part of the process.

12. Communication Strategies for Stakeholder Groups

12.1 Local Government Workforces

It is vital to ensure that all local government employees are kept informed of, and involved in, the reform process and understand how it will affect them. Having input into the change process will assist in ensuring as smooth a transition as possible to the new local government. The following strategies will ensure staff participation and communication:-

- Where practical, the SRWG’s first point of local government contact for all operational matters in relation to the reform process shall be via the local government CEOs;
The current CEOs will provide reasonable assistance to the interim CEO (once appointed) including directing employees to assist the interim CEO, providing access to facilities and supplying information as required in a timely manner;

Establish an Employment Sub-committee to provide advice to the SRWP about staffing matters and to develop a draft Industrial Relations Plan;

Production of a monthly newsletter to all employees of the affected local governments advising them of progress on the reform process.

Workforce and working group meetings across the affected local governments will be attended by the Shire CEO’s and the interim CEO (once appointed) on an ongoing basis and will provide opportunities for staff to discuss any issues and receive more detailed information on matters affecting them;

A link on the existing local government’s websites for staff will also provide relevant information to employees and direct them to other on-line resources from other agencies (e.g. Department);

A commitment by the Shire CEO’s to communicate openly the progress and development of any issues associated with the amalgamation.

12.2 Local Government Management

Senior staff in the amalgamating local governments will play a key role in the transition to the new local government and will need to be kept informed of developments and issues so that they can contribute effectively to the reform process. In addition to the above general strategies the following should also be considered -

- The establishment of project teams to guide the change management process within functional areas;
- Briefings by the SRWG to managers and senior staff on relevant issues;
- Invitation to management and senior officers to attend SRWP meetings when issues are discussed that are relevant to their functional area.

12.3 Union Representatives

Unions perform an important role in representing employees and assisting councils with industrial issues associated with the amalgamation process. Accordingly, relevant unions will be kept informed of the reform process.

The key union contacts are the Australian Services Union and the Municipal Employees’ Union.

12.4 Elected Members of Existing Local Governments

In order to keep elected members of existing councils well informed of the amalgamation process and the work of the SRWP they will be provided with briefings and updates by the SRWG on a regular basis.
12.5 Relevant State Departments

The Department will remain the key contact for the State Government. Mr ‘name’ has been appointed as the primary contact for the Department for the proposed voluntary sustainable amalgamation of Councils and the SRWG. Regular updates, Minutes and copies of media releases etc will be forwarded to Mr ‘name’ on a regular basis.

12.6 Other Stakeholder Organisations

A range of key stakeholder organisations will need to be kept informed / consulted on some issues relating to the reform process. These organisations include, but are not limited to:-

- Western Australian Local Government Association (WALGA)
- Local Government Managers Australia - Western Australian Division (LGMA)
- Service Providers to the existing local government authorities
- Creditors and debtors of the existing local government authorities

12.7 Media Outlets

The media will be issued with regular media releases to ensure the community is kept well informed of the progress of the SRWP. The key media contacts for the reform process will be:-

12.8 Community Members

The general community as a whole must also be kept well informed of the transition to the new Council. The following strategies will be employed to ensure the community is informed:-

- Dissemination of information by the media will play a critical role in keeping residents of the four Councils well informed;
- Maintenance of relevant and up to date websites;
- Availability of information brochures from all local government offices;
- Publication of contact details of SRWG members to answer any public enquiries.