

7 December 2015

Ms Jenny Doran
Local Government Act Review Secretariat
C/- Local Government Victoria
PO Box 500
MELBOURNE VIC 3002

Dear Ms Doran,

The Association of Consulting Surveyors Victoria (ACSV) currently represents 118 member firms that have as principals or employees the vast majority of Licensed Surveyors that produce, lodge for certification and manage the plans of subdivision that create the more than 30,000 new parcel titles (including both land and building parcels) that come into existence in Victoria each year. Our members' clients range from the largest of national and international development companies through to a 'mum and dad' individual 'developer', undertaking a once in a lifetime dual occupancy development of their family home.

Our members interact with municipal councils throughout the state on a daily basis in dealings under the Local Government Act 1989 (LGA) - particularly in relation to roads, easements and land use and under the Subdivision Act 1988 (Subdivision Act) and the Planning and Environment Act 1987 (P&EA) in relation to subdivision and development. On that basis the Association's members have a distinct interest in a number of particular aspects of the Review of the Local Government Act 1989.

As an organisation ACSV does not wish to provide a submission on the majority of the Chapter headings within the Review's Discussion Paper relative to the role, election and operation of Councils, but wishes to address particular aspects of the LGA to which we provide the following comments:

- (1) **Special powers and responsibilities of councils** – Council's should be prohibited from utilising current section 3F of the LGA to charge additional fees to prescribed fees under other Acts - *Example: A number of municipalities have introduced a 'substitution fee' relative to lodgement of amended plans of subdivision under the Subdivision Act, rather than seek updating or amendment of the Regulations under that Act. This has resulted in variation of approach and inconsistency in application of state wide legislation and is inconsistent with the determination in VCAT 194 (2005), Bensen Develop PL v Monash CC.*

- (2) **The Chief Executive Officer** - The responsibilities of the CEO should include:
- (a) ensuring that councils meet their statutory requirements under other Acts –
Example: The Subdivision Act sets out clear timelines for administrative functions by councils under that Act which are commonly not met.
 - (b) ensuring that council officers do not 'overreach' their role by applying personal views as council policy – Example: requirements by council officers that are contradictory to the content and intent of other Acts.
- (3) **Provisions limiting the powers of councils in relation to the sale or purchase of property** – The 'cross-referencing' of a council's power of sale restrictions under Section 189 the current LGA to the applicable restrictions imposed under the Subdivision Act should apply.
- (4) **Roads Matters (Sections 204 - 207E of current LGA)** - Dealings with Roads, including ownership and status, are currently spread across a number of Acts. Dealings such as; creation and vesting, discontinuance and sale, public highway declaration, temporary closures, road deviation and land swaps, road naming etc., are variously dealt with under the Local Government Act, Road Management Act, Subdivision Act, Land Act, Geographic Names Act and the Planning and Environment Act.

Rationalisation of these various provisions would reduce confusion and streamline processes that are often complex and poorly understood.

With regard to the current LGA provisions we also query why the powers conferred under sections 206 and 207 are listed in Schedules 11 and 12, rather than being listed in the relevant section.

ACSV would be happy to provide more details on the examples provided or any other additional information which may assist in consideration of this submission.

Yours faithfully,



Andrew Busse
President