

Submission to Discussion Paper

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If you work in an organisation/council, please provide the following information:

Organisation/council name:	Northern Grampians Shire Council
Position/job title	CEO
Are you providing this submission on behalf of yourself or the organisation?	Myself / Organisation Organisation

On the following pages are questions on each chapter of the discussion paper to assist you in the preparation of your submission. In addition, there is space at the end of the document to add your own views/comments on any matters relating to the Local Government Act review.

Discussion paper questions

Chapter 2 – The role of councils

1. What should the key roles and functions of council be?
2. Does describing the key objectives, roles and functions of councils in the *Local Government Act 1989* ('the Act') assist councillors, council staff and members of the community understand the role that councils play? Should these key objectives, roles and functions be retained in the Act or revised in any way?
3. What powers are required by councils to perform these roles and functions? Should there be any limitations to council powers?
4. Which provisions in the Act should be normative (setting out desirable behaviour) general (setting out broad principles to be followed) and which should set out prescriptive (detailed) requirements?
5. Should the legislation provide consequences such as penalties or sanctions, for any non-compliance with either the general and prescriptive provisions? If so, what form should these take?
6. Do you have any other questions/comments about the content in this chapter?

Response:

Council considers that its authority and autonomy as a legitimate tier of government should be respected and reflected in the Act. Short of constitutional recognition in the Australian Constitution, recognition in the Victorian Constitution should be maintained and clearly referred to and reflected in the LGAct.

Councils are a legitimate tier of government able to set and make policy, not purely a service deliverer for other tiers of government.

Having said that, funding to enable a council to provide services and infrastructure in a specific community must be adequate. The Act must enable councils to set charges and fees for service as deemed necessary to deliver the service without the current constraints placed on many service fees (eg. planning permits, building permits, library fees, meals on wheels). There currently exists a disconnect between policy making, service delivery and ability to charge or set fees that should be rectified in any review of the Act. Councils need to be able to charge for full cost recovery where possible.

Northern Grampians Shire Council expresses a preference for normative and enabling provisions in any changed Act and less prescriptive provisions. Council supports a move towards red tape reduction and outdated, unwieldy prescriptive processes and requirements around consultation and submissions (eg. s.223 of the Act)

In recent years, substantial improvements have occurred in direct community engagement and consultation and the Act has not kept pace with changing methodologies and ways the general public interact with their local level of government. Councils are already democratically elected by the public and in rural areas in particular, are very close to the local community, and already operate in a practical way as participatory democracies.

Chapter 3 – How councils are elected

1. What are the key elements of a system aimed at ensuring the integrity of council elections that should be included in the Act?
2. To ensure integrity of the electoral system should additional powers be provided to:
 - a) the Minister?
 - b) the Victorian Electoral Commission?
 - c) council CEOs?
3. Do you have any other questions/comments about the content in this chapter?

Response:

Northern Grampians Shire Council believes that the voting system should be “first past the post” in rural areas and not preferential. This is largely due to the very small numbers of voters in rural communities.

More generally, the council of a particular area should be able to decide the structure - eg Wards or un-subdivided determined by the individual council and not by the VEC. Councils should not be compelled or required to have, and pay for, the VEC to review and determine the structure.

Council is still concerned at the economic viability of shires and understands the dilemma of distance. Small shires can have too many or not enough councillors. Having been a council that has experienced two costly bi-elections in the current term, council is concerned at the cost of bi-elections and hopes that if there is a structural impediment or a solution to lessening the need for bi-elections that this be considered.

Council still supports 4 year terms (elections every two years) but would like there to be some consideration of the Western Australian model where there are no bi-elections, but where every 2 years one half of the council members are up for election. Having suggested that this be examined, Council does have some reservations about the cost, the impact on the councillor team and continuity.

Council is not keen on the provision of additional powers to the Minister and would prefer that there is greater authority provided to an individual council to manage “rogue” councillors.

Chapter 4 – How councils operate

1. What are the critical elements of a council's operations that should be governed by the Act (e.g. requirements for mayoral elections, notice of, and requirements for open meetings)?
2. What penalties or sanctions should be imposed on councils who do not comply with the requirements relating to their operations?
3. Do you have any other questions/comments about the content in this chapter?

Response:

Council is particularly keen to see further red tape reduction, making note of the anti-competitive nature of many of the processes currently in the Act (eg. disclosure of full budget details and then open tender processes leading to an escalation in pricing particularly for councils where there are thin markets or monopoly suppliers).

Council supports the idea of two year terms for the Mayor and would like to see that continue.

Council notes that there are also inconsistencies in relation to reporting requirements for the CEO contract and remuneration and that the process is not only confusing but out of logical sequence. Council has no issue with transparency in the selection and remuneration of CEOs and senior officers but would like to see some consistency with other tiers of government.

As with the the relatively recent arrangements made for Library Boards and Corporations, Council will like there to be an option for electronic attendance of Councillors at Council meetings. This is largely due to the distances travelled by Councillors in rural and regional areas.

Chapter 5 – Planning and reporting

1. What requirements should be imposed in the Act on councils in relation to planning and reporting on their strategy, budget and operations?
2. Can council planning and reporting processes be streamlined? If so, how?
3. What rights should be granted to ratepayers to better contribute to council planning and reporting processes?
4. What sanctions should be imposed on councils not complying with planning and reporting requirements?
5. Do you have any other questions/comments about the content in this chapter?

Response:

Council would like there to be consideration of the options of rating being set for a four year term but still reviewed with an ability to alter every year.

Council would also support a requirement for a longer term capital budget.

Council notes that the timing of the rate capping/variation processes means some difficulty in meeting the 20 June time frames for an annual budget.

Council also supports further red tape reduction and suggests that there is now no need to formally submit reports to the Minister prior to the acceptance of the Annual Report. Planning and reporting should be the business of a council. Council reports to its community, not to the State Government.

Citizen panels/juries are not necessary in smaller communities where Councillors are known and directly elected in their communities. Council would not support a 'cash for comment' style of system (eg. Melbourne Council paid citizen jury). Council notes that there are distinct differences between metropolitan and rural councils with regard the type and extent of community involvement and engagement in civic life and council business.

Prescriptive community engagement processes should not be put in place in the Act nor should there be a statutory process.

The current performance reporting framework is incomprehensible and costly and difficult to audit. Question still is "is the information really useful?"

Council would also like to note the inefficacy of the current Customer Satisfaction Survey which is a survey of perception only and not fact.

Chapter 6 – Council rates and charges

1. Is the current method of declaring rates and charges based on “land” still appropriate?
2. What powers do councils require in relation to levying rates and charges?
3. What obligations or restrictions should be imposed on councils in relation to these powers?
4. What rights should rate-payers have in relation to the exercise of councils powers in relation to levying rates and charges?
5. Should there be detailed legislative provisions regarding processes associated with levying rates and charges? If so, are the current processes for levying rates and charges in the Act appropriate? If not, what changes should be made?
6. What sanctions should be imposed on councils failing to comply with the requirements relating to levying rates and charges?
7. Do you have any other questions/comments about the content in this chapter?

Response:

Council considers that there needs to be a fairer split of resources according to need particularly in relation to the Financial Assistance Grants. The recurrent funding system needs to be fixed with a larger allocation of funding directed at rural councils.

There is an argument that councils should get a share of GST based on safety and productivity not on the ‘annoyance’ factor.

Council noted that the State Government is extracting almost as much as local government from land-based taxation. For councils, land based taxation should be set at the same rate in the dollar across the state, but the difference in funding needs to come from another revenue or funding source. The issue of capacity to pay needs to be accounted for in any changed rating framework.

Council believes that there is no real fairness in the system at present. A suggestion is made that the option of a new state/federal-based Local Government Tax be apportioned across the states and local government would no longer collect rates/land tax.

Chapter 7 – Service delivery and financial decision-making

1. What powers do councils need to undertake their financial decision-making functions?
2. What obligations or restrictions should be imposed on councils in relation to their financial decision-making functions?
3. Should the Act contain detailed processes regarding councils financial decision-making? If so, what sanctions should apply for non-compliance with these requirements?
4. Do you have any other questions/comments about the content in this chapter?

Response:

Council considers that compliance is already sufficient and doesn't need to be ramped up further.

It is preferred that uniform systems be introduced for finance/payroll/rates to facilitate a greater move towards shared services, and a broader collective ownership by local government of the shared services agenda. The focus of shared services should be to look for significant cost savings.

Council also considers that better inter-connectivity for local government entities/buildings is required similar to the connections made between state government departments, schools and agencies (eg. NBN connections for local government).

With regard to some more specific examples, Council would like to make the following comments:

Sale of land: - set a higher value threshold for the sale of land. The cost of process shouldn't be higher than the value of the land and this is often the case in rural areas.

Membership fees for libraries: - Councils should be able to charge membership for libraries without risking the 15% government grant. Councils shouldn't be funding libraries to the tune of 85% of the cost in any event.

Collaboration and shared services: - Collaborative arrangements between councils needs to be better facilitated and barriers that currently require Ministerial approval removed eg. shared employment, shared procurement. There are currently too many restrictions on entrepreneurial activity.

Tendering: - The dollar threshold for tendering is too low and needs to be indexed. Councils need a more commonsense approach to thin markets as at times it is difficult if not impossible to get three quotations in some small rural areas.

Chapter 8 – Councillor conduct, offences and enforcement

1. Do standards of councillor conduct need to be improved? If so, how can this be achieved?
2. What powers do councils need to deal with instances of councillor misconduct?
3. Does the system of councillor conduct panels need to be improved? If so, how?
4. Is there a need for additional offences to be included in the Act? If so, what are they?
5. Is there a need to improve investigation and enforcement of the Act in any way? If so, how?
6. Do you have any other questions/comments about the content in this chapter?

Response:

Council would like to see further clarification of the conflict of interest provisions. Council is supportive of recent changes in the Act regarding the municipal inspector. Along with its stance of the autonomy and authority of local government as a legitimate tier of government, Council would prefer that the power of the Mayor to deal with councillor conduct be strengthened and not deferred to an external party.

Chapter 9 – Ministerial powers

1. Should the role of the minister be described in the Act? And if so, how should this be described?
2. What powers should be provided to the minister in the Act in relation to:
 - a) the structure of the sector (i.e. circumstances in which new councils are established or existing councils amalgamated, numbers of councillors etc)?
 - b) to ensure councils comply with the Act?
 - c) to ensure the integrity of governance and standards of behaviour?
 - d) What penalties should be included in the Act in relation to councils not complying with the exercise of the minister's powers?
3. Do you have any other questions/comments about the content in this chapter?

Response:

Council would like remove the requirement to seek Ministerial approval for procurement variations.

Council considers that the Minister should not be above the law. Courts and judicial system should deal with non-compliance (serious non-compliance) not the Minister.

Minister should not have specific power to make guidelines if she/he already does this anyway as a practice note. Council would like to know what is the purpose of the guidelines and would like the review to look at correcting inconsistencies.

Council also considers that the power to direct councils in relation to the CEO and senior staff should not be in place as it is against the autonomy of councils.

Chapter 10 – Harmonisation of the Local Government Act

1. What aspects of the Act should be amended to better harmonise with related legislation?
2. How can council responsibilities in relation to other legislation be made clearer?
3. Are there provisions in the Act that could be improved to clarify their interaction with other legislation? How could they be improved?
4. Is there other Victorian legislation that inappropriately impacts on provisions under the current Act that could be improved or clarified? How could they be improved?
5. Does the Act contain any matters that should be transferred to other Victorian legislation? If so, why?
6. Do you have any other questions/comments about the content in this chapter?

Response:

Melbourne and Geelong Acts should be included in the same act and should not be separate.

Any other comments?

Do you have any other questions/comments not raised in the above chapters?

Response:

Council requests some information about who is financing the review of the Act and what the budget for the review is?

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