

Murrindindi Shire Council Submission on the Review of the Local Government Act 1989.

Submission to Discussion Paper

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

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The following submission contains key elements which the Murrindindi Shire Council recommends be considered in the review of the Local Government Act. The Council recognises and supports the submissions of the Municipal Association of Victoria, the Victorian Local Governance Association and Local Government Professionals and this submission is not intended to duplicate the issues raised in those submissions.

Review of the Act

Council recognises that the current Act has had extensive revision and amendment since its inception. Many of these amendments have been *ad hoc* and reactive to events arising, which has left the Act incoherent in places, disjointed in logic and difficult to comprehend. Rather than tampering with the current Act, Council contends that the review of the Act should take a fresh approach, involving a full re-write from the 'ground up', with the use of clear, unambiguous language, ie plain English.

Council's Role and Powers

Council contends that the current Act is not always clear on what functions and powers councils actually have, and fails to recognise the powers conferred on councils and authorised officers of Council under other State legislation. For example councils have powers as a land use planning authority, overseer of public health and wellbeing, enforcer of building regulations, as a road management authority, etc. This makes it difficult for Councillors and the broader community to understand the full context and extent of a Council's role. Council's view is that the new Act should provide clearer guidance on what functions and powers councils do and do not have. It is also suggested that a register form part of the Act which is regularly updated with amendments to the role and powers of councils arising from changes to other legislation. The new Act should not include

provisions that inhibit or conflict with the ability of councils to meet their obligations as prescribed under other legislation.

Enabling Provisions

It is Council's contention that the new Act should be more 'enabling' and less 'prescriptive' in focus compared with the current Act. The new Act should provide councils with greater autonomy and flexibility to pursue innovative solutions in their planning and service delivery frameworks and to function to the best of their ability without being overly constrained by excessive prescription, oversight and regulation. Council contends that any prescription needs to be limited to elements of the Act where the integrity of a process is critical for good governance (eg electoral processes), and where there is overriding public interest. Prescription within the Act needs to be fair and reasonable, primarily focused on matters of principle rather than methodology, and not onerous or restrictive on the ability of councils to function effectively and efficiently.

Guidance provided by and provisions within the new Act should support the overarching premise that councils should be empowered to undertake any function relating to the peace, order and good government of the municipality.

State and Local Government Relationships

Council recognises that the State Government has both an oversight and advocacy role in its relationship with Local Government. Nevertheless Council's view is that the balance in the current Act favours the role of the State as the overseer, regulator and interventionist and not that of supporter and advocate for the sector. Council would like to see the new Act give greater weight to collaboration and partnership as the basis of the relationship between State and Local Government. The role of the State Government should be to support Local Government to fulfil its role and to provide assistance to councils, when such assistance is specifically sought.

Furthermore, in demonstrating greater respect for the role of Local Government, Council contends that there should be provisions in the new Act which require the State to formally consult with the sector prior to making decisions on matters directly affecting the sector and prior to introducing legislative changes that give effect to these decisions. There is a need for greater involvement of Local Government in the early stages of an issue in developing options that may give rise to the need for legislative change, so that such changes are introduced with the full understanding and input of the sector, rather than being imposed on the sector.

Council Conduct

Council recognises the importance of provisions in the Act pertaining to appropriate council and councillor conduct to ensure the highest standards in governance practices are achieved across the sector. Council is concerned however with the level of prescription in the current Act, particularly with respect to the conflict of interest provisions, which are not clear and easy to comprehend or fulfil. In practice when in doubt about whether the provisions apply to an issue there is a tendency to take an unduly conservative approach to their interpretation which may unnecessarily exclude Councillors from meeting procedures.

Whilst the Act should provide guidance to councils on conduct matters, the provisions should be easy to interpret and not stymie the ability of Councillors to contribute to effective debate.

Community Consultation and Decision Making

Council supports the key role of community consultation in contributing to effective Council decision making. Council contends however that, whilst the principles of community consultation should be espoused in the new Act, councils should not be constrained with respect to the choice of methods employed to consult with their communities. The methods employed need to be determined by individual councils commensurate with their resource capacity and should not be mandated under the Act, providing there is adherence to principles of open access and equal opportunity for all to participate in public consultation processes. In addition, Council maintains that the new Act should reinforce that councils have the powers to be the ultimate arbiter on decisions it faces, whilst providing a requirement that councils inform their community on the extent to which its public consultation process on a particular issue will contribute to its decision making process.

Providing that councils have a general obligation in relation to transparency and public accountability, the ability to control the parameters of public participation should remain with councils in order to ensure good, stable and timely governance and decision making. Determination of the relevant methodology needs to be made by councils in the context of the needs of their particular communities and geographical distribution in relation to the issue at hand.

Municipal Electoral Ward Boundaries

Council supports the retention of single member wards as an option for municipal electoral structures. For rural Councils such as Murrindindi with relatively small and highly dispersed populations, wards can often cover significant geographical areas to ensure equalisation of voter distribution. Often in such cases ward boundaries can appear arbitrary and not reflective of the underlying community fabric they cover. This in turn can create difficulties (distance to travel, split communities) for Councillors to be able to adequately represent the ward. It is suggested that consideration be given to simplifying ward boundaries under the new Act to ensure more logical alignment between ward and local community boundaries. There should be provision for the assessment of social/community benefit to be considered as well as equalisation of voter distribution.

Candidacy

The inclusion of non-residents on the voters' roll, given that they are valid ratepayers, does not present a problem *per se*. However, there should not be an attendant right to stand for election. Rural councils in particular often have a high proportion of non-resident landowners who may have owned the property for many years but actually reside interstate or overseas. Their capacity to represent the community is consequently significantly diminished.

All candidates should be required to provide information in a manner that enables voters to assess them in a meaningful way.

Council Plan

Council recognises the important role of the Council Plan as the key strategic planning document setting the vision, direction and goals for the organisation to address the needs of the organisation and the municipality for the Council's term. Council considers the requirement to prepare a Council Plan within a few months of a Council election, however, to be an onerous and daunting task, particularly for new Councillors learning the role and not yet sufficiently familiar with the supporting detail.

Council suggests that the timeframe to develop a new Council Plan should be extended by a minimum of six months to give new Councillors the opportunity to become more familiar with the role, functions, powers and capacity of the Council and thereby make a more meaningful contribution to the Plan's development.

CEO and officer arrangements

Whilst the principles pertaining to CEO appointments and performance should be articulated in the Act, the methodology by which these are achieved should not be prescribed but remain the responsibility of each council to determine.

Similarly arrangements for advertising for the appointment of CEOs and officers should be sufficiently flexible to provide for changing social practices and evolving technology and media, so that councils may obtain best value.