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mj : sg

17 December, 2015

The Hon Natalie Hutchins MP
Minister for Local Government

local.government@delwp.vic.gov.au

Dear Minister Hutchins,

RE: REVIEW OF LOCAL GOVERNMENT ACT 1989

Please find attached Submission to the above Review from Central Goldfields Shire Council.

Council welcomes the opportunity to have input into the Review process and looks forward to the publication of a Directions Paper in 2016.

Should you have any queries please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mark W Johnston', is written over a horizontal line.

Mark W Johnston
CHIEF EXECUTIVE OFFICER



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Review of Local Government Act 1989

Submission - Central Goldfields Shire

Council welcomes the issue of the discussion paper on the Review of the Local Government Act 1989, and makes the following initial comments:

- Any review of the Local Government Act which by definition includes a review of the role of councils, needs to be part of a broader review of the roles and responsibilities of each level of Government, and most importantly, the resourcing of same.
- Local government reform has largely focussed on process and compliance, what is needed is a systematic review of local government funding models.
- The essence of local government remains 'local people, making local decisions, on local matters'. State intervention should be a last resort, rather than a starting point.

Chapter 2 – The role of councils

Council sees the role of councils as including:

- representation/advocacy.
- setting/holding the strategic direction of the community.
- enabler/facilitator.
- underpinning the social and economic advancement of the community (including service provision).
- develop responses/solutions to community needs.

Council believes that the existing provisions in the Act around duties and functions of a council are not prohibitive and believe that should remain so in terms of the role of councils. Any revised definition of 'role' needs to be clear and unambiguous in both legislative intent and legislative requirement.

A feature of the sector is its diversity and there is obviously, for good reason, great variation between local government authorities, across all 79 municipalities. This can call into question whether one Act and all its provisions has appropriate applicability across all municipalities

Council would be interested in exploring a framework of overarching (parent) legislation for all councils, and accompanying provisions having application to groupings or categories of councils – i.e. large/small; metro/rural etc.

Charter 3 – How councils are elected

Council submits that:

- the Local Government Electoral Review recommendations around the number of councillors (being 6, 9, 12 or 15 councillors) is not supported. Councillors should be based on communities of interest.
- Councillor numbers should be set at odd numbers only between 5 and 15.
- mixed wards are supported.
- voting should be via postal system and an electronic option should be available.
- preferential voting is not supported by some councillors.
- the election caretaker period should be reduced to a 2 week period.
- the cost of elections is a major concern.
- the VEC should be the entity to prosecute those failing to vote.
- councillors support more robust education/information opportunities for prospective councillors, and, some councillors support more formal training, and/or identification of skill sets by the electors.

Chapter 4 – How councils operate

Council supports:

- The Mayor continuing to be elected by the councillors.
- The roles of Mayor, Councillor, CEO and council administration need to be clear and comprehensive, including further clarification of the demarcation between the roles of councillors and of the CEO.
- the CEO recruitment and performance evaluation arrangements remain with individual councils to manage.
- arrangements around setting of Councillor allowances to remain unchanged, with the exception that the 'range' be removed and there be a specified amount in each category.
- each council should be free to determine the extent to which it engages with the community it represents. A community engagement policy and plan should not be mandated, rather the community will have its own needs and expectations.
- Local laws remain an important regulatory tool, however their enforcement can be problematic i.e. the Magistrates Court may find against a person but cannot direct say that unsightly premises be cleaned up. The problem can remain. A more practical approach is required.

Chapter 5 – Planning and Report

Generally Council recognises the strategic importance of the planning and reporting regime – particularly in terms of Council Plan, Budget and Annual Report.

It is important that the planning framework can also accommodate long term (longer than 4 year) aspirations; that there is no duplication in reporting; and that any additional planning and reporting requirements add value.

Chapter 6 – Council rates and charges

This is perhaps the key component of the Review. The Act can be reviewed, new roles defined etc. etc. etc. but it will count for little if councils continue to be under resourced.

The current method of raising revenue by declaring rates on land/property is no longer sustainable in terms of financing the responsibilities of local government. This is a broader issue for State Government to address with the Federal government.

Having said that, in the immediate future, councils need to be able to raise revenue through the current methods available, and to do so without the imposition of a rates cap.

The Fire Services Levy currently collected by councils on behalf of State Government ought become an Emergency Services Levy to then include funding support for the State Emergency Service and appropriate entities.

Chapter 7 – Service delivery and financial decision making

Council raises the following matters:

- service delivery and moroso cost shifting is always a one-way transaction, with local government required to do more with less.
- procurement arrangements need to include broader sustainability considerations, i.e. sustainability of local businesses, jobs, communities.
- borrowing restrictions and processes diminish council autonomy.
- councils will find innovative solutions and collaborative solutions.

Chapter 8 – Councillor conduct, offences and enforcement

Council is concerned that these areas have become increasingly ambiguous. Council contends that:

- the role of a councillor needs to be clearly defined – made prescriptive.
- a Councillor Code of Conduct remains necessary.
- a consistent (industry standard) comprehensive training program should be available to councillors (similar to the Australian Institute of Company Direction course), and available to prospective councillors.

- the Conflict of Interest provisions are ambiguous and not practical. Conversely pecuniary interest provisions are clear. Conflict of Interest, by nature, will never be so and raises more issues than it addresses.
- Investigations by the Local Government Compliance and Investigations Inspectorate must be carried out in a much more timely manner. More importantly, Council believes complaints to the Inspectorate should be substantiated with complainants identified and persons against whom complaints are made having similar redress as available at common law.

Chapter 9 – Ministerial Powers

As a guiding principle, Council believes that Ministerial power and intervention should be restricted to the minimum practicable level, with the power for the Minister to intervene subject to robust checks and balances that respect local government as a distinct tier of government.

While local government is a creature of statute, councils are separate legal entities. Revised provisions should regard intervention as a last resort, with consultation between the Minister and council(s) a key component of practical action.

Chapter 10 – Harmonisation of the Local Government Act

Council makes the observations that:

- the City of Melbourne has its own legislation yet there is no other legislative distinction in the sector (see comments at Chapter 2 re diversity)
- local democratic processes/decisions can be completely overturned at VCAT. There is potentially a place for a 'regionalised VCAT' or similar body which would provide greater local knowledge and understanding of issues. Such structure may also allow appeal matters to be dealt with in a more timely and cost efficient manner.