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Local Government Act Review – Phase 2

The Shire of Esperance (the Shire) thanks the Department of Local Government and Communities (DLGC) for the opportunity to provide the following submission regarding Phase 2 of the Review of the Local Government Act 1995 (the Act). We apologise for the lateness of our submission, however the Shire has recently had to deal with a significant Complex Bushfire System covering some 300k hectares (mostly within UCL) and also a Coronal Inquest hearing regarding the November 2015 bushfire and related fatalities.

It is our understanding that Phase 2 – Delivering for the Community is focused on the following topics:

- Agile – Beneficial Enterprises, Financial Management, Rate, Fees and Charges;
- Smart – Administrative efficiencies, Local Laws, Council Meetings and Interventions; and
- Inclusive – Community Engagement, IPR, Complaints Management and Elections

With regards to the Phase 2 review, the Shire would like to firstly reiterate the broad principles the Shire has developed and resolved during Phase 1, being:

1. Integrated Planning and Reporting (IPR) should form the framework of the Act;
2. The Act should be consistent and easy to read
3. General Power of Competence Principle should be at its foundation, with detail in subsidiary legislation; and
4. Requirements should be comparable to State Government requirements.

The Shire has tried to maintain these broad principles in developing our submission on the topics discussed in Phase 2.

Agile

Beneficial Enterprises – The Shire supports the concept of Beneficial Enterprises, particularly the New Zealand Model. This being said; work needs to be done so as to ensure the complete protection of public funds and assets, while ensuring beneficial enterprises can operate on a commercial basis, similar to private enterprise.

Financial Management – The Shire supports the reduction of prescriptive financial management regulations.

Regulations should be consistent with modern financial reporting requirements, so financial reports can be more easily read and understood. True accrual accounting needs to be introduced. The Shire also requests that financial ratios be reviewed and better defined.

For instance, the operating ratio does not take into account capital or non-operating grants, even though these are reported as operating income in our accounts (as per accounting standards). For Shire's such as the Shire of Esperance, which has a significant capital budget for road upgrades, the removal of non-operating grants greatly impacts on this ratio, despite the Shire relying on this income for day to day operations. These ratios also impact on the Shire's overall financial health, which is being used more frequently to compare Local Governments.

Rates – This area needs a complete review. Currently the level of prescription makes understanding the levying of rates difficult for the lay person. The requirements around differential rates effectively require Local Governments to determine its rates prior to developing the rest of the budget. This goes against the basis of levying rates, being Total Expenditure less Total Non-Rate Income equals Rates. The Shire also believes there needs to be greater accountability linking the Annual Budget to the Long Term Financial Plan (LTFP). Currently, there is no consequence for a local government if it ignores the LTFP. This allows individual LG's and Councils to manipulate the Annual Budget, particularly rates (and rate increases) for short term local political gain, while creating long term financial consequences for future Councils.

Furthermore, there needs be a better definition for charitable purposes or remove this exemption from the Act and allow LG to determine their own policies on Rate exemption in general. Currently it is becoming increasingly difficult to determine charitable status, while profitable charities (Age Care Facilities) are taking advantage of the current statute exemption at the overall community's financial detriment. Aged Care and retirement home residents use a lot of Local Government services, however can use the current charitable exemption to reduce any financial contribution towards the supply of these services. In an LG with a high older demographic this can significantly impact on levying of fair and equitable rates.

Fees & Charges – Further review and less prescription is required. Cost recovery may not always be achieved, as most Local Governments naturally operate in a loss environment (if they were profitable, private enterprise would intervene). Council should be able to determine the level of cost recovery, or profit margin, based on the needs of their individual communities.

Smart

Administrative Efficiencies – There seem no acknowledgement that most Local Governments operate as efficiently as possible, however there is a lot of wastage due to other legislation or State or Federal requirements, which requires compliance. No new services should be transferred from State or Federal Government to Local Government to administrate without first obtaining agreement from Local Government and Local Government receiving the necessary funding to implement.

Local Laws – The Shire believes there should be model local laws that can be modified to meet local environment and conditions.

If Local Laws are required to be legally reviewed prior to being implemented, the need for State Government review should be reduced.

Council Meetings – The Shire strongly supports the removal of Annual Elector Meetings and Special Meeting of Electors. The local public has 12 Ordinary Council Meetings to raise concerns, with public question time enshrined in the current Act. Elector Meetings can easily be manipulated, creating resolutions that cannot be implemented. This can create additional fractures within the community, particularly with contentious issues.

Interventions – The Shire supports early intervention should there be demonstrated and substantiated issues between Councillors and between Council and their administration. This however needs to be considered carefully so interventions are not seen as pseudo inquiry.

Inclusive

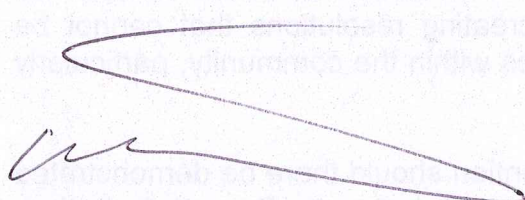
Community Engagement – The Shire support all efforts to promote community engagement with Local Government. We support the introduction of engagement policies and processes and the development of model policies for consideration. Education on engagement is also necessary, as the general public can have mixed and unrealistic views on the how engagement may be used in decision making. Community engagement should not be able overwrite the final decision making power of elected Councillors.

IPR – The Shire fully supports the use of Integrated Planning and Reporting (IPR) in Local Government. Currently there seem no consequences for Councils who do not take IPR seriously, and maintain focus on short term planning documents such as Annual Budgets. There needs to be more accountability and explanation for significant variations from IPR documents and annual documents, demonstrating a focus on long term strategies and outcomes.

Complaints Management – The Shire supports the ability to not have to deal with vexatious complainants. Over the last few years the Shire has wasted many man hours and resources responding to vexatious and unsubstantiated complaints from a handful of individuals, which have achieved no adverse findings against the Shire. The State Government needs to take greater action to force unhappy local residents

to deal directly with the respective local government prior to escalating complaints to the various LG oversight bodies.

Elections – The Shire has mixed views on the election process. Our overarching principles suggest it should be similar to State Government; however this did not receive support from every Councillor. The Shire is cautious with online voting, and would like to understand the proposed process. This process should only be introduced if both State and Federal elections use the similar process. The Shire supports the Australian Electoral Commission being able to quote and tender on Local Government postal elections.



Matthew Scott
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