



## Submission

### LOCAL GOVERNMENT ACT 1995 Review – PHASE 1: Consultation Paper

In recent years more citizens have been involved in activities and organisations challenging the status quo of the local government councils when their decision making both appears or in fact is in opposition to what the community desire as beneficial, cost-effective and in the interest of the public.

In particular the recent actions and practices of the councils, that have come to public attention, will provide suggestions to be taken into account by the review panel.

#### Council and Administration

The structure of councils is similar to any boards that operate in business, in associations and in government agencies. The CEO is responsible for the operational daily work of the City on behalf of ratepayers. The Mayor and Council, or Chair and Board members, have the responsibility of guiding strategic planning and responding to community needs for the present and future. The council has the responsibility to manage the facilities of their city in the most efficient and cost effective manner possible.

The CEO in government agencies are part of the public service and appointed to the Senior Executive Service and are accountable to the Board, the Minister and the Public Sector Commissioner. It would be a recommendation that CEOs in local government, particularly those with city status, be appointed in a similar way.

The salary and allowances of the CEO should be commensurate with the levels assessed for government CEOs and according to the size and complexity of each council.

#### Training

The role of councillors will depend on the expectations of the electors. While the position of CEO will usually attract well qualified candidates for the role, the election of a councillor is quite different and many councillors can be elected on a one issue policy appealing to the electors on the day. The candidate may have no financial or planning knowledge for example and yet may serve on such a committee that determines future land allocations, rates, high rise-development etc.

Of course some politicians can also be elected lacking such skills and also make decisions affecting all the community.

Mandatory training should be introduced for all councillors and should be funded by a levy on councils but managed by the State Government, and state government legislation to ensure a uniform competency across councils. Ongoing and essential training in good governance, finance and risk, personal responsibility, strategic policy, compulsory gift register et al, should be completed six months after their election.

#### Behaviour of elected members

The Minister to have the authority to dismiss an individual councillor after evidence is presented of his/her incompetency, dishonesty, collusion with developers, and other

reasons that from time to time are deemed inappropriate for the trusted role of a councillor.

Action against any member of council or staff, including the CEO, to be in confidence and not a public issue until such time as action must be taken by the Minister.

Reputational protection is paramount until such time as offences are proven. Rumour and innuendo in social media cannot be prevented but council members or executive should not be involved.

While not discounting that some members of the public can be deemed ‘nuisance’ by council officers, very often the range of issues under dispute are legitimate concerns and should be brought to attention of the council. The proactive concerns of the public can prevent ill-advised development in many councils.

### Planning Applications to Councils

There needs to be a clearer more transparent evaluation process from the minister or the department when it comes to disclosure/declaration of interest from staff and councillors in relation to developers and developments.

The community needs to be able to see how much developers have contributed to their council.

The annual reports need to clearly show how much money is being spent and where – and include a lot more detail – and be easier to understand and read.

Planning applications for built development to be transparent and detailed, with online council websites and easily accessible by the public. More time allowed for public submissions.

Unless the Council is involved in development of its own facilities for the use of the community or administration, the Council has no business being the developer of commercial properties when at the same time they are the authority that provides the approval. Any case for a council/developer shared project to be approved by the minister.

### Specific reference to City of Swan – Swan Valley

The Swan Valley Planning Committee was formed at a time of the SVPlanning Act. The role of this committee was to review applications for development in the Swan Valley and examine whether it adhered to the Act and advise the City of Swan council accordingly. Regrettably, this committee has not had the “teeth” to act and can only recommend refusal of an application. The council may overturn any decision of the committee. In addition the discussion and decisions of the SVPC are held in confidence, so the public have no insight to the full range of objections to a development.

The SVPA was intended to protect the Swan Valley precinct from the development of urban structures, and intrusion of industrial sites, protect the clearing of land by developers, and secure the minimal areas of properties in order to retain a rural ambience, food and wine production and tourism destination in the Swan Valley.

The review should develop a clear and concise definition of what a rural ward should be, and how interference from council and developers can be excluded. A clear definition will provide certainty to all residents and local government that are on Perth’s fringe.

Regrettably, in the past twenty years, council decisions, often against the wishes and objections of neighbours and community associations have issued licences, particularly for quarrying – sand, gravel, granite etc, that have been detrimental to the Valley.

It is understood the Swan Valley Protection Act is nearing completion and presentation to parliament. It is hoped that the development and licencing role of the City of Swan will be restricted for the Swan Valley environs.

Too often Councils have permitted an apology and permission application for such activities as establishing truck depots, constructing outside sheds, and of late development of taverns and urban entertainment areas. In many cases, even when not approved, the action is to appeal to SAT and JDAP which have a record of approval of major developments. When defying Council policy on use of properties, the council have authority to demand removal of structures, rubbish, dumping waste and other illegal use and have enforceable fines at a deterrent level.

Appeals to JDAP by developers have in most cases been successful. The membership of the panel is weighted towards the approval of construction of the project. The three person panel chosen from a list of experts reflect a different point of view to that of local residents and even the councils. However, despite community objections, when the council representatives are often pro-development, and supported by council planning officers, then the application can be assured of success.

There must in the future be a process to appeal against this level of decision making or even better remove the JDAP panels and find a more balanced way of decision making.

Other comments:

Councils are not developers therefore the necessity for grand plans for community projects should be closely scrutinised and budgets presented in public. Transparency is, on all matters affecting expenditure and community, essential.

Concern about private/public partnerships means councils, therefore ratepayers, take on unnecessary risk. Failure of projects is detrimental to the community. Some developments are beyond the ability to properly finance leading to excessive borrowing – which is again risk. Councils are not a business, they are created to manage and provide basic services to community.

Finally, some controls be introduced to prevent the excessive use of consultants for too many projects or surveys. Finance would be better used in training specialist staff to conduct this business without fear or favour. To be independents within the council or indeed a shared position with neighbouring councils through WAPC. Outsourcing major consultancy to the private sector results in the lack of high level expertise within the local government entity. It is in the public interest to have the scrutiny of projects undertaken by staff familiar with the work of the council. The question to be asked is “if the Council implements all the recommendations of the consultant, who is accountable if things don’t work out as planned”.

(ref. Paul Barratt: Are all those consultancies really necessary? Comment on the Joint Committee on Public Accounts and Audit Auditor-General’s Report No 19 (2017-2018))

Thank you for the opportunity to comment on LG Act Review – Phase 1

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