

Submission to Discussion Paper

If you work in a council, please provide the following information:

Council name:	Surf Coast Shire Council
Position/job title	Coordinator Corporate Planning
Are you providing this submission on behalf of yourself or council?	Council

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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

Response:

1. What should the key roles and functions of council be?
 - a. Role of Council needs clarification as they provide services outside core business, Local Government Act should define core services
 - b. Empower councils to raise revenue to deliver core services
 - c. If Council has the power to decide “what” we do we should be able to raise the revenue we need to deliver “what” we need to in our community
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?
 - a. No comment
3. What powers are required by councils to perform these roles and functions? Should there be any limitations to council powers?
 - a. No comment
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?
 - a. No comment
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?
 - a. There should not be any penalties or sanctions if legislated dates are not met i.e. Annual Report. Process of naming Councils in Parliament is enough.
6. Do you have any other questions/comments about the content in this chapter?
 - a. S.74A of the Local Government Act outlines that Local Government must exist in order to provide government to their municipal districts. How?
 - b. What are the defined limits that exist for ways in which the state can suspend or dismiss councils? (S.74B(2) and (3) of LGA)
 - c. More power for final decision making should rest with local government i.e. decisions should not be referred to Victorian Civil Appeals Tribunal (VCAT)
 - d. Current provisions are specific to provide adequate guidance, this has appropriately occurred in response to behaviour over time.

Chapter 3 – How councils are elected

Response:

1. What are the key elements of a system aimed at ensuring the integrity of council elections that should be included in the Act?
 - a. Consider the relationship between electoral roles local, state, federal – local government incurs the cost of maintaining its own electoral role
 - b. Supports a warded municipality
 - c. Introduce rules around who can be a councillor i.e. evidence of citizenship, police / ASIC checks compulsory before nominating to stand
 - d. Does not see the need for a uniform Ward Structure
 - e. Explicitly resolve whether councillors have to resign before a Federal Election if they are a standing as a candidate
 - f. Need to resolve issue of “dummy” candidates
 - g. Improve clarity around authorization of publications during caretaker period
2. To ensure integrity of the electoral system should additional powers be provided to:
 - a. the Minister?
 - i. No comment
 - b. the Victorian Electoral Commission?
 - i. No comment
 - c. council CEOs?
 - i. No comment
3. Do you have any other questions/comments about the content in this chapter?
 - a. Victorian Electoral Commission do a great job
 - b. Explore notion of targeted councillor development programs as a mandatory requirement

Chapter 4 – How councils operate

Response:

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)?
 - a. Formalize role of deputy mayor in the Act i.e. standardization of electoral processes
 - b. Addition of standard meeting procedure for all councils
 - c. Support mayor elections and meetings i.e. standardize the process
 - d. Provide status for statutory / annual meeting of Council
2. What penalties or sanctions should be imposed on councils who do not comply with the requirements relating to their operations?
 - a. No comment
3. Do you have any other questions/comments about the content in this chapter?
 - a. Engage independent expertise to help appoint CEO
 - b. Requirement to advertise senior vacancies in newspapers is ineffective
 - c. Rules for local and state government should be the same i.e. conflict of interest

Chapter 5 – Planning and reporting

Response:

1. What requirements should be imposed in the Act on councils in relation to planning and reporting on their strategy, budget and operations?
 - a. If rates were set four years in advance it would give Councils and ratepayers a better level of certainty around finances and services.
2. Can council planning and reporting processes be streamlined? If so, how?
 - a. Councils are now required to prepare an annual budget, a strategic resource plan (the first year being the budget), and now possibly a 10 year plan and workforce/asset management and service delivery plans. This would require a lot of resources; it would be more efficient to wrap these requirements into one planning document (or a ten year Strategic Resource Plan).
 - b. The model budget released by Local Government Victoria needs to be consistent with the model financial statements for year-end reporting.
 - c. Councils currently need to prepare financial and performance statements for audit, returns for grants commission, returns for Australian Bureau of Statistics purposes, Australian Taxation Office purposes, and other departments. It would be more efficient to deliver information to one body responsible for collating it.
 - d. Planning cycle should be longer term i.e. 12 years and aligned across different acts. NSW model 10+ years Community Plan informs the development of each Council Plan and allows for a longer term vision.
<http://www.olg.nsw.gov.au/sites/default/files/Intergrated-Planning-and-Reporting-Guidelines-March-2013.pdf>
3. What rights should be granted to ratepayers to better contribute to council planning and reporting processes?
 - a. No comment
4. What sanctions should be imposed on councils not complying with planning and reporting requirements?
 - a. Given the financial pressures on Councils, any sanctions imposed under a new act for non-adherence should be non-monetary.
5. Do you have any other questions/comments about the content in this chapter?
 - a. No

Chapter 6 – Council rates and charges

Response:

1. Is the current method of declaring rates and charges based on “land” still appropriate?
 - a. Investigate whether councils can get a share of land tax collected
 - b. Rates should be aligned to property values and aligned to land tax processes
 - c. Better to have a share of GST / consumption / wealth tax rather than a rates base approach
2. What powers do councils require in relation to levying rates and charges?
 - a. Support use of differential rates
 - b. Support simplification of developer contributions charges
 - c. Separate waste charge is critical to retain as large cost to manage waste to EPA requirements.
 - d. Support proposed infrastructure levy
 - e. Council would support a review of the exemptions from rateability
 - f. Special charges are important for SCS to retain.
3. What obligations or restrictions should be imposed on councils in relation to these powers?
 - a. No comment
4. What rights should rate-payers have in relation to the exercise of council’s powers in relation to levying rates and charges?
 - a. No comment
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?
 - a. No comment
6. What sanctions should be imposed on councils failing to comply with the requirements relating to levying rates and charges?
 - a. Given the financial pressures on Councils, any sanctions imposed under a new act for non-adherence should be non-monetary.
7. Do you have any other questions/comments about the content in this chapter?
 - a. No

Chapter 7 – Service delivery and financial decision-making

Response:

1. What powers do councils need to undertake their financial decision-making functions?
 - a. Legislation needs to enable councils to determine a fair price if forced (legislated) to accept cost shifting of services
 - b. Ability to raise revenue to deliver core services
2. What obligations or restrictions should be imposed on councils in relation to their financial decision-making functions?
 - a. No comment
3. Should the Act contain detailed processes regarding council's financial decision-making? If so, what sanctions should apply for non-compliance with these requirements?
 - a. Needs to be increased guidance as to the utilization of debt
 - b. Need to enable shared service model arrangements including support models
4. Do you have any other questions/comments about the content in this chapter?
 - a. Need to focus on continual improvement of services to ensure efficiency and effectiveness

Chapter 8 – Councillor conduct, offences and enforcement

Response:

1. Do standards of councillor conduct need to be improved? If so, how can this be achieved?
 - a. Introduce a standard code of conduct
2. What powers do councils need to deal with instances of councillor misconduct?
 - a. No comment
3. Does the system of councillor conduct panels need to be improved? If so, how?
 - a. No comment
4. Is there a need for additional offences to be included in the Act? If so, what are they?
 - a. No comment
5. Is there a need to improve investigation and enforcement of the Act in any way? If so, how?
 - a. No comment
6. Do you have any other questions/comments about the content in this chapter?
 - a. Introduce mandatory requirement to record and report councillor attendance at briefing sessions in Annual Report – proportion of total time of councillor attendance
 - b. Formalization of briefing sessions
 - c. Improve clarity around public attendance at briefing sessions
 - d. Recent changes to legislation have been good
 - e. Review process for reappointment of CEO currently only within 6 months of current contract ending
 - f. Relation of senior officers to Enterprise Bargaining Agreement's should be clarified, currently inconsistent

Chapter 9 – Ministerial powers

Response:

1. Should the role of the minister be described in the Act? And if so, how should this be described?
 - a. Ministerial role and powers should be stated
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.)?
 - i. Not the structure of the sector
 - b. to ensure councils comply with the Act?
 - i. We understand that this power currently exists
 - c. to ensure the integrity of governance and standards of behaviour?
 - i. We understand that this power currently exists
 - d. What penalties should be included in the Act in relation to councils not complying with the exercise of the minister's powers?
 - i. No comment
3. Do you have any other questions/comments about the content in this chapter?
 - a. No

Chapter 10 – Harmonisation of the Local Government Act

Response:

1. What aspects of the Act should be amended to better harmonise with related legislation?
 - a. Limitation on councils to establish private enterprises i.e. currently require Ministerial approval, test legislation doesn't overly inhibit innovation, collaboration etc.
 - b. Commonwealth Aged Care and Early Childhood Legislation should be considered in this review.
 - c. Wherever possible Local Government Act should work with other legislation i.e. Road Management Act – power over road and traffic included in Road Management Act
 - d. Inefficiency where Council is the custodian of land of 'local significance' under Crown Land (Reserves) Act but not the owner. Limits flexibility to manage overall portfolio and make strategic decisions. Imposes 'consents' process for straight-forward improvement or development activity. Propose transfer of ownership to Council to manage (including ability to dispose of) on behalf of the community where the land is of local interest / use. Retain under Crown where there is a State interest / use. Refer "Public Land Consultancy" article <http://publicland.com.au/sites/default/files/terra-publica-2014-04-easter.pdf>
2. How can council responsibilities in relation to other legislation be made clearer?
 - a. Need to get clarity around hierarchy of legislation
3. Are there provisions in the Act that could be improved to clarify their interaction with other legislation? How could they be improved?
 - a. No comment
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?
 - a. No comment
5. Does the Act contain any matters that should be transferred to other Victorian legislation? If so, why?
 - a. Local Government Act should focus on Council Governance
 - b. Schedule 10 & 11 can be amalgamated with the Road Management Act
6. Do you have any other questions/comments about the content in this chapter?
 - a. The Act requires job vacancies (senior) to be advertised in a state-wide newspaper circulation; outdated and ineffective practice.
 - b. Other outdated methods of communication e.g. "appear in person" S223. Use of Skype, video conferencing not taken into consideration. Needs to be 'future proofed' to restrict the need for repeat reviews.

Any other comments?

Response:

1. Do you have any other questions/comments not raised in the above chapters?
 - a. How the Act has restrained us
 - i. Sale of Land – improve process, community consultation process
 - ii. Special Charge process
 - Satisfied with current process
 - iii. Delivery of services on municipal boundaries / Great Ocean Road Coast Committee / other agencies
 - MoU's with adjoining councils around roads
 - Ability to provide shared services
 - iv. Developer Contribution Plan
 - Simplify levies
 - v. Timing of release of the budget
 - Particularly around changes to rate capping
 - vi. Clarify conflict of interest in relation to section 86 committees and recreation facilities
 - vii. Clarify rules around section 86 committee banking funds in that these are council funds and should be included in councils annual report
 - b. Review should focus on modernisation of the Act to ensure its relevance today and into the future i.e.
 - i. Remove requirement to attend meetings in person
 - ii. Remove requirement to mail correspondence out
 - iii. Remove requirement to advertise CEO & senior officer vacancies in the newspaper
 - c. Simplify language to enhance understanding
 - d. Consideration of Maternity and Paternity leave entitlements for councillors be incorporated into the Local Government Act 1989 as a matter of urgency

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