



Local Government Bill – A Reform Proposal

Southern Grampians Shire Council Submission

July 2019

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Introduction

Southern Grampians Shire Council (“Council”) has prepared this submission in response to the Local Government Bill – A Reform Proposal.

Council has concerns regarding the level of consultation being undertaken, given that the proposed reforms are only being circulated for 30 days and the feedback needs to be taken into consideration before the Bill is introduced into Parliament later this year.

As mentioned in Council’s submission in response to the Local Government Bill – Exposure Draft, Council has some concerns regarding administrative and financial burden and the impact on resources, given the size of some rural and regional councils.

Council’s previous submission prepared for the Local Government Bill – Exposure Draft is also attached to reiterate our previous comments.

Council would welcome State Government support to councils during the transition to assist with the development of appropriate templates and a best practice approach. It would promote consistency of documents between councils and ensure that the interpretation of the Bill is understood by each council.

Council thanks the State Government for the opportunity to review and provide comment on the proposed reforms.

Reform 1 – Simplified Franchise

Voter Franchise

State Proposal and Rationale:

It is proposed to make Council electoral rolls align more closely with the State electoral roll.

The State Government aims to simplify the council election process by rolling out the changes in two stages over two election cycles. Only voters on the State electoral roll will automatically be enrolled to vote in council elections. All non-resident people who pay rates would need to apply for enrolment in order to vote.

The rationale is that this proposed reform will eliminate the duplication arising from combining the electoral roll with council's ratepayer records.

Council Response:

Council does not support this proposed reform. It will be essential that any change is both timely and informative to ensure that non-resident ratepayers are aware that they will need to enrol to vote. Being a small rural shire, it is imperative that ratepayers are aware of their right to apply for enrolment as it will impact the elections.

Council is of the view that if a ratepayer lives, works, or contributes to the community socially and economically, they should have the right to vote in the election, not have to opt in, they should have fair and equitable representation as a ratepayer.

Reform 2 – Electoral Structures

Single Member Wards

State Proposal and Rationale:

Representative structures and election processes are to be simplified and made consistent by moving to a single member ward model, unless it is considered impractical to subdivide a Council into wards (large geographical areas and small populations, such as some rural councils).

Council Response:

The Victorian Electoral Commission recently completed a Representation Review of Council's electoral structure. The last two reviews, undertaken in 2007 and 2019 both identified Southern Grampians Shire as functioning most effectively as an un-subdivided electoral structure.

The review was completed in consultation with Council, included extensive community consultation and was based on a robust review of data provided from the Australian Bureau of Statistics, the Victorian electoral roll and other State and local government data sets including mapping and demography expertise.

As part of Council's submission, it commented that the current un-subdivided structure is the best option to provide fair and equitable representation and allows for appropriate accessibility to the community and efficient decision-making.

This view was reiterated by the community through the submission process, reiterating that the current structure is the fairest and most effective in relation to the proportional representation system.

If a single member ward system is implemented, it will threaten the region's sense of community and cohesive approach to decision making and long term planning.

A single ward system encourages parochialism, works against taking a strategic view of the whole shire and would reduce accountability.

Reform 3 – Training

Election Candidates – Mandatory Training

State Proposal and Rationale:

All candidates for council elections will be required to undertake mandatory training as a condition of their candidature to ensure that people nominating as candidates in local council elections understand the level of commitment required to undertake the role.

Council Response:

Council notes that the nature of the mandatory training will be the subject of further consultation with the local government sector and then prescribed in the regulations.

Further, Council notes that the training is not intended as an unnecessary barrier to participation, but given the councillor induction process that is currently in place and the reforms regarding further councillor induction training, Council is concerned that it will be viewed as an unnecessary barrier and deter potential candidates, given Southern Grampians Shire's size, this would negatively impact the Council elections.

Council would also be interested in further information regarding whether the proposed mandatory training is intended to be implemented for the 2020 council elections, who would bear the cost of providing the mandatory training and what the mandatory training will involve.

Councillor Induction Training

State Proposal and Rationale:

Councillors will be required to complete mandatory training which will improve their standards and capabilities to meet the requirements of office.

The training will be arranged by the Chief Executive Officer for councillors within six months of being elected and contain information relating to the role of a Councillor, the Councillor Code of Conduct, conflicts of interest and any other prescribed matters.

Council Response:

Council supports the proposed mandatory induction training and would like the opportunity to work with the local government sector to look at ways to reduce the cost associated with implementing this reform.

Council suggests that rather than having mandatory election candidate training, it could be more administratively and financially viable to wait until the councillors are elected and implement the mandatory training post-election.

Council is also of the view that training and development should be an evolving and constant process throughout a councillors term and that the candidate and induction training could be implemented in a staged approach to learning and development.

Reform 4 – Donation Reform

State Proposal and Rationale:

Improving the integrity and transparency of the donations process by controlling electoral donations and gifts. This will increase community confidence in council decision making by making sure that decisions are made purely on merits.

Council Response:

Council supports the proposed reform, specifically the gift disclosure threshold from \$500 to \$250, a public gift register and gift policy.

Council does question the single donor donation capping at an aggregated amount of \$1000 for Victorian local government elections and the argument for this proposal, noting that the reform proposal states that changes to the electoral campaign donations arrangements in Victorian Parliamentary elections will be extended to local government elections but capping arrangements are different for State and Melbourne City Council.

Reform 5 – Improved Conduct

Prescribed Standards of Conduct

State Proposal and Rationale:

State Government consultation with the local government sector and community groups has revealed that councils need more assistance in developing and enforcing their codes of conduct.

The 2019 Bill will no longer include the Councillor Conduct Principles. Instead it will require each council to adopt a councillor code of conduct that includes standards of conduct prescribed in regulations. The standards will define specific acts and omissions of behaviour that apply to all councillors in all councils.

Council Response:

Council is supportive of the proposed reform and welcomes the opportunity to be consulted during the development of the standards of conduct.

Further, Council notes the State's comments that council's current codes vary in size, scope and content and that the standards will provide a clearer understanding of what is required. It would be appreciated if during the development of the conduct standards, consideration is given to best practice templates to ensure consistency and clarity across councils.

Internal Arbitration Process

State Proposal and Rationale:

The arbitration process will become a legislated process managed by the Principal Councillor Conduct Registrar rather than requiring each council to develop and adopt its own process.

Internal resolution procedures were introduced in 2016 for councils to deal with low-level misconduct locally and to resolve matters more quickly than resorting to Councillor Conduct Panels.

The current Act requires internal resolution procedures to deal with interpersonal disputes as well as allegations of misbehaviours and is viewed as unnecessarily complicated.

Council Response:

Council supports in principle but would welcome the opportunity to be consulted regarding the content of the regulations.

Reform 6 – Community Accountability

Disqualification – Repeated Serious Misconduct

State Proposal and Rationale:

Councillor Conduct Panels hear allegations of serious misconduct against councillors. Serious misconduct can relate to bullying, conflicts of interest, improper direction of council staff, disclosing confidential information, sexual harassment or failing to comply with an arbitration process. If a panel makes a finding of serious misconduct against a councillor twice within eight years, that councillor will be automatically disqualified. A disqualified councillor will be ineligible to contest another council election for the next four years.

Where a councillor acts in ways that seriously inhibits the ability of a council to function effectively or repeatedly acts in ways that are unacceptable in public office it is in the interests of the community that a person who acts in this way can be removed from office.

Council Response:

Council supports the proposal.

Community Initiated Commission of Inquiry (Petition Process)

State Proposal and Rationale:

A Commission of Inquiry must be appointed by the Minister upon receiving a petition signed by eligible voters in the municipal district, whose total numbers are greater than 25 percent of the total enrolment number on the voter's roll prepared at the council's most recent general election. The Minister must have regard to the reasons included in the application for petition.

If the Commission of Inquiry finds that a councillor has significantly caused or contributed to a failure by the council to provide good governance or to comply with good governance direction, the Commission may make a finding that the councillor should be disqualified from being a councillor for four years.

Council Response:

This is a significant reform and does not provide adequate level of detail.

Council's major concerns regarding this proposed reform are as follows:

- What constitutes 'grounds' – noting that an application for a petition will be made to the VEC and will require specific information, including a statement of up to 200 words providing 'grounds' for why a petition is sought. More information is required regarding what constitutes 'grounds',

how much the prescribed fee will be and how the VEC will assess and determine which petitions will be accepted for public notice.

- Health, wellbeing and reputation – the VEC will provide the named council an opportunity to respond to the petition in a 200 word statement before issuing the petition for public notice. Council has a number of concerns; the petition process is viewed by the State as a way of empowering the community but thought needs to be given to the health and wellbeing of councillors and staff and reputational damage that could result from the public notice aspect of this process. Without knowing how the petitions will be assessed prior to being published, Council has concerns whether the public notice and potential damage to reputation will be warranted e.g. can a petition meet the ‘grounds’ if the community is unhappy with a contentious decision that Council has made or will ‘grounds’ constitute a very strict criteria.

The petition process, given the little detail provided, has not considered the repercussions if the petition is not warranted. Social media will have an impact on this process and there is no clear guidance provided regarding the aftermath of the damage, if the Minister receives the petition and does not consider it valid, what is the proposed approach for reversing the damage that will have been made during the 60 day public notice period.

- Other avenues to address misconduct – the reforms outline a new arbitration process and stricter standards of conduct. This is in addition to a multitude of processes that are already in place to address misconduct and Council wonders whether local government will become inundated with confusing processes regarding different ways to address councillor misconduct.
- Legal costs and diversion of Council resources – further information is required regarding who would bear the financial cost if councillor(s) seek legal representation as a result of the petition process and Commission of Inquiry. Would the petition focus on all councillors or individual councillors? Thought needs to be given to what the potential ramifications are for Council considering the potential diversion of resources as a result of this proposed reform.
- Petition signed by 25% of the total enrolment number – no information has been provided as to why this percentage has been chosen. It is also unclear whether the 25% would be based on the current un-subdivided structure or the ward structure. Based on Southern Grampians municipal population of 16,135, this would mean a petition signed by 4,034 people

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could result in a Commission of Inquiry.

Overall Council requires more detail regarding this reform and believes further consultation should occur with the local government sector and communities.