



16 December 2015

Mr Mark Curry
Acting Executive Director
Local Government Victoria,
PO Box 500,
Melbourne, Victoria, 3002

Dear Mark

Submission to Review of Local Government Act 1989

Thank you for the opportunity to make this submission to the Review of the Local Government Act 1989 ('the Act').

I write on behalf of the members of Finpro, the peak body servicing local government finance professionals in Victoria. FinPro is an Incorporated Association with over 400 members representing all Victorian Councils and 5 regional library corporations. We are affiliated with CPA Australia and are represented on its Public Sector Committee. One of the key objectives of FinPro is to provide advocacy for local government practitioners on issues, which affect the industry as a whole, and to act as the focal point of reference by regulatory bodies on financial issues affecting the sector.

Following consultation with our members we offer the following comment for consideration. Our specific recommendations are referenced in the text below and also contained in the Appendix.

Summary position

We welcome this Review and note the extensive number of prescriptive amendments that have been made to the Act since 1989. Whilst the reasons giving rise to each amendment are presumably sound, the combined effect has been an Act that is now weighted towards prescription, to the detriment of the responsiveness of Council's to their particular communities.

We believe that there remains a place for prescriptive provisions to establish, for example, the structure of local government; the common principles of operation and delegation; and processes associated with key, significant decisions. However, as explored below, the current level of prescription serves to reinforce a transactional focus to the detriment of the strategic activities of councils.

For local government to function effectively and efficiently in this dynamic environment, a shift toward accountability that reflects a strategic approach to engagement is vitally important. We submit that the current volume and focus of prescription is not sustainable and can be reduced without sacrificing accountability to our communities. The key in all of this is to strike a balance which retains prescription at those control points which are most strategically significant. (Recommendation 1.)

Chapter 5 – Planning and Reporting

An opportunity exists to strengthen the role of the Strategic Resource Plan (SRP) during the process for adoption of the four year Council Plan. This could be achieved early in each council term by adopting the SRP for the four years of the Council Plan.

As described below the SRP could then be ‘reviewed and revised’ each year thereafter. We submit that such a move would be consistent with a more strategic framework for decision making over the term of each council in the context of the ‘Fair Go Rates System’. 2.

Further explanation is provided below.

Strategic Resource Plan

Section 125(2) of the Act requires that the Council Plan must include a Strategic Resource Plan (SRP). The Council Plan is for a static 4 year period; the SRP addresses a rolling 4 year period. They are only clearly aligned for the first year, from then on there is a mismatch.

This means that in years 2, 3 and 4 the function of the SRP shifts from its initial purpose of articulating resources available for delivery of the Council Plan, to a statement prepared in the context of each subsequent annual budget. Rather than inclusion of the SRP as an appendix to the Council Plan; we therefore believe it would be preferable that the Council Plan be framed with due regard to the context of a longer term SRP.

There is an opportunity for the SRP to play a more significant role as a diagnostic of subsequent internal and external factors that have changed since adoption of the Council Plan. In particular material changes that will further enable, or hinder, the achievement of Council Plan objectives set in year 1. 3.

We would therefore submit that that development of annual budgets should be undertaken from within such a longer term budgeted financial statement framework – and the SRP should not be reduced to an extrapolation of a forward budget resulting from the annual budget.

In the longer term consideration might also be given to extending the term of the SRP to up to a 10 year forecast to ensure longer term ramifications, including borrowings and asset renewal funding requirements are articulated. However such progress would rely on the provision of longer term annual projections by the Department of Treasure and Finance. 4.

Formal Consultation

The public interest would be well served by focusing on the high level accountabilities of the elected council and limiting prescription in the Act of engagement with the community to the strategic level. In particular we support a requirement for more extensive consultation around the SRP prior to or concurrent with adoption of the 4 year council plan. We also submit that the prescribed formal consultation under S223 should be at the commencement of the annual budget process, not at the 'eleventh hour' just prior to adoption. 5. 6.

This would allow a reduced emphasis on the current, very transactional, consultations that occur each year under sections 129 and 223 of the Act in relation to the adoption of the Annual Budget. The overwhelming experience of our members is that this budget consultation process typically yields comment advocating for allocation of funds to particular projects or groups, or comment that the rate increase is excessive.

This dynamic is to the detriment of orderly strategic resource planning and Councils can be encouraged to develop their own less formal consultation plans as they progress through the planning and budgetary processes.

Chapter 6 – Council Rates and Charges

Our members support the proposition that the framework for notification and collection of council rates and charges should be transparent, efficient and effective. Whilst the notion of consistency across all Councils is important, we would support consideration being given to greater flexibility to Councils in the fixing of payment timeframes to include options other than the existing 'four installment' plan. 7.

In relation to the current level of prescription regarding issue of notices for rates and charges contained in, for example, sections 158(4), 163(1C) and 163(4), our members report that the cost to ratepayers associated with printing and posting notices is considerable.

We are now in an environment where many people prefer to receive the invoices for payment via electronic pathways. Subject to appropriate protections we believe that an opportunity is available to explore options for electronic service of notices that are less expensive and reflect advances in technology that have occurred since 1989.

Going further we submit that Councils should be afforded the flexibility to provide incentives for those who elect to receive their statutory notices electronically, consistent with the practice amongst a range of other service authorities. 8.

Chapter 7 – Service Delivery and Financial Decision Making

The current provisions of section 186 of the Act have resulted in a greater level of uniformity across local government in relation to procurement practices. However those same provisions have also brought about a number of unintended consequences and uncertainties.

In relation to existing provisions we submit that threshold limits to determine public notice of \$150,000 (including GST) for contracts for the purchase of goods or services; or \$200,000 (including GST) for contracts for the carrying out of works in section 186 are too low. It is also worth considering having a single threshold limit, rather than separate amounts for the purchase of goods or service and the carrying out of works. There does not appear to be any reasonable explanation for separate threshold amounts.

As a minimum amendment we also submit that the dollar value should increase with CPI or be subject of review at, say, 3 yearly intervals. 9.

The Review could also be used to achieve greater clarity as to whether spend levels include or exclude GST. Also there would be merit in specifying the time period over which the spend levels will apply. A period of two years has been offered as a possible basis for further consultation on this topic. 10.

Going further the statutory emphasis on prescription and compliance beyond the stated thresholds may have adverse affects on factors identified by the Victorian Government Purchasing Board ('the Board') in its *Market Approach Policy* (February 2013), including:-

- participation from the market segment relevant to the procurement activity;
- adoption of a market engagement strategy that is cost effective for buyer and supplier;
- application of a market approach that eliminates barriers to participation by small to medium enterprises and local businesses;
- engagement with potential suppliers in a fair and equitable manner; and
- provision of sufficient time for potential suppliers to prepare a submission taking into account the complexity of the procurement activity and market factors.

We believe that an opportunity exists to link the provisions for exemption for proceeding to a competitive process to better align with the Board policies that which allow for select tendering based on market analysis. Such a market approach framework may well provide a basis for tailoring each procurement process to drive greater competition, raise transparency and deliver better outcomes.

One particular issue deserving of particular consideration relates to for ongoing proprietary computer software licensing and maintenance. Naturally Councils currently market test the strategic purchase of major proprietary software. It might be expected that such decisions would reasonably limit procurement options in respect of, for example, provision of maintenance or additional modules or upgrades over a period of possibly up to 15 years where there is no intent to replace the proprietary system.

However councils are required to tender for software upgrades and license renewals in situations where replacement of existing systems is not contemplated. Conduct of a public tender process under such circumstances can only diminish public confidence in local government procurement processes. We submit that there would be merit in using a transparent evaluation approach as described above to identify such circumstances that may be exempted from the requirement to conduct a public tender process. 12.

Thank you once again for the opportunity to submit to the Review. Our membership is keen to be engaged in this process. I would therefore welcome the opportunity to amplify or clarify any part of this submission, or for further engagement with our membership. To that end please feel free to contact me at shanema@brimbank.vic.gov.au or 0249 4000, or our Executive Officer, Gabrielle Gordon, at gabrielle@finpro.org.au or 0400 114 015.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Shane Marr', with a stylized, cursive script.

Shane Marr
President

Recommendations

1. The current level of prescription in the Act can be reduced without sacrificing accountability to our communities. The overall focus in this review should be to retain prescription at those control points which are most strategically significant.
2. The utility of the Strategic Resource Plan (SRP) can be strengthened by requiring that it be 'adopted' as part of the process for establishment of the four year Council Plan, then 'reviewed' annually each of the following three years.
3. The format of the Strategic Resource Plan be reviewed to provide for identification and reconciliation of material changes to resource levels that will further enable, or hinder, the achievement of Council Plan objectives set in year 1.
4. Consider the implications of extending the forecast period of the SRP to up to 10 years to ensure longer term ramifications are articulated. Noting that such progress would rely on the provision of longer term annual projections by the Department of Treasure and Finance than are currently available.
5. Amend the Act to requirement more extensive consultation in relation to the Strategic Resource Plan prior to or concurrent with adoption of the 4 year Council Plan.
6. The prescribed formal consultation, under sections 129 and 223 of the Act, should be at the commencement, not the conclusion of the annual budget process.
7. In relation to rates and charges give consideration to greater flexibility for Councils in the fixing of payment timeframes, including options other than the existing 'four installment' plan.
8. Explore options that are less expensive and reflect advances in technology for providing or serving notice of rates and charges. Also that Councils be afforded the flexibility to provide incentives for those who elect to receive their statutory notices electronically.
9. Subject to Recommendation 11, below, threshold limits to determine public notice contracts in section 186 are too low. As a minimum amendment the dollar value should increase with CPI or be subject of review at, say, 3 yearly intervals. Further a single threshold amount for goods and services and works be considered.
10. Clarify, in relation to section 186, whether spend levels include or exclude GST; and the time period over which the spend levels apply.
11. Achieve greater competition, heightened transparency and delivery of better outcomes by linking the provisions for procurement, including exemption for tender, to better align with the market approach policies of the Victorian Government Purchasing Board. These policies would allow for selection of procurement approach based on market analysis.
12. Councils are required to tender for software upgrades and license renewals in situations where replacement of existing systems is not contemplated. Conduct of a public tender process under such circumstances can only diminish public confidence in local government procurement processes. We submit that there would be merit in using a transparent evaluation approach as described above to identify such circumstances that may be exempted from the requirement to conduct a public tender process.