

SHIRE OF HARVEY SUBMISSION – PARLIAMENTARY INQUIRY INTO LOCAL GOVERNMENT

The Shire of Harvey provides the following submission to the Select Committee into Local Government. The submission was endorsed by Council at its meeting held on 6th August 2019. Council appreciates the opportunity to provide feedback to the Committee.

The specific matters that the Committee wished to examine are listed as headings below with Council's comments following each heading.

(a) whether the Local Government Act 1995 and related legislation is generally suitable in its scope, construction and application;

The Shire is of the view that the current *Local Government Act 1995* (the Act) requires modernisation and is fully supportive of the present Act Review which is seeking to do this. The Shire made a submission along these lines in the consultation phase of the Act in January 2018 and many of those points remain relevant and some have been acted on. Broadly speaking these points were as follows:

Control of Certain Unvested Facilities - Section 3.53 of the Act

This a Section of the Act which requires deletion as it obligates local governments to take responsibility for unvested lands that it has no connection to.

Automatic Electoral Enrolment for Property Owners – Section 4.30 (1) (c)

A simple change that would streamline the electoral enrolment process.

Electors' General Meeting – Section .5.27

Council has previously requested an amendment to the Act to remove the compulsory requirement to hold Electors' General Meetings.

Gifts and Contributions to Travel – Sections 5.82 and 5.83

It has long been recognised that this area requires considerable updating and changes in this area are understood to be underway.

Conduct of Local Government Elections Electronically

The introduction of Electronic Voting in elections would be a significant advance that if implemented successfully would have a number of key positives for the industry.

(b) the scope of activities of Local Governments;

Tender Threshold - Regulation 11 Local Government (Functions and General) Regulations 1996

The Shire supports an increase to the tender threshold from \$150,000 to \$250,000, which is consistent with the State Government tender threshold. This would allow better responsiveness by local governments when procuring goods and services of a low value.

Regional Subsidiaries

A submission on this matter has previously been forwarded to the Department of Local Government. This submission generally did not support the introduction of Regional Subsidiaries, as in the main as current mechanisms already exist for regional local government cooperation. The Shire of Harvey actively participates in a number of regional organisation including a formal Regional Local Government with the City of Bunbury.

Local Government (Functions and General) Regulations 1996 – Section 16 (3) (c)

It is recommended that the issue of confidentiality around Tenders be reviewed. Currently members of the public are permitted to be at a Tender opening, however are prevented from knowing the key piece of information, the price, of Tenders received. A fully open and accountable process is recommended whereby the consideration (price) is disclosed at the opening, and then again in the Council report, negating the need for a confidential item (and the accompanying accusations of Council trying to hide something).

(c) the role of the Department of State administering the Local Government Act 1995 and related legislation;

The role of the Department of Local Government is pivotal in respect of the industry providing good governance to the communities that they serve. It is fundamental that the Department is adequately resourced to provide sound and measured advice and programs that can assist the industry.

(d) the role of Elected Members and Chief Executive Officers/employees and whether these are clearly defined, delineated, understood and accepted;

Local Government (Rules of Conduct) Regulations 2007

The current legislation is inadequate and has been proven to be ineffective in dealing with elected member behaviour. While there have been no issues at the Shire of Harvey unfortunately the industry as a whole has suffered as a result of isolated issues at other local governments and the inability to deal with them in an effective and timely manner.

Official conduct legislation that governs the behaviour of elected members in a fair and impartial manner with appropriate enforceable penalties is what is required, particularly when it comes to individual Councillors.

Penalties such as a small newspaper advertisement offering a token and forced apology often more than a year after any said incident is insufficient as a deterrent for poor conduct. Additionally the Code of Conduct required to be adopted by Council pursuant to Section 5.103 of the Act is not enforceable to elected members in terms of realistic penalty when a breach occurs, rendering the document effective only as disciplinary means for employees of Council. Councillors are not employees.

It is noted that the amendments to the Minor Breach System have been developed.

(e) the funding and financial management of Local Governments; and

Rating Exemptions for Charitable Purposes – Section 6.26(2)(g))

Exemptions under this section of the Act have extended beyond the original intention and now provide rating exemptions for non-charitable purposes, which increase the rate burden to other ratepayers. This Shire has requested that the charitable organisations section of the Act be amended to eliminate exemptions for commercial (non-charitable) business activities of charitable organisations.

Exemption from AASB 124 (Reg. 4 Local Government (Financial Management) Regulations 1996)

Regulation 4 of the *Local Government (Financial Management) Regulations 1996* provides a mechanism for an exemption from the Australian Accounting Standard. Regulation 16 is an example of the use of this mechanism, relieving local governments from the requirement to value land under roads.

The Shire supports an amendment that would allow an exemption from the implementation of AASB 124 'Related Party Transactions' due to the current provisions in the Act on Declarations of Interest at meetings and in Primary and Annual returns. This is regarded as providing appropriate material declaration and disclosure of interests associated with the function of local government.

(f) any other related matters the Select Committee identifies as worthy of examination and Report.

No other matters to raise.

Annie Riordan
Chief Executive Officer

6th August 2019