



Victorian
Chamber of Commerce
and Industry



Directions for a new Local Government Act

Victorian Chamber of Commerce and
Industry Submission

September 2016

Introduction

The Victorian Chamber of Commerce and Industry welcomes the opportunity to make a submission to the review of the *Local Government Act 1989*. This presents a valuable opportunity to undertake the first comprehensive review of the Act in a quarter of a century.

The review responds to calls from the local government sector for legislative reform after multiple legislative amendments over time. We support the opportunity to streamline and update the legislation to ensure existing strengths are built on and local government in Victoria is characterised by accountable and high performing councils and actively engaged communities across the state.

With a large and diverse membership base of small, medium and large-sized businesses across all industry sectors as well as many Victorian councils, the Victorian Chamber is Victoria's leading employer association. Our broad representation means we can speak authoritatively on behalf of local government and Victorian business.

The Victorian Chamber provides a range of services to our local government members, with expert workplace relations assistance being a key focus. We also provide local governments with tailored learning and development opportunities.

We work closely with local government economic development teams to increase opportunities for businesses and partner with local government tourism teams and Visitor Information Centres to encourage a strong visitor economy through our Victoria Tourism Industry Council.

Of the ten major reform directions canvassed in the directions paper, our submission focuses on those relating to voting in local government elections and employment matters.

To inform our commentary on proposed changes relating to employment matters, our submission has been developed in consultation with many of our local government members.

Voting in Local Government Elections

The Victorian Chamber has significant concern over proposed changes to who can vote in local government elections.

Currently, all property owners (regardless of where they live) are eligible to vote in local council elections. In addition, if rates are paid by a tenant under a lease, the tenant can vote if they are enrolled in place of the owner.

The directions paper proposes two options for changing voting arrangements:

- Option 1: Aligning voting rights in local government elections with state government elections. This would effectively remove the right of business owners to vote in local government elections unless they also live in the local area.
- Option 2: Maintaining current voting entitlements but requiring property owners to opt-in to voting in local government elections rather than being automatically enrolled as is currently the case.

Option 1 represents the most problematic proposal for Victorian Chamber members.

Business is a significant contributor to local communities across the state, generating economic activity, trade, employment and investment.

This proposal would remove the right for business owners to have a say in how their local communities are run. Businesses pay rates and want to have a say in how monies are spent. Business interests are also significantly impacted by local government services and amenities.

We note the rationale for the proposed change is based on the argument that:

- Only around half of enrolled property-franchise voters participate in local government elections (low participation).
- Voting entitlements in other (state and federal) elections are aligned with the state roll.
- The inclusion of property-franchise voters and those on the state roll has led to inaccuracies in council rolls, including the possibility of multiple enrolments.

The Victorian Chamber does not consider that these are valid justifications for such a change.

If there is concern about low business voter participation, this can be remedied by information campaigns, for example, that remind businesses why it is important that they have their say.

Inaccuracies between the details of property-franchise voters and the state roll can be remedied by better data management and filtering.

Neither reason is sufficient to justify the exclusion of property owners from local government elections.

Option 2, which would require non-resident property owners to opt in to voting and maintain the ability for business tenants to enrol in place of the owner, is preferable to option 1 as it would not disenfranchise business. However, it would require them to undertake an additional administrative step before being able to vote.

Workforce restructures

The Victorian Chamber considers the proposal to require council Chief Executive Officers (CEO's) to consult with employees regarding a major organisational restructure represents an unnecessary impost. The proposal also duplicates other existing requirements.

Currently, there are a range of legislative mechanisms and safeguards in place which specify how and when an employer must consult with employees in the event of a major workplace change, such as a restructure. As one of the largest employers in the state, councils need to comply with consultation provisions in one or more of the:

- *Fair Work Act 2009* (Cth) (s 205 Enterprise agreements to include a consultation term)
- *Victorian Local Government Award 2015* (s 8.1 Consultation regarding major workplace change)
- *Nurses (ANMF – Victorian Local Government) Award 2015* (s 8.1 Consultation regarding major workplace change)
- *Victorian Local Government (Early Childhood Education Employees) Award 2016* (s 8.1 Consultation regarding major workplace change)
- Local government individual Enterprise Agreements which must include a clause relating to consultation regarding major workplace change, as required by the Fair Work Act
- Pre-modern *Victorian Local Authorities Award 2001* which remains attached to the majority of Victorian council's Enterprise Agreements (s 12 Consultation and Dispute Resolution Procedures).

In addition to the above, councils may also be required to consider the *Victorian Equal Opportunity Act 2010* and the *Disability Discrimination Act 1992* (Cth) should a proposed restructure impact on employees with a disability.

The Victorian Chamber considers that the proposal to require council CEO's to consult with employees regarding a major organisational restructure represents an unnecessary impost and duplicates existing requirements in employment law which provide appropriate safeguards for employees in the event of an organisational change.

Similar to state government, Victorian councils already hold themselves to high employment standards and model good employment practices, such as employee consultation. They will continue to do so without a legislative requirement.

Workforce plans

The directions paper also proposes a new requirement for council CEO's to establish a workforce plan which describes the council's staffing structure, including future needs, that can only be changed in consultation with staff.

This proposal is problematic for a number of reasons.

It is an additional regulatory burden that local government human resource teams would need to develop and manage. Many small regional councils operate with limited human resources support, often only one or two employees. Such a requirement would place significant pressure on already stretched resources.

The local government sector already demonstrates high employment standards. Councils do not make unnecessary changes to the structure of their organisations without good reason. Changes can be necessary in response to external factors, such as rate capping.

There are also already a range of legislative mechanisms that provide safeguards for employees in the event of a change to a council's staffing structure. For instance, in addition to the consultation requirements outlined above, to satisfy the definition of a genuine redundancy under the Fair Work Act councils must offer employees suitable redeployment opportunities. Council redundancy entitlements are also some of the most generous in the country.

The Victorian Chamber therefore considers there is no justification for placing another unnecessary burden on councils to maintain a workforce plan. Any additional requirement to consult with employees will duplicate existing requirements in employment law.

Removing employment matters from the Local Government Act

The Victorian Chamber supports the proposal in the directions paper to remove matters about employing council staff from the Local Government Act.

Currently, the Act contains prescriptive detail on recruitment practices and the employment of certain council staff. For instance, the Act currently requires councils to advertise senior officer positions in a newspaper circulating generally throughout Victoria. As advertisers are aware of this mandatory requirement, councils have indicated that they incur higher charges associated with publishing advertisements.

The Act currently outlines employment principles councils must comply with when recruiting senior officers. Specifically, the Act requires councils to make recruitment decisions based on merit. It also specifies that employees must be treated fairly and reasonably and specifies that equal employment opportunity is provided. This is a clear duplication of existing requirements in the Fair Work and Equal Opportunity Acts, as well as accepted employment practices. It also replicates matters that are dealt with in council Enterprise Agreements and internal policies and procedures.

The Victorian Chamber supports the proposal to remove matters about employing council staff from the Local Government Act on the basis that current prescriptive requirements duplicate existing employment law and widely accepted standards of employment practice.

Continued engagement

The Victorian Chamber looks forward to continuing to work with the Victorian Government and our local government members on the finalisation of this review and the implementation of its findings.