



Shire of Cunderdin

Incorporating the districts of Cunderdin and Meckering

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20th July 2011

Ms Hannah Gough
Committee Clerk
Standing Committee on Legislation Committee
Legislative Council
Parliament House
Perth WA 6000

Dear Ms Gough

INQUIRY INTO REGIONAL LOCAL GOVERNMENT AMENDMENT (REGIONAL SUBSIDIAIRES) BILL 2010

The Regional Subsidiary Model has attractive features such as flexibility, the use of individual Charters as a primary regulatory source, and relatively light compliance and regulatory burdens that apply to it, when comparing it to the Regional Local Governments that can be established pursuant to the Local Government Act 1995.

Council has been a member of the South East Avon Voluntary Regional Organisation of Councils (SEAVROC) which includes the local governments of York, Quairading, Cunderdin, Brookton and Beverley, since May 2005. Over this time we have undertaken a number of joint projects which has provided first-hand experience with the difficulties of operating on a regional level under a voluntary basis, without the benefit of a jointly owned and controlled legal entity (Subsidiary) to act on behalf of the regional group.

A typical example of the problems faced using a voluntary model is something as simple as the acceptance and acquittal of grant funding for a joint project. The problem being that a single local government must nominate itself (host) and be responsible for all other members of the group even though the funding may be provided directly to each local via the host council. In the past generally if a group submission is made the funding body will only contract with one party. Eg The Department of Local Government currently will only provide structural reform funding to one party, in the case of SEAVROC, the Shire of York.

Another example that highlighted the problems of working on a voluntary basis was group/bulk tendering for the supply of road materials (bitumen & asphalt). The quantities were aggregated to try and achieve a more competitive rate based on the total quantity. However, as there was not one entity to act on behalf of the group, the pricing had to be such that it could be accepted by each local government individually, in accordance with the Act. As the tendered rates supplied reflected the individual quantities for each shire it defeated the purpose of combining the quantities.

Whilst Regional Local Governments may be a viable option for the metropolitan area where there is a much larger population base, they are resource hungry and not a suitable option for smaller rural local governments that may only wish to use the subsidiary to delivery one-off specialised projects or services.

Council strongly believes that the Regional Subsidiary model offers local government a real viable alternative to the complexities of operating a Regional Local Government under current legislation (which essentially introduces another local government to the mix). Council is of the view that due to “RED TAPE” issues with Regional Local Governments greater costs & resource burdens exist and for that reason consider them to be a deterrent to achieving significant reform benefits that may otherwise materialise on a regional basis by working collaboratively.

Currently a local government cannot form or take part in forming, or acquire an interest giving it the control of an incorporated company or any other body corporate except a regional local government unless it is permitted to do so by regulations.

The South Australian and the Northern Territory Local Government Acts allow local governments to form subsidiaries to carry out the functions related to local government on behalf of the constituent Councils. Each must have a Constitution or Charter and be approved by the relevant Minister. The South Australian Act specifies by Schedule those things that must be included in the constitution or charter whereas the Northern Territory merely provides for the approval of the Minister.

SEAVROC in conjunction with the Department of Local Government commissioned a study to be undertaken to review the various structural reform models used around Australia. Mr Neil Douglas in his study titled “*Feasibility Study of Regional Collaborative Models for SEAVROC Local Governments*” noted the following points when analysing the different corporate models:

“There are three particularly attractive features of the regional subsidiary model. The first is that the regulatory and compliance burdens imposed by the Act itself are light – at least when compared with the regulatory burdens imposed on local governments and regional local governments in WA.”

The second attraction of the regional subsidiary model is that much of the regulation of a regional subsidiary is left to each individual charter. There are two advantages with this. One is that neither the original charter nor any amendments require legislative intervention. The second is that it ensures that, where appropriate, flexible arrangements can apply to different regional subsidiaries to accommodate the inevitable differences that would arise between, for example, a regional subsidiary that is responsible for the operation of a large commercial enterprise, compared with a regional subsidiary that is responsible for a broad range of service delivery functions on behalf of a number of rural local governments.

The third attraction of the regional subsidiary model is that, in several respects, the details of the regulatory framework that apply to it appear to be particularly suited to the type of regional body proposed by SEAVROC members. These aspects include:

An important point to mention is that whilst the Subsidiary has much more flexibility in its operations in relation to the LG Act, the Minister for Local Government under the SA and the model we were promoting, would have total control over what was placed in the Charter (eg reporting, forward planning, budgeting requirements.....etc), and still have a number of other overseeing and intervening powers to ensure that appropriate accountability measures were in place.

Accountability is covered by:-

- Member accountability through the current LG Act, report & compliance requirements on an individual basis.
- Operation as per an establishment “Charter”.
- The Minister for Local Government approves the “Charter” & can add or delete conditions.
- LG Dept & Minister can terminate an agreement at any time.

Additionally another important difference between the Subsidiary model and regional local government, is under the Subsidiary model the member council’s jointly control the entity and can direct its business, as where a Regional Local Government is its own creature and makes its own decision on behalf of the member council’s.

The Subsidiary model provides a legal, more flexible, practical, option for co-operative project management without duplicating the compliance requirements that the individual local governments already have to deal with in their own rights. It also provides the ideal entity for the cooperative transition groups or for resource sharing or joint projects for our rural & remote areas, where a forced amalgamation model is not likely to produce operational or service delivery benefits.

This is a request for the subsidiary to be an option within the Act - it is not a compulsory component. The Shire of Cunderdin & other SEAVROC member Councils believe the subsidiary model offers the best option for shared project management & is an essential part of the LG reform package.

Should you require any further information on this matter, please do not hesitate to contact either Cr Graham Cooper (SEAVROC Chairman), Mr Dominic Carbone (SEAVROC Executive Officer) or myself on 9635 1005.

Yours sincerely



G M (Gary Tuffin)
Chief Executive Officer