15 June 2011

Mr Edward O'Donohue MLC
Chairperson
Scrutiny of Acts and Regulations Committee
Parliament of Victoria
MELBOURNE 3002

Dear Mr O'Donohue

Re: Charter of Human Rights Review 2011

Thank you for the opportunity to comment on the review of the Charter of Human Rights. The City of Stonnington is committed to protecting human rights and recognises that everyone has the right to participate in, and contribute to, society and our community.

Consideration has been given to the terms of reference and our responses are provided below.

1. Whether the Charter should include additional human rights under the Charter, including but not limited to, rights under the:
   (a) International Covenant on Economic, Social and Cultural Rights;
   (b) Convention on the Rights of the Child; and
   (c) Convention on the Elimination of All Forms of Discrimination against Women?

Council recognises that although the Charter protects a large number of rights it does not cover all human rights. Council agrees that economic, social and cultural rights are basic human needs and the protection of the rights of children and the elimination of discrimination against women are significant issues.

2. Whether the right to self-determination should be included in the Charter?

Council has not had the opportunity to consider the issue of self determination fully and has no formal position.

3. Whether there should be mandatory regular auditing of public authorities to assess compliance with human rights?

Council currently reports annually to the Victorian Equal Opportunity and Human Rights Commission in the form of an on-line questionnaire. The questionnaire, of over 40 questions, provides the Commission with a summary of Council's progress in implementing and embedding the Charter across the organisation.
Council has always considered the survey mandatory and believes this level of reporting provides accountability and transparency. Local government is already required to report on a variety of other laws including Freedom of Information, Occupational Health and Safety, Information Privacy, Whistleblower and Equal Opportunity to cite only a few. Reporting is resource intensive and any additional Charter reporting requirements would be a burden.

4. **Whether the Charter should include further provisions with respect to legal proceedings that may be brought or remedies that may be awarded in relation to acts or decisions of public authorities made unlawful by the Charter?**

Whilst the Charter currently provides protection for a vast array of rights, remedies for breaches of the rights are dependent upon other legislation (i.e. Equal Opportunity Act) and consideration should be given to whether other legislation already provides protection and determine whether inclusion in the Charter would have any increased benefit.

5. **What have been the effects of the Charter on:**
   (a) the development and drafting of statutory provisions;
   (b) the consideration of statutory provisions by Parliament;
   (c) the provision of services, and the performance of other functions, by public authorities;
   (d) litigation and the roles and functioning of courts and tribunals; and
   (e) the availability to Victorians of accessible, just and timely remedies for infringements of rights?

Compliance with the Charter of Human Rights has required an investment of Council financial and people resources. Council has reviewed its local laws and procedures, introduced Human Rights compatibility statements in the development of policy and programs, implemented training and education programs and undertake the necessary evaluation when preparing reports.

Council has used the expertise of the Victorian Equal Opportunity and Human Rights Commission to conduct staff training and to seek advice regarding human rights issues. Specialist consultative sessions with VEOHRC staff may benefit Council business units with specific needs and questions regarding their clients’ human rights. Additional State government funding may enable these services to be made more readily available.

The difficulty is in applying the legislation – Council staff understand that we already have systems and processes in place that address the human rights principles through other legislation but getting staff to then do further analysis of the human rights principles means applying an unnecessary additional layer.

Conciliation of breaches by the VEOHRC, similar to dispute settlement currently undertaken for equal opportunity matters, could reduce pressure on the courts and resolve human rights breaches in a more timely and cost effective manner.

6. **What if any, have been the overall benefits and costs of the Charter?**

We believe that Council has always made decisions based on the best possible outcomes for the community and that consideration has always been given to the rights of individuals even prior to the introduction of the Charter. It is written into the Local Government Act and other legislation, starting with equity and access. However the Charter has raised the profile of human rights and ensured that rights are formally considered in Council decision making.
Compliance with the Charter has come at a cost for Council. Local law reviews, internal compliance assessment reviews, staff and Councillor training and reviews of current policies and procedures have required resource and financial commitment from Council.

7. **What options are there for reform or improvement of the regime for protecting and upholding rights and responsibilities in Victoria?**

Council has not formed an opinion of this question.

I trust that this assists you in your submission to the review of the Charter of Human Rights. Should you have any questions please contact Lisa Stafford, Senior Corporate and Social Planner on 8290 1172 or myself on 8290 1305.

Yours sincerely

[Signature]

Fabienne Thewlis
Manager Governance and Corporate Support