Mr Edward O’Donchue, MLC
Chairperson
Scrutiny of Acts and Regulations Committee
Parliament House
Spring Street
EAST MELBOURNE VIC 3002

Dear Mr O’Donchue


The City of Greater Geelong Council (COGG) welcomes the review of the Charter of Human Rights and Responsibilities Act 2006 (the Act), and congratulates the Attorney-General on establishing a Parliamentary Committee to undertake such a review.

The Human Rights Charter provides the framework and sets a clear purpose for Council to deliver its commitments to ‘communities’ within its core business. Through responsible planning and land use recommendations, considerations for affordable housing, housing to meet the growing needs of citizens, economic developments that enhance social capacity, services that enhance family and individual’s quality of life and well being and greater capacity to build more liveable communities.

Attached is the CoGG submission to the review. This submission provides an overview of the importance of the Charter to Council planning, operations and service delivery. The opportunity has been taken to highlight the inclusion of the rights of people with disabilities in the Charter. The attachment provides comprehensive feedback from the Council’s Disability Advisory Committee.

If you require further information or wish to discuss this submission please contact the Community Development Unit Coordinator, Jane Wager on 5272 4762.

Yours sincerely

[Signature]

JENNY MCMAHON
GENERAL MANAGER

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Attach: City of Greater Geelong submission to the review of the Charter of Human Rights and Responsibilities Act 2006
City of Greater Geelong submission

INQUIRY INTO THE CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES

The intent of the introduction of the Human Rights Charter into Victorian legislation was to ensure that the human rights of all citizens were better protected, and to ensure that Victoria continued to develop as a tolerant society which respects diversity. As the first level of government, the closest to the people, local government has a significant role in developing strong resilient communities that are not only tolerant but respectful of each others human rights regardless of age, gender, culture or sexuality.

The City of Greater Geelong Council (COGG) welcomes the review of the Charter of Human Rights and Responsibilities Act 2006 (the Act), and congratulates the Attorney-General on establishing a Parliamentary Committee to undertake such a review.

Whilst all Local Governments are required to comply with the Act, COGG believes the Human Rights Charter provides it with the framework to view its activities in both service delivery and policy areas through a human rights lens. The existence of the Charter enhances Council's engagement with the community by ensuring that all forms of engagement are conducted in a way which is respectful of all members of the community. The Charter is a constant reminder to Council of the importance of ensuring the rights of all those living within the community are upheld, not only in the provision of all services but also in the development and implementation of policy.

Through policies and procedures adopted by Council, the human rights of citizens and others are at the centre of its decision making. This has improved Council's service delivery through transparency and accountability, making for a better result for individuals and the community overall.

Council's strategic planning guidelines and policy documents including the Customer Service Strategy, City Plan, Disability Action Plan and Health and Wellbeing Plan have all been developed in a consistent way within both the legislative requirements and more importantly reflecting the intent of the Act and Charter.

In Australia, many citizens would believe that their rights are well protected because they have never been threatened. However, for many new citizens this is not the case. In many communities where the gap between those experiencing disadvantage and advantage is growing there is a greater importance by governments to focus on the economic, social and cultural rights of all citizens.

This applies to the significant number of older adults who are living on fixed limited incomes. We are concerned about ongoing income and food security, appropriate concessions for essential services and the need for additional social housing to alleviate the stress of those who are renting in the private rental market.

The discussion paper considers the inclusion of the rights of people with disabilities in the Charter. Council's Disability Advisory Committee has read and discussed the paper. Their feedback is provided as attachment 1.

COGG's commitment to Human Rights goes much further than merely compliance of the legislation. COGG is committed to the retention of the Human Rights Charter and welcomes any enhancements which will ensure it is further embedded into the workings not only of local governments but all levels of government.

Within the City of Greater Geelong a Community can be defined by its geographical boundaries or as groups of people who share a common interest or identity. A strong vibrant community is one that has and supports social networks, creates economic
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advantage, shares common values, allows for and encourages cultural and social expression, cares for its people and strives for equitable civic participation.

The Human Rights Charter provides the framework and sets a clear purpose for Council to deliver its commitments to 'communities' within its core business. Through responsible planning and land use recommendations, considerations for affordable housing, housing to meet the growing needs of citizens, economic developments that enhance social capacity, services that enhance family and individual's quality of life and well being and greater capacity to build more liveable communities.
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The Victorian Equal Opportunity & Human Rights Commission “Talking Rights: consulting with Victorians about the rights of people with disabilities and the Charter”

The Disability Advisory Committee (DAC) is in agreement with 'Possible Amendments to the Charter' identified on pages 36 -38. Particular comments we would like to make are:

**Accessibility**
The ‘Talking Rights’ document was supplied only in a PDF format, which is therefore not accessible to persons with a vision impairment who utilise a screen reader. This impacted on DAC members being able to read the document via a screen reader such as Window Eyes or Jaws, and as the document contained a table and columns this likewise was a barrier to being able to make comment.

**Reference to disability**
The Charter will preferably make more frequent direct reference to the rights of vulnerable persons and directly name disability and in particular mental health issues, as this is an area sometimes overlooked.

**Affirmation of possible amendments to the Charter**
Amendment 2 on page 36. Review section 7 of the Charter, the general limitations clause, which provides that all human rights in the Charter can be subject to limitations if the limitations are reasonable, necessary, proportionate and justified. This review should be done in the context of Article 4 of the International Covenant on Civil and Political Rights and the long-standing classification of certain rights as absolute rights allowing no limitation under any circumstances.

Comment: Without more information and being able to have an informed discussion on where the impact of such limitations lie, this item should be held in abeyance with the opportunity to give further informed opinion

Amendment 4 on page 37. Clarify the application of human rights by amending section 6(1):

Only persons have human rights. All persons have the human rights set out in Part 2. While all persons have these rights, it is recognised that some persons in society are particularly vulnerable and extra measures may be needed to ensure they can enjoy their rights on an equal basis to others. This includes, but is not limited to, persons with disabilities, children, women, older persons and Aboriginal persons.

Comment: Strengthening or rewording of ‘extra measures’ required in order to emphasise the potential to give maximum support to vulnerable persons

Amendment 5 on page 37. Clarify the obligation on public authorities by amending section 38(1):

Attachment 1: CoGG Disability Advisory Committee feedback
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Subject to this section, it is unlawful for a public authority to act in a way that is incompatible with a human right or, in making a decision, to fail to give proper consideration to a relevant human right. When acting or making decisions, public authorities must give special consideration to the human rights of vulnerable persons including, but not limited to, persons with disabilities, children, women, older persons and Aboriginal persons to ensure they are able to enjoy their rights on an equal basis to others.

Comment: More emphasis or description to be given to ‘special consideration’

General Comments

Context


“The rights of persons with disabilities in Victoria are protected under the Charter equally with all other Victorians. There is no specific mention of disabilities in the Charter, although the Charter does say that discrimination has the same meaning as it does in the Equal Opportunity Act, which includes ‘impairment’ as a protected attribute”

Relevant legislation

- Equal Opportunity Act
- Disability Act 2006.
- Mental Health Act 1986
- Complaints about breach of rights under the Charter are raised directly with the public authority concerned
- Victorian Ombudsman - The Ombudsman is the only direct complaints mechanism.


The Disability Advisory Committee raised some areas that they felt were of concern and required amendment to address breaches of human rights, in particular people with a disability. These areas identified from the position paper were:

1. Accountability. Mandatory compliance reporting to help track the progress of government and ensure transparency ... an integrated reporting framework would not be an additional burden on government but would ensure accountability and transparency to the community.

2. Audit and review. A human rights audit function which allows the commission to review public authorities for human rights compliance.

Attachment 1: CoGG Disability Advisory Committee feedback
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3. Having a means for the Human Rights Commission to offer a support function, to assist agencies, organisations or individuals in resolving practical application of the Charter in their practice or documentation or to undertake an audit of practices.

4. Resolution of issues. Outcomes that contain consequences. As the previous comment, having the legislative ability as a last consequence to enforce compliance where it has been proven that a breach of the Charter has occurred. This is particularly relevant when people with disability have initiated a concern or complaint, perhaps through the Disability Services Commissioner, and the organisation concerned has not been compliant with the negotiated outcome.

5. Right of action. Ability to seek recourse against government for breaches of human rights eg contract or negligence.