

## CITY OF CHARLES SURT

### COUNCIL MEETING 9 APRIL 2018

#### DEPUTATION ON BEHALF OF THE COASTAL ECOLOGY PROTECTION GROUP

#### SPEAKING NOTES

#### TOM CROMPTON - BOTTEN LEVINSON LAWYERS

1. The Supreme Court was highly critical of the consultation processes carried on by the Council as part of the Coast Park Project between Grange - Semaphore Park.
2. CEPG has many hundreds of members who are ratepayers of the Council and who reside in various locations across the CCS area and elsewhere.
3. Some members of the CEPG are here tonight and will make deputations.
4. CEPG made a written submission about the Council's draft public consultation policy (**Draft PCP**) on 28 February 2018 via this firm.
5. Clearly there is substantial interest in the Draft PCP following the events in the Supreme Court last year.

#### **CEPG's position**

6. CEPG is most concerned about the apparently unapologetic intention to adopt the bare minimum consultation requirements in the Draft PCP.
7. Whilst the CEPG acknowledges that some amendments have been made to the PCP following the written submission, those amendments in their view only pay "lip service" to the matters raised in the written submissions.
8. CEPG reminds the Council of the principal functions and roles of a Council that are established in ss 6 and 7 of the *Local Government Act 1999 (LG Act)* and the principles to be observed by Councils set out in section 8 of the Act.

- 8.1 HH Justice Blue found that those principles to be observed by Councils in s 8 are objective considerations.
- 8.2 Section 8 is expressed in mandatory terms. It evinces a clear legislative intention that, in performing its functions under sections 6 and 7, a council must have regard to the impact of its actions on, amongst other things:
  - 8.2.1 provide open, responsive and accountable government;
  - 8.2.2 be responsive to the needs, interests and aspirations of individuals and groups within its community;;
  - 8.2.3 give due weight, in all its plans, policies and activities, to regional, State and national objectives and strategies concerning the economic, social, physical and environmental development and management of the community;
  - 8.2.4 achieve and maintain standards of good public administration
9. CEPG says that the Draft PCP in its current form is still not consistent with these mandatory and important principles to be observed by all Councils.
10. The reason for this, in the CEPG's view, is the openly-admitted strategy of adopting the bare minimums stipulated by the LG Act and no more than that.
11. This strategy is made clear throughout the Council's agenda report by its Community Engagement Co-ordinator for item 6.34 for tonight's meeting.
12. The Council's strategy does not in my submission adhere to the principles required to be observed by Councils generally, and particularly those principles relating to the preparation of Council policies.
13. With greatest of respect, adhering to the bare minimum required by statute or very close to it, as the current draft PCP does, tends to defeat the purpose of having a PCP in the first place. It does not

generate any trust in the Council by its constituents and rate payers.

14. The Council ought to recognise that part of the rationale of an open policy such as its PCP is to instil confidence in its ratepayers and affected persons that the Council has an appropriate system in place to ensure that full and proper consultation is given to affected persons.
15. Simply delegating absolute discretionary power to the CEO with minimal detail on what principles should guide that discretion fails to instil ratepayers with any trust or confidence and further, in my submission, fails to adhere to the principles required of the Council by the LG Act.
16. The Council should, at the very least, adopt a more specific approach to its PCP. It should:
  - 16.1 adopt a far more detail approach to discretionary consultation in Part 3, including by expressly adopting the provisions of the LGA's Community Engagement Framework (**LGA CEF**) and the internationally-recognised IAP 2 principles which exist and are expressly recognised in the current policy.
  - 16.2 adopt the lessons learned via the judicial review, and adopt a system of further consultation where there are material changes to projects or actions that materially affect members of the community that were initially consulted.
  - 16.3 provide a far more detailed community engagement strategy within the PCP itself to
17. The LGA CEF and IAP 2 principles are a good start, but far more work and detail is required, to ensure that the PCP remains a meaningful document that instils trust and confidence in this Council and its future decision making.

## Summary

18. This is an opportunity to get the PCP right and a lot more detailed consideration ought to be given to the submissions that have been received, to adopt a reasonably detailed approach to public consultation that goes beyond the bare statutory minimums.