

## Submission to Discussion Paper

Name	Mrs. Christine Pruneau
Suburb	Woodend, Victoria
Age*	
Gender*	

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If you work in an organisation/council, please provide the following information:

Organisation/council name:	Macedon Ranges Residents' Association Inc
Position/job title	Secretary
Are you providing this submission on behalf of yourself or the organisation?	<del>Myself</del> / <u>Organisation</u>

On the following pages are questions on each chapter of the discussion paper to assist you in the preparation of your submission. In addition, there is space at the end of the document to add your own views/comments on any matters relating to the Local Government Act review.

## Discussion paper questions

### Chapter 2 – The role of councils

Responses:

#### 1. What should the key roles and functions of council be?

- A. ***Not entrepreneurs/investors/developers/board of directors/real estate agents/brokers/secret societies/bullies.*** Some Councils think they can use ratepayers' money to bankroll activities and changes that benefit commercial interests, individuals, friends or even themselves (at the expense of not funding services and improvements that genuinely benefit the broader community), without accountability, transparency or accessibility, while concurrently actively shutting out the community. The ability to apply ratepayers' funds and use Council powers to advantage individuals, friends of councillors/officers and other interests without transparency must end.
- B. ***"Serving community needs"*** requires higher definition to make it clear it does not include making secret deals (for example, for hotels, conference centres, equine centres, rezoning land, subdivision or whatever economic development deal walks in the door, etc), side-stepping proper process, hiding and misrepresenting what's happening, and blocking community from knowing or accessing relevant information.
- C. ***Most ratepayers want basic issues*** – roads, rates, rubbish - to be Council priorities, with meaningful consultation - and community endorsement - for everything.
- D. Councils should also be responsible for Council information and maintaining historical Council records, and ensuring accessibility to these. All documents relied on in Council decision-making must be public documents, and residents should not have to obtain information made freely available under Acts of Parliament through FOI or upon payment of a fee.

#### 2. Does describing the key objectives, roles and functions of councils in the *Local Government Act 1989* ('the Act') assist councillors, council staff and members of the community understand the role that councils play? Should these key objectives, roles and functions be retained in the Act or revised in any way?

- A. Retain key roles, functions and objectives in the Act. It is important from a community perspective to have access to these, and know their source/weight.
- B. Some are too broad and can be misapplied for purposes and actions other than as the Act intended. Review and make very clear.

**3. What powers are required by councils to perform these roles and functions? Should there be any limitations to council powers?**

- A. Limitations: definitely, yes. Not as many powers as they have today.
- B. The example UK model IS NOT SUPPORTED.
- C. Councillors **and** the CEO and senior officers, must be made more accountable, with crystal clear legislative expectations that they are not there to run the show in isolation of the community, or represent their friends', development/real estate or promote their personal interests. They are there to represent and act in the interests of, and be constantly open and answerable to, the whole community. Any current powers that allow any deviation from this principle should be revoked.
- D. "Tick-box" reporting needs re-evaluation e.g. ticking the box that you *have* a Consultation Framework is meaningless without knowing its quality, or if it is actually used, or used well.

**4. Which provisions in the Act should be normative (setting out desirable behaviour) general (setting out broad principles to be followed) and which should set out prescriptive (detailed) requirements?**

- A. "Guidelines" aren't worth the paper they are written on, no matter how good they are. They are, and are seen as, not mandatory, and in any event who is the 'gatekeeper'? Who will act if they are breached?
- B. The more definition, and clear articulation of limits to a council's / councillor's / CEO's powers, the better.
- C. Enabling provisions must certainly be narrowly focused and clear enough for a breach to be identifiable and actionable.
- D. Expand compliance requirements to staff, particularly the CEO and senior staff. The people don't elect a CEO, and that person must not be allowed to assume the role of both policy-implementer *and* policy-maker. A CEO and senior officers are public servants, not the people 'in charge'. Some need to be reminded of that.

**5. Should the legislation provide consequences such as penalties or sanctions, for any non-compliance with either the general and prescriptive provisions? If so, what form should these take?**

- A. Penalties and sanctions – definitely yes. Imprisonment.
- B. Introduce a demerit points system (similar to road rules) for Councils, officers and Councillors for breaches of behaviour and performance standards. Accrual of demerits would assist in signaling there is an issue requiring State government attention, and if sufficient demerits accrue, would provide a basis for Councillors to be incapable to continue, and for CEO contracts to be voided.
- C. Personal penalties for individuals are supported, but also for CEOs and senior staff.

- D. Also address undesirable whole-of-Council cultures, where community, process and democracy are seen as something wiped off a shoe, little is done in the wider community interest unless it is absolutely unavoidable or earns brownie points for the next election, and the community is shut out of decision-making, publicly derided, bullied, abused, belittled, dismissed and ignored.

**6. Do you have any other questions/comments about the content in this chapter?**

**A. Lack of Accountability**

- a. The leniency and 'high thresholds' for action to be taken are being abused. Macedon Ranges Shire Council has lost sight of its community, and what its role and responsibilities are. It thinks it owns the land and our money; can act, spend and do without consultation, accountability and transparency; and can actively shut the community out of discussion, information and decisions.
- b. Councillors and Executive operate like a board, which only has to report annually. Decisions are made at closed briefing meetings, and approved together under an informal 'en bloc' motion in chamber – no debate allowed. Note – the 'en bloc' motion has not been legitimized in Council's Local Law for meetings. Rules and policy are made on the run.

**B. Regulate CEO and Senior Staff**

- a. The Act fails to adequately address and put in place standards, requirements and limitations for CEO and senior staff, or sufficiently define roles to prevent officers "running the show", particularly when councillors are sufficiently disinterested, lazy or made comfortable enough to let CEO and officers do it.

**C. Empower Communities**

- a. Councils have been extended too many of the powers and privileges of State government, without concurrent checks and balances, such as Hansard, an Upper House of review, committees of inquiry, Speakers, daily media scrutiny or even political opponents. There are no penalties for misleading the Council or community.
- b. The Act fails to empower communities. Previous provisions for annual elections (a proportion of councillors elected each year) and a Poll of Voters (to overturn Council decisions) were deleted from the Act. There is now nothing that enables communities to hold their Councils to account, and it is *very* offensive to be told you have a once in four year opportunity to change that at the ballot box. There is no opportunity for the community to change CEOs and officers, who are not elected.
- c. In this context, four year councillor terms are excessive.

- d. Introduce mechanisms in the Act that empower communities (for example):
- A right of veto over Council decisions.
  - Standards for community consultation, and a complaints process for breaches.
  - A complaints process for breaches of acceptable behavior that takes community complaints seriously.
  - An ability to participate in CEO appointments, contracts and key performance indicators.
  - A vote of no confidence, and the ability to trigger a fresh election.
  - Increased/improved disclosure of CEO/staff arrangements.
- D. Councils should not be able to hide behind 'commercial in confidence', write rules 'on the run', and it should be a hanging offence for Councillors or officers to publicly defame or shame members of the community. The ability to commit community to commercial agreements should be curtailed.

## Chapter 3 – How councils are elected

Response:

**1. What are the key elements of a system aimed at ensuring the integrity of council elections that should be included in the Act?**

- A. One person, one vote.
- B. Independent oversight, enforcement of regulations, and a series of checks and balances.
- C. Penalising bad behavior, breach of requirements, abuse of the process and of others.
- D. Ensuring rules are enforced, and the same rules are applied to everyone.
- E. Not only being transparent and accountable but being seen to be so.
- F. Minimising the role of Council personnel in the electoral process.
- G. Retaining the requirement for an exhibition electoral roll.
- H. Ensuring an election produces an outcome that represents the views and interests of the people who live in the electorate, not those outside the electorate.

**2. To ensure integrity of the electoral system should additional powers be provided to:**

**a) the Minister?**

**b) the Victorian Electoral Commission?**

- A. If the (sole) election service provider, an accountability trail for the VEC is needed.

**c) council CEOs?**

- A. Restrict CEO involvement, particularly re discretion to determine applications to be enrolled. *There should never be another case of a developer being sent 70 odd ballot papers for owners of land they have subdivided.*

**3. Do you have any other questions/comments about the content in this chapter?**

- A. Tighter requirements for candidates are supported.
- B. Candidates who make misleading and misrepresentative statements should be disqualified.

- C. **Timeline:** The time between nomination and delivery of ballot papers is too short. Adjust the electoral timeline to allow a longer period (say two weeks) between close of nominations and commencement of voting. The current timeframe contributes to complaints of not knowing anything about candidates. Publish candidate statements and other information (including contact) details, in this interim period, prior to the commencement of voting.
- D. Inclusion of a set of standard questions, additional to a candidate's statement is supported.
- E. **Nominations:**
- If requiring in-person nominations for candidates, consider and address disadvantages for rural and commuter areas, such as distances and include opportunities for after-hours nominations.
  - Candidates should be required to sign (swear)
- F. **Caretaker provisions:**
- Councils should not be able to make decisions relating to controversial, strategic or binding issues (including planning), as well as those with a financial or administrative-related basis.
- G. **Candidate Donations:**
- Either ban donations entirely, or require candidates to declare donations at nomination, on a running basis prior to the election (as received) with final declarations to be made immediately after the election. Source, and all amounts received. *Let the community know who the candidate might be working for from the outset.*

## Chapter 4 – How councils operate

Responses:

**1. What are the critical elements of a council's operations that should be governed by the Act (e.g. requirements for mayoral elections, notice of, and requirements for open meetings)?**

- A. ALL OF THOSE WHICH ARE THERE NOW, but with additional restrictions upon the exercise of those powers to increase accountability and transparency.

**2. What penalties or sanctions should be imposed on councils who do not comply with the requirements relating to their operations?**

- A. Investigate and/or sack.

*Councillors should not be able to suspend a meeting in the middle of consideration of a planning permit application so they can form a 'huddle' in chamber dickering over how they can help the applicant, while the gallery and other Councillors wait; or declare they have assisted a permit applicant to complete their application then proceed to move the motion to approve that application.*

*Harassing, bullying and attempting to intimidate community members should be a hanging offence.*

*Disciplinary action should be available to be applied to anyone at Council providing inadequate, misleading and false information, or failing (refusing) to provide information relevant to the community and/or a decision.*

**3. Do you have any other questions/comments about the content in this chapter?**

**A. Mayors**

- a. As some Councillors seem to spend 6 months of the year more focused on granting voting favours and jockeying for power than making good decisions, change is needed to break this pattern.
- b. It is as easy to get a rotten Mayor as a good one, so further empowering a Mayor is **definitely not supported**.
- c. Clarify, that if a Mayor doesn't accept a car as part of benefits, whether a cash equivalent can be paid. Is this the intent?
- d. Require, where Councils provide the Mayor and staff with vehicles, that vehicles are standard rather than 'bells-and whistles' models. Require public disclosure.
- e. Full time Mayors and Councillors are not supported.



### B. Chief executive officer

- a. Legislate processes for appointment and review of CEOs, and include a way in which this can be verified. The public should have access to relevant documents.
- b. Make CEO and senior officer contracts, performance indicators and bonuses publicly available. Require independent assessment of the appropriateness of indicators and bonuses, or provide a public consultation process.
- c. Change the Act to disallow appointment of a CEO on a single contract across 3 Council terms i.e. a 5 year contract that starts at the end of one term, carries across the next and terminates in the following (third) Council term. Current regulations for length of contract were made when Councils had 3 year terms. It should not be possible for a CEO to be contracted such that they are not accountable (i.e. they are untouchable) to the council of the day. Restrict CEO contracts to a maximum of 4 years to align with Council terms.
- d. Prohibit the re-appointment of a CEO within 6 months of a Council election, and/or restrict the length of the contract to allow a new Council to make change, if necessary.
- e. Introduce an accessible, equitable public process for dealing with complaints about CEOs and senior staff.
- f. Make it mandatory that officers and CEO leave the room when decisions are made in which they have any form of conflict of interest.

### C. Awarding of Contracts

- a. Restrict the dollar amount ceiling that can be delegated to a CEO for awarding contracts. *The ability of a CEO to award contracts up to \$1 million without a Council decision and public disclosure is unacceptable.*
- b. Introduce a process for public disclosure of dollar amounts of contracts, and successful/unsuccessful tenderers.

### D. Delegations

- a. Require all aspects of all delegations to be freely and publicly available, and create a process for consultation and public input.

### E. Remuneration

- a. Publish Councillor, CEO and senior officer allowances, benefits and expenses (including travel expenses) every year, and not just salary 'bands' provided in Annual Reports.

- b. Require a record of all Councillor, CEO and officer expenses (including travel expenses) to be permanently maintained and publicly accessible, not just information for the current year, and make this retrospective to 2010.
- c. Prohibit the use of funds available/provided to Councillors for educational/training purposes being applied to any other purpose.
- d. Prohibit spouses/partners from accompanying Councillors and officers on Council trips.

#### **F. Council proceedings**

##### **a. Maximum Autonomy**

- Giving Councils maximum autonomy IS NOT SUPPORTED. It breeds corruption.

##### **b. Confidentiality**

- It is entirely inappropriate that a CEO alone has the ability to declare what is confidential, without boundaries to what can be declared confidential. When matters which should be in the public arena are declared confidential, corruption takes hold. This system needs review, oversight and definition to ensure maximum transparency.

##### **c. Assemblies of Councillors (“Briefings”)**

- These have devolved into decision-making forums, and places to privately meet with developers and special interests, away from the public eye. Conflicts of interest are not consistently declared.
- Time spent behind closed doors in “briefing” meetings needs to be included in the total time Councils operate in “closed” meetings.
- Introduce a requirement for Councillors and staff to declare their presence at briefings with someone whose issue subsequently comes before Council for a decision.

##### **d. Meetings**

- Retain the Act’s prescriptive requirements for meetings.

- Prescribe processes for using “en bloc” motions for agenda items, and the scope of “en bloc” motions. *Macedon Ranges Shire Council determines “en bloc” agenda items in briefings, then announces the agenda item numbers in chamber. These items have in the past included confidential items, adoption of Council policies, etc which are far more than minor in nature. “En bloc” in this form prevents the public from hearing debate, and knowing the rationale (if any) behind decisions.*
  - There’s no point having a Local Law for meetings if it can be flouted by using for example unlawful “en bloc” motions (i.e. not ratified in the Local Law), or deviating from Local Law requirements for rescission motions and calling special meetings.
  - Remote (electronic) voting is not supported. Councillors must continue to be required to be present at meetings to be able to vote. *They either bother to get there, or don’t vote.*
  - Public right of reply. The public needs a right of reply in Council chamber. People attending a meeting should not be able to be subjected to insult, derision or bullying from Councillors or officers in Council chamber at any time, but particularly without a right of reply. Currently, any objection or utterance risks the utterer being ejected from a meeting.
  - **Question Time:** Councillors and officers should be able to be questioned on matters of community interest. As questions are not read out or responded to if the questioner is not present in chamber, specify that question time cannot be deferred to the end of the meeting when questioners have left because they have jobs to go to the next day.
  - Legislate to make it mandatory for all Councils to produce a video record of Council meeting, and to publish videos on their website. *This would provide a record of proceedings of potential benefit to State government, Council and community, and have the effect of reducing inappropriate behavior.*
  - Legislate to make it mandatory for all officers, councillors and other participants to be provided with their own microphones so those present can hear proceedings. *It might also encourage Council participants to stop casual conversations amongst themselves in Chamber.*
- e. **Committees**
- Make Council committees either informal consultation / reference groups with community representation, or those which operate fully with the same rules and obligations as Council.

f. **Consultation and Engagement**

- When a Council says that a developer inviting 50 people (in a country town of over 4,000 people) to a meeting run by the developer constitutes “public consultation” on a large development with lots of 200 m<sup>2</sup>, there is a serious misunderstanding of what public consultation means, and of a Council’s and Councillors’ responsibilities. When a Councillor additionally states that those who wanted to know, know about it, there is no representation or consultation of community interests, just *some* interests. This is exclusion, not inclusion.
- *Other highlights of recent ‘consultation’ in Macedon Ranges Shire include:*
  - Doesn’t consult at all until it’s a done deal – i.e. what Council wants.
  - Council *voting* to exclude community consultation (Hanging Rock commercial development proposals).
  - Notice to some residents (“stakeholders”), but not others on matters which affect the entire Shire.
  - Targetted surveys which often resemble push-polling, and where Council engages with and actively promotes the survey to supporters of its proposal.
  - Selected “stakeholders” consulted on significant change, with this process then called ‘comprehensive consultation’.
  - Publishing a key study in A3, then making residents pay for hard copies.
  - Relevant exhibition documents and information at times missing; misrepresentation; lack of community engagement and public meetings.
  - Consulting then making substantial changes (including substituting a new document for an exhibited one) at and after adoption of documents – to the point where the end result is not recognizable as that exhibited.
  - Officers making changes without Councillor authorization to do so, and not reporting those changes to Council in a formal report.

g. **Submissions:**

- When a Council doesn’t explain what it is consulting on, doesn’t listen, and makes changes only to favour some over the rest, why bother making submissions?

h. **Records**

- Require Councils to post and maintain all Council documents (current and historical) on their websites e.g. policies, studies, meeting agendas, attachments and minutes, to provide a permanent, accessible record of Council documents.

b. **Local Laws**

- The Act should require independent review of Local Laws for relevance, and whether they are outside a Council's power to make (i.e. ultra vires), before Local Laws can be adopted.
- Retain Schedule 8 unchanged.

c. **Notices**

- There should continue to be a notices in local papers (all of those circulating in the district, not just one), and additional means of notice/communication.

## Chapter 5 – Planning and reporting

Responses:

**1. What requirements should be imposed in the Act on councils in relation to planning and reporting on their strategy, budget and operations?**

- A. Define a trigger point for re-exhibiting a budget. *This year's Macedon Ranges Shire budget wasn't re-exhibited despite the reallocation of \$3 million for a purpose other than that exhibited, and changes to Financial Reserves and other elements. Even Councillors weren't told this was what they were adopting ("no change")*
- B. Make it mandatory for first-year-of-term Council Plans to contain a four year program of actions. *Our Council produces its Council Plan on an annual basis only (i.e. for one year only). That is, it writes – not reviews – its Council Plan each year. Ratepayers are not privy to what Council intends to do with our money over a four year term. Ratepayers also are not provided with specific consultation on each year's Council Plan, it is merely exhibited with the budget.*

- C. Why are Strategic Resource Plans allowed to be “adjusted” to each year’s budget? They are supposed to be 10 year Plans, and annual adjustment prevents comparison with what they said and what they have done. These should not only be forward-looking, but also a means of measuring a Council’s performance over time. Legislate that all years of the Plan are included each year – forecast and actual.
- D. Revise the Act to prohibit changing a Statutory Financial Reserve to a Discretionary Financial Reserve without Ministerial and community approval. *Macedon Ranges Shire Council did this, without notice, in this year’s budget including the Hanging Rock Financial Reserve which is subject to State funding.*
- E. Require Councils to explain why budget end of year totals in Financial Reserves don’t match opening totals for the next year.
- F. Introduce more regulation into the use of Financial Reserves, including that they are not bank accounts, and under no circumstances should give the impression of being used to launder money.

**2. Can council planning and reporting processes be streamlined? If so, how?**

- A. In Macedon Ranges Shire, our planning and reporting processes are already ‘streamlined’ to the point of not being processes at all: *tell them nothing, ask them nothing, change nothing, and if necessary, obfuscate, misrepresent, conceal and spin to avoid at all costs being transparent, accountable or letting the community know what Council is doing and how it is spending ratepayers’ money.* Is this what is proposed as ‘streamlining’? No thanks, we already have it. We would however like something much better, such as making Councils stop behaving this way. It’s our money, not theirs, and they are comprehensively not accountable or transparent in all associated actions.

**3. What rights should be granted to ratepayers to better contribute to council planning and reporting processes?**

- A. Ratepayers should be able to vote, veto and overturn a Council decision, and request an inquiry into budget documents and a Council’s finances.

**4. What sanctions should be imposed on councils not complying with planning and reporting requirements?**

- A. Councillors and CEO/senior officers should be suspended and the Council comprehensively investigated, with public hearings.

**5. Do you have any other questions/comments about the content in this chapter?**

- B. Quarterly reports are not subject to exhibition. The Act must make it clear that Quarterly Reports are not to be used to introduce changes and spending not subjected to specific public consultation, or to make substantial changes from budget and policy. Flexibility – yes, but not manipulation or worse.

## Chapter 6 – Council rates and charges

Responses:

**1. Is the current method of declaring rates and charges based on “land” still appropriate?**

- A. Yes, but there needs to be much more transparency and accountability in valuations, and rate-in-the-dollar applied. Unexplained ‘dips’ in valuations for different classes of differential rating must be explained.

**2. What powers do councils require in relation to levying rates and charges?**

- A. They have enough powers. Empower the community.

**3. What obligations or restrictions should be imposed on councils in relation to these powers?**

- A. Require Councils to provide line-by-line budget documentation, and explain/identify where every penny is being spent, instead of hiding spending in operational budgets.

**4. What rights should rate-payers have in relation to the exercise of councils powers in relation to levying rates and charges?**

- Provide ratepayers with a right of veto, and a mechanism for calling in a third independent party, or call for an inquiry. Empower the community.

**5. Should there be detailed legislative provisions regarding processes associated with levying rates and charges? If so, are the current processes for levying rates and charges in the Act appropriate? If not, what changes should be made?**

A. Make it compulsory to provide a five year comparison of financial / debt ratios, and the bases for them.

**6. What sanctions should be imposed on councils failing to comply with the requirements relating to levying rates and charges?**

A. Suspend or sack them.

**7. Do you have any other questions/comments about the content in this chapter?**

A. Legislate to require Councils to measure financial / debt ratios only against rates income, not rates and charges.

B. Require Councils to declare that rates are charged on all ratable properties, and provide a report on any which are not paying rates.



## Chapter 7 – Service delivery and financial decision-making

### Responses:

- 1. What powers do councils need to undertake their financial decision-making functions?**
  - A. Councils have too many powers, without sufficient accountability, transparency and accessibility. *A Council can't just decide to borrow \$10 million because it is working to an agenda it hasn't shared with its ratepayers, then ignore objections.*
  - B. Legislate to prevent Councils being able to borrow without disclosing the amount borrowed or term and conditions of the loan.
  - C. Legislate to require Councils to exhibit Council policies *before* adoption.
- 2. What obligations or restrictions should be imposed on councils in relation to their financial decision-making functions?**
  - A. Eliminate all potential for 'secret' deals.
  - B. Require full disclosure.
  - C. Limit the amount Councils can commit to without consultation processes.
  - D. Require independent (not hired or provided by Council) oversight, and a complaints mechanism in the Act.
- 3. Should the Act contain detailed processes regarding councils financial decision-making? If so, what sanctions should apply for non-compliance with these requirements?**
  - A. Fine / suspend / sack / imprison.
- 4. Do you have any other questions/comments about the content in this chapter?**

## Chapter 8 – Councillor conduct, offences and enforcement

Response:

**1. Do standards of councillor conduct need to be improved? If so, how can this be achieved?**

- A. Are you serious – DEFINITELY NEED SUBSTANTIAL IMPROVEMENT. ALSO OFFICERS AND ESPECIALLY CEOs.
- B. Clear, unambiguous, mandatory standards to be met, and a complaints system for community to take action when they aren't.
- C. Regulate to make dismissal a penalty for repeat-offenders.
- D. Require Councillors to complete courses (certified) relating to all Council functions, role and operations (including budgets), and planning.
- E. Make it an offence to associate, assist, do deals with and promote development or other interests that do not constitute "broad community interest".
- F. Stop meetings between permit applicants and Councillors unless in a forum open to the public.
- G. Require Councillors and officers (including the CEO) to declare associations and dealings with those who are parties to a matter before them.
- H. Require Councillors to attend briefings.
- I. Regulate what can and cannot be dealt with at closed briefings, or open them to the public.

**2. What powers do councils need to deal with instances of councillor misconduct?**

- A. **The question should be: what powers do communities need to deal with instances of councillor (and CEO/Officer) misconduct.**
- B. Our experience is Councils don't deal with instances of Councillor misconduct – they either condone it or deny it. What's next?

**3. Does the system of councillor conduct panels need to be improved? If so, how?**

- A. The entire system of regulating Councillor conduct needs teeth, and transparency. Not working and not worth relying on in its present form, at Council or State level.

**4. Is there a need for additional offences to be included in the Act? If so, what are they?**

- A. Failure to declare a conflict of interest - by either party - when a Councillor has a personal relationship (i.e. an affair) with a senior officer, and votes on matters the officer presents to Council.
- B. Awarding of contracts (particularly those awarded under delegation by the CEO) to Councillors.
- C. Bullying, demands, harassment and intimidation by Councillors towards community members. *Councillors should not be able to pursue, insult or accuse ratepayers because the Councillor holds a different view to the one expressed.*

**5. Is there a need to improve investigation and enforcement of the Act in any way? If so, how?**

- A. Take consistent community complaints seriously. Councils are allowed to talk their way out of almost everything, because more weight is given to their view than the community's. Some Councils do **not** represent their communities, they work against their communities.
- B. Empower agencies to investigate and take action on breaches, and broad community concern. Ratepayers are sick and tired of being bounced from one ineffectual 'watchdog' to another because each says they don't have the authority to investigate or take action.
- C. Empower the Minister to act to monitor, investigate and intervene at an earlier rather than later stage. Poor Council behavior also reflects upon the State government of the day.

**6. Do you have any other questions/comments about the content in this chapter?**

- A. Councillors should be required to sign the Code of Conduct, but there also needs to be oversight of whether the Code is appropriate in the first place.

## Chapter 9 – Ministerial power

Responses:

- 1. Should the role of the minister be described in the Act? And if so, how should this be described?**
  - A. Yes. Make clear that the Minister has powers to act, what they are and the circumstances related to each action.
  
- 2. What powers should be provided to the minister in the Act in relation to:**
  - a. the structure of the sector (i.e. circumstances in which new councils are established or existing councils amalgamated, numbers of councillors etc)?**
    - A. Provide the Minister with powers to consult directly with the community where strong community concerns are expressed.
  
  - b. to ensure councils comply with the Act?**
    - A. Lower the threshold for a Minister to take action. Councils operate under delegated authority from the Parliament. Both the State government and Parliament have an obligation to ensure Councils function openly, accountably and effectively, and in the best interests of not themselves or individuals, but their communities.
    - B. Introducing a lower threshold for suspending Councillors (and CEOs and senior officers) is supported, as are the aims for earlier intervention.
    - C. Retain the ability for the Minister to appoint Commissioners/Inspectors to comprehensively investigate, and add 'conduct public hearings'.
    - D. Include the CEO and senior officers in the Minister's powers to suspend and dismiss. *There is no point suspending or dismissing only Councillors if the CEO and senior officers are part of the problem.*
    - E. Include strong community support for action as a grounds for suspension/dismissal of a Council.
    - F. The Minister's power to forbid appointment etc of a CEO **must** be retained. *See comments at Chapter 4, question 3, B (c).*
    - G. Define "Failure to provide good government" and set a low threshold. This failure is often comprised of multiple factors, rather than a single issue.
    - H. Retain prescriptive provisions and regulations. If transferred to regulations, ensure prescription remains, and also ensure the Act makes it clear to the public that the Regulations also apply, and where. Otherwise leave prescriptive requirements in the Act.

- I. Retain the ability to make “guidelines” – also consider a Ministerial Direction, as in planning.
- J. Retain powers to issue directions but ensure this is not contingent upon receipt of a report of misconduct or bad government.
  
- c. to ensure the integrity of governance and standards of behaviour?**
  - A. Introduce a penalty of imprisonment.
  
- d. What penalties should be included in the Act in relation to councils not complying with the exercise of the minister’s powers?**
  - A. Introduce a penalty of imprisonment.
  
- 3. Do you have any other questions/comments about the content in this chapter?**
  - A. The requirement for Ministerial exemptions for tendering must be retained. It provides a balance against excesses and/or corruption by a Council – a ‘checks and balances’ situation.

## Chapter 10 – Harmonisation of the Local Government Act

Response:

1. **What aspects of the Act should be amended to better harmonise with related legislation?**
2. **How can council responsibilities in relation to other legislation be made clearer?**
3. **Are there provisions in the Act that could be improved to clarify their interaction with other legislation? How could they be improved?**
4. **Is there other Victorian legislation that inappropriately impacts on provisions under the current Act that could be improved or clarified? How could they be improved?**
5. **Does the Act contain any matters that should be transferred to other Victorian legislation? If so, why?**
6. **Do you have any other questions/comments about the content in this chapter?**

Any other comments?

Do you have any other questions/comments not raised in the above chapters?

Response:

Councils have been given broader powers under the existing Act, and too many have abused those privileges. The existing Act has significantly dis-empowered communities. It is time for change.

The Association and Macedon Ranges' community detest our Council but are powerless to do anything about it. We want Councils to be forced to understand they are only there to serve only the community's interests. Councils are not a business, not a board, not the 'people in charge' – they are a delegated form of government charged with being accountable on everything they do to the people they serve.

Produce an Act that achieves this.