

Submission to Discussion Paper

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Organisation/council name:	
Position/job title	
Are you providing this submission on behalf of yourself or the organisation?	Myself / Organisation

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

1. What should the key roles and functions of council be?
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?
3. What powers are required by councils to perform these roles and functions? Should there be any limitations to council powers?
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?
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?
6. Do you have any other questions/comments about the content in this chapter?

Response:

1. The existing Oath continues to have relevance and, as a publicly conducted, sworn oath, has the gravitas of fulfilling the role as a councillor.
2. The new act should consider reference to the fiduciary duty that councilors and council officers to act, as the custodian of council public assets and property, in the best interests of the council's community.
3. Councillors and officers are not the owners of public assets or property and should be liable for any significant loss arising from actions that breach council's policy and procedures

Chapter 3 – How councils are elected

1. What are the key elements of a system aimed at ensuring the integrity of council elections that should be included in the Act?
2. To ensure integrity of the electoral system should additional powers be provided to:
 - a) the Minister?
 - b) the Victorian Electoral Commission?
 - c) council CEOs?
3. Do you have any other questions/comments about the content in this chapter?

Response:

1.

Chapter 4 – How councils operate

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)?
2. What penalties or sanctions should be imposed on councils who do not comply with the requirements relating to their operations?
3. Do you have any other questions/comments about the content in this chapter?

Response:

1. The reform should provide for a speedier response by the Minister and Department to dysfunctional councillor behaviour and "dispute" with council's executive management e.g. Darebin City Council.
2. The supervisory framework should recognise the role of the Local Government Inspectorate and the ability for the Inspectorate to step-in.
3. The Inspectorate should be able to recommend that dysfunctional a councillor be removed from office by the Minister, with a by-election to appoint a new councillor.
4. There should be a time limit to the length of continuous period that an individual may be a councillor e.g. maximum consecutive 3 terms. This protects the community from a councillor becoming "all powerful" and promotes the engagement of others to become a councillor and refresh the approach of council to evolve its strategic planning, operations and financial management.

Chapter 5 – Planning and reporting

1. What requirements should be imposed in the Act on councils in relation to planning and reporting on their strategy, budget and operations?
2. Can council planning and reporting processes be streamlined? If so, how?
3. What rights should be granted to ratepayers to better contribute to council planning and reporting processes?
4. What sanctions should be imposed on councils not complying with planning and reporting requirements?
5. Do you have any other questions/comments about the content in this chapter?

Response:

1.

Chapter 6 – Council rates and charges

1. Is the current method of declaring rates and charges based on “land” still appropriate?
2. What powers do councils require in relation to levying rates and charges?
3. What obligations or restrictions should be imposed on councils in relation to these powers?
4. What rights should rate-payers have in relation to the exercise of councils powers in relation to levying rates and charges?
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?
6. What sanctions should be imposed on councils failing to comply with the requirements relating to levying rates and charges?
7. Do you have any other questions/comments about the content in this chapter?

Response:

1. The ESC rate-capping approach is the way to go. Councillors and Council Officers should be adopting a “joined-up” approach to the strategic planning, operation and financial management of council.
2. Rate-capping should not be a threat to council’s viability and long term sustainability; the decisions taken by Council should be considered and be a measured response to Council’s Strategic Plan.
3. Annual rate charge review should be supported by Council’s Annual Budget and 5 Year Plan and be within the rate-capping advised by ESC.
4. Rate variations should be for specific reason e.g. Capital Works and Infrastructure. A plan and financial proposal should be submitted Council and reviewed by ESC. Council’s submission should demonstrate how a rate variation aligns to the delivery of Council’s Strategic Plan.
5. When approved, rate notices should clearly identify the dollars being collected and the monies should be retained in a clearly identifiable fund subject to due process and controls.
6. Actual spend and delivery should then be reported on a regular basis to provide transparency and accountability. Council’s annual budget should be the first to respond to poor contract performance or undelivered project.

Chapter 7 – Service delivery and financial decision-making

1. What powers do councils need to undertake their financial decision-making functions?
2. What obligations or restrictions should be imposed on councils in relation to their financial decision-making functions?
3. Should the Act contain detailed processes regarding councils financial decision-making? If so, what sanctions should apply for non-compliance with these requirements?
4. Do you have any other questions/comments about the content in this chapter?

Response:

1. Council should have prepared and publicly documented 5-10 Year Strategic Plans, 3-5 Year Operational Plans, Annual Budget and 5 Year Plans.
2. Council decisions should always be referenced to Council's Strategic, Operational and Financial Plans.
3. The execution and delivery of Council's decisions should be monitored and reported quarterly and annually with Council in open, public meeting.
4. "Stuff-ups" should be reported in open, public meeting. Closed and in Confidence is not acceptable; greater lessons are gained from the experience of failure rather than success.
5. "Stuff ups" should be reported by Council and be subject to review by the Local Government Inspectorate. It is important to analyse, learn and improve.

Chapter 8 – Councillor conduct, offences and enforcement

1. Do standards of councillor conduct need to be improved? If so, how can this be achieved?
2. What powers do councils need to deal with instances of councillor misconduct?
3. Does the system of councillor conduct panels need to be improved? If so, how?
4. Is there a need for additional offences to be included in the Act? If so, what are they?
5. Is there a need to improve investigation and enforcement of the Act in any way? If so, how?
6. Do you have any other questions/comments about the content in this chapter?

Response:

1. Councillor conduct panels should include independent members with experience of governance, probity, oversight and management

Chapter 9 – Ministerial powers

1. Should the role of the minister be described in the Act? And if so, how should this be described?
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)?
 - b) to ensure councils comply with the Act?
 - c) to ensure the integrity of governance and standards of behaviour?
 - d) What penalties should be included in the Act in relation to councils not complying with the exercise of the minister's powers?
3. Do you have any other questions/comments about the content in this chapter?

Response:

1.

Chapter 10 – Harmonisation of the Local Government Act

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?

Response:

1. Procurement Legislation, Regulation and Guidelines should all be recognised as the “Value For Money” framework that Local Government should operate.
2. The Local Government Inspectorate should have the powers to review and should regularly review council procurement.
3. Councils should be required to annually report procurement tender results achieved each financial year. Data should be in summary form e.g. savings achieved, additional services procured compared to previous service, indicate which of council strategic plan objectives that procurement is supporting e.g. improved efficiency and expense saving of 5-10% per annum.
4. Council meeting in Closed Session should continue to discuss commercial and in confidence information of tender responses but, Council should formally minute its decision i.e. tender awarded to and the tender price
5. Where councils use Tenderlink or equivalent, the “Tender Award” should be used and updated quarterly to confirm the successful tenderer respondent and note other respondents

Any other comments?

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

Response:

1.

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