

## Submission to Discussion Paper

Name	Mitchell Shire Council
Suburb	Broadford Vic 3658
Age*	
Gender*	

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

Organisation/council name:	Mitchell Shire Council
Position/job title	Chief Executive Officer
Are you providing this submission on behalf of yourself or the organisation?	Submission is provided on behalf of Mitchell Shire Council and in support of the preliminary response submission by the Municipal Association of Victoria and LGPro.

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:

The submission of the Municipal Association of Victoria on behalf of the sector is supported with no additional comments.

## 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:

The submission of the Municipal Association of Victoria on behalf of the sector is supported with no additional comments.

## 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:

The submission of the Municipal Association of Victoria and LGPro on behalf of the sector is supported with the following additional comments.

#### **Position of Chief Executive Officer (CEO)**

- It is essential to the good governance and operation of Council that the CEO continue to be solely responsible for the management of staff and the operations of the Council.
- The appointment of the CEO should be by vote of the Council at which all elected members are present and is carried an absolute majority
- The CEO performance review should be managed similarly and controlled by legislation concerning timeliness; standards and articulate roles between councillors, external consultants and staff.
- The removal of a CEO should be by vote of the Council at which all elected members are present and where the motion is carried by an absolute majority.

#### **Delegations**

- The current special committee provisions are onerous and restricting their capacity to act in the name of the council is a better fit for volunteer committees whose purpose of existence is managing a local facility so that it operates day to day.
- There is an opportunity to address the operation of committees of management which separates them from the provisions pertaining to special committees and be limited to an operational and advisory capacity under delegation.

#### **Authorised Officers**

- Section. 224 (1) states that a Council may appoint any person other than a Councillors to be an authorised officers for the purposes of the administration and enforcement of any Act, regulation or local law which relates to the functions and piers of the Council.
- There is an opportunity to address the conflict between this section of the Act and other legislation. By way of example, authorisations for Planning Officers require a resolution of Council to be signed and seal where authorisations for Health and Community Compliance Officers do not.

- This process creates unnecessary bureaucracy and should be streamlined.

#### **Role of Mayor**

- The issues identified in the discussion paper on strengthening details around the role of the Mayor, individual Councillors, CEO and Council staff are supported but have been largely addressed in the Local Government (Improved Governance) Bill 2015.
- However further work is required to refine the role of Mayor and to strengthen their role as the leader amongst the elected representatives and their ability to influence good working relationships.

#### **Election Of Mayor**

- There is an opportunity to strengthen the provisions of Section 71 by incorporating the requirement for Council to adopt a Mayoral Election Procedure. This will mitigate misconduct by councillors and confusion between general meeting procedure and the mayoral election procedures.

#### **Councillor Allowances**

- The notification notice of the annual adjustment to councillor allowances is inconsistent and causes unnecessary administration in December/New Year period. It would be more appropriate if any adjustment to allowances is applied annually on the anniversary of the election date.

#### **Voting**

- Section 90 (1a) entitles each councillor present to one vote. However this section is silent on the role of Mayor and casting vote of the Chair. For transparency and good governance the Mayor should be independent of any question before the meeting. This presents an opportunity to strengthen the provisions of this Section by providing clarity on the role of the Mayor and casting vote of the Chair.

## 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:

The submission of the Municipal Association of Victoria on behalf of the sector is supported with the following additional comments.

#### **Budget**

- Section.130 – Adoption of budget by 30 June each year does not align with the timing and process required for the budget, incorporating public consultation with the State Government’s objectives with the Rate Capping & Variation Process.
- The timing and process for adoption of budget needs to be reviewed and in line with the Strategic Resource Plan (SRP) and Council Plan. Therefore the budget cycle should be once each 4 years unless something warrants a significant change outside of normal review processes.

#### **Annual Reporting**

- Section.131 – 134 - Annual Report preparation involving auditors, Council, Audit Committee and sign-off by the Auditor-General’s Office and submission to the Minister is at present difficult and inefficient.
- The process for Annual Report preparation could be reviewed and streamlined.

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 council’s 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:

The submission of the Municipal Association of Victoria and Revenue Management Association on behalf of the sector is supported.

- It’s important for Councils to continue to have the full suite of rates and charges available under the existing Act and be empowered to set rates and charges as required for new initiatives that fall outside the existing suite.

## 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:

The submission of the Municipal Association of Victoria on behalf of the sector is supported with the following additional comments.

- The new Act should recognise the importance of local government in representing and acting independently in the interest of its community and acknowledge the increasing role the sector plays in the provision of services.
- To facilitate this, it will be important for the new Act to enable and empower Councils to choose the most appropriate means to innovate and represent the interest of its community and promote the principles of good governance.
- This includes:
  - Improved flexibility in procurement processes allowing Councils to set levels for public tenders through its Procurement Policy.
  - Enable improved collaboration between Councils and shared services agreements through simplified entrepreneurial arrangements.



## 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:

The submission of the Municipal Association of Victoria on behalf of the sector is supported with the following additional comments.

- Many of the issues identified in the discussion paper around councillor conduct, offences and enforcement have been largely addressed in the Local Government (Improved Governance) Bill 2015.
- Sections 76D and 76E seek to prohibit a councillor misusing their position by directing or influencing staff. Currently ambiguity exists between the two provisions when read together.
- All references to a councillor misusing their position by directing or influencing staff the language should be unambiguous in prohibiting councillors from directing or using improper influence on council staff.

### Conflict of Interest

- The provisions of Section 77A - 79 should be reviewed to achieve a clear understanding of the requirements by any person. This includes reference to who is responsible for identifying and disclosing a conflict of interest.

## 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:

The submission of the Municipal Association of Victoria on behalf of the sector is supported.

## 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:

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

Response:

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### DELWP (Review of Local Govt Act 1989) - Privacy Policy

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- Email Address

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2. Information available to both DELWP (Review of Local Govt Act 1989) and Bang the Table
3. Information available to Bang the Table only

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