

Submission to Discussion Paper

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

Organisation/council name:	Nillumbik Shire Council
Position/job title	Governance Coordinator
Are you providing this submission on behalf of yourself or the organisation?	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. Council supports the view that there needs to be an appropriate balance of normative, enabling and prescriptive provisions in the new Act.
2. The roles of councils should be broadly defined and 'enabling', with any prescriptive provisions focusing on matters of integrity and transparency.

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. Council submits that there should continue to be flexibility in the new Act around electoral structure and representation, such as the number of wards in each municipal area and the numbers of councilors in each ward.
2. Council does not support the enrolment of those not on the State electoral roll, other than the category of property owners. All other current categories of voters should continue to be voluntarily enrolled upon application. Council does not support compulsory voting for other than those on the State roll, in line with state and federal provisions.
3. Council is of the view that postal voting should be applied uniformly across the State. Postal voting is a proven cheaper alternative than attendance voting and consistently achieves a higher voter participation rate.

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. Council is of the view that there should be a degree of flexibility in relation to the requirement for councillors to be physically present at council meetings. This option should not be available to metropolitan and urban fringe councils but should be made available to those rural councils where councillors may be required to travel great distances to attend meetings. The ability to electronically participate in meetings is now a proven technology.
2. Council suggests that all councils should be comprised of an odd number of councillors in order to minimize the potential requirement for the Mayor to exercise a casting vote in the event of a tied vote.
3. Council considers that there are some sections of the current Act which need to be modernised to reflect current communication processes and available technology. An example is the current requirement to advertise in a newspaper circulating in the municipal area for section 223 consultations in relation to budgets, Council Plans and other matters. Councils should be required/permitted to advertise these matters on their websites and via other technologies which would be far more cost effective and reach a greater audience. The readership 'reach' of newspapers is shrinking markedly.
4. Council also suggests that the new Act should set statutory deadlines for matters, such as councils adopting their Councillor Codes of Conduct, but should not prescribe that these matters be decided at special meetings called specifically for that purpose
5. The separate processes in relation to complaint handling in the current Act that are managed by IBAC, the Inspectorate and the Ombudsman need to be tidied up and streamlined. There needs to be some clarification as to what the various agency responsibilities are.

6. Council is not in favor of the use of 'model' local laws. Local Laws are, by their very nature, 'local' in content, because they deal with matters specific to each municipal area. Model local laws would require much modification to suit the needs of each council and, therefore, may be of little use.
7. In relation to Consultation and engagement, at present, the Act (section 223) has an emphasis on seeking community feedback once a document/strategy/budget has been prepared. There should be more emphasis on community engagement at the beginning of the process. As mentioned previously, there are also parts of the Act which need to be modernised to reflect current communications processes, such as the requirement to advertise in a newspaper circulating in the municipality for section 223 consultations on budget and council plan and other matters. Councils should be able to advertise on their websites which would prove to be far more cost effective.

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. Council suggests that a long-term Community Plan, perhaps covering 10 years, should be mandated in the new Act
2. Council is of the opinion that the Strategic Resource Plan should be a stand-alone document subject to the same public scrutiny as the Council Plan and Budget
3. Council considers that ratepayers should be able to better contribute to council planning documents such as the Council Plan and Budget, but not in relation to reporting processes such as the Annual Report. Setting direction and priorities should involve community engagement, however reporting back to the community via the Annual Report should focus on transparency
4. Streamlining of council reporting was supposed to result from the introduction of the Local Government Performance Reporting Framework. Currently there are reporting processes for the Annual Report, Performance Reporting Framework, Grants Commission, Budget and Auditor General. There should be one streamlined annual report to satisfy all of these reporting requirements
5. Council considers that the new Act should provide more autonomy for councils to set user fees and charges for services such as statutory planning, which are currently set by the State Government.
6. Council believes that the threshold requirement to go to tender under the current Act, currently \$150,000 for services and \$200,000 for works, should be standardised. No submission is made in relation to the dollar amounts.

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. Council does not propose any changes in relation to council rates and charges.

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 does not propose any changes in relation to service delivery and financial decision-making. It considers current arrangements satisfactory.

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. Council does not propose any changes in relation to councilor conduct, offences and enforcement.

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. Council does not propose any changes in relation to Ministerial powers.

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. As noted in response to Chapter 5, reporting requirements need to be streamlined. This applies to other Acts, as well as the Local Government Act.

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

Response:

1. Council welcomes the opportunity to make an initial submission in relation to the review of the Local Government Act 1989 and looks forward to the opportunity to make further comment once the Directions Paper is released for comment next year.

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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
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