

## Submission to Discussion Paper

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Organisation/council name:	City Of Kingston
Position/job title	Team Leader Property Services
Are you providing this submission on behalf of yourself or the organisation?	Myself / <del>Organisation</del>

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 wording of the act is clear however, there should be further wording to ensure that there is a clear separation between the role of local government and the roles played by other tiers of government. For example Local Government currently provides pre-school education, immunisation and aged care services and yet there are state ministries for education and for health who have over-riding responsibilities in these areas. Government should decide which tier is appropriate to provide specific core services.
2. Yes, it assists – however, there is a fundamental missing objective. To ensure that the broader community (non-Councillors) are provided with a platform to communicate opinions for consideration by Council on a regular basis. Currently question time in a Councilchamber is a cold and non-interactive method of raising issues with Council.
3. Limitations should state that no Councillor shall direct any officer at any time and that ALL Council directions MUST be made through a Council decision.

Clear examples of what directing an Officer actually means should be provided to ensure that a Councillor is not in any doubt as to how they should deal with Council officers.

4. In terms of administrative decision making – If prior to a decision of Council the CEO has reason to believe a Councillor has a conflict of interest in a particular matter, the CEO has a duty to ensure that this is reported to the Council and the Council should determine whether or not to exclude that Councillor from the decision making process (ie not wait until the Councillor has voted)
5. Yes, there must be clear penalties for any person breaching an act – eg where a person does not comply with a direction of Council.

## 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. No Councillor should be remunerated (provided with an allowance) for his/her role at Council and this should be clarified prior to the election as it is a fact that some candidates offer themselves for election on the basis that they will receive a remuneration if elected. . The only role which should be remunerated should be the Mayors role. If a person cannot afford the time or the inconvenience of being a Councillor, they should not offer themselves for election.

There should be no ward system in a municipality. A candidate should stand to be a representative for the whole Community not for a ward. Likewise a voter should be able to vote for all Councillor vacancies not just a minority. Decisions of Council must be taken for the benefit of the whole municipality and not favouring one ward over another.

Prior to offering his/herself the candidate should declare formally that they are not a member of any registered political party nor will they become a member whilst serving as a Councillor

No Councillor should be a member of a political party. Local Government must cease to be the breeding ground for those persons with state and federal political ambitions. Councillors should be Community Representatives NOT politicians. If Councillors are not independent of political bias their decisions cannot be untainted by political influence from other tiers of government.

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## Review of the Local Government Act 1989

There are three types of Councillor in Victorian Local Government today.

1. The first is a Councillor hoping to rise to a state or federal seat.
2. The second is a Councillor who believes his/her position will provide him/her with some advantage in society.
3. The third is the Councillor who intends to act in the best interests of ALL of the City or Shire not just those individuals or organisation he/she favours.

The current systems encourages the first and second type of Councillor and does little to encourage the third.

## 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. Councils should elect a Mayor as usual in the first year but in the second year the election should be for the three years following. Continuity of office is critical to avoid the jostling and subsequent interference which the annual mayoral election creates, diminishing the smooth running of Council business. The job of Mayor should be under employment act and holds a position description just as the CEO is. If a Councillor or CEO wishes to challenge the conduct or performance of a mayor, this should be brought to the attention of the Minister for Local Government who may conduct an investigation and undertake any disciplinary measures which are deemed appropriate.

Councillors 'allowances' are inappropriate and a Councilor should not be a full-time role.! The only elected official of a Council to be remunerated or to receive an allowance should be Mayor.

**The only people who think Councillors should be full time are the Councillors themselves. If you want to work for a Council apply for a job Full time Councillors are no different to elected Administrators.**

A Council should ONLY set policy and be completely separated from procedure. Where no policy exists to enable the CEO and his staff to carry out an action as a procedure, Council should rectify and adopt such a policy. Delegations are critical to ensure that a Council is not involved with detailed decision making. The community should not expect untrained individuals to make complex decisions. Delegations should be a standing agenda item for Council to ensure that the CEO is acting fully under delegations as Council should not be debating delegated issues in the Chamber. The Chamber should be for policy making and policy review.



## Review of the Local Government Act 1989



The office of local government should take a greater role in monitoring the activities of each Council. There should be a video recording of every Council meeting including Assemblies of Councillors where those meetings are held in Council offices. If they are held outside of the offices, the meetings should be audibly recorded wherever possible. (This would exclude spontaneous assemblies, ceremonial events and organized events or meetings where no Council business is discussed).

### ALTERNATE

Elect Administrators instead of Councillors to run Councils. These would be executive roles filled by professionals.

## 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 budgets are currently ineffective processes. They are copy and paste exercises designed to meet the obligations of the act. There are no true measures of cost as so much expenditure is hidden in global accounts. EG most Councils don't allocate notional rents to properties occupied by Council departments and therefore the cost of delivering services is skewed.

A budget cycle should be for four years with budget cycle commencing in 2<sup>nd</sup> year of every term. Each cycle should commence with a fresh page approach including a clear assessment of roles required to manage services. Rewarding staff for years of service is ridiculous. Staff should be incentivized and rewarded based upon performance not on length of service. There is a clear lack of innovation. There should be significant encouragement for Councils to share services across the state. EG there is no incentive for a group of Councils to share Financial process or Depot Services. There is a duplicity of service across Victoria which encourages competition between Councils eg Leisure Centres. There is no requirement for Councils to ensure that they tender all services to the private sector and consequently no innovation in operating a Council. Why for example are Councils still building child care centres when the private sector seem to have an abundant supply of places.

2. The Council Plan can be grandious and occasionally a waste of time and money. There should be a set of clear priorities for the term of a Council including a long term financial plan and the strategies and policies in place to ensure the plan is achieved. However, given the communities limited understanding of such a plan, the Office of Local Government should have some hand in overseeing the Council plan prior to its adoption, by providing



- feedback (but not VETO) to each Council before it adopts a plan.
3. Provide the community with a role in pre-budget planning by providing a 30 day period in which public submissions can be made for proposals not previously identified.
  4. No comment
  5. The fact that each Council undertakes planning in isolation from each other is the most bizzare situation of all. Whilst I am not proposing a further round of unilateral amalgamation, I am suggesting that Councils should be encouraged to consult and explore real opportunities to share services. The token committees which are established do little to foster good economic outcomes or positive change. Those members of such committees simply swap stories and rarely create positive operational outcomes.

There are many examples of services which every Council offers but instead of doing it collectively they do it independently.

Planning is an example

There should be regional planning decisions made by elected representatives rather than persisting with local areas. I believe the UK Localism Act has much merit in this area and should be the subject of the discussion going forward. One of the best elements of the Localism Act is to hold all developers responsible for pre-application consultation with adjoining residents which is the ultimate engagement and avoids significant conflict in the planning process. I also believe that Councils must adopt structure plans for all activity centres and review such plans every 8 years.

## 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. Yes, although my understanding is that there is an option to levy against the Capital Improved Rate not just the land.
2. The Valuation act should governs the basis under which the Council can levy rates, however the valuation authority for the whole state should be the Valuer General and not be left as it is currently for Council to ‘opt-in’ to the service by the Valuer General.
3. Council should be obliged to ‘opt-in’ and no Council should undertake the rate valuations independently. Its plain stupid as things stand.
4. The rights of ratepayers are fine as they are.
5. The current processes are generally OK although there could be some cleaning up done. You should seek direct opinion from each of the 79 Councils on this and not merely leave it to the public.
6. No comment

7. The fact that government agencies and not-for-profits are often excluded from paying rates seems a nonsense. The only way you can get government agencies to rationalise land holdings is to treat them in the same way as private owners. The same for Churches and all other exempt holdings. In the 21<sup>st</sup> century no-one should be exempt from taxes unless it is the result of means testing. This should be introduced with a scheme which provides for taxed entities to apply for relief in certain circumstances.

## 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. Best Value procurement remains a significant challenge for Councils. In making procurement entirely accountable and transparent whilst employing the highest standards of safety the industry has created a significant barrier in achieving best value outcomes. The local government industry must regularise processes across the 79 municipalities enabling every Council to have a statewide pool of contractors and trades to draw from. That would encourage more companies to go through the rigorous OHS pre-approvals and financial checks as their opportunity for work would be greater. Once again, by allowing Council to run independent processes local government is limiting

## 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. ALL Council codes of conduct in Victoria MUST be the same. They should be provided by the Minister and statements must be executed by Councillor candidates prior to the general election, confirming that during the election process and subsequent to an election, candidates/Councillors will abide by the code.
2. Councils cannot handle misconduct directly and should always involve a representative of the ministers office when formally undertaking action under the code. Department observers should regularly attend Council meetings and briefings to assess the conduct of those Councillors who are suspected of misconduct.
3. No Comment
4. No Comment
5. Yes, faster investigations must be conducted by an officer from the department.
6. There should be a public register of all Councillors in Victoria who have been or are currently the subject of a conduct panel hearing. Hearings should be public and be subject to the rigor of scrutiny by all.

## 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:

I have made reference throughout my response to situations which require greater Ministerial and Department of Local Govt involvement. If the State is to continue to be the mother of local government, it is appropriate for local government to have a much closer relationship with the department of local government and other ministries than is currently the case.

Decisions are often taken by Ministers to fund, build or introduce new schemes in local areas without any prior discussions with effected municipalities. This failure by the state to ensure that services are needed before they are provided is bizzare.

Furthermore, the pork barreling, pre-election commitments and decision-making by State government which ignores community interests remains the greatest fiasco observed in the run up to each state election.



## 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.



Any other comments?

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

Response:

1.

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