Attachments

Ordinary Meeting of Council

Tuesday, 9 July 2019
6:30pm
## ATTACHMENTS

<table>
<thead>
<tr>
<th>Item</th>
<th>Attachment</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>9.1</td>
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<td>Biannual and Social Support Grants 2018-19 - Round 2 - Successful Recipients</td>
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<tr>
<td>10.1</td>
<td>A</td>
<td>Objector Location</td>
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<td>Advertised Plans</td>
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<td></td>
<td>C</td>
<td>Clause 55 Table</td>
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<td>Section 57A Amended Plans</td>
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<td>Location of Objectors</td>
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<td>C</td>
<td>Clause 55 Table</td>
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<td>Without Prejudice Plans</td>
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<td>10.6</td>
<td>A</td>
<td>Submission to Local Government Minister Adem Somyurek Local Government Bill 2019</td>
<td>122</td>
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<td>B</td>
<td>Local Government Act Submission - Stage 1 - Moonee Valley Brimbank Wyndham</td>
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<td>D</td>
<td>Local Government Act Submission - Stage 4 - Moonee Valley</td>
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</table>
### Moonee Valley Grants 2018/19

**Biannual Grants - Round 2 Successful Recipients**

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Project Description</th>
<th>Awarded</th>
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<tbody>
<tr>
<td>Neighbourhood Watch Victoria INC - Moonee Valley</td>
<td>Connecting with the Community</td>
<td>$1,960.00</td>
</tr>
<tr>
<td>Airport West Football Club</td>
<td>Celebrate community heritage of Wurundjeri peoples and promote Reconciliation</td>
<td>$3,500.00</td>
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<tr>
<td>U3A Moonee Valley Inc</td>
<td>Woodwork projects to support local community groups</td>
<td>$4,000.00</td>
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<td>Melbourne Comhaltas Inc</td>
<td>Comhaltas Melbourne 50th Anniversary Celebration</td>
<td>$1,700.00</td>
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<td>Aberfeldie Community Club</td>
<td>Roof Renovation and Insulation</td>
<td>$5,000.00</td>
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<tr>
<td>North West Multiple Birth Club Inc</td>
<td>Parents of Multiples Education Program</td>
<td>$2,690.00</td>
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<tr>
<td>Paula Gonzalez and JP Villanueva</td>
<td>'Little Livestock: good for you, good for the environment'</td>
<td>$2,636.00</td>
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<tr>
<td>Wurundjeri Woi wurrung Cultural Heritage Aboriginal Corporation</td>
<td>Yingga ba Ngarra Djerring (meaning Sing and Dance Together)</td>
<td>$20,000.00</td>
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<tr>
<td>Essendon North Village Association</td>
<td>Essendon North Giant Ice Slide - Winter Fest</td>
<td>$6,000.00</td>
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<tr>
<td>Western Arts Theatre Inc.</td>
<td>Seussical: The Musical</td>
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<tr>
<td>Newmarket Phoenix FC</td>
<td>Newmarket Phoenix FC team seeding</td>
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<td>Essendon Croquet Club Inc</td>
<td>Concrete Path Project</td>
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<td>Essendon Choral Society</td>
<td>Essendon Choral Society 40th Anniversary Concert</td>
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<td>Georgina Humphries</td>
<td>Crown Street Stables Art Activation</td>
<td>$14,000.00</td>
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<td>Village Blooms</td>
<td>Commissioning Public Art for the Beautification of a Retail Precinct</td>
<td>$10,000.00</td>
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<tr>
<td>Earth Crusaders Incorporated</td>
<td>Pilot for Take Home Sustainability program</td>
<td>$4,960.00</td>
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<td>3000acres</td>
<td>Olives to Oil</td>
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<td>The Beekeepers Club Inc</td>
<td>Victorian Beekeeping Clubs Conference in Essendon Fields</td>
<td>$6,000.00</td>
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<tr>
<td>United through Football Inc.</td>
<td>United Through Football and Cultural Festival</td>
<td>$19,500.00</td>
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<tr>
<td>Erleene Community in Australia Inc.</td>
<td>Erleene Harmony Day</td>
<td>$15,000.00</td>
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<tr>
<td>Somail Women Development Association Inc.(SWDA)</td>
<td>The Annual Flemington Multicultural Eid Festival 2019</td>
<td>$5,000.00</td>
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</table>

**Total Awarded Round 2 Biannual Grants 2018/19** $168,285.00
Social Support Grants - Round 2 Successful Recipients

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Project Description</th>
<th>Awarded</th>
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<tbody>
<tr>
<td>Avondale heights Probus Club</td>
<td>Avondale Heights Probus Audio System</td>
<td>$1,000.00</td>
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<tr>
<td>Multicultural Skills Exchange Group For Women</td>
<td>Tulip Festival Group Outing</td>
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<tr>
<td>Avondale Heights Grandparents Playgroup</td>
<td>Adventures with Grandchildren</td>
<td>$1,494.00</td>
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<tr>
<td>Italian Pensioners Group of Keilor Inc</td>
<td>25th Annual of Celebration Gruppo Pensionati Italiani Di Keilor</td>
<td>$1,600.00</td>
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<tr>
<td>Circolo Pensionati Italiani of Keilor East and Avondale Heights</td>
<td>35th Anniversary of the Club</td>
<td>$1,500.00</td>
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<tr>
<td>Circolo Pensionati Italiani Di Airport West</td>
<td>Saint Anthony - Patron Saint Celebration</td>
<td>$1,500.00</td>
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<tr>
<td>Niddrie Seniors Walking Group</td>
<td>Day Bus Trip to Marysville and Yarra Valley Ranges</td>
<td>$1,500.00</td>
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<tr>
<td>Strathmore Heights Greek Senior Citizens Club</td>
<td>Regular Social Lunches and end of Year Celebration</td>
<td>$1,500.00</td>
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<tr>
<td>Circolo Pensionati Italiani di Essendon Inc</td>
<td>Supporting the Wellbeing of Pensioners in Moonee Valley</td>
<td>$1,600.00</td>
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<tr>
<td>Ascot Vale Italian Seniors Club Inc</td>
<td>Social outings for Italian seniors to increase social interaction</td>
<td>$1,600.00</td>
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<tr>
<td>Keilor Activities for Older Adults Inc</td>
<td>Mid Year Luncheon at Riverside Golf Club July 2019</td>
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<tr>
<td>Maltese Senior Citizens Club Airport West</td>
<td>Social Gatherings and Activities</td>
<td>$1,500.00</td>
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<tr>
<td>Avondale heights Greek Pensioners &amp; Elderly Citizens Club</td>
<td>Excursion to Queenscliff &amp; ferry boat Ride</td>
<td>$1,300.00</td>
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<tr>
<td>Essendon Probus Club Inc</td>
<td>Essendon Probus Club Support</td>
<td>$1,500.00</td>
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<tr>
<td>CAKE DECORATORS’ ASSOCIATION OF VIC INC. WESTGATE</td>
<td>Sugar Art/ Cake Decorating Promotion and Recruitment</td>
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<tr>
<td>Niddrie Seniors Italian Citizens Club Inc</td>
<td>Social Activities For Italian Elderly in Niddrie</td>
<td>$1,500.00</td>
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<tr>
<td>Circolo Pensionati Di North West Essendon</td>
<td>Bus Trip to Skyhigh Mt Dandenong</td>
<td>$1,500.00</td>
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</tbody>
</table>

Total awarded Round 2 Social Support Grants 2018/19 $24,784.00

Overall total of $190,999 awarded to 38 Biannual and Social Support Grants in 2018/19 Round 2
## Appendix A – Objectors Location for MV/562/2018 at 36 Wisewould Street, FLEMINGTON

### Objector’s Location

<table>
<thead>
<tr>
<th>1</th>
<th>Wisewould Street, FLEMINGTON VIC 3031 (x4)</th>
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<tbody>
<tr>
<td>10</td>
<td>Wisewould Street, FLEMINGTON VIC 3031 (x2)</td>
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<tr>
<td>12</td>
<td>Wisewould Street, FLEMINGTON VIC 3031 (x3)</td>
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<tr>
<td>13</td>
<td>Wisewould Street, FLEMINGTON VIC 3031</td>
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<tr>
<td>15</td>
<td>Wisewould Street, FLEMINGTON VIC 3031 (x2)</td>
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<tr>
<td>165</td>
<td>Epsom Road, FLEMINGTON VIC 3031 (x2)</td>
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<tr>
<td>17</td>
<td>Wisewould Street, FLEMINGTON VIC 3031 (x2)</td>
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<tr>
<td>1a</td>
<td>Wisewould Street, FLEMINGTON VIC 3031</td>
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<tr>
<td>23</td>
<td>Wisewould Street, FLEMINGTON VIC 3031 (x2)</td>
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<tr>
<td>24a</td>
<td>Wisewould Street, FLEMINGTON VIC 3031</td>
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<tr>
<td>26</td>
<td>Wisewould Street, FLEMINGTON VIC 3031 (x2)</td>
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<tr>
<td>3</td>
<td>Wisewould Street, FLEMINGTON VIC 3031</td>
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<tr>
<td>30</td>
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<tr>
<td>32</td>
<td>Wisewould Street, FLEMINGTON VIC 3031 (x4)</td>
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<td>34</td>
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<tr>
<td>5</td>
<td>Wisewould Street, FLEMINGTON VIC 3031 (x3)</td>
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<tr>
<td>7</td>
<td>Wisewould Street, FLEMINGTON VIC 3031</td>
</tr>
<tr>
<td>8</td>
<td>Illawarra Road, FLEMINGTON VIC 3031</td>
</tr>
</tbody>
</table>
ATTACHMENTS – ORDINARY COUNCIL MEETING
ITEM 10.1 - ATTACHMENT B

TUESDAY, 09 JULY 2019

PAGE 7

DESIGN ANALYSIS

PROJECT OVERVIEW DA 01
SURROUNDING CONTEXT DA 02
LOCAL CONTEXT DA 03
PHOTO ANALYSIS DA 04
EXISTING DEVELOPMENT PRECEDENTS DA 06

DESIGN RESPONSE

ARCHITECT'S STATEMENT DR 01
EXISTING CONDITIONS DR 02
OPPORTUNITIES & CONSTRAINTS DR 03
GARDEN AREA PLAN DR 04
SITE COVERAGE & PERMEABILITY DR 05
DESIGN DIRECTION LOOK & FEEL DR 06
DESIGN DIRECTION LOOK & FEEL DR 07
DESIGN DIRECTION LOOK & FEEL DR 08
3D RENDERED PERSPECTIVE VIEWS DR 09
3D RENDERED PERSPECTIVE VIEWS DR 10

TOWN PLANNING

BASEMENT PLACE TP 01
GROUND FLOOR PLAN TP 02
FIRST FLOOR PLAN TP 03
SECOND FLOOR PLAN TP 04
ROOF PLAN TP 05
ELEVATIONS NORTH & EAST TP 06
ELEVATIONS SOUTH & WEST TP 07
SECTIONS TP 08
EXISTING STREETSCAPE TP 09
PROPOSED STREETSCAPE
FENCE PLAN & ELEVATION TP 10
SHADOW ANALYSIS TP 11
MATERIALS & FINISHES TP 12
LANDSCAPE PLAN TP 13
ARCHITECT'S STATEMENT

The design philosophy has been set by the client's desire to provide a high standard of habitable, high density, accommodation in Eton. Using the existing site conditions we aim to retain large portions of the existing building structure, overlapping contemporary material use, and finishes to provide a building of high architectural quality and merit.

The design intends to provide excellent internal and external areas with comfortable living spaces. Through the positioning of large facing windows & balconies providing outlook to external spaces, the bedrooms & living spaces all have an aspect which allows the natural light to filter into each dwelling. The external and internal living spaces are enhanced through better utilization of the site, improved landscaping and the utilization of private open space and rear flow effortlessly into each other.

ESD

The building will incorporate passive and active features to produce a more environmentally sustainable design. ESD features addressing the environmental impact of construction, solar, wind, water and acoustic factors will be incorporated into the design by way of environmentally friendly materials, and sustainable architectural principles.
APPENDIX C –

MV/562/2018 – 36 Wisewould Street, Flemington
Clause 55 (ResCode) of the Moonee Valley Planning Scheme

Two or more dwellings on a lot and residential buildings (Clause 55 and Schedule to the General Residential Zone).

Where there is non-compliance, see main report.

<table>
<thead>
<tr>
<th>Title and Objective</th>
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<tr>
<td>B1 - Neighbourhood Character</td>
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<td>B 2 - Residential Policy</td>
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<td>B 3 - Dwelling Diversity</td>
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<td>B 4 - Infrastructure Objectives</td>
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<td>B 5 - Integration with the Street Objective</td>
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<td>B6 - Street Setback Objective</td>
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<td>B 7 - Building Height Objective</td>
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<td>B8 - Site Coverage Objective</td>
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<td>B9 - Permeability Objectives</td>
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<td>B10 - Energy Efficiency Objectives</td>
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<td>B 11 - Open Space Objective</td>
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<td>B 12 - Safety Objective</td>
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<td>B 13 - Landscaping Objectives</td>
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<td>B 14 - Access Objectives</td>
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<td>B 15 - Parking Location Objectives</td>
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<td>B16 – Parking Provision</td>
<td>Deleted from Clause 55 on 5 June 2012 (VC90). Refer to Clause 52.06 for car parking requirements under Section 3.4 of the report.</td>
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<td>B 17 - Side and Rear Setbacks Objective</td>
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<td><em>B 21 - Overshadowing Open Space Objective</em></td>
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<td><em>B 22 - Overlooking Objective</em></td>
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<td><em>B 23 - Internal Views Objective</em></td>
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<td><em>B 25 - Accessibility Objective</em></td>
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<td><em>B 27 - Daylight to New Windows Objective</em></td>
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<td><em>B 28 - Private Open Space Objective</em></td>
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<td><em>B 29 - Solar Access to Open Space Objective</em></td>
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<td><em>B 30 - Storage Objective</em></td>
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<td><em>B 31 - Design detail objective</em></td>
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<td><em>B 32 - Front Fences Objective</em></td>
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<td><em>B 34 - Site Services Objectives</em></td>
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**Clause 55.07 – Apartment Developments**

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<td><em>B 36 – Communal Open Space Objective</em></td>
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<td><em>B 37 – Solar Access to Communal Outdoor Space Objective</em></td>
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<td><em>B 39 – Integrated Water and Stormwater Management Objectives</em></td>
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<td><em>B 42 – Building Entry and Circulation Objectives</em></td>
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<td>Title and Objective</td>
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<td>B 46 – Functional Layout Objective</td>
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<td>B 47 – Room Depth Objective</td>
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<td>B 48 – Windows Objective</td>
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<td>B 49 – Natural Ventilation Objectives</td>
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</table>

✓ - complies, x - non-compliance, N/A - Not Applicable
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3D RENDERED PERSPECTIVE VIEWS DR 09
3D RENDERED PERSPECTIVE VIEWS DR 10

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BASEMENT PLACE TP 01
GROUND FLOOR PLAN TP 02
FIRST FLOOR PLAN TP 03
SECOND FLOOR PLAN TP 04
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ELEVATIONS NORTH & EAST TP 06
ELEVATIONS SOUTH & WEST TP 07
SECTIONS TP 08
EXISTING STREETSCAPE TP 09
PROPOSED STREETScape TP 10
FENCE PLAN & ELVEATION TP 11
SHADOW ANALYSIS TP 12
MATERIALS & FINISHES TP 13
LANDSCAPE PLAN TP 14

...
Attachment A

MV/992/2018 – 97 Glass Street, Essendon

Location of Objectors

<table>
<thead>
<tr>
<th>Address</th>
<th>Suburb</th>
<th>Postcode</th>
</tr>
</thead>
<tbody>
<tr>
<td>20a Beaver Street, ABERFELDIE</td>
<td>VIC 3040</td>
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</tr>
<tr>
<td>52 Bulla Road, STRATHMORE</td>
<td>VIC 3041</td>
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</tr>
<tr>
<td>45a Glass Street, ESSENDON</td>
<td>VIC 3040</td>
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MV/992/2018 – 97 Glass Street, Essendon

Clause 55 (ResCode) of the Moonee Valley Planning Scheme

Two or more dwellings on a lot and residential buildings (Clause 55 and Schedule to the General Residential Zone).

Where there is non-compliance, see main report.

<table>
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<th>Compliance with Objective</th>
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<td>B 5 - Integration with the Street Objective</td>
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<tr>
<td>B 15 - Parking Location Objectives</td>
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<td>B 16 – Parking Provision</td>
<td>Deleted from Clause 55 on 5 June 2012 (VC90). Refer to Clause 52.06 for car parking requirements under Section 3.3 of the report.</td>
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<td>B 26 - Dwelling Entry Objective</td>
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<td>B 33 - Common Property Objectives</td>
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<td>B 34 - Site Services Objectives</td>
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✓ - complies, x – non-compliance, N/A - Not Applicable
MULTI-DWELLING DEVELOPMENT
97 GLASS STREET
ESSENDON
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<th>Material &amp; Colour Schedule</th>
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<tr>
<td>1. Compressed Sheet Roofing - Colourbond - Mandarin</td>
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<tr>
<td>2. Composite Aluminium Framed - Colourbond (Titanum)</td>
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<tr>
<td>3. Structural Aluminium Framed - Colourbond (Titanum)</td>
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<tr>
<td>4. Composite aluminium framed - Colourbond (Titanum)</td>
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<td>5. Composite aluminium framed - Colourbond (Titanum)</td>
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<tr>
<td>6. Composite aluminium framed - Colourbond (Titanum)</td>
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<tr>
<td>7. Glass Balustrade (maximum transmittance 27%) - TC</td>
</tr>
<tr>
<td>8. Laser Cut Laminated Translucent Glazing at 7%</td>
</tr>
</tbody>
</table>

*Note: Glass balustrade transmittance may vary.*

**ATTACHMENTS**

**– ORDINARY COUNCIL MEETING**

**ITEM 10.2 – ATTACHMENT C**
This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1997. The document must not be used for any purpose which may breach any copyright.
"This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach any copyright."
## Appendix A - Objectors Location for MV/605/2018 at 19-21 Park Street and 2-4 Smith Street MOONEE PONDS

### Objector’s Mailing Address

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<thead>
<tr>
<th>Address</th>
<th>Suburb</th>
<th>Postcode</th>
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<td>65 Margaret Street</td>
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19-21 PARK ST & 2-4 SMITH STREET
MOONEE PONDS, VICTORIA 3039
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APPENDIX C –

MV/605/2018 – 19-21 Park Street and 2-4 Smith Street, Moonee Ponds
Clause 55 (ResCode) of the Moonee Valley Planning Scheme

Two or more dwellings on a lot and residential buildings (Clause 55 and Schedule
to the General Residential Zone).

Where there is non-compliance, see main report.

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<tr>
<th>Title and Objective</th>
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<th>Complies with Objective</th>
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<td>B2 - Residential Policy</td>
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<td>Deleted from Clause 55 on 5 June 2012 (VC90). Refer to Clause 52.06 for car parking requirements under Section 3.4 of the report.</td>
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<tr>
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<td>B 20 - North-facing Windows Objective</td>
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<td>B 21 - Overshadowing Open Space Objective</td>
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<td>B 22 - Overlooking Objective</td>
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<td>B 23 - Internal Views Objective</td>
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<tr>
<td>B 24 - Noise Impacts Objectives</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>B 25 - Accessibility Objective</td>
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<td>✓</td>
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<tr>
<td>B 26 - Dwelling Entry Objective</td>
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<td>✓</td>
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<tr>
<td>B 27 - Daylight to New Windows Objective</td>
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<td>B 28 - Private Open Space Objective</td>
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<td>✓</td>
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<td>B 29 - Solar Access to Open Space Objective</td>
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</tr>
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<td>B 30 - Storage Objective</td>
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<td>B 31 - Design detail objective</td>
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<td>✓</td>
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<td>B 32 - Front Fences Objective</td>
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<td>B 33 - Common Property Objectives</td>
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Clause 55.07 – Apartment Developments

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<td>B 48 – Windows Objective</td>
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✓ - complies, x – non-compliance, N/A - Not Applicable
Submission in response to the Local Government Bill – A reform proposal Discussion Paper

Submitted by Moonee Valley City Council

17 July 2019
local.government@delwp.vic.gov.au

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Introduction

Moonee Valley City Council is pleased to have the opportunity to provide feedback on the Local Government Bill Reform Paper.

We have previously provided submissions to each stage of the Victorian Government’s Local Government Act reforms since 2015 and we are pleased to note that a number of our suggestions have been taken on board over time, including the implementation of additional training for Councillors.

Please find below our comments on the new reforms proposed in the discussion paper, Local Government Bill – A reform proposal. We have arranged these comments under the headings provided in the discussion paper.

1. Simplified Franchise

It is proposed that the Bill will allow for people on the State electoral roll to be directly enrolled by the Victorian Electoral Commission to vote in their Council election. Other people who pay Council rates (“property-franchise voters”) will have a right to apply for enrolment.

In our submission to Stage 2: the Directions Paper, we indicated a preference for grandfathering of the voting entitlement for existing property-franchise voters. This would avoid having to undertake a large scale communication campaign to re-educate voters.

We appreciate that the Bill is proposing to enact these changes in two stages, so that existing non-resident property owners would retain their enrolment status in 2020 and only be required to apply for enrolment as of the 2024 election. This provision does provide more time to communicate the changes to voters.

We do support the roll of resident-electors being aligned with the register of electors for the Victorian Legislative Assembly as per our previous submission.

2. Electoral Structures

One of the most substantial reforms proposed in the new Bill is the abolition of multi-member wards.

This is a substantial change from the Directions Paper, which offered two options:

1. Allow for one of two representative structures – unsubdivided, or entirely uniform multi-member wards
2. Allow for one of three representative structures – unsubdivided, entirely uniform multi-member wards or entirely single-member wards.

In response to these options, the City of Moonee Valley indicated its preference for Option 2. We noted that many factors are considered before a representative structure is finalised. In the interest of Councils having flexibility and autonomy, and noting that Councils vary in geographical size and number of voters, we proposed that having the option of single member wards was appropriate.

The Exposure Draft presented to Parliament in 2018 reflected this option, providing for unsubdivided, single- or multi-member wards.
Whilst we thus support the option of single-member wards in principle, we do not support a full conversion to single-member wards. We are concerned that this proposal is too far removed from previous proposals discussed as part of the Local Government Act reform process, and that the argument for this proposal does not appear to have been substantiated.

We note that providing Councils with options in relation to ward structure, ultimately reflects the overall intent of the Bill, which is to allow Councils the autonomy to act in the best interest of their communities.

It must also be noted that a shift to single-member ward structures across the board is likely to require further amendments to the previous Exposure Draft to do away with countbacks in the event of casual vacancy. Currently it is the case that Councils with single-member ward structures undertake by-elections to fill casual vacancies. This carries with it additional administrative burden and cost.

We urge the Minister to present more information and to conduct a further discussion with Councils in order to better clarify the factors which have led to this proposal, as it constitutes such a substantive change in direction.

In the event that the implementation of a single-member ward structure across Councils is to go ahead, sufficient time would need to be provided to undertake the ward boundary redistribution process and communicate the decision to voters. Noting that currently, just eight of 79 Victorian Councils have single-member ward structures, a shift of this magnitude will comprise a significant undertaking. Certainly there is no capacity for this to take place prior to the 2020 election cycle.

3. Training

It is proposed that the Bill will feature mandatory training as a condition of candidature, as well as mandatory induction training for new Councillors.

Moonee Valley strongly supports this proposal, and notes that it is in line with the sentiment of our submission in response to the Exposure Draft. Indeed, our proposal went further in suggesting that the Act or Regulations should stipulate that each Councillor should undertake a minimum of 10 hours of sector-specific training annually.

4. Donation Reform

It is proposed that the Bill will introduce further controls on donations and gifts in order to improve integrity and transparency. This will include a cap on single-donor donations of $1000 for Victorian local government elections (or $4000, in the City of Melbourne). It will also reduce the gift disclosure threshold from $500 to $250.

We note that the cap of $1000 applies not only to the period of the election, but to the entire four-year Council term. This makes it, as the Minister has noted in The Age (16 June 2019), the strictest cap in the country.

It must be noted that capping single-donor donations will not necessarily lead to a reduction in the pool of donations a candidate accumulates overall, noting that donors who intend to donate large sums may simply spread their funds across other individual colleagues, friends and family members to be dispersed.
It is our position that, in the interest of fairness, restrictions on political donations should be applied uniformly across the board. We question the justification for applying a higher cap on candidates in the City of Melbourne than in other municipalities.

Council supports greater integrity and transparency in donations and gifts giving. In practice, we acknowledge that this reform is unlikely to have significant impact on candidates in the City of Moonee Valley, who have historically been unlikely to report large campaign donations. Nonetheless, as this represents a substantial departure from previous versions of the Bill we have been consulted on, we would find it valuable to have further consultation undertaken prior to being able to reach a formal position.

5. Improved Conduct

It is proposed that the Bill will cease to include the Councillor Conduct Principles. Instead, standards of conduct will be prescribed in Regulations. Councils will be required to adopt a Councillor Code of Conduct which includes the standards prescribed in the Regulations. The intention is to provide a clearer understanding of what is required of Councillors, and provide clearer parameters for arbiters when investigating alleged breaches of the standards.

Council supports this reform. As per our submission in response to the Exposure Draft, we support a mandated, uniform Councillor Code of Conduct that will apply to all Councils, either in the Act or in Regulations.

It is also proposed that the Bill will replace internal resolution procedures developed by Councils to deal with accusations of misconduct, with internal arbitration processes. This will include the appointment of an arbiter by the Principal Councillor Conduct Registrar from a pre-approved list, rather than requiring the Council to identify and appoint an independent arbiter.

Council supports this reform, as it will introduce greater structure and independence into the process of arbitration.

6. Community Accountability

It is proposed that the Bill will alter the approach taken in the 2018 Bill to disciplinary action taken against individual Councillors. Rather than give the power of suspension to the Minister, the Bill proposes instead that disqualification may result where a councillor has been subject to a finding of Serious Misconduct arising from a Councillor Conduct Panel, on two occasions over an eight year period; OR through a community-initiated Commission of Inquiry, brought about as the result of a petition signed by at least 25 per cent of the total enrolment number on the voters’ roll at the most recent general election of Council.

Whilst this amendment introduces greater independence into the decision to suspend or disqualify a Councillor, it also introduces greater extremity in that the 2018 version of the Bill did not propose disqualification of individual Councillors, only suspension by either the Councillor Conduct Panel or the Minister. Specifically it allowed:

“If a Councillor Conduct Panel makes a finding of serious misconduct against a Councillor, the Councillor Conduct Panel may… suspend the Councillor from office for a period specified by the Councillor Conduct Panel not exceeding 6 months” and that the Councillor would also be precluded from being elected Mayor or Deputy Mayor for the remaining period of the Council term, and may be rendered ineligible to Chair a delegated committee of Council. None of these punishments were proposed to exceed the remainder of the Council term.
Alternatively, the Minister may recommend to the Governor in Council the suspension of a Councillor, but that suspension was to have a specified end date.

The new Bill not only permits the dismissal of individual Councillors, but disqualifies them from seeking election to Council for the next four years.

Seeking to override the democratic decision-making power of voters by dismissing an individual Councillor is a significant step. Noting however that the State is currently empowered to dismiss whole Councillor groups but not individuals, it seems not unreasonable that where serious misconduct is limited to an individual rather than the whole group, dismissal should be available as an option of last resort. Implementing this through a process politically independent of the Minister seems an appropriate measure.

In regard to the proposal for community-initiated Commissions of Inquiry, it is difficult to imagine how this will work in practice in the context of a metropolitan municipality. In Moonee Valley, 91,834 voters were enrolled in the 2016 Council election (noting that this figure has since increased with population growth). The required number of signatories to a petition to form the proposed Commission of Inquiry – 25% of the total municipal enrolment - would thus be 22,958 voters.

Under a single-member ward structure, assuming Moonee Valley continued to elect nine Councillors, each ward (based on 2016 enrolment) would have had an average 10,203 eligible electors. Average voter turnout across Moonee Valley’s three wards in 2016 was 75.68%. On that basis, estimated turn-out in a single ward might be in the vicinity of 7,721 voters. 50% of that turn-out plus one – a majority of votes – would have been 3,862 voters.

Based on these estimations, what is being sought in a petition to originate a Commission of Inquiry, is a number of signatories equivalent to around six times the number of votes required to get elected to Council. It is difficult to imagine this level of enfranchisement in response to the conduct of an individual Councillor. On this basis, we cannot see this aspect of the proposed Bill working in practice.

We also note, and support the comments raised by the Municipal Association of Victoria in their Members’ Brief in response to the proposed reform, in relation to the possibility of vexatious petition-raising and the impacts relating to expense and good governance.

**Other Comments**

We note also that the Discussion Paper, at page 4 canvasses a proposal that the Minister will no longer set Mayor and Councillor allowances. From the Municipal Association of Victoria’s Members Brief of 21 June 2019, we understand that the alternative proposal is to have the Independent Remuneration Tribunal set allowances. In our previous submission to the Directions Paper, we indicated that we believe the current formula (three category model), based on current population and revenue, is a fair and reasonable model.

We are happy to support a move to ask the Independent Remuneration Tribunal to set Mayor and Councillor allowances, but would like to see further detail provided beyond that in the current Discussion Paper.
We note that in their Members Brief, the Municipal Association of Victoria called for a proper consultation process to be informed by an Exposure Draft. We support this call, and note that an Exposure Draft would provide greater clarity and detail on which to assess some of the reforms proposed.

We thank the Minister again for the opportunity to provide a submission in response to the Local Government Bill Reform Paper.

Should you wish to discuss any of these matters further, please contact:

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Submission on Review of Local Government Act 1989

Jointly submitted by:

Wyndham City,
Brimbank City Council and
City of Moonee Valley

18 December 2015
PART 1 – INTRODUCTION TO SUBMISSION

This Joint Submission is made by the following councils Wyndham City, Brimbank City Council and the City of Moonee Valley:

It is intended to complement a submission made by any of the councils individually, including an Addendum provided by Brimbank City Council (Attached).

The councils have a common view about a number of issues canvassed in the Discussion Paper. This Submission gives voice to this common view. It does not address every question asked by or issued raised in the Discussion Paper. Rather, it concentrates on selected questions and issues in respect of which a common view is held.

The Submission is structured by reference to the Chapters contained the Discussion Paper. So, for example, Part 2 of the Submission addresses some questions posed by and issues canvassed in Chapter 2 of the Discussion Paper.

Before addressing these matters specifically, however, something should be said about themes which pervade the Discussion Paper. The themes involve the tension between local sector autonomy (on the one hand) and State oversight (on the other hand), the extent to which council roles and functions should be appropriately described and the level of prescription to which any new Local Government Act (new Act) should descend.

Autonomy v State Oversight

The Discussion Paper explicitly refers to 'the appropriate balance between state government oversight and sector autonomy'. It is a theme which is developed throughout the Discussion Paper.

It is acknowledged that the State Government has a legitimate interest in ensuring that the Victorian local government sector operates effectively and efficiently. To that end, it is understandable that a new Act may contain provisions which reserve powers of oversight or even intervention to the State Government. Such provisions should, however, be exceptional. Consistent with what is said in Part IIA of the Constitution Act 1975, Victorian local government should be seen as an essential tier of government which is both autonomous and democratic in character.

A new Act should, therefore, optimise the autonomy conferred on councils. Councils should be free to make decisions in the best interests of the communities that they represent. Legislative provisions which unnecessarily circumscribe this freedom will not be supported.

This Submission emphasises the importance of autonomy. The councils accept that, in return for a grant of autonomy, all councils should be:

1. transparent in their decision-making; and
2. accountable for the decisions which they make.

The requirements of transparency and accountability will, for the most part, be effective substitutes for unduly restrictive processes or procedures or reporting designed to support State Government oversight.

Take procurement as an example. This Submission will advocate for the existence of a general power to contract, without the constraints currently found in s 189(1) of the Local Government Act 1989 (the existing Act). Councils should be able to procure goods, services or works of any value without having to undertake a tender (or, for that matter, other competitive) process.

Any risk that a council could abuse such a broad-ranging power can be overcome by insistence upon transparency and accountability in the procurement process. The council should keep a record of all contracts entered into, with an explanation as to why the contract was procured in the way that it was. Its

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1 See pg. 14.
publicly accessible explanation about the procurement method it employed makes it accountable to its ratepayers and residents.

Other examples could be given. The central point is that the ‘balance’ referred to in the Discussion Paper can best be maintained by giving emphasis to autonomy and relying upon transparency and accountability mechanisms for ensuring that the autonomy is not abused.

**Roles and Functions of Councils**

The councils accept that the roles and functions of the Victorian local government sector will alter over time. In a sense, the roles and functions evolve, whether on account of changes in demographic or community expectation or cost shifting from other tiers of government.

This makes it impossible (and potentially counter-productive) to fix the roles and functions with any certainty. While some characteristics will be perpetual others might not.

Despite this, the councils support the concept of the new Act describing the general roles and functions of Victorian councils. In the existing Act, s 3D attempts to describe the role of a council while s 3E endeavours to describe the functions of a council.

Section 3D’s description of the role of a council is a sound one. There is no reason why it could not be replicated in a new Act.

Section 3D’s articulation of council functions is less appealing. It is appreciated – as the Discussion Paper points out – that the functions are cast in wide terms, and that this widely cast provision replaced a Schedule which listed a series of specific functions. The latter risked being construed narrowly, and meant that councils could not, without reference to a listed function, justify what would otherwise be a very legitimate involvement in an activity occurring within their municipal districts.

The broadly-expressed functions in s 3E(1) of the existing Act do not, however, adequately capture the range of activities undertaken by councils. Nor do they easily accommodate inter-governmental collaboration or shared service arrangements. Although a generic (rather than specific) approach to the description of functions is supported, a more contemporary and less theoretical statement of functions is recommended.

**Level of Prescription**

The councils are conscious that a lack of prescription can sometimes lead to uncertainty of application. In the past there have been instances of councils advocating for more enabling (and less prescriptive) legislation only to question why, when the enabling legislation has been passed, the legislation now fails to provide sufficient guidance on what councils are meant to do.

As a general proposition, though, prescription is undesirable. Given the choice between provisions which are enabling and provisions which are prescriptive, the council’s unreservedly support the former. Prescriptive provisions should only appear in the new Act were they are absolutely necessary.

A balance must therefore be maintained between provisions which are enabling and provisions which are prescriptive. Prescriptive provision should appear only where they are necessary to ensure certainty and clarity of operation.

Ultimately, the councils’ vision for a new Act reflects the vision of the New South Wales Local Government Acts Taskforce (the NSW Taskforce) for its State’s legislation. In its 2013 Report to the New South Wales Minister for Local Government – *A New Local Government Act for New South Wales and Review of the City of Sydney Act 1988 – the NSW Taskforce envisaged:*

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2 See pg. 19.

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Submission on Review of Local Government Act 1988
Wynnum City, Bribbin City Council and City of Moree Valley
15 December 2015
principles-based, enabling legislation that is streamlined, easily understood, in a logical framework, eliminates unnecessary red tape and will provide a legislative and statutory framework to meet the current and future needs of the community of the local government sector.¹

PART 2 – THE ROLE OF COUNCILS

General Power of Competence

The councils support the existence of a general power of competence (rather than a series of powers which are prescribed). Broadly speaking, they support the approach of the Local Government Charter contained in the existing Act – a general power of competence linked to functions which are, in turn, linked to the role and, ultimately, the objectives, of the council. In other words, the rationale behind sections 3C, 3D, 3E and 3F of the existing Act is logically sound and appropriately leads to a grant (in section 3F) of a general administrative power.

It is not as the grant of a general power of competence is unqualified. Courts have interpreted, and presumably will continue to interpret, legislation conferring broad powers on councils by reference to accepted notions of municipal concern.¹ This contextual limitation is ordinarily accompanied by a textual limitation, ensuring that the general power of competence is subject to any limitations or restrictions imposed by or under any other legislation.²

This support for the existing Act's approach to conferring a general power of competence is not, however, unequivocal. If a general enabling power is to be linked to the functions of a council then it is important that those functions sufficiently describe the activities which can be undertaken by councils. Mention has already been made of the deficiencies in section 3E of the existing Act, and of the need for a fresh approach to the articulation of council functions.

Further, the existing Act embodies a confused relationship between the general grant of administrative power set out in section 3F(1) and a series of more specific powers described in succeeding provisions of the Act. Sometimes what purport to be specific powers are not really powers at all. Rather, they are processes or procedures which need to be followed in the exercise of a power.³

It is important that a new Act better describe the nexus between the general power of competence and other – more specific – provisions which assume the existence of a power but limit the scope or exercise of that power in some way.

Penalties

The councils do not support the concept of penalties for non-compliance with a duty or obligation imposed on a council.

There are numerous instances of the Victorian Parliament creating (or providing for the creation of) bodies and imposing duties, and conferring functions and powers, on such bodies. It is extremely rare to find examples of bodies being subjected to the risk of a penalty if a duty is not performed. There appears to be no warrant for councils being subjected to special treatment in this regard.

It is not as though a failure to comply with any duty or obligation imposed by a new Act will go unpunished. There is the potential for:

1. a person with the requisite legal standing to bring a proceeding in a Court (and perhaps obtain the Prerogative Writ of Mandamus to compel performance of a duty or obligation);

2. an investigation or inquiry by an external body or agency (such as the Ombudsman or Local Government Investigations and Compliance Inspectorate); and/or

¹ Taskforce Report (16 October 2013 pg 9).
³ See section 3F(1) of the existing Act as an example.
⁴ See generally Part 9 of the existing Act, with particular reference to sections 186, 189 and 190.

Submission on Review of Local Government Act 1988
Wyndham City, Brimbank City Council and City of Moonee Valley
16 December 2015
3. media comment.

There is also the ultimate sanction – suspension or even dismissal of Councillors.

Councils therefore have incentives to meet their legislative obligations. It is unnecessary for these incentives to be accompanied by a penalty regime, involving one tier of government bringing proceedings against another tier of government to punish it for non-compliance.

Review of Administrative Decisions

The Discussion Paper raises issues about the review of ‘administrative decisions’. It is unclear whether the review being canvassed is internal or external.

There is, of course, a fundamental issue as to what constitutes an administrative decision. Under Administrative Law principles, any exercise of statutory powers by a council is capable of being characterised as an administrative decision (in the sense of being a decision made by an administrative decision-maker). Some of these decisions may be decisions made by members of council staff acting as delegates. Others will be decisions taken by Councillors collectively, and expressed through a resolution made at a duly constituted council meeting.

It can hardly be the case that the existence of a right of review should turn on precisely who made the relevant decision. Similarly, it would be difficult to distinguish between and among decisions so as to make some reviewable (internally or externally) and others non-reviewable.

In any event, ultimately the decision for the council are decisions of a democratically elected body. Rights of review (but more particularly external review) are therefore difficult to justify.

While the councils therefore submit that a new Act should not impose any new review mechanisms, they accept that transparency and accountability will sometimes require a review of the process followed or even a review of a decision itself. So, a new Act might properly require councils to establish their own internal review processes without stipulating the scope or detail of these processes. Rather, councils would be free to determine how their own internal review processes would be structured and when they should be reviewed – whether, for example, there is to be an Internal Ombudsman to whom any aggrieved person can ‘appeal’ or whether more specific arrangements are to be implemented in respect of particular decisions or types of decisions.

The concept is, then, one of councils being autonomous in their response to requests for review. Instead of a ‘one size fits all’ review regime, a new Act would stop at mandating that some system of internal review be created, and that the internal review arrangements be publicly accessible. Each council will then decide what internal review is to look like, and when it is to be available.

A similar approach could be taken to complaint-handling. A ‘top down’ system of complaint-handling is unlikely to prove effective or be capable of universal application. Yet every council currently has some system for handling complaints, and accepts that it is in the public interest that processes for handling complaints are equitable and effective. As with internal review rights, the most appropriate structure is one which leaves councils free to shape how their own complaints-handling processes function. Each council will be accountable for the processes it devises and follows.
PART 3 – HOW COUNCILS ARE ELECTED

Electoral arrangements for the local government sector have been the subject of recent and extensive review. Some of the councils made submissions during (or have publicly responded following the completion of) the review process.

The councils support a rationalisation of the arrangements for handling and resolving election complaints. They also support a rationalisation of the arrangements for enforcing compulsory voting. The Victorian Electoral Commission should have responsibility for all of this.

Beyond this there remains an issue which is worth canvassing. It is not referred to in the Discussion Paper but goes to the continuing qualification of a person to be a Councillor. The issue is whether some training or other form of professional development should be mandated for Councillors.

The role of a Councillor is an important but complex one. Councillors oversee large budgets, and are accountable for operations which are highly regulated. There is at least an issue as to whether, in these circumstances, they should be compelled to undertake some basic financial training and other training designed to assist them in understanding their (and their councils') legislative obligations.

This issue was recently addressed by the Metropolitan Local Government Review Panel appointed by the Western Australian Minister for Local Government. It noted the familiar debate between those who argue that training should be a prerequisite to continuing in office and those who point out that similar requirements are not imposed on members of the Australian or relevant State Parliament. Even if some form of training was mandatory, questions may arise as to who is to administer the training and how successful completion of the training is to be measured.

Perhaps the best approach is, again, one which rests with the notion of council autonomy, complemented by principles of transparency and accountability. A new Act might simply empower councils to adopt training policies and to report on what training has been undertaken by both elected members and members of council staff. Each council then decides what training is to be made available to Councillors. The public will come to see who does, and who does not, undertake the training referred to in the council’s training policy.

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PART 4 – HOW COUNCILS OPERATE

Role of Mayor

The Discussion Paper raises two issues:

1. should the Mayor be directly elected; and
2. should the Mayor be given executive power?

The issues are, to some extent, linked.

Views on a directly (or popularly) elected Mayor differ. The mixed views are probably a reflection of mixed experiences on the part of councils or those who work in them.

There is, however, a common view that the role of the Mayor should be clarified. There is also a common view that providing the Mayor with executive power is undesirable. It would blur lines of demarcation between the Mayor and a council’s organisation, and invite controversy unless accompanied by a dedication of resources towards enabling the balance of elected members to hold the Mayor to account.

In a sense, legislating for an enhanced role for the Mayor assumes a shift towards a different model of governance. If there is to be any legislated change, it should be left to each council to decide whether the Mayor is to be given executive decision-making powers, and, if so, the extent of these powers.

Chief Executive Officer and Staff

The Discussion Paper does not produce any compelling argument to change. Consistent with the existing Act, a council should be free to:

- choose who its Chief Executive Officer is to be;
- decide the terms of the employment relationship;
- manage the Chief Executive Officer’s performance; and
- reappoint the Chief Executive Officer towards the end of the employment term, if it wishes to do so.

Chief Executive Officers should be free to make similar choices and decisions in respect of the staff they manage.

There are few instances of relevant provisions in the existing Act telling a council. Problems that have arisen are more explicable by reference to the state of relationships than unsuitable legislative provisions.

The provisions of Division 4 of Part 4 of the existing Act have achieved little. Complaints against a Chief Executive Officer are capable of being investigated fairly without resort to probity auditors or a mandated process. It is unnecessary for a new Act to contain similar provisions.

Delegations

The approach of the existing Act is supported by the councils. Broad powers of delegation exist. It is up to each council to decide what is to be delegated and to whom.

The existing Act requires a delegation to be effected by an ‘instrument of delegation’. Frequently delegations are effected through resolutions, without any accompanying instrument. There is some doubt as to whether the resolution can qualify as an instrument of delegation. 

The need for an ‘instrument of delegation’ is questionable. As long as the delegation is clearly documented (as it is in the case of a resolution) the delegation should be legally effective.

Section 86(3) of the existing Act provides for a delegation of power to a Special Committee. It reflects the distinction which the existing Act draws between Advisory Committees (on the one hand) and Special Committee (on the other hand). Some complications arise out of this.

It is not uncommon for councils to establish Special Committees but not delegate any powers to them. This causes the distinction between Advisory Committees and Special Committees to break down. Perhaps a change in nomenclature is necessary, so that Special Committees are confined to committees to which powers are delegated. This Submission will return to the issue of Special Committees below.

Meetings

It is not uncommon for the constitutions of companies to provide for meetings of Boards of Directors by electronic means. The existing Act expressly allows for participation by electronic means when Boards of Regional Library Corporations are meeting, at least in circumstances where a local law of the Regional Library Corporation makes provision for this.

There appears to be no policy justification for treating meetings of a council or a Special Committee differently. Councillors ought to be able to participate if reliable technological links exist. Just as with meetings of Regional Library Corporation Boards, appropriate safeguards can be introduced to ensure that any necessary conflict of interest obligations are observed.

The councils support the idea of flexibility in meeting arrangements. Consistent with what has been said about autonomy, councils should be able to decide when they meet the type and extent of prior notice given to members of the public. Again, an obligation to maintain a publicly accessible account of why decisions were made to hold particular meetings or communicate with members of the public in a particular way will ensure that there is no real room for abuse. Given recent events at some Victorian council meetings, it might even be that councils should be free to decide whether, in a particular instance, no part of the meeting should be held in public.

Finally, a point should be made about meetings of Special Committees. As indicated above, what are essentially Advisory Committees are often constituted as Special Committees. A Special Committee is, under the existing Act, subject to various meeting procedure constraints. Generally, members of the public will have a right to be present at a Special Committee meeting of any kind. The provisions relating to conflicts of interest apply to meetings of Special Committee.

There is merit in confining Special Committees to committees having delegated power. Beyond this, there is merit in a council being able to act flexibly in relation to a Special Committee, without any presumptions about public presence or other meeting procedure constraints.

Consultation

A number of provisions in the existing Act require councils to give public notice of a proposal, invite submissions, consider any submissions received and hear from anyone who wishes to be heard in support of their submission before making a specified decision. Public notice involves publishing a notice in a

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8 See sections 86(3) and 98(1).
10 See section 197E.
11 See section 70(6) of the existing Act. Any technological link could be terminated by a council (and then reactivated once the next item of business is reached) and/or a Councillor or member of Special Committee could be required to make a statutory declaration that he or she did not view or listen to any part of the deliberations in respect of which the conflict of interest was disclosed.
12 See section 89(1) of the existing Act.
13 See section 79 of the existing Act.
14 See, for example, sections 129 and 223 of the existing Act.
newspaper generally circulating within the municipal district (and chosen by the council for the purpose). The councils believe that such rigidity in notice or communication requirements is unnecessary. An obligation to consult should exist. But councils should be free to decide what form this consultation should take. They should justify their choices and be accountable for them.

So, councils may, in years to come, obtain details of the email addresses of most of its ratepayers and residents. A direct email to ratepayers or residents, perhaps supplemented by a newspaper advertisement or website post, may – in relevant circumstances – be sufficient notice of something which is proposed.

Complaint-Handling

This Submission has already addressed the councils’ preferred approach to complaint-handling. It did so in elaboration of what was said about the review of administrative decisions.

A ‘one size fits all’ approach is undesirable. Each council should be able to decide how it responds to complaints. The new Act should not go beyond requiring a council to adopt a complaint-handling process.

Local Laws

The scope of a council’s local law-making power is an ample one. It largely mirrors the general grant of administrative power conferred on councils. The maximum penalties which a local law can impose are, however, wholly inadequate. They have not kept pace with changes since the existing Act was introduced. In particular, they have not mirrored legislative developments which have allowed penalty units under Acts and Regulations to be indexed, and so undergo adjustment each year. The maximum penalty which a local law can impose should be increased. The increase should be complemented by treating penalty units under local laws like penalty units and monetary units under other legislation.

16 See the definition of ‘public notice’ in section 3(1) of the existing Act.
17 See, for instance, section 119 of the existing Act.
18 See section 111(1) of the existing Act.
19 See the Monetary Units Act 2004.
PART 5 – PLANNING AND REPORTING

The planning and reporting obligations contained in Part 6 of the existing Act are already stringent and burdensome. The councils do not support further changes that would increase the number of reports to be provided or lengthen the period for which a plan is intended to be current.

It is not as though the public receives inadequate information about the financial and other plans of a council. The provisions of the existing Act should not be replaced by provisions which impose unrealistic and unnecessary reporting obligations on Victorian councils.
PART 6 – COUNCIL RATES AND CHARGES

In the absence of any other logical criterion, ownership of land seems to be the most appropriate criterion for the imposition of rates and charges. A new Act will, however, need to address a number of issues relating to rates and charges.

Rateability

Section 154(2)(c) of the existing Act provides for a rate exemption in respect of any part of land which is used exclusively for charitable purposes. The concept of ‘charitable purposes’ is a technical one, linked to the 1601 Statute of Uses and a series of decisions of the courts.20 Land can be used exclusively for charitable purposes even though the owner or occupier is not a person in ‘need’. Hence the perpetuation of rate exemptions for private schools and, at least in some instances, private hospitals.

At a minimum, the concept of ‘public benevolent institution’ should replace the concept of ‘charitable purposes’. This better aligns with the tax treatment of ‘charities’ under Commonwealth law.21

More fundamentally, however, the extent of any exemption should be left to councils to determine. It should not necessarily be the case that a total exemption from rates and charges is assured.

The Discussion Paper refers to research undertaken by Deloitte Access Economics Pty Ltd in 2013.22 That research considered the approach of a number of jurisdictions (including other Australian States, New Zealand, Canada and the United Kingdom). A number of the jurisdictions provide for a ‘discount’ or rebate in respect of land used for charitable or like purposes. This makes sense. It is difficult to see why bodies which are not in ‘need’ of assistance should not make a contribution towards the provision of infrastructure and services by a council.

The extent of rate relief provided to such a body could be the subject of a council policy. Again, autonomy dictates that a council should be free to develop the policy and establish criteria for the extent of the relief to be given to a body. The policy (and the reasoning within it) should be transparent. A council will be accountable to its community for the development and application of such a policy.

Mix of Rates and Charges

The councils appreciate that, with the enactment of the Local Government Amendment (Fair Go Rates) Act 2015, there is heightened scrutiny of the use of rating powers. A new Act should, however, better reflect councils’ revenue needs.

A municipal charge serves a limited purpose. Those councils which impose a municipal charge do so without obvious reference to recoupment of expenditure on administration. Under the existing Act, a municipal charge is intended to cover some of a council’s administrative costs.23

Instead of a municipal charge councils should be empowered to impose charges or levies for specified purposes. An infrastructure services levy is an example of what could be permitted. What would be imposed would have a specific purpose. The proceeds would be quarantined, and used solely to achieve that purpose.

Like the municipal charge, service rates and charges levied under section 162 of the existing Act are of limited utility. Only a service rate or charge for the collection and disposal of refuse is legally viable.

Conceptually there is no reason why councils should not be empowered to declare rates and charges in respect of other services which they provide. The character of the rate or charge will mean that what is declared is not really intended to generate additional revenue — it is intended, rather, to ensure that the cost of the provision of the relevant service is fully funded by service users.

20 See, for example, Salvation Army (Victoria) Property Trust v Shire of Ferntree Gully (1962) 85 CLR 159.
21 See further the Income Tax Assessment Act 1936 (Cth).
23 Section 159(1) of the existing Act.
It might be thought that provisions in a new Act enabling councils to levy specific purpose rates or charges or a greater variety of service rates or charges could lead to an unbridled search for extra income and a circumvention of the rationale for rate capping. The role of the Essential Services Commission under Part 8A of the existing Act will, though, presumably be replicated in any new Act. If rate capping remains, the Essential Services Commission will monitor revenue derived from rates and charges that are not in the nature of general rates. Councils which abuse the autonomy given to them would risk the rate cap being extended to the additional types of rates and charges which they impose. In this way, safeguards will accompany greater choice in the types of rates and charges available to councils.

*Rate Relief*

Unless (financial) hardship exists, a council can only provide rate relief through a rebate or concession granted under section 169 of the existing Act. It is unclear whether this section can accommodate long-term rate relief arrangements, such as those which could be expected to be embodied in a Rating Agreement.

A new Act should give councils the power to provide rate relief in circumstances where they satisfied that it is in the best interests of their communities. The power should extend to rate relief provided for in a Rating Agreement.

Unless privacy requirements dictate otherwise, the existence of and reasons for the rate relief should be articulated in a publicly accessible register. Once more, transparency of decision-making and accountability are the best means of ensuring that a more straightforward power to provide rate relief will be exercised appropriately.
PART 7 – SERVICE DELIVERY AND FINANCIAL DECISION MAKING

Investments

Section 143 of the existing Act details where a council may invest its money. Apart from specific securities and institutions, there is an ability to invest “in any other manner approved by” the Minister for Local Government “after consultation with the Treasurer.”

The councils believe that the power of approval should not rest with the Minister for Local Government. A council’s Audit Committee ought to be able to approve an investment not otherwise specifically provided for in legislation. Any such decision by the Audit Committee should be reported to the council, and be accessible to members of the public.

Sale and Leases of Council Land

Specific procedures must be followed by a council proposing to sell or lease land under the existing Act. Sections 189 and 190 require councils to comply with section 223 before finalising any sale or lease. So, a council must give public notice, invite submissions, consider any submissions received and hear from anyone wishing to be heard in support of their submission before selling or leasing land.

A new Act should not be so prescriptive. Councils should be required to undertake community consultation before consummating a sale or lease. The form and extent of that community consultation should be for the council to decide. Its reasons for following that form of community consultation to that extent, and for ultimately deciding to sell or lease the land, should be documented and be available to the public.

Procurement

The Discussion Paper notes difficulties which attend the operation of section 186(1) of the existing Act.

This is the section which requires a council to undertake an open or closed tender process before entering into a contract for the supply of goods or services or the carrying out of works where the transactional value is equal to or greater than a specified amount.

The thresholds provided for in section 186(1) have never been regularly reviewed. Even if they had been, the provision would still have been beset by the types of issues identified in the Discussion Paper.

The NSW Taskforce considered a similar provision in the New South Wales Local Government Act 1994. It recommended that:

rather than the legislation setting a monetary threshold, a more flexible principles-based approach be established to enable councils to determine their threshold based on a risk assessment of the proposed procurement and the procurement principles ...

Every Victorian council must prepare and approve an procurement policy. A council must comply with its procurement policy. This procurement policy could set out when a council must undertake a tendering (or other form of competitive) process before procuring goods, services or works. It would be for the council to decide what triggers competitions. The public availability of the procurement policy, complemented by requirement to maintain a contracts register:

• outlining contracts entered into by the council; and
• explaining why a particular procurement process was followed before entering into each contract,

would help ensure transparency of decision-making and accountability for the (procurement) decision(s).

24 Section 143(f).
26 This is $160,000 in relation to goods and services and $200,000 in relation to works.
27 NSW Taskforce Report pg 43.
28 Section 186A(1) of the existing Act.
29 Section 186A(9) of the existing Act.
The councils believe that a new Act should grant them the autonomy to procure goods, services and works in a manner consistent with their procurement policies. Any monetary thresholds should be theirs to prescribe. If no competitive process has been followed before entry into a particular contract the reasons for this will be recorded and published.

**Entrepreneurial Powers**

If a new Act imposes restrictions on councils engaging in entrepreneurial activities, a recalibration of those entrepreneurial activities is necessary. The existing Act uses concepts such as ‘union of interest’, ‘cooperation’ and ‘reciprocal concession’ which lack an accepted commercial meaning.

It would also be disappointing if the equivalent provision in a new Act unnecessarily constrained councils wishing to collaborate and engage in a shared service provision. While it might not be necessary to expressly provide for the formation of new regional bodies, councils attracted to the sharing of resources should not find themselves deterred by a provision which is uncertain in its application or unjustifiably prescriptive in its requirements.
PART 8 – COUNCILLOR CONDUCT OFFENCES AND ENFORCEMENT

Councillor Conduct

The councils welcome the reforms embodied in the Local Government Amendment (Improved Governance) Act 2019. Although it would be helpful to have some guidance on the qualifications of the arbiter who is to conduct the internal resolution process under a Code of Conduct, the reforms appear to be clear in their intention.

The councils would like to see the reforms in operation before deciding whether a new Act should adopt the same or a modified approach.

Conflict of Interest

It is accepted that a broader concept of conflict of interest is preferable to a concept of pecuniary interest. It is also accepted that, with the passage of time, the provisions contained in Division 1A of Part 4 of the existing Act have proven workable.

That said, the provisions appear to be unnecessarily complex. There remains considerable uncertainty over the operation of a number of the provisions.

What amounts to a direct interest under section 77B(1) of the existing Act is almost impossible to discern. The provision is cast in terms so broad as to make almost anything capable of qualifying as a direct interest.

Section 78B(1)(b) – which is concerned with a class of indirect interest – is similarly vague. It distinguishes between a ‘consultant’ and ‘contractor’, even though a consultant will ordinarily be a contractor.

Section 78C(1)(a) precludes a gift being an ‘applicable gift’ if it takes the form of reasonable hospitality received at an event or function attended in an ‘official capacity’. The latter phrase causes confusion – almost invariably Councillors will be invited to attend a function or event in their capacity as Councillors. Yet it can hardly have been the intention of the provision that this alone will prevent a conflict of interest from arising.

The councils believe that an attempt should be made to remove some of the uncertainties inherent in the concepts used in the provisions of the existing Act, and introduce a legislative regime which is simpler in its expression and more certain in its application. Such a regime might well form the basis of training programs for Councillors. 30

Confidentiality

An amendment to section 77 of the existing Act will soon become operative. 32 When this occurs, a breach of section 77(1) will (again) involve the commission of an offence. The councils support this.

A new Act should similarly make it an offence to divulge confidential information. Unlike section 77(1) of the existing Act, a new Act should:

– provide for the deliberations which occur during a closed meeting of a council or Special Committee to be confidential (and not just information provided to such a meeting);

Councillors and members of Special Committees have an expectation that what they say during a closed meeting will remain confidential. This should be supported in any new legislative provision; and

30 See section 18 of the Local Government Amendment (Improved Governance) Act, which will introduce section 81AA into the existing Act.
31 See Part 2 of this Submission.
32 See section 17 of the Local Government Amendment (Improved Governance) Act.

Submission on Review of Local Government Act 1989
Wyndham City, Brimbank City Council and City of Moorabbin
16 December 2015
- there should be clarification of whether a Chief Executive Officer who has designated information as confidential is able to revoke that designation.

Currently, the language of section 77(2)(c) infers that a resolution might be necessary in order for the confidentiality restriction to be lifted. This can cause practical inconvenience.
PART 9 – MINISTERIAL POWERS

Reference has already been made to the councils’ preference for autonomy, qualified by transparency and accountability obligations. It follows that, in the view of the councils, powers of Ministerial intervention should be kept to a minimum.

A Ministerial power to direct a council to amend, discontinue or replace its governance processes and policies will soon become operative. The councils do not support a new Act containing a like provision. It runs counter to local government autonomy. Sufficient safeguards already exist to prevent governance abuse. Ultimately, a failure to provide good governance could permit the suspension or dismissal of Councillors.

Nor do the councils support the idea that a failure to fulfill a legislative duty should give rise to penalties. This Submission has already addressed the issue of penalties. A failure to comply with a legislative provision will not necessarily go unpunished or remedied. For the reasons already outlined in Part 2 of this Submission, a penalty regime is unnecessary.

33 See Part 1 of this Submission.
34 See section 40 of the Local Government Amendment (Improved Governance) Act, which will introduce a new section 218A into the existing Act.
35 The safeguards include monitoring by integrity bodies and the media.
36 See Part 2 of this Submission.
PART 10 – HARMONISATION OF THE LOCAL GOVERNMENT ACT

Roads

A number of provisions in the existing Act are concerned with roads.\textsuperscript{27} Separately, the Road Management Act 2004 sets out various road management functions of councils.

A new Act should address this. It appears appropriate for all provisions concerning roads to appear in the Road Management Act.

Cultural and Recreational Lands

Currently the Cultural and Recreational Lands Act 1963 determines what amounts can be levied in respect of certain land. This Act is outdated.

Land currently subject to the Cultural and Recreational Land Act should be brought within the ambit of a new Act. Any new Act should treat such land in the same way as land used exclusively for charitable purposes should be treated – councils should be empowered to decide what level of ’discount’ is to apply in respect of such land.

Occupational Health and Safety

There is an increasing tendency for Councillors to complain to their council’s Chief Executive Officer about the conduct of another Councillor, and to allege ‘bullying’ by that other Councillor. This places the Chief Executive Officer in an untenable position. On the one hand he or she is, as the chief administrator of an undertaking, required to do that which is reasonably practicable to ensure that the workplace is safe. On the other hand he or she lacks any real ability to regulate the conduct of Councillors.

The intersection between the Occupational Health and Safety Act 2004 and a new Act needs to be considered. Any provisions in a new Act relating to Councillor conduct need to be linked to Occupational Health and Safety Act obligations. It is one thing to provide – as the existing Act soon will – that bullying can amount to serious misconduct, and justify an application to a Councillor Conduct Panel.\textsuperscript{28} It is quite another to leave the Chief Executive Officer practically powerless to act in circumstances where, pending any serious misconduct application being heard, a recurrence of bullying is risking.

Perhaps the Occupational Health and Safety should expressly empower a Chief Executive Officer to register a complaint with WorkSafe, and impose an obligation on the latter to investigate and direct that a Councillor (or Councillors) engage or desist from engaging in certain conduct. WorkSafe would then have an obligation to monitor the conduct or take other measures to prevent any injury (physical or mental) to the Councillor who is the victim of the bullying.

\textsuperscript{27} See, for example, section 204-207A of and Schedules 10 and 11 to the existing Act.

\textsuperscript{28} See section 12 of the Local Government Amendment (Improved Governance) Act.
ADDENDUM - BRIMBANK CITY COUNCIL

Brimbank City Council strongly encourages the State Government to take the opportunity through the review to pursue a new, innovative model of Local Government legislation for Victoria: A model of simplified and enabling legislation supported by a system of well-developed and maintained Practice Notes and Guidelines.

Brimbank City Council endorses, in-principle, the joint submission from Brimbank, Wyndham and Moonee Valley city councils, to the State Government’s Discussion Paper on the review of the Local Government Act 1989, with the inclusion of the following comments reflecting Brimbank City Council’s specific position:

- **Page 6 – How Councils are Elected (Training)**
  Given the wide variation in the ability of councils to provide Councillor training, and the need for consistency across the sector, there should be a system that provides an incentive, for example, recognition and/or linked to allowances, for Councillors to undertake accredited training.

- **Page 8 – Meetings (Electronic Attendance)**
  Given the nature of the matters required to be considered by councils, and noting the example of Regional Library Corporation Boards is not comparable to the broad responsibilities of councils, in person attendance by Councillors at Council Meetings should continue to be required.

- **Page 11 – Rateability (Exemptions)**
  Brimbank supports a review of the provisions relating to rating exemptions to address inherent inconsistencies and anomalies in the current provisions, but on the basis that rateability provisions should be consistent across the sector. Brimbank does not support a model where exemptions would be left to each council to determine.

- **Page 13 – Investments**
  Noting the demonstrated strength and protection in Victoria of council (ratepayer) funds – as a consequence of a conservative investment regime – compared to other States, Brimbank does not support a model that would allow individual councils to determine investments – either with or without Audit Committee oversight.
Act for the Future - Directions for a new Local Government Act Submission Template

Name
Suburb
Age*
Gender*

*Please see the last page of this document for our terms and conditions around privacy of your information

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

<table>
<thead>
<tr>
<th>Organisation or council name</th>
<th>Moonee Valley City Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>Position</td>
<td>Manager Legislative Services &amp; Support</td>
</tr>
<tr>
<td>Are you providing this submission on behalf of the organisation or council?</td>
<td>Council</td>
</tr>
</tbody>
</table>

Key Information about making a submission

Who can make a submission?
Anyone is able to make a submission to the Local Government Act review Directions Paper - whether you’re responding yourself, or on behalf of a community group or local council.

How will submission be used?
All submission received will be considered and used to inform the next stages of the review.

Will submissions be made publicly available?
Written submissions (electronic and physical) will be made publicly available unless confidentiality is requested, and granted by the Local Government Act Review Advisory Committee, or if the committee determines the material should remain confidential. Submissions that are defamatory or offensive will not be published.

Can I provide a submission in another format?
It is strongly preferred for submissions to be made through the online form or by completing this form. However, if another format suits your needs or the requirements of your organisation you are welcome to use another format.

Do I have to respond to all of the questions in the template?
You’re welcome to respond to as many, or as few, of the questions as you would like.

How do I make a submission?
Submissions can be made in three ways:
- Online via the online submission form, or by uploading your completed submission form
- Email your completed form to local.government@delwp.vic.gov.au
- Post your completed form to:
  Local Government Act Review Secretariat
  C/o Local Government Victoria,
  PO Box 500, Melbourne VIC 3002
Chapter 2: Contemporary councils capable of meeting future challenges

Direction 1 proposes to:
Require councils to take the following principles into account when performing their functions and exercising their powers:

- the need for transparency and accountability
- the need for deliberative community engagement processes
- the principles of sound financial management
- the economic, social and environmental sustainability of the municipality
- the potential to cooperate with other councils, tiers of government and organisations
- plans and policies about the municipality, region, state and nation
- the need for innovation and continuous improvement
- any other requirements under the Act or other state or federal legislation.

Do you support this direction? ☐ Yes ☐ No
What other comments would you make for this proposal?

Council supports the concept of describing general principles for Victorian councils.

These ‘overarching principles’ support and promote good governance practice by upholding the fundamental requirements of accountability, sustainability and integrity. These principles exhibit the requirement to outline how Council’s will achieve its purpose, reinforce social responsibility as well as legal and regulatory obligations.

Direction 2 proposes to:
Provide that the role of a council is to:

- plan for and ensure the delivery of services, infrastructure and amenity for its municipality, informed by deliberative community engagement
- collaborate with other councils, tiers of government and organisations
- act as an advocate for its local community
- perform functions required under the Act and any other legislation.

Do you support this direction? ☐ Yes ☐ No
What other comments would you make for this proposal?

Council supports the concept of enabling flexibility to determine its own priorities and types of services, infrastructure and amenity they deliver. Council does however, consider that the existing Section 3D is also appropriate.
Direction 3 proposes to:
Provide that councils have the powers described in the Act and in other legislation.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
Council supports this direction.

Direction 4 proposes to:
Make the following reforms to the election of mayors:

- Elect all mayors for two-year terms
- Retain election of the mayor by their fellow councillors for most councils
- Provide the minister with power to approve the direct election of mayors for councils where:
  - the size of the council is sufficient to support the additional costs of direct election
  - the significance of the council in its own terms or in terms of the region in which it is situated supports a directly elected mayor
  - community consultation provides evidence of strong support for a directly elected mayor, recognising the additional costs to the community.
- Should the minister approve direct election of a mayor for a municipality, the City of Melbourne model will apply. This is that the mayor and deputy mayor are jointly elected by voters and councillors are elected at large to represent the entire municipality.

Do you support this direction? ☐ Yes ☐ No
What other comments would you make for this proposal?

For
New Section 73AA of the Act provides a non-exhaustive list of the functions of mayor. The argument for electing a Mayor for a longer term than 12 months supports the notion of embedding consistent leadership, stability and being able to execute duties as required under section 73AA. It will also support the concept of independent management without influence.

In terms of a directly elected Mayor, given Councillors are democratically elected by their community, the community should also be availed the opportunity to elect their preferred leader.

Against
It must be noted that the role of a councillor is supplementary to the day to day function of such individuals. Councillors have varying responsibilities in their personal lives, including that of employment. The role of the Mayor quite often undertakes additional activities which may interfere with personal and professional responsibilities outside of the Council. To sustain this over a 4 year period may become quite challenging and thus making the role of Mayor less appealing. With this in mind, offering a rotational Mayoral role will not only alleviate personal impacts on Councillors, but enables a select few Councillors the ability to undertake and gain experience and develop civic leadership skills.

In terms of a directly elected Mayor, given Councillors are democratically elected for a four year term, they should, in the spirit of broader government frameworks and methodology, nominate their preferred leader.

Council further considers that the replacement of a Mayor should a vacancy occurs, would be less complicated and more financially feasible given the vacancy would be filled by an internal process rather than a larger scale election.
Direction 5 proposes to:
Expand the role of the mayor to include the following powers and responsibilities:

- to lead engagement with the community on the development, and the reporting to the community at least annually about the implementation, of the council plan
- to require the CEO to report to the council about the implementation of council decisions
- to appoint chairs of council committees and appoint councillors to external committees that seek council representation
- to support councillors—and promote their good behaviour—to understand the separation of responsibilities between the elected and administrative arms of the council
- to remove a councillor from a meeting if the councillor disrupts the meeting
- to mutually set council meeting agendas with the CEO
- to be informed by the CEO before the CEO undertakes any significant organisational restructuring that affects the council plan
- to lead and report to council on oversight of the CEO’s performance
- to be a spokesperson for the council and represent it in conduct of public civic duties.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?

Generally speaking, the above provisions exist within Moonee Valley.

However, given the Act stipulates that the CEO is solely responsible for the administration arm of the organisation and its staff, the Chief Executive Officers should be free to make decisions in respect of its structure. It would distort the responsibilities between the Mayor and CEO.

Moonee Valley’s current model enables Councillors to discuss and resolve as the Council appointments to internal and external committees and bodies. This model has worked well for Council, empowering Councillors to gain specific knowledge of subject matters. It also supports the rotational process allowing Councillors to gain broader insight into the operations of different committees. Again, this has worked well for Moonee Valley and it would not be support to place the responsibility solely with the Mayor.

Direction 6 proposes to:
Review the formula for setting mayoral allowances in light of the proposed expanded role of mayors.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?

The current formula (three category model) based on current population and revenue formula is a fair and reasonable model.
Direction 7 proposes to:
Formalise the status of the Local Government Mayoral Advisory Panel (LGMAP) by making it a statutory advisory board to the minister under the Local Government Act.

Do you support this direction? □ Yes □ No
What other comments would you make for this proposal?
This is for the Minister to determine.

Direction 8 proposes to:
Require all councils to appoint a deputy mayor elected in a manner consistent with the mayor. That is:
- where councillors elect their mayor, councillors elect the deputy mayor for the same two-year period
- where the mayor is directly elected, a deputy mayor is jointly elected with the mayor on the same ticket.

Do you support this direction? ☑ Yes □ No
What other comments would you make for this proposal?
Council agrees that the Mayor and Deputy Mayor be elected in the same manner as provided above.

Direction 9 proposes to:
Consider deputy mayoral allowances in light of the expanded role of deputy mayors.

Do you support this direction? ☑ Yes □ No
What other comments would you make for this proposal?
Given the absence of this role within current legislation, it would be considered an honorary role in which individual Councils appoint. Thus additional allowance is not justified.

Bearing this in mind, should the Deputy Mayor undertake the role of Acting Mayor for a length of time (i.e. should the Mayor be on leave), it would be considered appropriate that arrangements are put in place for supplementary allowances.

Depending on the outcome of the question “Directly Elected Vs Councillor Elected”, a further review of this provision, including the need for recognition of the deputy role within legislation.

Direction 10 proposes to:
Require councillors to actively participate in engagement processes mandated by the Act.

Do you support this direction? ☑ Yes □ No
What other comments would you make for this proposal?
Moonee Valley already subscribes to the above direction in terms of its meeting structure. Councillors have an opportunity to participate in strategic direction through Councillor Workshops and briefings.
Direction 11 proposes to:
Require councillors to recognise and support the role of the mayor specified in the Act.

Do you support this direction? ☒ Yes ☐ No
What other comments would you make for this proposal?

Given the legislative role, functions and responsibilities of the Mayor, it is important that Councillors recognise and support this role.

Direction 12 proposes to:
Provide that councillors are entitled to all relevant entitlements consistent with other significant public offices (such as for disability support, maternity leave and childcare).

Do you support this direction? ☒ Yes ☐ No
What other comments would you make for this proposal?

The Councillor role is representational in nature, and not an employment arrangement. Thus Councillors are paid an allowance and are availed other entitlements, which include being reimbursed for out-of-pocket expenses incurred whilst performing their duties (such as childcare). Councillors can still exercise their rights to seek eligibility to both federal and state statutory provisions such as disability and maternity entitlements.

Direction 13 proposes to:
Require the CEO to provide support to the mayor by:

- consulting the mayor when setting council agendas
- keeping the mayor informed about progress implementing significant council decisions, including reporting on implementation when asked to do so
- providing information the mayor requires to meet the responsibilities of the role
- informing the mayor before making significant organisation changes that that affect the council plan
- supporting the mayor in their leadership role (such as by ensuring adequate council resources and access to staff for the proper conduct of council meetings and for civic engagements).

Do you support this direction? ☒ Yes ☐ No
What other comments would you make for this proposal?

The above would be considered reasonable and acceptable. Moonee Valley currently adopts the above approach.

Direction 14 proposes to:
Require all councils to have a CEO remuneration policy that broadly aligns with the Remuneration Principles of the Victorian Public Sector Commission’s Policy on Executive Remuneration for Public Entities in the Broader Public Sector.

Do you support this direction? ☐ Yes ☒ No
What other comments would you make for this proposal?

Council supports any recruitment or selection of a CEO being based on market forces and conducted under Council’s recruitment guidelines and selected on merit.

In terms of transparency and equity, Council’s adopting a similar policy to ensure CEO remuneration is applied with consistency. Council would then seek ministerial or CMI approval in this regard.
Direction 15 proposes to:
Require the audit and risk committee to monitor and report on a council’s performance against the remuneration policy.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
Council agrees that this concept supports the rationale of good governance in terms of open and transparent processes.

Direction 16 proposes to:
Require the mayor to get independent advice in overseeing CEO recruitment, contractual arrangements and performance monitoring.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
This is a practice currently in place for most Council’s and is supported to continue.

Direction 17 proposes to:
Remove detailed prescription about council decision-making processes from the Act.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
As previously submitted, a new Act should optimise the autonomy conferred on Councils. Councils should be free to make decisions in the best interests of the communities that they represent and this can be achieved through the use of Meeting Protocols, Codes of Conduct & Local Laws etc.

Direction 18 proposes to:
Include high-level principles about council decision-making processes: namely, that they be open and accountable.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
Again, as per Council’s initial submission, Council accepts that, in return for a grant of autonomy, all Councils should be:
1. transparent in their decision-making; and
2. accountable for the decisions which they make.

The requirements of transparency and accountability will, for the most part, be effective substitutes for overly restrictive processes or procedures or reporting designed to support State Government oversight.
Direction 19 proposes to:

Require councils to adopt rules about internal council processes that are consistent with the high-level principles in the Act.

Do you support this direction? ☒ Yes ☐ No

What other comments would you make for this proposal?

Ensuring that Councils are required adopt rules and internal processes that are consistent with the high level principles, will provide a sound foundation for good governance practices.

Direction 20 proposes to:

Include in the new Act that a council may determine that information is confidential if:

- it affects the security of the council, councillors or council staff
- it would prejudice enforcement of the law
- it would be privileged from production in legal proceedings
- it would involve unreasonable disclosure of a person’s personal affairs
- it relates to trade secrets or would disadvantage a commercial undertaking.

Do you support this direction? ☒ Yes ☐ No

What other comments would you make for this proposal?

Council aims to make all decisions in a transparent and open format. However, it must be acknowledged that there are such circumstances, as described above, where confidentiality should be applied to protect the interests of individuals, businesses and the law.

Direction 21 proposes to:

 Require a committee to which a council may delegate any of its powers to be known as a special committee and require it to include at least two members who are councillors.

Do you support this direction? ☒ Yes ☐ No

What other comments would you make for this proposal?

The current provisions serve Council well and it is not considered that this should be amended. Council, having the power to delegate its powers are in the best position to determine who should have membership on a special committee. Council does support these committees as being known as a Special Committee.

Direction 22 proposes to:

Allow councils to establish administrative committees to manage halls and reserves, with limited delegated powers including limits on expenditure and procurement; and for councils to approve annually committee rules that specify the roles and obligations of administrative committee members.

Do you support this direction? ☒ Yes ☐ No

What other comments would you make for this proposal?

Council supports this direction as it allows the day to day operations being managed by administrative functions, leaving Council’s to address matters of a more civic and strategic nature.
Direction 23 proposes to:
Apply legislative provisions exclusively to special committees that have delegated council powers and to administrative committees (as described in the proposed direction above).

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
Council supports that provisions relating to Special Committees to be directed through relevant Instrument of Delegation. Current Section 86 of the Act provides sound guidance on this matter.

Furthermore, defining the requirements for each of these committees in the Act, is essential for ensuring that there is a clear distinction between the functions of the two types of committee.

Direction 24 proposes to:
Remove from the Act provisions regulating assemblies of councillors, leaving councils to deal with issues of public transparency about these or any other advisory committees as part of the council’s internal rules.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
Council considers the retention of Assemblies demonstrates a clear commitment to transparency, decision making and the avoidance of any conflict of interest. However, it is also considered that this matter need not be legislated as matters of public transparency such as this are better managed through Council’s own internal policies and procedures.

Direction 25 proposes to:
Remove matters about employing council staff from the Act.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
Other statutory acts and regulations supersede the current requirements within the Act such as the Fair Work Act; Equal Opportunity Act and Anti-Discrimination Act just to name a few. This, together with individual Council recruitment and selection policies/procedures enhance the robustness of this concept.

Direction 26 proposes to:
Require the CEO to establish a workforce plan that describes the council’s staffing structure including future needs; that the plan include a requirement that it can only be changed in consultation with staff; and that the plan be available to the mayor and to staff.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
This is a current practice within Moonee Valley through service planning and thus Council supports this concept.
Direction 27 proposes to:
Require a council CEO to consult the staff if there is a major organisational restructure.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
This is a current practice within Moonee Valley and thus Council supports this concept.

Direction 28 proposes to:
Require a community consultation process before making or varying a local law.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
This is a current practice within Moonee Valley and thus Council supports this concept.

Direction 29 proposes to:
Include in the Act principles that local laws must meet and require that a council, after receiving advice from an appropriately qualified person, certify that the local law meets these principles.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
Currently a Local Law is made in accordance with the principles contained in Schedule 8 of the Act. Therefore, including such principles in the new Act is appropriate. Having Council certify that the Local Law meets those principles, following appropriate advice ensures that draft Local Laws will be referred to a relevant professional for final checking, before being put to Council for adoption.

Direction 30 proposes to:
Retain the power of the Governor in Council, on the recommendation of the minister, to revoke a local law that is inconsistent with the principles.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
To ensure and demonstrate fairness and equity, it would be considered appropriate to enable an authority such as the Minister to revoke a Council Local Law that is inconsistent with relevant principles.

Direction 31 proposes to:
Note that model local laws may be issued as guidelines on various matters to achieve greater quality, consistency and scrutiny. These would be based on best-practice local laws.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
Council supports the provision of model best practice Local Laws.

Direction 32 proposes to:
Consult to determine the appropriate value of a penalty unit for local laws and whether the value should be indexed annually,
Do you support this direction? ☑ Yes ☐ No

What other comments would you make for this proposal?

The maximum penalties, which a local law can impose, are inadequate. As previously submitted, penalty units have not kept pace with changes since the existing Act was introduced. In particular, they have not mirrored legislative developments which have allowed penalty units under Acts and Regulations to be indexed, and so undergo adjustment each year. The maximum penalty which a local law can impose should be increased. The increase should be complemented by treating penalty units under local laws like penalty units and monetary units under other legislation.

Furthermore, by indexing the amount of the penalty unit annually, Council can ensure that infringement penalties will remain an effective deterrent to prevent re-offending.

Direction 33 proposes to:
Remove the requirement to submit local laws to the minister.

Do you support this direction? ☑ Yes ☐ No

What other comments would you make for this proposal?

As Councills are required to make their Locals Laws available on their websites, this appears to be a redundant process.
Chapter 3: Democratic and representative councils

Direction 34 proposes to:
Extend the band (currently 5–12) for the number of councillors per council to 5–15 and provide the minister with the power to increase the number of councillors per council within this band after receiving advice of the VEC.

Do you support this direction? ☐ Yes ☒ No
What other comments would you make for this proposal?

Part 10, Division 2 of the Local Government Act has served this Council well. The formula as prescribed under Section 219D provides for fair and equitable representation. It is considered that the number of Councillors per Council should be determined by this rule, and if it is determined, that the number of Councillors only increase in accordance with the ratio calculation.

Given there has been little change across the sector over the years, Council sees no reason to change such legislation.

Direction 35 proposes to:
Include in Regulations a formula for determining councillor numbers and require that the VEC consistently apply it. Base the formula on the ratio of councillors to residents, mediated by the geographic scale of the local government area, loading councillor numbers by one, two or three for geographically vast local government areas.

Do you support this direction? ☐ Yes ☒ No
What other comments would you make for this proposal?

Council supports the use of a formula to determine the ratio of Councillors to residents, as it can ensure consistency across the sector.

Direction 36 proposes to:
Allow for one of two representative structures—unsubdivided or entirely uniform multi-member wards—to be applied in each municipality. (Option 1) or

Allow for one of three representative structures—unsubdivided, entirely uniform multi-member wards or entirely single-member wards—to be applied in each municipality. (Option 2)

Initially this would require the VEC to conduct representation reviews to arrive at new council structures for the first council elections after the Act is enacted.

Do you support option 1? ☐ Yes ☒ No
Do you support option 2? ☐ Yes ☒ No

What other comments would you make for this proposal?

Many factors are considered before a representative structure finalised. As all Councils vary in geographical size and number of voters, having the additional option of single member wards is appropriate.
Direction 37 proposes to:
Subject to fixing councillor numbers by formula and reducing the range of representative structures, conduct future electoral representation reviews by exception when the minister directs the VEC to conduct a review on the basis of:

- evidence of a marked increase in population in a municipality
- a request to the minister from a council or members of the community supported by evidence of the need for a review
- in response to a recommendation from the VEC
- on any grounds determined by the minister published in the government gazette.

Do you support this direction? ☐ Yes ☐ No
What other comments would you make for this proposal?
All of the reasons provided for are reasonable reasons to justify a representation review.

Direction 38 proposes to:
Introduce partial preferential voting, consistent with Victorian Legislative Council elections, for multi-member wards and unsubdivided elections, such that the voter is only required to mark the ballot paper with the number of consecutive preferences for which there are vacancies to be filled.

Do you support this direction? ☐ Yes ☐ No
What other comments would you make for this proposal?
This direction is supported as it ensures voting and ballot counting systems are consistent between levels of Government.

Direction 39 proposes to:
Implement a countback method to fill casual vacancies between general elections by which all valid votes cast at the general election would be counted, not just those of the vacating councillor (excluding the votes that made up the quotas of the continuing councillors).

Do you support this direction? ☐ Yes ☐ No
What other comments would you make for this proposal?
It is considered that the proposed process for conducting a countback would be a fairer and more equitable system.

Direction 40 proposes to:
Consolidate all electoral provisions in a schedule to the Act, arranged according to the model provided by the Electoral Act 2002; retain most provisions in the current electoral regulations; and retain procedural matters (such as prescribing forms and setting fees) in Regulations.

Do you support this direction? ☐ Yes ☐ No
What other comments would you make for this proposal?
It would be considered reasonable to make regulations which consolidate all election requirements.
Direction 41 proposes to:

Make the entitlement to vote in a council election to be on the register of electors for the Victorian Legislative Assembly (the state roll) for an address in their municipality. Grandfather the voting entitlement of existing property-franchise voters in that municipality. Institute compulsory voting for all enrolled voters. (Option 1) or

Maintain the existing franchise but cease automatic enrolment of property owners and require these voters to apply to enrol for future council elections if they choose to do so. Institute compulsory voting for all enrolled voters. (Option 2)

Do you support option 1? ☑ Yes ☐ No
Do you support option 2? ☐ Yes ☑ No

What other comments would you make for this proposal?

Grandfathering of the voting entitlement for existing property-franchise voters is desirable, as this will avoid having to undertake a large scale communication campaign to re-educate voters, which would be required if option 2 is adopted.

Direction 42 proposes to:

Require the VEC to revise the candidate’s nomination form to require candidates to explicitly state that no disqualification conditions apply to them.

Do you support this direction? ☑ Yes ☐ No

What other comments would you make for this proposal?

This will encourage candidates to be honest from the onset.

Direction 43 proposes to:

Require a council CEO to complete a police check and a check of the Australian Securities & Investments Commission (ASIC) register of persons disqualified under the Corporations Act 2001 for elected candidates within three months after the general election. (Option 1) or

Require each candidate to submit a completed ASIC and police check when nominating. (Option 2)

Do you support option 1? ☐ Yes ☑ No
Do you support option 2? ☑ Yes ☐ No

What other comments would you make for this proposal?

The responsibility of providing current and relevant checks, should rest with the candidate. Furthermore, it is important that these checks done are prior to the election, in order to avoid disruption to a newly formed Council, which may result from a Councillors disqualification on these grounds.
Direction 44 proposes to:

Require adoption of a uniform voting method for council elections as determined by the minister after receiving advice from the VEC. Have the minister publish the method to be used in the government gazette 12 months before the general elections.

Do you support this direction? ☐ Yes ☐ No

What other comments would you make for this proposal?

Each municipality is different in demographic and size. Moonee Valley sees a great voter turnout through postal voting and therefore prefers to remain able to decide on which voting method attracts better voter turnout.
Chapter 4: Councils, communities and participatory democracy

Direction 45 proposes to:
Include deliberative community engagement as a principle in the Act and include in the role of a councillor the requirement to participate in deliberative community engagement, leaving the method to be determined by each council.

Do you support this direction? ☐ Yes ☐ No

What other comments would you make for this proposal?

It is considered that this matter need not be legislated as matters such as this are better managed through Council's own internal policies and procedures.

Direction 46 proposes to:
Require a council to prepare a community consultation and engagement policy early in its term to inform the four-year council plan and ten-year community plan.

Do you support this direction? ☒ Yes ☐ No

What other comments would you make for this proposal?

Council supports this direction as it helps to build a level of trust with regard to transparency and accountability, when developing such plans.

Direction 47 proposes to:
Require a council to conduct a deliberative community engagement process to prepare its council plan and to demonstrate how the plan reflects the outcomes of the community engagement process.

Do you support this direction? ☐ Yes ☐ No

What other comments would you make for this proposal?

Deliberative community engagement processes are effective techniques to ensure adequate community consultation and input is incorporated into Council's planning cycle.

A requirement for Council's to demonstrate how feedback and input from engagement processes are incorporated into the Council Plan would ensure greater transparency and strengthen participatory planning intent with the community.

This new requirement should not be prescriptive of the type of technique or method by which deliberative processes are undertaken by each Council and should allow for a tailored approach to suit different local communities.

It is suggested that guidelines and resources to support a LG sector best practice approach to different deliberative process methods and techniques should be explored to support this change.
Direction 48 proposes to:
Include in regulations that an engagement strategy must ensure:
- the community informs the engagement process
- the community is given adequate information to participate
- the scope/remit of the consultation and areas subject to influence are clear
- those engaged are representative of the council’s demographic profile.

Do you support this direction? ☐ Yes ☐ No
What other comments would you make for this proposal?

COUNCIL supports the concept of adopting a council plan by 31 December in the year after the council election. It is considered that this allows the new Council to get to know relevant issues important to the community as well allowing sufficient time to plan and engage.

Realistically, with the timing of elections and the holiday period, generally through December and January, leaves the administration very little time to engage with the Council and its community.

Direction 50 proposes to:
Require the mayor to report to the community each year about how the council plan has implemented the community’s priorities as directed through the deliberative community engagement process.

Do you support this direction? ☐ Yes ☐ No
What other comments would you make for this proposal?

COUNCIL supports this direction to uphold its responsibilities and builds a level of trust with regard to transparency and accountability.
Direction 51 proposes to:

Require a council to publish on its website all documents and registers currently required to be kept on council premises and ensure this information is accessible to the public.

Do you support this direction? ☑ Yes  ☐ No

What other comments would you make for this proposal?

This proposal would contribute to a Council's commitment to transparency.

Direction 52 proposes to:

Require a council to publish its CEO remuneration policy on its website.

Do you support this direction? ☑ Yes  ☐ No

What other comments would you make for this proposal?

This proposal would contribute to a Council's commitment to transparency.

Direction 53 proposes to:

Regulate for minimum standards and include in guidelines best-practice processes for ensuring transparency and accountability in council operations and administration, basing the guidelines on current Melbourne City Council practices.

Do you support this direction? ☐ Yes  ☑ No

What other comments would you make for this proposal?

It is considered that this matter need not be legislated as matters such as this are better managed through Council's own internal policies and procedures.

Direction 54 proposes to:

Include in the Act a definition of a customer complaint consistent with the Ombudsman's recommendation of as it an 'expression of dissatisfaction with the quality of an action taken, decision made or service provided by a council or its contractor or a delay or failure in providing a service, taking an action or making a decision by a council or its contractor, but with the addition that the customer has been directly affected by the action.'

Do you support this direction? ☐ Yes  ☑ No

What other comments would you make for this proposal?

The new Act should not go beyond requiring a Council to adopt a complaint-handling process. This Council currently has a system for handling complaints, and accepts that it is in the public interest that processes for handling complaints are equitable and effective. As with internal review rights, the most appropriate structure is one which leaves Councils free to shape how their own complaints-handling processes function. Each council will be accountable for the processes it devises and follows.
Direction 55 proposes to:

Require a council to develop a policy about customer complaints that includes a process for dealing with customer complaints, and that the process contain an avenue for independent review that is clearly accessible to the public. Policy and statutory decisions of the council would not be subject to the complaints policy.

Do you support this direction? ☑ Yes ☐ No

What other comments would you make for this proposal?

Consistent with the approach in Direction 54 above, Council currently has in place a policy outlining an avenue for independent review.
Chapter 5: Strong probity in council performance

Direction 56 proposes to:
Incorporate the current councillor conduct framework largely unamended in the Act, including:
- the definitions
- the principal requirements imposed on councillors and councillors, relevant statutory officers, principal councillor conduct registrars
- the role and powers of the minister and ministerial monitors and the Chief Municipal Inspector (CMI).

Do you support this direction? ☑ Yes  ☐ No
What other comments would you make for this proposal?

Council supports the direction of the recent Amendment. This reform is clear in its intention.

Direction 57 proposes to:
Include in Regulations all the processes specified in the current councillor conduct framework.

Do you support this direction? ☑ Yes  ☐ No
What other comments would you make for this proposal?

Refer above.

Direction 58 proposes to:
Extend the offence of release of confidential information to council staff who unlawfully disclose confidential information.

Do you support this direction? ☑ Yes  ☐ No
What other comments would you make for this proposal?

Direction 59 proposes to:
This will make councillors and council staff liable to criminal prosecution for more serious disclosures and liable to disciplinary action—councillors for serious misconduct through the councillor conduct panel process and council staff under their contract of employment—for less serious breaches.

Do you support this direction? ☑ Yes  ☐ No
What other comments would you make for this proposal?

No further comment.
Direction 60 proposes to:

Provide that a conflict of interest exists where:

- the councillor or a person with whom they are closely associated stands to gain a benefit or suffer a loss depending on the outcome of the decision (a 'material conflict of interest') the councillor has, or could reasonably be taken to have, a conflict between their personal interests and the public interest that could result in a decision contrary to the public interest.

Do you support this direction? ☒ Yes ☐ No

What other comments would you make for this proposal?

As per its previous submission, Council considers that the broader concept of conflict of interest is preferable to a concept of pecuniary interest. It is also accepted that, over time, the provisions contained in the existing Act have proven practical.

However, the provisions are unreasonably complex. There continues to be uncertainty over the operation of a number of the provisions, where certain indirect interest could be determined as a direct interest. That is, 77B refers to a person having an interest if "the benefits, obligations, opportunities or circumstances of the person would be directly altered". However, one's circumstances can be altered or opportunities provided also through having indirect interest (ie. residential amenity, having a conflicting duty).

Although Council supports the concept of 'material interest' the Conflicts of Interest provision requires review to enable clarity and certainty in applying such rule.

Direction 61 proposes to:

Make a breach of conflict of interest subject to disciplinary action for serious misconduct through a councillor conduct panel, at the discretion of the CMI. The maximum penalty a councillor conduct panel can impose for serious misconduct is six month suspension from office and loss of a councillor allowance for that period.

Do you support this direction? ☐ Yes ☒ No

What other comments would you make for this proposal?

In keeping with the Primary Principles of Councillor Conduct, it is considered that to breach Conflicts of Interest rules, that an individual has failed in their duty as an elected representative. Along with the effects this has on transparent and accountable decision making, the reputational implications for the Council itself is detrimental. Therefore, breaches should continue to be dealt with in line with current arrangements.

Direction 62 proposes to:

Retain the capacity to prosecute a person in court for a conflict-of-interest breach when it involves failure to disclose a 'material conflict-of-interest'. This is a criminal offence with a maximum fine of 120 penalty units and an associated disqualification from being a councillor for eight years.

Do you support this direction? ☐ Yes ☒ No

What other comments would you make for this proposal?

Council supports this direction. Refer response in 61 above.
Direction 63 proposes to:
Retain the current legislative provision on misuse of position.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
Council supports this concept acknowledging the importance of the elected position.

Direction 64 proposes to:
Retain the current legislative provisions on improper direction, noting they will be supported by the further legislative measures to clarify the roles and responsibilities of councillors, mayors and CEOs set out in Chapter 2 of this paper.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
Council supports this concept acknowledging the importance of the elected position.

Direction 65 proposes to:
Retain the current enforcement role, functions and powers of the CMI and the inspectorate.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
Council supports this concept acknowledging the importance of the elected position.
Chapter 6: Ministerial oversight of councils

Direction 66 proposes to:
Include in the Act principles to apply to a proposal to create a new municipality, that:

- each new municipality shall be viable and sustainable in its own right
- the allocation of revenues and expenditures between municipalities being separated shall be equitable for the residents of each municipality
- the views of the communities affected by the restructuring shall be taken into consideration
- each new municipality shall have sufficient financial capacity to provide its community with a comprehensive range of municipal services and to undertake necessary infrastructure investment and renewal.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
Council supports this direction.

Direction 67 proposes to:
Other than the proposed direction above, retain the current provisions (in Part 10A) about altering external municipal boundaries.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
Council supports this direction.

Direction 68 proposes to:
Retain the power of the minister to:

- appoint a municipal monitor in a manner and with the role and powers as currently set out in the Act
- issue a governance direction to a council, noting that other powers of the minister to direct councils (such as the power to direct a council to submit financial statements under section 135) be included in this general power
- stand down a councillor as currently set out in the Act.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
Council supports this concept acknowledging the importance of the elected position.
Direction 69 proposes to:
Empower the minister to recommend that a councillor be suspended by an order in council where the councillor is contributing to or causing serious governance failures at a council. This power to only be exercisable in exceptional circumstances in that:
- the councillor has caused or substantially contributed to a breach of the Act or Regulations by the council or to a failure by the council to deliver good government and
- a council (by resolution), a municipal monitor, the CMI, the Ombudsman or the Independent Broad-based Anti-corruption Commission have recommended that the minister suspend the councillor on these grounds and
- the council, the municipal monitor, the CMI, the Ombudsman or the Independent Broad-based Anti-corruption Commission have satisfied the minister that the councillor has been provided with detailed reasons for the recommendation and was given an opportunity to respond to their recommendation and
- the minister is satisfied that if the councillor is not suspended that there is an unreasonable risk that the council will continue to breach the Act or continue to be unable to provide good government for its constituents.

Do you support this direction? ☒ Yes  ☐ No
What other comments would you make for this proposal?

Council supports this concept acknowledging the importance of the elected position.

Direction 70 proposes to:
Retain the provisions in the Act about the suspension and dismissal of a council in their current form, including the provisions allowing appointment of administrators.

Do you support this direction? ☒ Yes  ☐ No
What other comments would you make for this proposal?

Council supports this concept acknowledging the importance of the elected position.

Direction 71 proposes to:
Streamline the minister's power to conduct inquiries into councils into a single power to appoint commissions of inquiry consisting of one or more commissioners to inquire into and make recommendations to the minister about any matter as requested by the minister. This will include, but not be limited to:
- governance issues
- financial probity issues
- disputes between councils and between councils and other parties.

Do you support this direction? ☒ Yes  ☐ No
What other comments would you make for this proposal?

Council supports this concept acknowledging the importance of the elected position.
Direction 72 proposes to:
Retain the existing power to forbid a council from employing a new CEO or entering into a new contract with an existing CEO but amend the power to provide that it can only be exercised on the recommendation of a municipal monitor or the CMI.

Do you support this direction? ☑ Yes ☐ No

What other comments would you make for this proposal?
Council supports this concept. Generally, circumstances such as the above would arise as a result of an investigation involving a municipal monitor or CMI. This recommendation strengthens the Ministers ultimate decision.

Direction 73 proposes to:
Remove the power relating to senior officers from the new Act as all staff employment matters should be dealt with by relevant employment laws.

Do you support this direction? ☐ Yes ☑ No

What other comments would you make for this proposal?
Council supports this concept as it aligns with its response in Direction 25.

Direction 74 proposes to:
Bring all provisions (and all other elements) of the Fair Go Rates System into the new Act consistent with the legislative hierarchy in Chapter 10.

Do you support this direction? ☐ Yes ☑ No

What other comments would you make for this proposal?
Councils appreciate that there is heightened scrutiny of the use of rating powers. A new Act should, however, better reflect Councils’ revenue needs.

Direction 75 proposes to:
Retain the general power for the minister to recommend regulations to give effect to the Act and empower the minister to relieve a council of requirements to follow processes set out in Regulations.

Do you support this direction? ☐ Yes ☑ No

What other comments would you make for this proposal?
Council supports this direction.

Direction 76 proposes to:
Empower the minister to issue non-regulatory guidelines on any matter under the Act.

Do you support this direction? ☑ Yes ☐ No

What other comments would you make for this proposal?
Any and all best practice guidelines are welcomed by this Council.
Direction 77 proposes to:

Remove the requirement to request ministerial exemption from public tenders, as explained in Chapter 8.

Do you support this direction? ☑ Yes ☐ No

What other comments would you make for this proposal?

Council supports this direction. Council’s are required to have in place a Procurement Policy. As such a Council must comply with such a policy, thus this policy could provide guidance and standards for when a Council may need to divert from a public tender process.

Council supports, that having sound financial principles, rigorous policies in place and robust oversight by an independent audit Committees will offer Council’s more flexibility and enable innovation to be broadened (ie. shared services).

Direction 78 proposes to:

Remove the power requiring a contract for a senior officer: all employment matters for council staff will now be subject to employment law.

Do you support this direction? ☑ Yes ☐ No

What other comments would you make for this proposal?

In terms of Senior Officer employment related matters it is suggested that Level 2 – Directors (Executive) appointments remain as fixed term contracts up to 5 years.

Level 3 – Managers to be removed from the ‘Act’ regarding any related employment matters including appointments. This allows Council to increase the talent pool and enhance attraction and retention strategies and market opportunities.

Direction 79 proposes to:

Explore an alternative method for handling instances of a majority of councillors having a conflict of interest preventing them voting on a planning scheme amendment.

Do you support this direction? ☑ Yes ☐ No

What other comments would you make for this proposal?

Section 86 Committees can assist in such circumstances.
Chapter 7: Integrated planning

Direction 80 proposes to:
Include an integrated strategic planning and reporting framework in the Act that identifies the four-year council plan as a council’s central strategic planning instrument, and also requires long-term (10 year) plans—being a community plan, financial plan and asset plan—and short-term (1 year) reporting documents—being the budget and annual report (containing all performance reporting).

Do you support this direction? ☐ Yes ☑ No
What other comments would you make for this proposal?

Given a Council is elected for a term of 4 years, it is considered that all strategic documents (i.e. Council Plan, budget etc) be prepared and adopted for the 4 year term. Again, progress on such documents and/or required amendments could be reported once a year to ensure alignment with current needs and factors.

Direction 81 proposes to:
Include in Regulations and guidelines details about the information a council will include in each plan.

Do you support this direction? ☐ Yes ☑ No
What other comments would you make for this proposal?

It would be considered reasonable to apply through regulation and guidelines about information council should include in each plan.

Direction 82 proposes to:
Require:
- a council to prepare and adopt a four-year council plan by 31 December of the second year after a general election
- preparation of the council plan to be informed by the deliberative community engagement process described in Chapter 4
- the council plan to include information about services, infrastructure and amenity priorities for the council term.

Do you support this direction? ☐ Yes ☑ No
What other comments would you make for this proposal?

Consistent with its response in Direction 49, Council supports the concept of adopting a council plan by 31 December in the year after the council election. It is considered that this allows the new Council to get to know relevant issues important to the community as well allowing sufficient time to plan and engage.
Direction 83 proposes to:

Remove the requirement to submit a copy of the council plan to the minister and replace it with a requirement to publish it on the council website and to have the mayor report annually to the community on the achievement of the council plan.

Do you support this direction? ☒ Yes ☐ No
What other comments would you make for this proposal?
Council supports this direction.

Direction 84 proposes to:

Require a council to prepare and adopt a rolling community plan of at least 10 years by 31 December of the second year after a general election to guide strategic planning and inform the preparation of the council plan. Require preparation of the community plan to be informed by the deliberative community engagement process that also underpins the council plan.

Do you support this direction? ☐ Yes ☒ No
What other comments would you make for this proposal?
By having 10 year community plans, a newly elected Council may in its term, not have the opportunity to develop and implement its own community plan, as will be a legacy document, carried over from the previous Council.

Direction 85 proposes to:

Set out in Regulations and guidelines what is to be included in the community plan, including a community vision statement.

Do you support this direction? ☒ Yes ☐ No
What other comments would you make for this proposal?
It would be considered reasonable to make regulations about matters where there are prescriptive requirements to be met, such as with the development of the community plan. This will also ensure consistency in what is included in community plans is consistent across the state.

Direction 86 proposes to:

Require all councils to prepare and adopt a rolling financial plan of at least ten years by 31 December of the second year after a general election, in accordance with the principles of sound financial management, and for council to review and approve this plan annually.

Do you support this direction? ☒ Yes ☐ No
What other comments would you make for this proposal?
The introduction of Rate Capping has made this proposal now very relevant. However, given Council’s are currently required to prepare a Council Plan and Strategic Resource Plan for a 4 year period, it would be deemed appropriate to prepare a budget to align and support these Plans. It is considered that Council’s would then only review or adjust its budget in accordance with s.128 of the Act.
Direction 87 proposes to:
Remove the requirement for a council to prepare a strategic resource plan.

Do you support this direction?  ☒ Yes  ☐ No
What other comments would you make for this proposal?

Council supports this concept. By aligning the Council Plan & Budget, the resources required to achieve objectives contained within the Council Plan will be considered through the budgeting process therefore making a Strategic Resource Plan superfluous.

Direction 88 proposes to:
Require the financial plan to:
- guide financial planning and inform the council plan
- provide the community with prescribed information about the human resource and capital works assumptions and decision-making underlying financial forecasts
- be informed by the deliberative community engagement process.

Do you support this direction?  ☒ Yes  ☐ No
What other comments would you make for this proposal?

Council supports this direction.

Direction 89 proposes to:
Require all councils to prepare and adopt a rolling asset plan of at least ten years by 31 December of the second year after a general election, in accordance with the principles of sound financial management, and for a council to review and approve this plan annually. This plan will guide asset planning and inform the council plan.

Do you support this direction?  ☒ Yes  ☐ No
What other comments would you make for this proposal?

Council supports this direction.

Direction 90 proposes to:
Require the asset plan to include information about new assets, asset retirement, maintenance and renewal requirements for each class of infrastructure assets and to be informed by the deliberative community engagement process.

Do you support this direction?  ☒ Yes  ☐ No
What other comments would you make for this proposal?

Council supports this direction.
Direction 91 proposes to:
Set out requirements for what is to be included in the financial and asset plans in Regulations and guidelines.

Do you support this direction? ☐ Yes ☐ No
What other comments would you make for this proposal?

It would be considered reasonable to make regulations and guidelines about matters where there are prescriptive requirements to be met, such as with the development of the financial and asset plans. This will also ensure consistency in what is included in these plans is consistent across the state.

Direction 92 proposes to:
Require a council to prepare a budget annually and to review it mid-cycle at 31 December each year. Require the CEO to report the results and to explain material budget variations, including whether a revised budget is required, to council.

Do you support this direction? ☐ Yes ☐ No
What other comments would you make for this proposal?

Officers provide quarterly reports to Council on its financial performance. This ensures that Council’s financial management and associated processes are accountable, transparent and responsible.

Direction 93 proposes to:
Include in the Act a clearer definition of material variation in order to clarify when a revised council budget must be struck.

Do you support this direction? ☐ Yes ☐ No
What other comments would you make for this proposal?

Council considers the need for greater clarity in determining what is “material” represented in either “%” or “$” terms.

Direction 94 proposes to:
Remove the requirement to submit a copy of the adopted budget to the minister.

Do you support this direction? ☐ Yes ☐ No
What other comments would you make for this proposal?

As the Budget is published on Council’s website and made available at Council’s libraries, the need to submit a copy to the minister is redundant.
Direction 95 proposes to:
Require all councils to establish an audit and risk committee with an expanded oversight of:
- the integrated strategic planning and reporting framework and all associated documents
- financial management and sustainability
- financial and performance reporting
- risk management and fraud prevention
- internal and external audit
- compliance with council policies and legislation
- service reviews and continuous improvement
- collaborative arrangements
- the internal control environment.

Do you support this direction? ☒ Yes ☐ No
What other comments would you make for this proposal?
Moonee Valley City Council currently incorporates these concepts within its current Audit Committee Charter.

Direction 96 proposes to:
Require the audit and risk committee to include a majority of independent members and include councillors, but not council staff.

Do you support this direction? ☒ Yes ☐ No
What other comments would you make for this proposal?
Moonee Valley City Council currently incorporates this concept within its current Audit Committee Charter.

Direction 97 proposes to:
Require the audit and risk committee to report to the council biannually and require each council to table the biannual audit and risk committee report at a council meeting.

Do you support this direction? ☒ Yes ☐ No
What other comments would you make for this proposal?
Council supports this direction as it promotes transparency in reporting.

Direction 98 proposes to:
Continue to require a council to include information in its annual report of operations about achievements against its council plan, community plan, financial plan, asset plan and budget.

Do you support this direction? ☒ Yes ☐ No
What other comments would you make for this proposal?
Council supports this direction as it promotes transparency in reporting.
Direction 99 proposes to:
Remove the requirement for a council to submit a copy of its annual report to the minister.

Do you support this direction? ☒ Yes  ☐ No

What other comments would you make for this proposal?
As the Council Plan is published on Council’s website and made available at Council’s libraries, the need to submit a copy to the minister is redundant.

Direction 100 proposes to:
Require a council to present its annual report at an annual general meeting at which the mayor must report progress on implementing the council plan.

Do you support this direction? ☐ Yes  ☒ No

What other comments would you make for this proposal?
This is not required as Council already provides periodic reporting of its achievements under the Council Plan.

Direction 101 proposes to:
Require that in developing its council plan, a council take account of relevant aspects of regional and state plans that affect the municipality.

Do you support this direction? ☒ Yes  ☐ No

What other comments would you make for this proposal?
Requiring Council’s to consider other regional and state plans will ensure shared priorities, actions and a greater opportunity for collective impact. Opportunities for integration should be sought to ensure planning is complimentary and not duplicative. The role of different levels of government, the non for profit and community sector and community can be better established if joint planning is promoted and required.

Council proposes that this requirement is broadened to state and regional planning regulations to promote joint accountability and responsibility for shared planning.
Chapter 8: Sustainable finances for innovative and collaborative councils

Direction 102 proposes to:
Require a council to embed the principles of sound financial management in its council plan, community plan, financial plan and asset plan.

Do you support this direction? ☒ Yes ☐ No
What other comments would you make for this proposal?
Council supports any improvement and clarity concerning sound financial management principles.

Direction 103 proposes to:
Include in the Act the following principles of sound financial management:

- manage financial risks prudently, having regard to economic circumstances
- align income and expenditure policies with strategic planning documents
- undertake responsible spending and investment for the benefit of the community to achieve financial, social and environmental sustainability over the long term
- provide value-for-money services and infrastructure which are accessible and responsive to the community’s needs
- ensure that decisions are made and actions are taken having regard to their financial effects on future generations
- ensure full, accurate and timely disclosure of financial information about the council
- undertake regular stress testing and evaluation of financial risk management.

Do you support this direction? ☒ Yes ☐ No
What other comments would you make for this proposal?
Council supports any improvement and clarity concerning sound financial management principles.

Direction 104 proposes to:
Remove the current best value provisions, as value for money is included in the new principles of sound financial management.

Do you support this direction? ☒ Yes ☐ No
What other comments would you make for this proposal?
It is agreed that new principles of sound financial management would eliminate the need for the Best Value provisions.
Direction 105 proposes to:
Require a council at the start of the council term to develop and adopt a procurement policy that is consistent with the principles of sound financial management and require that all council procurement practices and contracts comply with this policy.
Do you support this direction?  ☑ Yes  ☐ No
What other comments would you make for this proposal?
Council currently conducts its business in accordance with this direction.

Direction 106 proposes to:
Specify in Regulations what must be included in a procurement policy, including when council will go to tender for the provision of goods and services (including thresholds), the process for going to tender and what collaborative arrangements have been explored to deliver value for money for the council.
Do you support this direction?  ☑ Yes  ☐ No
What other comments would you make for this proposal?
Council’s procurement policy should contain and own this process. Depending on the size of different municipalities and access to different services etc, regulating such processes may not meet the operational needs of different Council’s. However, Council should be required to demonstrate and commit to sound financial practices through Policy.

Direction 107 proposes to:
Require the audit and risk committee to review compliance with the procurement policy and require a council to report in its annual report any non-compliance with its procurement policy.
Do you support this direction?  ☑ Yes  ☐ No
What other comments would you make for this proposal?
Council supports this direction.

Direction 108 proposes to:
Require a council to make its procurement policy available on its website.
Do you support this direction?  ☑ Yes  ☐ No
What other comments would you make for this proposal?
Council supports this direction and currently subscribes to this direction.

Direction 109 proposes to:
Remove the requirement for an annual review of the procurement policy and the requirement to obtain ministerial exemptions for failure to go to tender in certain circumstances.
Do you support this direction?  ☑ Yes  ☐ No
What other comments would you make for this proposal?
Council supports a four-year review to align with Council’s strategic directions through its Council Plan.
**Direction 110** proposes to:
Provide councils with automatic access to state purchase contracts, whole-of-Victorian-Government contracts and the *Construction Suppliers Register* to save time, strengthen standards and improve efficiency.

**Do you support this direction?**️ Yes  ☐ No
**What other comments would you make for this proposal?**
Council supports this direction should it provide reduced savings for respective communities.

**Direction 111** proposes to:
Require councils to develop and adopt an investment policy in accordance with the principles of sound financial management and require all council investment decisions to be made in accordance with that policy.

**Do you support this direction?**️ Yes  ☐ No
**What other comments would you make for this proposal?**
As previously outlined in Council’s initial joint submission, Section 143 of the existing Act details where a council may invest its money. Apart from specific securities and institutions, there is an ability to invest ‘in any other manner approved by’ the Minister for Local Government ‘after consultation with the Treasurer’.

Council believes that the power of approval should not rest with the Minister for Local Government. A Council’s Audit Committee ought to be able to approve an investment not otherwise specifically provided for in legislation. Any such decision by the Audit Committee should be reported to the council, and be accessible to members of the public.

**Direction 112** proposes to:
Require the audit and risk committee to review compliance with the investment policy and require a council to report any non-compliance with its investment policy in its annual report.

**Do you support this direction?**️ Yes  ☐ No
**What other comments would you make for this proposal?**
Refer response to Direction 111.

**Direction 113** proposes to:
Require a council to develop and adopt a debt policy in accordance with the principles of sound financial management and only enter into debt in accordance with that policy.

**Do you support this direction?**️ Yes  ☐ No
**What other comments would you make for this proposal?**
Council supports this direction. As such, it currently has in place a Borrowing Strategy.
Direction 114 proposes to:
Require the audit and risk committee to review compliance with the debt policy and require a council to report any non-compliance with its debt policy in its annual report.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
Council supports this direction to ensure appropriate governance is applied.

Direction 115 proposes to:
Remove the overdraft provisions and remove the requirement for the minister to approve the repayment of an overdraft from its borrowings.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
Council considers that this should be contained in relevant Council policy, overviewed by Council’s Audit Committee.

Direction 116 proposes to:
Require councils to expressly describe in their budgets any intention to sell, exchange or lease land. This will enable consultation with the community during the budget process.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
Council supports this concept as part of a 4 year budget approach. This will enable measured consideration to support long term planning.

Direction 117 proposes to:
Remove the requirement for a council to allow a person to make a submission under the Act in relation to the sale, exchange or lease of land where the matter has been considered as part of the budget consultation.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
Should Direction 116 be implemented, a separate consultation process for the sale, exchange or lease of land will become superfluous.

Direction 118 proposes to:
Remove from the Act the requirement for councils to have public liability and professional liability insurance. As a body corporate and organisation with a number of roles and responsibilities to the community and its staff, it is expected as a matter of course that councils take out appropriate insurance policies consistent with effective risk management as well as with the sound financial management principles in the Act.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
This is a matter of good business practice, and does not require to be legislated.
Direction 119 proposes to:

Remove the entrepreneurial powers in the Act and include revised powers to allow councils to participate in the formation and operation of an entity (such as a corporation, trust, partnership or other body) in collaboration with other councils, organisations or in their own right for the delivery of any activity consistent with the revised role of a council under the Act.

Do you support this direction? ☑ Yes ☐ No

What other comments would you make for this proposal?

Councillors should not be unnecessarily deterred by a provision which is uncertain in its application or unjustifiably prescriptive in its requirements, with regards to entrepreneurial powers. Councils should be able to collaborate and engage in a shared service provision through the formation and operation of an entrepreneurial entity.
Chapter 9: Fair rates and sustainable and efficient councils

Direction 120 proposes to:
Require a council to prepare a revenue and rating strategy that:

- is for at least four years
- outlines its pricing policy for services
- outlines the amount it will raise through rates and charges
- outlines the rating structure it will use to allocate the rate burden to properties.

Do you support this direction?  ☑ Yes  ☐ No
What other comments would you make for this proposal?
Council supports this direction.

Direction 121 proposes to:
Require a council to align the strategy to its financial plan and to review and adopt it after each general revaluation of properties.

Do you support this direction?  ☑ Yes  ☐ No
What other comments would you make for this proposal?
Council supports this direction.

Direction 122 proposes to:
Define all land as rateable except for the following four categories of land that would be exempt:

- land of the Crown, public body or public trustee that is unoccupied or used exclusively for a public or municipal purpose (to be defined to mean to perform public functions for the common good)
- land vested or held in trust for any charitable not-for-profit organisation and used exclusively for a charitable purpose (to be defined to mean the relief of poverty, the advancement of education, the advancement of religion or for other purposes beneficial to the community and the environment)
- land vested or held in trust for any religious not-for-profit body and used exclusively as a residence of a minister of religion or place of worship or for the education to be a minister of religion
- land held in trust and used exclusively as a not-for-profit club for persons who performed service duties under the Veterans Act 2005. (Option 1) or

Include land subject to a lease, sublease, licence or sublicense that is used for the purposes in Option 1, provided the lease, sublease, licence or sublicense is for a nominal amount (that is, the lease or rental amount is very small compared with the actual market lease or rental amount: commonly called a peppercorn rent).

Make land rateable that is:

- owned by a for-profit organisation but leased to a charitable organisation
- used exclusively for mining purposes. (Option 2)
Do you support option 1? ☐ Yes ☐ No
Do you support option 2? ☑ Yes ☐ No

What other comments would you make for this proposal?

Council supports this direction.

Direction 123 proposes to:
Retain the capacity for councils to grant rebates and concessions and apportion rates based on separate occupancies or activities.

Do you support this direction? ☑ Yes ☐ No

What other comments would you make for this proposal?

Council supports this direction.

Direction 124 proposes to:
Require councils to apply capital improved value as the single uniform valuation system for raising general rates. The City of Melbourne would be exempt from this provision.

Do you support this direction? ☑ Yes ☐ No

What other comments would you make for this proposal?

Council supports this direction.

Direction 125 proposes to:
Fix the municipal charge at a maximum of 10% of the total revenue from municipal rates and general rates in the financial year, divided equally among all rateable properties.

Do you support this direction? ☑ Yes ☐ No

What other comments would you make for this proposal?

Council supports this direction.

Direction 126 proposes to:
Retain differential rates in their current form. Continue through ministerial guidelines to advise that farm land and retirement villages are appropriate for the purposes of levying differential rates at the discretion of councils.

Do you support this direction? ☑ Yes ☐ No

What other comments would you make for this proposal?

Council supports this direction.
Direction 127 proposes to:
Require councils to clearly specify how the use of differential rating contributes to the equitable and efficient conduct of council functions compared to the use of uniform rates (including specification of the objective of and justification for the level of each differential rate having regard to the principles of taxation, council plans and strategies and the effect on the community).
Do you support this direction? ☒ Yes ☐ No
What other comments would you make for this proposal?
Council supports this direction.

Direction 128 proposes to:
Retain the requirement that the highest differential rate must be no more than four times the lowest differential rate.
Do you support this direction? ☒ Yes ☐ No
What other comments would you make for this proposal?
Council supports this direction.

Direction 129 proposes to:
Retain service rates and charges, renamed ‘service charges’ but remove their application to the provision of water supply and sewage services.
Do you support this direction? ☒ Yes ☐ No
What other comments would you make for this proposal?
Council supports this direction.

Direction 130 proposes to:
As part of these changes, provide the minister with the power to prescribe the setting of other service charges in Regulations.
Do you support this direction? ☐ Yes ☒ No
What other comments would you make for this proposal?
Each Council should be able to prescribe the setting of other service charges.

Direction 131 proposes to:
Retain special rates and charges, but provide clearer guidance in the Act about the purpose of special rates and charges, and about the criteria councils should use when declaring them and determining the benefit ratio.
Do you support this direction? ☒ Yes ☐ No
What other comments would you make for this proposal?
Council supports this direction.
Direction 132 proposes to:
Allow councils to offer ratepayers the ability to pay by lump sum or more frequent instalments on a date or dates determined by a council, provided all ratepayers have the option to pay in four quarterly instalments. Penalty interest when it is charged is to be charged on any late payment from the respective instalment due date.
Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
Council supports this direction.

Direction 133 proposes to:
Allow a council to use rebates and concessions to support the achievement of their council plan's strategic objectives, provided that the purpose is consistent with their role.
Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
Council supports this direction.

Direction 134 proposes to:
Clarify in the Act that, where a ratepayer successfully challenges the rateability of land, a refund of rates may only be backdated to the date of most recent ownership.
Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
Council proposes that a refund of rates be backdated for two financial years.

Direction 135 proposes to:
Establish a uniform process and timeline for people wanting a review or to appeal a rates or charges decision.
Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
Council supports that the timeline should be within 60 days of receiving the first notice.
Direction 136 proposes to:
Incorporate the municipal council rating provisions in the Cultural and Recreational Lands Act 1963 in the Local Government Act. Require in the Act that councils disclose the rates that are struck for cultural and recreational lands.

Do you support this direction? ☒ Yes ☐ No
What other comments would you make for this proposal?
Council supports this direction.

Direction 137 proposes to:

Do you support this direction? ☒ Yes ☐ No
What other comments would you make for this proposal?
Council supports this direction.
Chapter 10: A rational legislative hierarchy

Direction 138 proposes to:
Create a systematic legislative hierarchy comprising new principle-based provisions in the Act and new Regulations setting out the processes required to meet the obligations set out in the Act, and with the capacity for the minister to issue ongoing non-statutory sector guidance as required about any aspect of the Act.
Do you support this direction? ☒ Yes ☐ No
What other comments would you make for this proposal?
The Act has become over prescriptive, resulting with many statutory requirements that add little to effective good governance of a council. Allowing capacity for the minister to issue ongoing non-statutory sector guidance as required about some aspects of the Act would provide greater flexibility for the industry to deal with changing or emerging trends/issues.

Direction 139 proposes to:
Include an overarching statement of the Act’s objectives, intended outcomes and a plan of the remaining provisions in the Act.
Do you support this direction? ☒ Yes ☐ No
What other comments would you make for this proposal?
Council supports this concept and considers this approach already exists within the Act. The rationale behind sections 3C, 3D, 3E and 3F of the existing Act is logically sound and appropriately leads to a grant (in section 3F) of a general administrative power.

Direction 140 proposes to:
Include high-level statements to frame the structure, language and content of the remainder of the Act, including new sections setting out the roles and functions and powers of councils.
Do you support this direction? ☒ Yes ☐ No
What other comments would you make for this proposal?
Council supports this direction.

Direction 141 proposes to:
Include a general power for the minister to make Regulations setting out the requirements councils must meet when exercising their powers or discharging their responsibilities under the Act (for example, requirements about the conduct of elections and mandated obligations under the councillor code of conduct framework), Include in this power capacity for other relevant subordinate legislation (such as legislative instruments like ministerial orders and governor-in-council orders) with the subordinate legislation only relating to matters permitted by the Act.
Do you support this direction? ☒ Yes ☐ No
What other comments would you make for this proposal?
Council supports this concept. This would provide greater flexibility for the industry to deal with changing or emerging trends/issues.
Direction 142 proposes to:
Empower the minister to release a council from the processes set out in Regulations if the council can show it is successfully discharging its obligations under the Act using different processes.

Do you support this direction? ☒ Yes ☐ No

What other comments would you make for this proposal?
The Act should prescribe a minimum standard with Councils seeking to govern above that standard. However, without room to move, Councils can be restricted by prescriptive legislation.

Direction 143 proposes to:
Include a general power for the minister to make guidelines to supplement Regulations on any issue related to the Act (such as best-practice versions of documents councils must adopt like councillor codes of conduct, budget documents, meeting procedures and councillor briefing processes). The presumption would be that, by adopting these best-practice documents, a council would comply with the Act and Regulations.

Do you support this direction? ☒ Yes ☐ No

What other comments would you make for this proposal?
Support in principle, however Councils should not be required to adopt best practice documents if they have alternative and equally satisfactory policies and practices in place.

Direction 144 proposes to:
Empower the minister through the ministerial directions power to require a council to adopt these best-practice policies and procedures where there have been governance failures.

Do you support this direction? ☐ Yes ☒ No

What other comments would you make for this proposal?
There are other sufficient safeguards to prevent governance abuse without further intervention from the Minister.

Direction 145 proposes to:
Require councils to take the following principles into account when performing their functions and exercising their powers:
- the need for transparency and accountability
- the need for deliberative community engagement
- the principles of sound financial management
- the economic, social and environmental sustainability of the municipality
- the potential for cooperation with other councils, tiers of government or other organisations
- plans and policies in relation to the municipality, region, state and nation

Do you support this direction? ☐ Yes ☒ No

What other comments would you make for this proposal?
Rather than a requirement, this should be a set of guiding principles.
Direction 146 proposes to:
Retain the current power of the minister to intervene where a council does not comply with the obligations set out in the Act or regulations by imposing a municipal monitor or by issuing a ministerial governance direction.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
Council supports this concept. The powers of the Minister need to be reviewed and perhaps strengthened in this regard and intervention should be in severe instances.

Direction 147 proposes to:
Include a general power for the minister to make Regulations setting out the detailed requirements of councils when exercising their powers or discharging their responsibilities under the Act (such as requirements about the conduct of elections and mandated obligations under the councillor code of conduct framework). Include in this power other relevant subordinate legislation.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
It would be considered reasonable to make regulations about matters where there are prescriptive requirements to be met.

Direction 148 proposes to:
Empower the minister to release a council from the processes set out in Regulations if the council can show it is successfully discharging its obligations under the Act using different processes.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
The Act should set a minimum standard and Councils should seek to govern above that standard. However, without room to move, Councils can get bogged down in prescriptive legislation.

Direction 149 proposes to:
Provide guidance to the sector in relation to governance, compliance and best practice. This guidance will be in the form of guidelines and formal and informal advice to the sector.

Do you support this direction? ☑ Yes ☐ No
What other comments would you make for this proposal?
It is beneficial in maintaining standards across the industry and to provide guidance where necessary.
Direction 150 proposes to:
Create best-practice versions of essential documents that councils are required to adopt. Adoption of these best-practice documents will constitute compliance.

Do you support this direction? ☒ Yes ☐ No

What other comments would you make for this proposal?
Best practice documents are beneficial in maintaining standards across the industry and providing guidance where necessary. However, Councils should not be compelled to adopt them as each municipality is unique (i.e. Metropolitan vs Rural) and they may not apply across the board.

Direction 151 proposes to:
The minister will have a power under the new Act to require the council to adopt best-practice policies and procedures as part of a governance order where governance issues have been identified.

Do you support this direction? ☐ Yes ☒ No

What other comments would you make for this proposal?
There are other sufficient safeguards to prevent governance abuse without further intervention from the Minister.

Direction 152 proposes to:
Incorporate relevant portions of Part 9, Division 2 and schedules 10 and 11 of the current Act into the Road Management Act 2004 (or other relevant legislation), to better consolidate the legislation dealing with road management.

Do you support this direction? ☐ Yes ☒ No

What other comments would you make for this proposal?
Council agrees with this direction.

Direction 153 proposes to:
Clarify the role of councils in local drainage, waterways and flood management. Consult about whether these are included in the new Act or in the Water Act 1989.

Do you support this direction? ☐ Yes ☒ No

What other comments would you make for this proposal?
Council supports providing clarity concerning water management and considers that the detail sits with the Water Act 1989.

Direction 154 proposes to:
List all Acts that impose obligations on councils in a schedule in the new Act, to be updated as new legislation is enacted.

Do you support this direction? ☐ Yes ☒ No

What other comments would you make for this proposal?
Council supports this concept as it provides clarity and guidance in terms of immediate recognition of its roles and responsibilities under various legislation. It also supports a foundation for Councils in terms of demonstrating to its community where other delegated functions exist.
Direction 155 proposes to:
Repeal the *City of Greater Geelong Act 1993* and include relevant provisions in the new Act.

Do you support this direction?  ☐ Yes  ☐ No
What other comments would you make for this proposal?
Council has no position on this matter.

Direction 156 proposes to:
Retain the *City of Melbourne Act 1993* as a separate Act with the City of Melbourne retaining its distinct electoral provisions. Consider ways to modernise the Act and remove redundant or outdated provisions.

Do you support this direction?  ☐ Yes  ☐ No
What other comments would you make for this proposal?
Council has no position on this matter.

Direction 157 proposes to:
Consider matters relating to the *Municipal Associations Act 1907* independently of this directions paper in consultation with the Municipal Association of Victoria.

Do you support this direction?  ☐ Yes  ☐ No
What other comments would you make for this proposal?
Council agrees with this direction.
Terms and conditions of this submission paper

Privacy Policy

Bang the Table Pty Ltd (Bang the Table) manages the website on which this consultation takes place – on behalf of DELWP (Review of Local Govt Act 1989).

Bang the Table takes the privacy of the participants using this site very seriously.

Our collection, use and disclosure of your personal information is regulated by the National Privacy Principles under the Privacy Act 1988, as amended from time to time and also by the relevant State legislation (depending on the State in which the client is located). You can find more information about your privacy rights at the Privacy Commissioner’s web site, http://www.privacy.gov.au

Note: This Privacy Policy applies to the Bang the Table’s behaviour and treatment of your information and should be read in conjunction with the DELWP (Review of Local Govt Act 1989) Privacy Policy.

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

Who do I contact for more information?

Bang the Table may be contacted in relation to privacy policy issues by email at myprivacy@bangthetable.com or addressed to Bang the Table Pty Ltd, Suite 15, 104 Moor Street Fitzroy VIC 3065 Australia.

What information do we collect?

Basic Identifying Information

We collect information from you when you register to use the website www.yourcouncilyourcommunity.vic.gov.au. This information may vary depending on the specific needs of DELWP (Review of Local Govt Act 1989), however, at a minimum is includes your:

- Screen Name
- Email Address

Demographic Information

Additional demographic information such as your age, sex, suburb and interests may also be collected at this time.

Why do we collect this information?

To Collect and Collate your Feedback to Inform Better Policy
The principle reason for collecting this information is to help inform the creation of better policy. The information is therefore provided to DELWP (Review of Local Govt Act 1989) for analysis and interpretation at their discretion.

To Send you Periodic Emails

The email address you provide for registering on the site may be used by either Bang the Table or DELWP (Review of Local Govt Act 1989) to send you information and updates pertaining to the issues discussed on this site or any other site that we feel may be of interest to you.

Note: If at any time you would like to unsubscribe from receiving future emails, we include a simple unsubscribe link at the bottom of each email.

To Protect the Integrity of the Discussion

By monitoring the information you provide we are able to protect the integrity of the discussion from individuals and groups who may attempt to unduly influence the outcomes of the consultation process.

To Improve the Website & Software

The principle use of this information by Bang the Table is to help us to improve this website and the software that underpins it. We are continually striving to improve the experience of our participants based on your feedback.

Who has access to this information?

When you sign up for a user account you provide three types of information:

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

Publicly Available Information

Publicly available information is limited to your screen name and any comments you leave under that name in the forums or other tools on the site.

Note: We strongly recommend use of an anonymous screen name.

Individual survey responses, voting patterns and quick poll responses will not immediately be made available publicly on the site, however, feedback (including overall results of polls and surveys, and in some instances, unidentifiable and randomly chosen quotes or comments from surveys) may be published in publicly available reports at the end of the consultation period.

Please also keep in mind, however, that under most local Freedom of Information laws formal submissions uploaded to this site can be made available for public viewing by DELWP (Review of Local
Govt Act 1989) at its own volition or at the request of a member of the public.

**Information available to both DELWP (Review of Local Govt Act 1989) and Bang the Table includes:**

- All information from the Sign Up form.
- Comments
- Survey, Quick Poll, and comment voting responses
- General site activity such as document downloads.

**Information Available to Bang the Table only**

Information which is available only to Bang the Table is restricted to your IP address for site security purposes.

**Do we disclose any information to third parties other than DELWP (Review of Local Govt Act 1989)?**

We do not sell, trade, or otherwise transfer to outside parties your personally identifiable information. This does not include trusted third parties who assist us in operating our website, conducting our business, or servicing you, so long as those parties agree to keep this information confidential. We may also release your information when we believe release is appropriate to comply with the law, enforce our site policies, or protect our or others rights, property or safety.

However, we may from time to time notify you about other sites we are managing when we feel they may of direct relevance and interest to you. Please note that you can easily unsubscribe from these notifications at any time.

**Third Party Links**

Occasionally DELWP (Review of Local Govt Act 1989) may include links to third party sites. These third parties have separate and independent privacy policies. We therefore have no responsibility or liability for the content and activities of these linked sites.

**Terms and Conditions**

Please also visit our Terms and Conditions section establishing the use, disclaimers, and limitations of liability governing the use of our website.

**Your Consent**

By using our website, you consent to this Privacy Policy.
Submission Template
Local Government Bill – Exposure Draft

Name | Allison Watt
---|---

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

<table>
<thead>
<tr>
<th>Organisation or council name</th>
<th>Moonee Valley City Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>Position</td>
<td>Manager Governance and Communications</td>
</tr>
<tr>
<td>Are you providing this submission on behalf of the organisation or council?</td>
<td>Council</td>
</tr>
</tbody>
</table>

Key information about making a submission

What feedback should I provide on the exposure draft bill?
Following an extensive consultation process that considered the policy issues that underpin the Local Government Act, we are now seeking feedback on the Local Government Exposure Draft Bill to inform the final draft legislation before the Government reviews it to present to the Victorian Parliament. We strongly encourage you to read the explanatory document (A New Local Government Act for Victoria) to assist you to navigate the draft legislation.

What is the closing date for submissions?
The closing date for submissions is 5:00 pm, Friday 23 February 2018. Given that the draft bill is subject to parliamentary timeframes, submissions received after this date will be considered at the Government’s discretion.

How do I make a submission?
Submissions can be made in three ways:

- Online by uploading your submission to the [www.yourcouncilyourcommunity.vic.gov.au](http://www.yourcouncilyourcommunity.vic.gov.au) website
- Emailing your submission to local.government@delwp.vic.gov.au
- Posting your submission:
  - Local Government Act Review Secretariat
  - C/o Local Government Victoria,
  - PO Box 500, Melbourne VIC 3002

How do I complete this template?
To complete this template:

1. Locate the part of the Draft Bill you wish to comment on.
2. Insert the clause number, your level of support for the clause, the proposed change and any other comments into the table.

Can I provide a submission in another format?
It is strongly preferred for submissions to be made by completing this template. However, if another format suits your needs or the requirements of your organisation you are welcome to use another format.

Will submissions be made publicly available?
Written submissions and the name of the author will be published on the [www.yourcouncilyourcommunity.vic.gov.au](http://www.yourcouncilyourcommunity.vic.gov.au) website unless confidentiality is requested and the Executive Director of Local Government Victoria grants it, or if it is determined your submission should remain confidential. Submissions that are defamatory or offensive will not be published.

Please contact the Local Government Act Review Secretariat if you have any questions on (03) 9948 8518 or local.government@delwp.vic.gov.au.
## Part 2: Councils

<table>
<thead>
<tr>
<th>Clause (No.)</th>
<th>Support / Do Not Support / Neutral</th>
<th>What changes do you propose and why?</th>
<th>Are there any other comments you would like to make on this clause?</th>
</tr>
</thead>
<tbody>
<tr>
<td>32 (Qualification to be a Councillor) 41 (Resources and facilities for the Mayor and Councillors)</td>
<td>Support</td>
<td>Moonee Valley City Council proposes that the Act or Regulations should stipulate that each Councillor should undertake a minimum of 10 hours of sector-specific training annually.</td>
<td></td>
</tr>
</tbody>
</table>

Press tab to insert additional rows (as needed)

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**Do you have any overall comments on Part 2 of the Exposure Draft Bill?**

| | | | |
### Part 7: Council integrity

<table>
<thead>
<tr>
<th>Clause (No.)</th>
<th>Support / Do Not Support / Neutral</th>
<th>What changes do you propose and why?</th>
<th>Are there any other comments you would like to make on this clause?</th>
</tr>
</thead>
<tbody>
<tr>
<td>179 (Councillor Code of Conduct)</td>
<td>Support</td>
<td>Moonee Valley City Council proposes that the Act or Regulations should stipulate that there be a mandated, uniform Councillor Code of Conduct that would apply to all councils.</td>
<td></td>
</tr>
</tbody>
</table>

*Press tab to insert additional rows (as needed)*

**Do you have any overall comments on Part 7 of the Exposure Draft Bill?**

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**PAGE 199**