

# Act for the Future - Directions for a new Local Government Act Submission Template

Name	David Preiss
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:

Organisation or council name	LGPro
Position	CEO
Are you providing this submission on behalf of the organisation or council?	Organisation

## 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 Submissions that are defamatory or offensive will not be published.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](mailto: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?

In general LGPro supports the principles, especially the emphasis on community engagement. However we do have concerns with the terminology of 'deliberative' engagement as a requirement of the Act, and a query as to what the evidence that the quality of engagement would be enhanced by the Act being so prescriptive in this regard.

Going further, if the above are principles for all of Council's work, there needs to be much more clarity as to when deliberative processes are required. A particular style of engagement is not always appropriate – hence the IAP2 'spectrum' of engagement.

The local government sector has led the way in deliberative community engagement processes with positive outcomes for participatory democracy and decision making (Darebin, Melbourne, Yarra, and Yarra Ranges etc.). There is support for deliberative engagement practice in the sector. However there needs to be an understanding of the time and resources these processes take and the internal capabilities needed to ensure that the process leads to positive outcomes and heightened public trust.

Therefore LGPro is concerned with the LG Act review proposal *requiring* deliberative engagement, rather than allowing each council to design purpose-built engagement processes, which may or may not include deliberation for the very many different aspects of their work.

If the term is to be retained a clear definition of what is meant by deliberative community engagement is also required, in order to understand the expectation. There would also be a need to take into account the differences across each municipality. Some organisations may have more capability than others due to resources, population, past experience, etc. Therefore there would need to be assistance to councils in the transition to this approach, as well as support for capacity building, particularly in reference to smaller, less well-resourced councils.

LGPro would also suggest that achievement of improved practice requires more consistent terminology and application across State Government agencies in the way they engage with local governments, and communities, in performing functions and exercising powers.

Put simply, the local government sector has led the way with deliberative community engagement, and that the existing Act has been sufficient to allow this exploration of better practice. To be too prescriptive in the type of community engagement may well place compliance ahead of continually improving practice.

**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?

LGPro agrees, subject to agreement on meaning of 'deliberative community engagement' and our concerns, as expressed in #1.

As an aside we note that in order for local government to "ensure the delivery of services, infrastructure and amenity" it needs to have the authority and responsibility to determine rates income matched to desired levels of service. It may well be incompatible for deliberative community engagement to cohabit with a regime of rate capping.

**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?

A process of alignment of the powers of the Council is notionally attractive. However LGPro submits that the 'devil is in the detail' and such moves need to be carefully considered to address clearly identified shortcomings.

**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?

LGPro believes that prescribing a two year mayoral terms is unnecessary as the capacity to serve two years is not prohibited in the current arrangement. Rather than increasing the term of the Mayor, more effort needs to be put into training and support for councillors to understand the leadership role and to identify the skills, attributes and expertise required for the role.

From an officer perspective, having a popularly elected mayor and deputy mayor (even using the Melbourne model) still presents added or blurred role and governance expectations, perceptions and complexities. There appears to be minimal value provided to the organisation or the community as a consequence of such change.

#### 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?

LGPro supports the need to strengthen the role of mayor to support councillors—and promote their good behaviour. These include:

- 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; and
- to be a spokesperson for the council and represent it in conduct of public civic duties.

We believe that anything beyond this is unnecessarily prescriptive and could hinder the relationship between councillors, mayor and CEO.

We also agree that the role of the mayor, as the representative of Council, can be a champion of engagement processes and gain a sense of ownership and understanding. However there is concern that to 'lead engagement' implies a high level of involvement and influence which could lead to blurring of organisational activities and the decision-making responsibilities of councillors.

It is vitally important that there be clarity over the role of the mayor and councillors in community engagement processes. Independence from operational activity is required to ensure robust data and integrity of the final decision.

**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?**

**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?**

**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?**

**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?**

**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?**

LGPro supports the principle that Councillors require a high level of understanding of and commitment to community engagement processes. It is important that Councillors are well connected with the community, through formal and informal processes. Much like the Mayor, Councillors are in a position to champion engagement processes.

However there is also concern for the level of influence in the final decision and integrity of the process if councillors are to participate and become embedded in the consultation process itself.

Resources should be dedicated to educating and up skilling councillors in community engagement (for example, IAP2 training).

**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?**

**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?**

**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?**

LGPro believes this sort of prescription is unnecessary and defines requirements that are best left to the employment relationship between CEOs and Councils.

**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?

LGPro supports the need for a policy framework that provides guidance but not a policy that establishes salaries. Councils need to be able to establish their own particular needs and in that context, using a policy framework, should be able to set the salary.

**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?

The audit and risk committee should be independent and able to determine its own program, based on review of all of the risks of the organisation. This level of prescription potentially detracts from the ability of the committee to perform its role.

**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?

LGPro submits that any such provision should emphasise that the need is for independent, expert advice to assist the council in these matters.

**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?

LGPro submits that opportunities do exist for the Act to be less prescriptive in regard to decision-making processes of the Council. That said, there is also an opportunity for collaboration to develop model local laws and guidelines to ensure retention of sound governance practices, whilst enabling adaptation to accommodate emerging technologies and practices in community engagement.

**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?

This Direction is supported, however the implications of the detail are not yet known

**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?

In essence this represents no change from the current Act which requires adoption of a meetings local law, and related policies and procedures. Each council will, in any event, need to adopt its own rules about internal council processes.

**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?

**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?

**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?

**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?

**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?

**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?

Yes, as long as it remains clear that responsibility for employing council staff resides with the CEO.

**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?

Workforce planning is vital but not necessary to include in legislation. It is best left to guidance material associated with the Act.  
  
The requirement for consultation on the workforce plan is addressed in industrial agreements and we consider that requirement should not be duplicated.

**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?

LGPro submits that this is already a requirement of industrial agreements and reflects industrial relations law. Duplication in the Local Government Act is likely to contribute to disputes such as definitions of consultation, timing of consultation and "major" organisational restructure and cannot be supported.

**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?**

LGPro believes that if community engagement is to be embedded in the Act as a principle, listing when it is required is unnecessary and potentially creates additional procedural hurdles with exposures for legal challenge.

We do however support this Direction to the extent that community engagement should be undertaken whenever there are proposed changes that could affect the community. That said our expertise is not in Local Law amendments and we appreciate there may be instances (for example where an amendment is procedural but not impacting on substance) when community engagement is not appropriate. We suggest that wording be developed to allow for such a scenario.

We note also that the word “consultation” is inconsistent with the remainder of the Act, which uses “engagement”. We suggest consistency to avoid confusion.

**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?**

We are unclear as to the problem that has given rise to this Direction and cannot identify how such a certification process can add public value.

LGPro and LGV have collaborated on a range of initiatives, including the Better Practice Local Laws Program to raise the capacity of the sector in relation to development and enforcement of local laws. We believe this approach of internal capacity building should be encouraged.

**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?**

**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?**

**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?

LGPro supports the indexing of penalties under local laws.

**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?

This Direction is supported. The current process creates an unreal expectation that the Minister will, as a matter of course, review the fine detail in every local law.

## 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?

**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?

**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?**

**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?**

**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?**

**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?**

**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?**

**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?

**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?

**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?

LGPro believes it is cheaper and more logical to determine eligibility to serve before an election. The ASIC and police check information should go to the VEC rather than to a possible employee in the CEO.

**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?

## 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?

The response to this proposal is in two parts; firstly the inclusion of deliberative community engagement as a requirement and second the role of a councillor in community engagement processes.

#### Deliberative Engagement:

The positives of this proposal include:

- agree that it is positive to aim for more levels of the IAP2 spectrum to be part of Council community engagement; each to be applied as appropriate to the issue at hand
- it is positive to raise the profile and expectation of community engagement
- the opportunity exists for the community to better understand the role of councils, through successful deliberative engagement (sharing the dilemma)
- the opportunity exists to build capacity of staff and community leaders.

The concerns about this proposal include:

- lack of clarity/definition on what 'deliberative' means in this context. The proposed direction is too prescriptive if following the definition of deliberative that is widely held in the LG sector and beyond.
- considerable expense is associated with meaningful and genuine deliberative engagement processes. This is not uniformly possible with introduction of rate capping
- prescriptive wording is not outcome focused. Nor is it in line with the aims of the Act, to be responsive and innovative.

Any amendment will need to clearly and consistently define 'deliberative community engagement' and ensure it is possible to deliver via guidelines, training, up-skilling, good practice grants, etc.

#### Role of Councillor:

The positives of this proposal include:

- it is positive for the councillors to champion engagement and connect with community

The concerns about this proposal include:

- it is impractical to include councillors in deliberative community engagement as the principles of deliberative engagement include a separation/independence from the final decision makers.
- require clear definition of what the role is, so as not to influence, or direct council staff in the performance of their duties.

**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?**

LGPro offers qualified support for this proposal. We agree that it is a benefit for councils to have a policy, strategy or framework that can guide commitment to and practice of community consultation and engagement. The wording should allow for flexibility in this to meet the local; needs of each council.

We also submit that the new Local Government Act should include a greater emphasis around community engagement principles (as expressed through a policy) and less focus on the actual plan to which these apply.

We also support formalising the Community Plan and the impacts on accountability that would flow from reporting on this Plan.

However there should be recognition for Community Plan work already undertaken in many municipalities, particularly the rural Councils that have developed over time well-known place-based (locality) community plans. We anticipate much confusion if there are to be 'one-size fits all' 10 year Community Plans created, especially without the flexibility for established Community Plans to continue as they are or slowly transition.

We also submit that the Act will require clear definition of a Community Plan, and the differences between a Community and Council Plan. We hold concerns around a 10 year Community Plan that is to be re-done after every election. This speaks particularly to concerns around dismissing previous engagements and running the risk of appearing disingenuous and tokenistic. If there is integrity in the drafting of the 10 year plan, there should be no need for review.

Need clarity on whether these plans are expected to be one project rather than separate. The absence of appropriate separation between the two documents will lead to material concerns in relation to transparency and public trust.

**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?**

On balance, whilst we understand the sentiment behind this Direction, it is not supported.

We agree that the council should demonstrate how the four year council plan reflects the outcomes of the community engagement process, but it should be noted that deliberative community engagement as a process does not in itself guarantee the outcomes this direction appears to imply. It would be better to outline the requirements for Council's decision making process in regards to creating a Council Plan.

Going further, if the council has facilitated development of a community plan by way of a deliberative engagement process, it could be argued that each council plan is a response to the community aspirations, as expressed in the community plan. Under such circumstances, whilst a degree of community

engagement will be required, one would not expect that it would require such a high level of engagement that it would necessarily be defined as deliberative.

Previous comments on the positives and concerns of deliberative community engagement apply to this proposal. We would prefer to describe a 'well planned engagement process', rather than prescribing deliberative engagement.

Finally we emphasise that a community engagement process needs be funded and resourced adequately in order for it to be meaningful and genuine. Without detracting from any objective of inclusive processes, such decisions must have regard to local context.

**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?

Whilst on balance we support this Direction, we also submit that it carries a risk of adding to the administrative burden, without delivering tangible benefits.

Many councils already have in place very sophisticated strategies and resource materials to guide community engagement. We do not believe that the effectiveness of these processes will be supported by an increased compliance burden.

Rather, we believe it is important that each council have a strategy and guidelines in place, as a means of supporting transparency. However we do not consider that related regulations should be as prescriptive as described above.

**Direction 49 proposes to:**

Require a council to complete its council plan by 31 December in the second year of its term, recognising the time required to conduct a deliberative community engagement process.

Do you support this direction?  Yes  No

What other comments would you make for this proposal?

LGPro submits that early meaningful engagement can be achieved on the Council Plan and the timeline of 30 June 2016 can be met, if the methods of engagement are not unnecessarily prescriptive.

The 'Year 1 Council Plan' can be challenging for new councillors, given the tight timeframes. However we submit that that this is preferable to framing the Year 1 Budget in a Council Plan vacuum as is currently proposed.



**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?**

**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?**

On balance LGPro agrees.

However we submit that clarity is required in regard to how often registers need to be updated. An expectation exists that because they are online that it will always be updated as soon as an event occurs – and resources are not always available for such a service level to be maintained.

If the registers were annual registers (or updated say bi-annually) then the proposals would be manageable.

**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?**

LGPro supports this in the context that transparency would dictate that all policies be available on the website.

We see no reason to single out this or any other policy for special mention.

**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?**

Whilst this Direction is given qualified support, many (if not most) Councils provide online access to the sort of information found on the City of Melbourne website.

We are unclear as to the precise detail that underpins this direction, but LGPro supports effective measures to enhance transparency and accountability to the community.

**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?

Whilst we offer no objection to this Direction, we would query the necessity for its inclusion in the Act.

**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?

LGPro offers qualified support for this proposal. We have reservations about the implications of the blanket exclusion of 'policy and statutory decisions', particularly due to the absence of definition.

## 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 councils 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?

**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?

**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?**

As a principle, LGPro supports reduction of the ambiguity associated with inclusion of employment matters in the Local Government Act. In the absence of further detail we are unable to support this proposal.

Council staff releasing confidential information are already liable to disciplinary procedures under the staff code of conduct. In some more serious cases this would be classified as a 'gross misconduct' with potential for termination of employment. The potential application of criminal sanctions. A notion that councillors and staff ought to be treated on a 'like with like' basis with councillors does not hold true, given the prospect of termination of employment for council staff.

Without having the benefit of legal advice, we would also query whether circumstances might exist that would already expose staff releasing confidential information to 'financial advantage by deception' type offences. (E.g. in a competitive tender situation.)

We consider this proposal requires further investigation if it is to be given consideration for inclusion in the Act.

**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?**

See #58 above.

**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?**

LGPro supports simplification of conflict of interest provisions together with a greater emphasis on the need for disclosure, including perceived conflicts of interest.

**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?

**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?

**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?

**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?

**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?

## 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?

**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?

**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?

**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?

**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?

**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?

LGPro supports the need for greater clarity around the powers of the Minister to conduct inquiries.

**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?

**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?

As a principle, LGPro supports reduction of the ambiguity associated with inclusion of employment matters in the Local Government Act.

**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?

**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?

**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?

**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?

**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?

As a principle, LGPro supports reduction of the ambiguity associated with inclusion of employment matters in the Local Government Act.

**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?

## 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?

LGPro believes that if the new Act is to include an integrated strategic planning and reporting framework, we would support the extension of a one year reporting document to 4 year business plans and thereby remove the one year action plan.

We also support that the Council Plan to include information about services, infrastructure and amenity priorities for the council term, whilst also embedding the principles of sound financial management in its council plan, community plan, financial plan and asset plan.

**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?



**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?**

LGPro believes that further clarification is required in relation to the Council Plan having been pushed forward to be adopted in the 2<sup>nd</sup> year, i.e. December. In light of rate capping, and conflicting dates, in effect a 4 year variation for rate capping will actually be three (i.e. Council Plan is adopted in the 2<sup>nd</sup> year of the term, with rate capping being every 4 years, does this mean the 4<sup>th</sup> year of rate cap, will be rolled over to the 1<sup>st</sup> year of a new Council Plan?).

Also is Council is required to prepare a budget annually and review it by December? If so, then there are many conflicting dates, especially if also bringing a rate cap variation. For example, from June – December 2016, Council will be finishing the previous year 2015-16, commencing the next financial year 2016-17 and then if wanting to apply for a rate cap variation, will be planning for the following year 2017-18, whilst also running with major pieces of work, including annual report, LGPRF, community engagement for the new Council Plan (based on the element that a rate cap variation will be every 4 years), and inducting a new Council to name a few.

Furthermore, with increased pressure of LGPRF and LGV requiring data prior to audit review or audit, could there be an option to extend the Annual Report to end of October if it is still required to be submitted to the Minister?

**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?**

**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?**

**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?**

**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?**

**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?**

**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?**

**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?**

**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?**

**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?**

**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?**

**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?**

**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?**

**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?**

**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?**

**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?**

**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?

**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?

**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?

**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?

We offer qualified support to this direction. It would be useful to have clarity around the precise meaning of 'relevant aspects of regional and state plans that affect the municipality'.

## 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?

**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?

**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?

**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?

**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?

**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?

**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?

**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?

**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?

**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?

**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?

We submit that, if required, a council would be well able to report on compliance or otherwise with the investment policy without mandated audit committee oversight.  
The audit and risk committee should be independent and able to determine its own program, based on review of all of the risks of the organisation.  
This level of prescription potentially detracts from the ability of the committee to perform its role.

**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?

**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?

We submit that, if required, a council would be well able to report on compliance or otherwise with the investment policy without mandated audit committee oversight.  
The audit and risk committee should be independent and able to determine its own program, based on review of all of the risks of the organisation.  
This level of prescription potentially detracts from the ability of the committee to perform its role.

**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?

**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?

**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?

**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?

**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?

## 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?

**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?

**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?

**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?

**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?**

**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?**

**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?**

**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?**

**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?

**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?

**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?

**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?

**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?

**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?

**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?

**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?

**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?

**Direction 137 proposes to:**

Incorporate the municipal council rating provisions in the *Electricity Industry Act 2000* in the Act.

Do you support this direction?  Yes  No

What other comments would you make for this proposal?

## 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?

**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?

**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?

**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?

**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?

**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?**

**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?**

**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?**

On balance we support this Direction as containing a series of principles suitable for inclusion in an introductory 'Charter' type Part of the Act.

Our support is qualified in that we consider that any reference to community engagement should support connotations including rigorous, meaningful, timely, appropriate and cost-effective. Consultations will not always meet a definition of 'deliberative' and to convey that impression in the Act may result in a range of unintended and dysfunctional consequences.

**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?**

**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?**

**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?**

**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?**

**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?**

**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?**



**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?

**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?

**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?

We support this Direction and consider it will benefit the sector and the community by providing greater clarity and transparency.

**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?

**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?

**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?

--

# 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](mailto: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](http://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.