

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:

Organisation or council name	Surf Coast Shire Council
Position	Coordinator Corporate Planning
Are you providing this submission on behalf of the organisation or council?	Council

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 Submissions that are defamatory or offensive will not be published.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

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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 ☐ In part

What other comments would you make for this proposal?

While it is considered that the above principles are sound, they do not negate the need for the Act or related Regulations to contain prescriptive processes where deemed necessary. Many amendments to the Local Government Act have been introduced to address particular issues e.g. conflict of interest and assemblies of councillors. Removal of prescriptive practices could create compliance issues and an increased reliance on legal / consultant advice to establish acceptable practices.

The emphasis on potential to cooperate with other councils, tiers of government and organisations is important and welcomed. There is a need to be clear regarding what the key elements of a transparent and accountable process are.

It is agreed that duplication with other Acts should be removed eg Equal Opportunity Act 2010.

In general it is considered that changes should be phased in gradually to allow Council's time to implement in a controlled manner.

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 ☐ In part

What other comments would you make for this proposal?

It is agreed that clearly defining the role of councils in the new Act will promote greater understanding and support. In establishing the role of Council however there needs to be enough flexibility to cater for local circumstances and variation. The role of council also needs to include the explicit responsibility of Council to facilitate health and wellbeing as a primary outcome for its community.

Deliberative community engagement and the development of a community plan are mechanisms to inform planning processes associated with the delivery of services and infrastructure.

The emphasis on potential to cooperate with other councils, tiers of government and organisations is important and welcomed. Further clarification is required to determine what this actually looks like in reality.

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 ☐ In part

What other comments would you make for this proposal?

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 ☐ In part

What other comments would you make for this proposal?

The proposed mandatory election of Mayor for a two year term is not supported. It is deemed restrictive for councillors who cannot commit to this longer period of office. Currently there is flexibility to choose a 2-year term if Councils wish to do so and this position should be maintained.

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 ☐ In part

What other comments would you make for this proposal?

While it is conceptually appropriate for the CEO to report to Council about the implementation of its decisions, this would likely be a logistically significant task given the volume of Council resolutions. Council is already under significant resource strain without adding this requirement. It would be more appropriate for such reporting to be required on an as requested basis.

CEOs typically consult with the Mayor and Councillors in setting Council meeting agendas, however the CEO needs to retain the ability to include matters on the agenda that require being brought to Council's attention or for a decision.

It is usual for a CEO to discuss with Councillors proposed significant organisation restructuring and it should not be necessary for legislation to mandate this as a requirement. It is also important that responsibility for organisational matters needs to clearly reside with the CEO.

It is appropriate for the Mayor to play an important role in assessing CEO performance; however the role of a CEO Performance Matters Committee should be clarified. This Committee and the role of its independent chair has been very effective at Surf Coast. The Mayor is an important member of the committee however the independent chair has been central in coordinating the review.

Do not agree that the Mayor should solely appoint Councillors to special committees, but prefer by agreement of whole of Council.

Do not agree with mandated inclusion of 2 Councillors on special committees. Surf Coast Shire Council has had a long standing and successful planning committee comprised of subject experts operating under Council-determined delegation. Councillors do not participate as special committee members. Council views the current model as successful and preferable to legislated inclusion of Councillors.

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 ☐ In part

What other comments would you make for this proposal?

Also recommend review of Councillor allowances in light of expanded role eg community engagement.

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 ☐ In part

What other comments would you make for this proposal?

Clarity around the intended role and responsibilities of the LGMAP would be needed in order to provide an informed opinion on this.

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 ☐ In part

What other comments would you make for this proposal?

See above comment in relation to two-year terms.

Direction 9 proposes to:

Consider deputy mayoral allowances in light of the expanded role of deputy mayors.

Do you support this direction? ☒ Yes ☐ No ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

This direction is supported in principle. Clarification would be required regarding the level of participation in the deliberative community engagement process associated with the development of the community plan, financial plan, council plan and asset plans as resources could be an issue particularly in a rate capping environment.

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 ☐ In part

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 ☐ In part

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 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 ☐ In part

What other comments would you make for this proposal?

CEOs typically already liaise with the Mayor and Councillors about Council agendas. CEOs do however need to retain the ability to include a report on the Council agenda notwithstanding the view of the Mayor. This would be important if the CEO determines that a matter must be brought to Council's attention or require determination.

It would be usual and prudent for CEOs to discuss significant organisation changes with the Mayor and Councillors. This should not however be a requirement as it impinges on delineation of responsibilities between Councillors and the CEO.

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 ☒ In part

What other comments would you make for this proposal?

It is agreed that Councils should have a CEO remuneration policy. It is also agreed that Councils would benefit from an overall framework for CEO remuneration.

The Policy on Executive Remuneration for Public Entities in the Broader Public Service does not however explicitly provide guidance on the range of appropriate remuneration. It is suggested that local government CEO's are equivalent to the Victorian Public Service Deputy Secretary / Secretary level and equivalent remuneration ranges can be provided. Beyond that overall framework, specific remuneration considerations can be determined within each Council's own remuneration policy.

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 ☐ In part

What other comments would you make for this proposal?

Council's compliance with its Remuneration Policy would better be considered by a CEO Employment Matters Committee than the Audit and Risk Committee.

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 ☐ In part

What other comments would you make for this proposal?

Surf Coast currently utilises a CEO Employment Matters Committee and has found the role of the independent Chair effective and valuable. An alternative would be for Councillors to work in conjunction with the Mayor and not just the Mayor alone.

Either option is preferred to utilising solely a human resources placement firm.

Performance should be reported to Council at a meeting closed to the public.

Direction 17 proposes to:

Remove detailed prescription about council decision-making processes from the Act.

Do you support this direction? ☒ Yes ☐ No ☐ In part

What other comments would you make for this proposal?

With the caveat that requirements still need to be clear and a full definition provided to reduce risk of non-compliance and reliance on consultants/legal advisers. Best practice examples would assist with this.

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 ☐ In part

What other comments would you make for this proposal?

Replacing prescriptive processes with principles could create compliance issues and increase reliance on legal/consultant advice/case law to determine acceptable practices. Need to be very clear what the key elements of a transparent and accountable process are.

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 ☐ In part

What other comments would you make for this proposal?

Guidance is still needed to ensure what the rules are and how they can be met.

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

Unnecessary and onerous impact on Councillors workload. Administrative committees are generally operational and should be left to work under delegation.

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 ☐ In part

What other comments would you make for this proposal?

Need to be clear if an “administrative committee” is a “special committee” as per Direction 21.

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

The assembly of councillors provisions were brought in fairly recently to address issues of transparency in decision-making. This has been an important and effective transparency requirement and should be retained.

Direction 25 proposes to:

Remove matters about employing council staff from the Act.

Do you support this direction? ☐ Yes ☒ No ☐ In part

What other comments would you make for this proposal?

This creates issues where senior officers and the CEO are not covered by the council's Enterprise Agreement (as with Surf Coast). Would then be covered by the Victorian LG Award 2015 which has no restriction on length of contract and is contrary to current arrangements and the LG Act.

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 ☒ In part

What other comments would you make for this proposal?

It is appropriate for the CEO to establish a workforce plan. It should not however be a requirement that this be only changed in consultation with staff. Workforce planning is a matter for Council's executive management, noting also that the plan is likely to include recognition of issues and consequent responses that impact cohorts of staff and need to be managed sensitively. It should also be at the discretion of the CEO whether the plan or elements of it is available to staff.

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 ☐ In part

What other comments would you make for this proposal?

The requirement to consult staff regarding major organisation change is already addressed in many Enterprise Agreements. These matters are properly addressed through workplace arrangements rather than through legislation.

Direction 28 proposes to:

Require a community consultation process before making or varying a local law.

Do you support this direction? ☐ Yes ☐ No ☒ In part

What other comments would you make for this proposal?

Unclear if this is additional to normal section 223 submissions process and local laws community impact assessment?

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 ☐ In part

What other comments would you make for this proposal?

Requirement to receive advice and certification from an 'appropriately qualified person' would need clear definition and could incur extra costs.

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

Examples of model local laws would be welcome.

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 ☐ In part

What other comments would you make for this proposal?

Direction 33 proposes to:

Remove the requirement to submit local laws to the minister.

Do you support this direction? ☒ Yes ☐ No ☐ In part

What other comments would you make for this proposal?

Already required to be available on the website.

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 ☐ In part

What other comments would you make for this proposal?

It is recommended that between 7-9 Councillors provides for an effective Council. To have less may impact a quorum and has the potential for reduced representation, however it is thought that more would make decision making and team cohesion unwieldy.

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 ☐ In part

What other comments would you make for this proposal?

Unlikely that a base formula would meet the needs of representative democracy for all communities i.e. regional councils with a large non-resident ratepayer base.

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 ☐ In part

Do you support option 2? ☐ Yes ☒ No ☐ In part

What other comments would you make for this proposal?

Neither option would be appropriate with varying geographic factors affecting rural and regional councils.

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

Agree this would be fairer and more logical.

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 ☐ In part

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 ☐ In part

Do you support option 2? ☐ Yes ☒ No ☐ In part

What other comments would you make for this proposal?

Use of the State Roll does not deliver required representation. It is important that people who pay rates have an opportunity to participate in democratic voting. In Surf Coast Shire this is important principle, particular due to the level of absentee home owners.

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 ☐ In part

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 ☐ In part

Do you support option 2? ☒ Yes ☐ No ☐ In part

What other comments would you make for this proposal?

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

Defining deliberative community engagement as a principle and when it is applied must be included in the Act. As a tool a deliberative community engagement process may not be applicable in all situations.

Further clarity is required therefore regarding how and when Councillors participate in deliberative engagement activities ie all councillors cannot be required to participate in all deliberative engagement opportunities.

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 ☐ In part

What other comments would you make for this proposal?

It should be a requirement in the Act that all Councils have a community consultation and engagement policy. Councils however may not need to prepare a policy early in their term if a substantive policy continues to meet its needs. Further clarification regarding “early in its term” would be required assuming timing allows for development of a policy to to inform strategic planning processes.

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 ☐ In part

What other comments would you make for this proposal?

The Act should require Councils to conduct a deliberative community engagement process to prepare its Council plan.

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 ☐ In part

What other comments would you make for this proposal?

These requirements for an engagement strategy should be included in the Act.

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 ☐ In part

What other comments would you make for this proposal?

Aligning the Council Plan timing to the end of the second year would allow more time for Councillors to consider relevant issues and provide for greater continuity across Council terms.
The implementation of deliberative community engagement processes are likely add time to Council Plan preparation and so there is a need to understand the regulations regarding this.

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 ☐ In part

What other comments would you make for this proposal?

Suggest a report is provided each year with the format and delivery be determined by each council. The Act need not contain the requirement for the Mayor to report to the community. Suggest the direction re worded to "require councils to report to...."

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 ☐ In part

What other comments would you make for this proposal?

Definition of which documents "currently required to be kept on the council premises" is important to understand the scope of this direction. A limited number of "prescribed documents" could be easily accommodated on a website. Discretion should be applied as depositing too many documents and too much information on websites creates a large, difficult to navigate and cumbersome website where information is rarely accessed by community members. Websites need to focus on and support easy access to information that is important to users.

Direction 52 proposes to:

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

Do you support this direction? ☒ Yes ☐ No ☐ In part

What other comments would you make for this proposal?

CEO remuneration setting is a difficult matter for Councillors and they would benefit from some overall framework to guide this process. An example would be that used to remunerate Victorian Public Service Deputy Secretary and Secretary positions. Within a remuneration range, each Council should then have the flexibility to retain and remunerate a CEO based on its assessment of the Council requirement. For example, Council may seek an experienced CEO given the objectives of its Council Plan. Additionally, Council may choose to utilise remuneration as one element of retaining a well performing CEO.
Aligning CEO remuneration to the Victorian Public Service Deputy Secretary and Secretary positions would provide a framework that is well understood and transparent to the community. It is agreed that such an overall framework should be published. However more specific considerations may well be confidential to Council and/or the CEO and should not be published.

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 ☐ In part

What other comments would you make for this proposal?

The inclusion of best practice examples in guidelines would be supported.

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 ☐ In part

What other comments would you make for this proposal?

A definition of a customer complaint in the Act would be beneficial.
A successful complaints resolution process is subject to development of and access to agreed and published service standards to eliminate confusion or encourage complaints about services or standards that councils do not or cannot deliver.

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 ☐ In part

What other comments would you make for this proposal?

Agreed that Councils should have a complaints policy.

While an independent review process is agreed in principle, there would need to be guidelines around the trigger for a review process to negate vexatious complaints that are unnecessarily resource (time and cost) intensive.

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 ☐ In part

What other comments would you make for this proposal?

It is important that conflict of interest provisions be retained. While these are sometimes cited as complex and prescriptive, in reality they are not and add clear guidance and value.

Direction 57 proposes to:

Include in Regulations all the processes specified in the current councillor conduct framework.

Do you support this direction? ☒ Yes ☐ No ☐ In part

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

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 ☒ In part

What other comments would you make for this proposal?

While current rules are complicated and hard to explain / interpret this new definition requires more clarification.

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 ☐ In part

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

The current misuse of position provision should be amended to specifically address the common law provision of unbiased decision making.

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 ☐ In part

What other comments would you make for this proposal?

It would be useful to affirm that improper direction also represents a misuse of 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 ☐ In part

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 ☐ In part

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 ☐ In part

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

Process needs to be articulated.

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

If proposed direction 25 (remove matters about employing council staff from the Act.) occurs, the consequence is that there will be no provisions relating to senior officers.

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 ☐ In part

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

Such guidelines would be welcome if the Act is to be less prescriptive.

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

The limitation of entering into a new contract for a CEO only within the final 6 months should be extended to

12 months before the end of the contract term. The current setting is unfair and inconsistent with reasonable practice.

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

Strongly support the objective relating to integrated strategic planning as described.

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

May need to consider timing of Council Plan and alignment with adoption of budget/ elected period of Council if not developed until December of the second year.

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

Refer comment for Direction 82

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

Strongly support the rolling financial plan of at least 10 years, however this should be at all times, not just by 31 December of the second year.

Direction 87 proposes to:

Remove the requirement for a council to prepare a strategic resource plan.

Do you support this direction? ☒ Yes ☐ No ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

The timing of the financial plan may need to be earlier than that of the Council Plan as its role is to inform the Council Plan.

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 ☐ In part

What other comments would you make for this proposal?

As for Direction 88

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 ☐ In part

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

Council is already required to receive a quarterly financial report. Adding an additional budget review and reporting process would impose further resourcing requirements. The CEO can already highlight to Council if a revised budget is required.

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

Agree as the budget is posted to a Council's website.

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 ☒ In part

What other comments would you make for this proposal?

Oversight of service reviews and continuous improvement should not be within the scope of the Audit and Risk Committee. This is within the responsibility of Council and the Executive, and the proposed scope is inconsistent with corporate practice.

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 ☐ In part

What other comments would you make for this proposal?

Current practice as Surf Coast Shire Council.

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 ☐ In part

What other comments would you make for this proposal?

Currently report through an annual report, minutes included in agenda and attendance at Council briefings as required.

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

Agree as the annual report is posted to a Council's website.

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

Consideration of regional and state plans is important to enhance collaborative opportunities

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

The current principles do not specifically make reference to financial sustainability, which should be the ultimate goal of financial management.

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 ☐ In part

What other comments would you make for this proposal?

Current best value principles would also be addressed through deliberation community engagement processes associated with development of community, council, financial and asset plans.

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

Current tendering thresholds have been in place for a long time and need to be reviewed. Updating these and removing the process for seeking ministerial exemptions will cut red tape and improve efficiencies

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

Current practice at Surf Coast Shire Council.

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

Access to these contracts will give councils the ability to reduce costs

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 ☐ In part

What other comments would you make for this proposal?

Current practice at Surf Coast Shire Council.

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 ☐ In part

What other comments would you make for this proposal?

Current practice at Surf Coast Shire Council.

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 ☐ In part

What other comments would you make for this proposal?

Access to new investment opportunities may help councils increase non-rate revenue

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 ☐ In part

What other comments would you make for this proposal?

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

Agreed that Council should be able to address the sale, exchange or lease of land through the budget process however the term “expressly describe” needs to be clear. For example, nominating the exact parcel of land in question may not raise issues, however, if Council were to fully disclose land value expectations it may erode its negotiating position in regards to getting the best result from the purchasing or selling process and if so the suggested change in relation to submissions (Recommendation 117) would apply.

There are times when the need to sell, exchange or lease arises outside of the budget process, and the proposed direction appears to constraint this opportunity. If this is done outside the budget process then the current submission process should apply. Councils are undertaking significant reform in response to the Fair Go Rates System and this should not be only through an annual process.

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

According to the discussion paper, this direction should actually read ...“Remove from the Act any role for the minister in determining or approving the kinds of insurance schemes councils may wish to participate in and 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”.

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 ☐ In part

What other comments would you make for this proposal?

The proposed direction will remove current legislation which is cumbersome and restrictive and allow councils to partner more easily, for instance in shared services arrangements which could lead to economies of scale, however, removal of entrepreneurial powers should be treated with caution. This requirement was established in legislation in response to challenging historical examples of poor practice

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 ☐ In part

What other comments would you make for this proposal?

Preparation of a rating strategy is current practice at Surf Coast Shire Council.

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 ☐ In part

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 ☐ In part

Do you support option 2? ☒ Yes ☐ No ☐ In part

What other comments would you make for this proposal?

There needs to be more clarification and direction around “land held in trust and used exclusively as a not-for-profit club for persons who performed service duties under the Veterans Act 2005” and the implications of RSLs etc that have gambling facilities.

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

Use of a capital improved value valuation system is current practice at Surf Coast Shire Council.

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 ☐ In part

What other comments would you make for this proposal?

The current legislation states that a council’s total revenue from a municipal charge in a financial year must not exceed 20% of the combined sum total of the Council’s total revenue from the municipal charge and the revenue from general rates.

Surf Coast Shire Council’s current municipal charge is 10.09% of the total revenue from municipal and general rates.

Section 159 of the LG Act states that Council may declare a municipal charge to cover some of the administrative costs of the Council.

The municipal charge applies equally to all properties and is based upon the recovery of a fixed cost of providing administrative services irrespective of valuation. The same contribution amount per assessment to cover a portion of Councils administrative costs can be seen as an equitable method of recovering these costs. Therefore this represents a “minimum charge” that every ratepayer contributes to regardless of their property value. Council sees no need for this to change.

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 ☐ In part

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 ☐ In part

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 ☐ In part

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 ☐ In part

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 ☐ In part

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 ☐ In part

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 ☐ In part

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 ☐ In part

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 ☐ In part

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 ☐ In part

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 ☐ In part

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 ☐ In part

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 ☐ In part

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 ☐ In part

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 ☐ In part

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 ☐ In part

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 ☐ In part

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 ☐ In part

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

The principle of 'cooperation with other councils and tiers of government' needs to be clearly defined and explained.

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 ☐ In part

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 ☐ In part

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

This will be essential if prescriptive processes are to be replaced with overarching principles.

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 ☐ In part

What other comments would you make for this proposal?

This will be essential if prescriptive processes are to be replaced with overarching principles.

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 ☐ In part

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 ☐ In part

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 ☐ In part

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 ☐ In part

What other comments would you make for this proposal?

Important to consider further opportunities to integrate with other legislation i.e.

- Public Health and Wellbeing Act re Municipal Public Health Plan
- Planning & Environment Act re: Municipal Strategic Statement

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 ☒ N/A

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 ☒ N/A

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 ☐ In part

What other comments would you make for this proposal?

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

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- Screen Name
- Email Address

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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

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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

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