

SERVICES SPECIAL COMMITTEE

MINUTES

(Open to the public)

Tuesday 13 March 2018

Council Chamber, 8 Inglesby Road, Camberwell.

Commencement 6.34pm

Attendance

- Councillor Cynthia Watson (Chairperson)
- Councillor Jim Parke (Mayor)
- Councillor Phillip Healey
- Councillor Lisa Hollingsworth
- Councillor Coral Ross
- Councillor Felicity Sinfield
- Councillor Garry Thompson
- Councillor Jack Wegman (arrived at 6.40pm)

Apologies

- Councillor Jane Addis (Leave of absence)
- Councillor Steve Hurd

Officers

Phillip Storer	Chief Executive Officer
Carolyn McClean	Director Community Development
Shiran Wickramasinghe	Director City Planning
Jacinta Barnes	Acting Director Corporate Services
David Thompson	Manager Governance
Krysten Forte	Coordinator Governance
Elizabeth Manou	Governance Projects Officer
George Bakker	Program Change Communications Specialist

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1. Adoption and confirmation of the minutes

Moved Councillor Parke

Seconded Councillor Thompson

That the minutes of the Services Special Committee meeting held on 12 February 2018 be adopted and confirmed.

CARRIED

2. Declaration of conflict of interest of any councillor or council officer

Refer to Item 4.1 of General Business.

3. Presentation of officer reports

3.1. Proposed Council Submission - Exposure Draft of the Local Government Bill

The Minister for Local Government has released the Exposure Draft of the Local Government Bill (the Bill) for public consultation. The Bill is open for public comment until Friday 16 March 2018.

The Bill proposes to repeal and replace the *Local Government Act 1989* with a principle based legislative framework for the establishment and administration of a system of local government in Victoria. Once finalised, it is intended that the new Local Government Bill will be introduced to Parliament in May 2018 with a view to a new Local Government Act commencing from mid-2018.

The Minister for Local Government is of the view that the draft Bill seeks to:

- provide a better understanding of the role of councils as democratically elected bodies
- encourage Victorians to participate more as candidates, voters and citizens in council activities and contribute to council strategic visions and plans
- drive more autonomous and outcome focused councils
- encourage Councils to embrace innovative and collaborative arrangements that increase organisational efficiency and deliver public value for residents
- provide a sound framework for the sector to become more efficient and enterprising in its local governance.

A proposed Council submission has been prepared for consideration by Council.

Two speakers who neither agreed nor disagreed with the officers' recommendation addressed the meeting.

One speaker opposed to the officers' recommendation addressed the meeting.

MOTION**Moved Councillor Healey****Seconded Councillor Thompson****That the Services Special Committee resolve:**

- 1. To adopt the Council submission to the Exposure Draft of the Local Government Bill as annexed to the minutes.**
- 2. To forward a copy of the Council submission to the Municipal Association of Victoria (MAV), the Victorian Local Governance Association (VLGA), LGPro, all local members of State parliament and the Shadow Minister for Local Government, Mr David Morris MP.**

CARRIED**4. General business****4.1 Leave of Absence - Councillor Thompson (28 May 2018)**

Councillor Thompson requested a leave of absence from Council for 28 May 2018.

Councillor Thompson declared a direct Conflict of Interest in this item in accordance with Section 77B of the Local Government Act 1989. Councillor Thompson advised the nature of the interest was "There is a reasonable likelihood that my personal circumstances would be directly altered, in Council considering my request for a leave of absence".

Councillor Thompson left the Chamber at 7.06pm prior to the consideration and vote on this item.

MOTION**Moved Councillor Parke****Seconded Councillor Sinfield****That Council resolve to grant a Leave of Absence to Councillor Thompson for 28 May 2018.****CARRIED**

Councillor Thompson entered the Chamber at 7.07pm and resumed his seat.

4.2 Designation of Recreation Hall Reserve as Dogs Off-Leash Park

Councillor Healey requested to know when a notice would be published in the Victoria Government Gazette designating Recreation Hall Reserve as a Dogs Off-Leash Park.

The **Director City Planning** took the question on notice and indicated he would provide councillors with a response in due course.

4.3 Email to Councillors

Councillor Hollingsworth referred to comments made earlier in the evening by a resident concerning an email sent to councillors.

Councillor Hollingsworth requested to know why the email had not been received by councillors.

The **Manager Governance** informed the meeting that the resident had used incorrect email addresses. Further, he was now in possession of a copy of the resident's email which he would provide to councillors.

5. Urgent business

Nil

6. Confidential business

Nil

The meeting concluded at 7.10pm

Confirmed

Chairperson _____

Date _____

MINUTES ATTACHMENTS



Services Special Committee

Tuesday 13 March 2018

Attachments as annexed to the resolution:

- 3.1 Proposed Council Submission - Exposure Draft of the Local Government Bill



Boroondara City Council Submission Local Government Bill – Exposure Draft

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

Organisation or council name	Boroondara City Council
Position	Manager Governance
Are you providing this submission on behalf of the organisation or council?	Yes

Key information about making a submission

What feedback should I provide on the exposure draft bill?

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

What is the closing date for submissions?

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

How do I make a submission?

Submissions can be made in three ways:

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

How do I complete this template?

To complete this template:

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

Can I provide a submission in another format?

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

Will submissions be made publicly available?

Written submissions and the name of the author will be published on the www.yourcouncilyourcommunity.vic.gov.au website unless confidentiality is requested and the Executive Director of Local Government Victoria grants it, or if it is determined your submission should remain confidential. Submissions that are defamatory or offensive will not be published.

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

Part 1: Preliminary

Clause (No.)	Support / Do Not Support / Neutral	What changes do you propose and why?	Are there any other comments you would like to make on this clause?
3 Definitions Definition of confidential information.	Support	Council would encourage provisions being incorporated into the new Act as to how a document is rendered confidential	What constitutes confidential information is set out in the definitions section of the exposure draft. Clause 63 addresses when a council can close a meeting to the public. However, there seems to be no provisions as to how a document is rendered confidential as section 77(2) does in the <i>Local Government Act 1989</i> .

Do you have any overall comments on Part 1 of the Exposure Draft Bill?

In part, Council support the stipulations detailed within Part 1 of the Exposure Draft Bill. The Preliminary clearly articulates the purpose and definitions to adequately understand, interpret and implement the Act.

Part 2: Councils

Clause (No.)	Support / Do Not Support / Neutral	What changes do you propose and why?	Are there any other comments you would like to make on this clause?
<p>8</p> <p>Overarching governance principles and supporting principles</p> <p>This clause relates to the overarching principles and supporting principles of the Act.</p>	Support with exception of 8 (2)(c)		Council is of the view that the articulation of overarching principles, rather than prescriptive limitations, is the appropriate means to support the role of local governments, in particular the inclusion of innovation and continuous improvement which is already a hallmark of modern day local governments.
<p>8(2)(c)</p> <p>Overarching governance principles and supporting principles</p> <p>Clause (2) (c) Specifically relates to the overarching governance principle of c) the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted.</p>	Not Support	<p>Council is of the opinion this clause should read as follows:</p> <p>the economic, social and environmental sustainability of the municipal district.</p> <p>It is the view of Council that the wording “mitigation and planning for climate change risks, is to be promoted”, is by definition part of economic, social and environmental sustainability and therefore this wording is superfluous.</p>	
<p>15</p> <p>Electoral Structure Review</p> <p>This clause relates to the proposal that the Minister be provisioned with the ability to establish an electoral representation advisory panel to advise him/her in relation to the electoral structure of a Council.</p>	Neutral	Council recognises that non-uniform electoral structures can generate anomalous election results and can see merit in the allowing for one of three representative structures- subdivided, entirely uniform multi-member wards or entirely single member wards to be applied in each municipality.	<p>Council believes that each local government should retain the right to determine how best to meet the needs and electoral representation in its community. At the last electoral representation review the City of Boroondara community spoke with a loud and strong voice to retain its individual ward-based councillor representation and will continue to resist any departure from this model.</p> <p>Council is strongly of the view that</p>

			<p>community engagement is a critical element of electoral structure reviews and that the Minister should be obliged to consider the recommendations of an electoral representation advisory panel before recommending the making of an Order in Council under Clause 14(2).</p> <p>In this regard, Council is supportive of the requirements under Clause 15(5) that require ministerial directions to include a process for community engagement. Notwithstanding, the Clause should be amended to explicitly require the process for community engagement be accordance with the engagement principles in Clause 55 of the Bill and councils be noted as being a compulsory part of this process.</p>
<p>16</p> <p>Ward Boundary Review</p> <p>This clause relates to the provisions relating to the conduct of ward boundary reviews and the Ministers role if advised by the VEC of increase in number of voters per councillor in wards by 10% expected by the next general election. The clause proposes that a community engagement process is followed.</p>	<p>Support</p>		<p>The process for ward boundary reviews conducted by the Victorian Electoral Commission pursuant to Clause 16 appropriately requires a process of community engagement. This process should be explicitly obliged to be consistent with the engagement principles in Clause 55 of the Draft Bill.</p>
<p>17(h)</p> <p>Role of the Mayor</p> <p>This clause details the roles and</p>	<p>Do Not Support</p>	<p>It is crucial to good governance that there is a clear distinction between the respective roles of council, councillors, the Mayor and Chief Executive Officer.</p>	

<p>responsibilities of the Mayor of the day. (h) explicitly relates to the role of the mayor providing advice to the Chief Executive Officer when he/she is setting the agenda for council meetings.</p>		<p>Clause 17(h) affords the Mayor a role in setting the agenda for council meetings. Clause 45(2)(d) then makes the Chief Executive Officer’s function of setting the agenda subject to consultation with the Mayor.</p> <p>As such, there is no clear line of accountability for setting the agenda for council meetings. This option can only work effectively when the mayor is capable of putting aside their own agendas and those of colleagues with whom they may have close associations. Good governance should not be subject to the vagaries of such circumstances.</p> <p>It is also noted that there is no concurrent obligation upon the Mayor to consult with his/her councillor colleagues regarding their expectations of the council agenda.</p> <p>Council is of the view that the Chief Executive Officer should be accountable for setting the agenda for all council meetings and be held accountable for so doing in accordance with:</p> <ul style="list-style-type: none"> • the Governance Rules established under Clause 58; and • the Chief Executive Officer Employment and Remuneration Policy established under Clause 44. 	
<p>18(1)(a)</p>	<p>Do Not Support</p>	<p>These clauses should be removed.</p>	<p>This clause needs to be cross-referenced with clause 61(2)(b).</p>

<p>18(2)</p> <p>Specific powers of the Mayor</p> <p>1 (a) details the Mayors powers in appointing Councillors to the position of chair of delegated committees.</p> <p>The following (2) directs that the Mayors determination of appointing a councillor to be chair of a delegated committee which prevails over any appointment made by the Council.</p>		<p>At the City of Boroondara, Council appoints the chairs of Councils various special committees and Councils representation on various internal and external bodies or committees concurrently with the annual election of the Mayor.</p> <p>Council believes that the process of appointing chairpersons and council's representatives to various committees is a council power. As such, Council is opposed to mandating the transfer of this council power to the Mayor. Once again, the effectiveness of this proposal is entirely reliant upon the capacity of the mayor to behave independently of their associations with their colleagues. There is no effective accountability or remedy should this aspect of governance fail and it is not seen as a desirable model.</p>	<p>The comments from Council are to be read with respect to comments in clause 61(2)(b).</p>
<p>20</p> <p>Declaration of the office of the Mayor to be vacant</p> <p>This section details the provisions relating to vacation of the office of the Mayor. Of note, the office can only be declared vacant if the motion to declare the office is passed by a majority of at least three-quarters of all the councillors in office.</p>	<p>Support</p>		<p>Council is supportive of the proposal in how the office of the Mayor can be declared vacant.</p>
<p>21</p> <p>Role and Powers of the Deputy Mayor</p>	<p>Do Not Support</p>	<p>Council is fundamentally of the view that the LGA reforms should respect and promote the autonomy of councils to make decisions with regard to its particular circumstances and the best</p>	<p>In an era of constrained financial capacity, Council is very concerned about a reform which mandates the appointment of a deputy mayor at potentially significant additional cost</p>

<p>In full this clause details when the Deputy Mayor would assume the role and power of the Mayor.</p>		<p>interests of its community.</p> <p>Reforming the Act to reflect the custom and practice of many, but not all local governments, of appointing a deputy mayor is therefore considered inappropriate.</p> <p>Council is of the view however that the appropriate reform is not to mandate the appointment of a deputy mayor, but to include enabling provisions for those councils who choose to elect a deputy mayor.</p> <p>The prescriptive provision fails to recognise that many councils, like the City of Boroondara, have long standing processes in place which have precluded the need to elect a deputy mayor. These include protocols for the election of a temporary chairperson in Council's Meeting Procedure Local Law, and established custom and practice for ward councillors to "deputise" for the mayor at civic functions when he or she is unable to attend.</p> <p>Mandatory provisions also inhibit the autonomy of individual councils to prescribe the deputy mayoral role with appropriate functions and powers that fit its particular needs, circumstances, processes and procedures. They also fail to recognise the potential benefits of alternative deputy mayoral structures.</p>	<p>and for no real benefit to ratepayers.</p>
<p>23 Local Government Mayoral Advisor</p>	<p>Neutral</p>	<p>This should be a matter for the minister of the day rather than a requirement of the legislation; particularly given the</p>	<p>Council is of the view that the Local Government Mayoral Advisory Panel (LGMAP) should include appropriate</p>

<p>Panel</p> <p>This clause relates to provisions of role, purpose and composition of the Advisory Panel.</p>		<p>confidentiality required of participants. This latter aspect is a real concern because the views expressed by participants may not be representative of either their Council or their community and there is a risk the minister will attribute outcomes to discussions in this group which were never in fact agreed.</p>	<p>transparency provisions regarding:</p> <ul style="list-style-type: none"> • the composition of the panel representing metropolitan and regional councils • the criteria for ministerial appointments; and • the keeping of and circulation of agendas and minutes of LGMAP meetings. <p>Additionally, Council believes the representative nature of the panel would be supported by provisions requiring that in addition, and subsequent to the ministerial appointments, at least one nominee is appointed to the LGMAP by a direct vote of elected mayors.</p>
<p>26</p> <p>When is a Mayor to be elected</p> <p>This clause relates to when and how a Mayor can be elected. Of note, it allows flexibility of Mayors to be elected for 1 or 2 years, as determined by motion of the council.</p>	<p>Support</p>		<p>Council is supportive with the change from the Directions Paper that mayors can be elected for one year terms rather than being obligated to elect a mayor for two-year terms.</p>
<p>27</p> <p>Election of Deputy Mayor</p> <p>This clause details the process for electing the Deputy Mayor.</p>	<p>Not Support</p>	<p>Remove this clause.</p>	<p>See the comments at Clause 21.</p>
<p>33(1)(e)</p> <p>Councillor ceasing to hold office</p>	<p>Not Support</p>	<p>Remove the proposed clause (e) and replace with the following:</p>	

<p>Outlines the provisions in which a councillor would cease to hold office and specifically e) states that subject to this section, the office of the Councillor becomes vacant if the Councillor is absent from meetings of the council for a period of 4 consecutive months without leave obtained from the council.</p>		<p>33 (1) A councillor ceases to hold the office of Councillor and the office of the Councillor becomes vacant if the Councillor...</p> <p><i>(e) Subject to this section, is absent from 4 consecutive council meetings without leave obtained from the council.</i></p>	
<p>39(2)</p> <p>Reimbursement of expenses of councillors and members of delegated committees</p> <p>Section (2) specifically relates to the mandate that council must provide details of all reimbursements of councillors and delegated committee members to the Audit and Risk Committee.</p>	<p>Do Not Support</p>	<p>Remove this clause.</p> <p>Given an Audit Committee is an advisory committee with no executive powers it is unclear what actions (if any) an Audit Committee can or should take upon receiving the information.</p> <p>If the intent is to increase the level of scrutiny and transparency of councillor expense reimbursements the Act might be better amended to require the disclosure of such information in the Quarterly Budget Report as required by Clause 92 of the Bill.</p>	
<p>43</p> <p>The Chief Executive Officer</p> <p>This clause relates to the employment of a Chief Executive Officer.</p>	<p>Support</p>		<p>Council supports the direction that Chief Executive Officer will continue to lead the administrative arm of council and employ staff accordingly and that the appointment of the Chief Executive Officer is a responsibility of the council.</p>
<p>44</p> <p>Chief Executive Officer Employment and Remuneration Policy</p>	<p>Do Not Support</p>	<p>Council is in favour of the Bill's endeavour to be principle-based and reduce prescription. The requirement to develop a policy is contrary to that stated aim.</p>	<p>Should it be a requirement to have a Chief Executive Officer Employment and Remuneration Policy (the Policy) Council suggests consideration be given to the inclusion of a mandatory</p>

<p>This clause explicitly relates to the proposed mandate for council to develop and maintain a CEO Employment and Remuneration Policy and prescriptive inclusions to be provided for (recruitment and appointment process, inclusion in the contract of employment, performance monitoring and annual review).</p>		<p>Council proposes to remove the requirement to develop a <i>Chief Executive Officer Employment and Remuneration Policy</i>, and instead, have the legislation itself outline the expectation that councils comply with the general principles expressed in Clauses 44(2) - (3) (which Council supports).</p>	<p>provision in the Policy consistent with provisions stipulated in clause 20 relating to the declaration of the office of the Mayor to be vacant.</p> <p>Council proposes that the office of the Chief Executive Officer should not be deemed vacant until at least three-quarters of the Councillors vote to resolve such. Currently the majority of councillors + 1 is the required number of votes to declare the office of the CEO vacant which is dissimilar to the threshold required to declare the office of the Mayor to be vacant.</p>
<p>45(2)</p> <p>Functions of the Chief Executive Officer</p> <p>Section 4 relates to the proposed responsibilities of the Chief Executive Officer</p>	<p>Support</p>	<p>Council suggests that the this clause be expanded to incorporate the current provisions in section 103 to 110 of the <i>Local Government Act 1989</i></p>	<p>Section 103 to 110 of the <i>Local Government Act 1989</i> deal with how a complaint about the Chief Executive Officer alleging bullying, victimisation or harassment, including sexual harassment is to be handled. These provisions have not been retained in the exposure draft. Council is of the view that they should be.</p>
<p>45(4) 45(6)</p> <p>Functions of the Chief Executive Officer</p> <p>Section 4 relates to the proposed mandate that the Chief Executive Officer must develop and maintain a workforce plan that details the organisation structure, projected staffing requirements for a min. period of 4 years, a workforce plan that seeks out measures to seek gender equity, diversity, inclusiveness.</p>	<p>Do Not Support</p>	<p>Council suggests the removal of Clauses 45(4) and (6) which, like Clause 44, are prescriptive, result in more (rather than less) bureaucracy, and in the opinion of Council is contrary to the Bill's stated aim of being principle-based.</p>	<p>Council supports Clauses 45 (1) - (3), and commends the simple, plain-English way it is set out.</p> <p>Council is concerned with the proposed legislation detailed in Clause 45 (4) as detailed.</p> <p>Sub-clause (4) (b) is vague and ambiguous. The required action is qualified by the council's capacity to deliver on its Plan being affected - the qualification is not 'black and white'. It is inherently subjective. In the opinion of Council, it should be removed.</p>

<p>Section 6 relates to the Chief Executive Officer ensuring that <u>all</u> councillors and members of staff have access to the workforce plan.</p>			<p>Sub-clause (4) (c) is problematic. It strides into industrial relations territory. It has the potential to alter provisions of the <i>Fair Work Act 2009</i> (C'th) and any industrial instrument entered into by a council and its staff. It is the opposite of de-centralised, principle-based legislation. It assumes the drafters of this Bill know better than each council and the agreements /negotiations struck with its staff. Council is of the view that it should be removed. The language used in this proposal potentially gives rise to the notion of quotas be they based upon gender, ethnicity or other characteristics. Council's fundamental position should always be to seek the best person for the job irrespective of gender, ethnicity etc.</p>
<p>45(5)</p> <p>Functions of the Chief Executive Officer</p> <p>Section 5 proposes the Chief Executive Officer, in giving effect to gender equity, comply with any processes and requirements prescribed by the regulations for the purposes of this subsection.</p>	<p>Do Not Support</p>	<p>Council is of the opinion that this clause is poorly worded and concerned that there is scope for quotas to be prescribed in the Regulations.</p> <p>Council is strongly opposed to quotas as the basis for appointing professionals to senior roles within the administration. When it comes to recruitment, Council believes that the final decision absolutely needs to be on the strength, abilities and merit of a person, not their gender.</p>	<p>Council is of the view that the sex of a person shouldn't be regarded - but integrity, aptitude and suitability for a position should. This doesn't mean Council does not value diversity - both gender and culture are important to enrich our workforce and community. However, Council believes selection of the best candidate for a role should be focused on capability and merit.</p>
<p>46</p> <p>Delegations by the Chief Executive Officer</p>	<p>Support</p>		<p>Council strongly supports the provision of power of the Chief Executive Officer to delegate via an instrument of delegation the powers conferred to them by council to</p>

<p>Detail provisions relating to the instrument of delegations from the Chief Executive Officer to council staff and the Community Asset Committee.</p>			<p>members of council staff of members of a Community Asset Committee.</p> <p>It is important to allow for opportunity for a broadly enabling organisation that can make decisions, carry out duties and functions responsibility and autonomously and reduce the administrative burden of the Chief Executive Officer.</p>
<p>47(2)</p> <p>Members of Council staff</p> <p>Section 2 proposes to determine that a senior officer of a council to be a senior member of Council staff who is authorised in writing by the Chief Executive Officer to witness statutory declarations.</p>	<p>Not Support</p>	<p>For the Chief Executive Officer to authorise a senior member of council staff (which is not defined) to witness statutory declarations, seems a clumsy way to deal with this issue.</p> <p>Council suggests that more thought needs to be given to this provision.</p>	
<p>48</p> <p>Code of Conduct for members of Council staff</p> <p>Outlines the provisions of implementation and maintenance of the staff code of conduct and required inclusions such as disclosing gifts, managing actual or alleged breaches of conflict of interest, provisions for the Chief Executive officer to take disciplinary action against a member of council staff.</p>	<p>Support</p>		<p>The requirement for the Chief Executive Officer to develop and implement a code of conduct for members of council staff is supported.</p> <p>Council appreciate the requirement of declarations and disclosures of gifts above a nominated level and the recording of this in a statutory register to further protect the organisation and its people to enable the continued embedding of good governance principles throughout the organisation. The inclusion of procedures and guidelines in dealing with management of conflicts of interest and their disclosure, and when required the necessary disciplinary action, further supports Councils view</p>

			of the provision of good governance principles and practices.
49 Long Service Leave Proposes the council implement appropriate long service leave arrangements for members of staff in accordance with the regulations.	Support		The principle-based approach coupled together with the clear, succinct and plain-English drafting of this Bill, which Council commends, should continue so that the Local Government (Long Service Leave) Regulations 2012 are similarly re-drafted.
52(3)(b) Council must establish an Audit and Risk committee Section 3 (b) specifically relates to the proposed requirement for an Audit and Risk Committee to include mandate that the majority of who are not councillors of the Council and who collectively have (i) expertise in financial management and risk; and ii) experience in the public sector management.	Neutral	Council suggests that this clause be amended to read as follows: consist of a majority of members who are not Councillors of the Council and who collectively have - (i) expertise in financial management and risk; (ii) experience in legal compliance; and (iii) experience in public sector management Council is of the view that legal compliance experience on an Audit Committee will enable the Committee to discharge their mandate more effectively.	
53(2)(a) Audit and Risk Committee Charter Clause 52 (2) (a) details that the Audit and Risk Committee charter must specify the functions and	Do Not Support	This clause requires an Audit Committee Charter to include: (a) monitor the compliance of council policies and procedures with - (i) the overarching governance principles; and (ii) this Act and the regulations and any	Council is of the view that if this clause is to remain the sector would benefit from support from Local Government Victoria in developing a 'Governance checklist' that could be used for self-assessment and reporting against the requirements of

<p>responsibilities of the Committee including the a) monitor of compliance of council policies and procedures with i) the overarching governance principles and (ii) this Act and the regulations and any Ministerial directions.</p>		<p>Ministerial directions; Given the proposed Act extends to 321 pages, plus regulations, it is difficult to envisage practical, cost effective means by which an Audit Committee could assure itself the council had complied with each and every clause of the Act.</p>	<p>the new Act. An Audit Committee exists as a resource to Council and its administration. It should not have decision making powers which would usurp the role and accountability of Council and its work should be determined by what Council decides is most important to it. The Audit Committee can make recommendations to Council but ultimately it is entirely up to Council to determine its Audit Plan and the focus of the committee. The new legislation should reflect this principle and not attempt to undermine the autonomy of Council in determining what it wishes its Audit Committee to consider.</p>
<p>53(2)(d) Audit and Risk Committee Charter Proposes that the Audit and Risk Committee Charter specify the functions and responsibilities of the Committee including the oversight of internal and external audit functions.</p>	<p>Do Not Support</p>	<p>Council propose that the clause should be amended to read “monitor and review the work of the internal and external audit functions”.</p>	<p>Council propose that the clause should be amended to read “monitor and review the work of the internal and external audit functions”.</p> <p>This clause requires an Audit Committee to “oversee internal and external audit functions”.</p> <p>An Audit Committee has no executive powers. It cannot enter into, terminate or extend contracts with external service providers, nor can it employ, terminate or performance manage a staff member carrying out the role of an internal auditor. The principle is fundamentally flawed.</p>
<p>53(6)(b) Audit and Risk Committee Charter Section 6 (b) prescribes the Chief</p>	<p>Do Not Support</p>	<p>This clause should be amended to read: The Chief Executive Officer must - (b) table reports of the Audit and Risk</p>	<p>Council is of the view that wording proposed places the power to request a report be tabled at a council meeting solely with the chair of the Audit Committee. The chair should</p>

<p>Executive Officer must table reports of the Audit and Risk Committee at meetings of the council when required by this Act and when requested by the chairperson of the Audit and risk Committee.</p>		<p>Committee at council meetings when required by this Act and following a resolution of the Audit and Risk Committee.</p>	<p>represent, and act in accordance with the wishes of the entire Audit Committee.</p>
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Do you have any overall comments on Part 2 of the Exposure Draft Bill?

Generally Council is supportive of this proposed direction subject to:

1. modifications being made to the functions of the Chief Executive Officer and the requirements with respect to a workforce plan. The language used in this proposal potentially gives rise to the notion of quotas be they based upon gender, ethnicity or other characteristics. Council's fundamental position should always be to seek the best person for the job irrespective of gender, ethnicity etc.
2. Recognition that an Audit Committee exists as a resource to Council and its administration. An Audit Committee should not have decision making powers which would usurp the role and accountability of Council and its work should be determined by what Council decides is most important to it.

Part 3: Council decision making

Clause (No.)	Support / Do Not Support / Neutral	What changes do you propose and why?	Are there any other comments you would like to make on this clause?
<p>54(2)(d)</p> <p>Community Engagement Policy</p> <p>This clause details what the community engagement policy must include which proposes specifically that it specify a process for informing the municipal community of the outcomes of the community engagement.</p>	Do Not Support	<p>Remove this clause.</p> <p>Council proposes the clause should recognise there are multiple processes for informing the community of outcomes, depending on the type of consultation undertaken, and allow some flexibility for the most appropriate process to be chosen.</p>	<p>Council supports the principle of informing the community about the outcome of community consultation but this clause implies that “a process” should be specified for doing this. In reality, there would be a number of processes for informing the community and not all would be appropriate in each case.</p>
<p>54(2)(e)</p> <p>Community Engagement Policy</p> <p>This clause details what the community engagement policy must include which proposes that it include any other matters prescribed by the regulations.</p>	Do Not Support	<p>Remove this clause.</p> <p>Council proposes to delete clause 52 (2)(e) or for it to be replaced with specifics stipulating “any other matters” prescribed by the regulations.</p>	<p>Council believes that the directions provided in Clause 54(2) (e) “include any other matters prescribed by regulations” in reference to adopting and maintaining a community engagement policy is too broad and needs to be refined.</p>
<p>54(3)</p> <p>Community Engagement Policy</p> <p>Section (3) relates to the proposed mandate that the community engagement in the development of the council plan and first council budget after a general election must be undertaken in collaboration with the municipal community.</p>	Do Not Support	<p>It is Councils view that community engagement should be undertaken around the development and update of the Community Vision and Community Plan. The Council Plan and budget are the translation of community engagement at this level into practical outcomes where Council determines how to respond to community identified priorities within the resource capacity available to it. The community's opportunity to</p>	

		influence the allocation of resources and strategic direction taken by Council should take place at the level of the Community Plan. It is acknowledged the Council Plan and budget should be the subject of publication to the community but changes at this level should be minimal. The state government does not apply this approach to the development of its own strategic directions and budget processes.	
55(d) The community engagement principles (d) states that the participants in community engagement are entitled to support to enable meaningful and informed engagement.	Do Not Support	Council proposes that the clause should refer to provision of a “reasonable” or “appropriate” level of support to “promote meaningful and informed engagement.”	Council asserts the clause as worded is too broad and could impose significant costs on a local government authority to provide support for community members to participate in an engagement process. There will be ongoing and unproductive debate with particular community groups as to what this means.
61(2)(b) Delegated committees The clause suggests that a delegated committee must include at least 2 councillors; and b) must be chaired by a Councillor appointed by the council or the Mayor.	Do Not Support	Council believes this clause should read as follows - <ul style="list-style-type: none"> • must be chaired by a Councillor appointed by the Council; and <p>Council believes that the process of appointing chairpersons and council's representatives to various committees is a council power. As such, Council is opposed to mandating the transfer of this council power to the Mayor.</p>	This clause needs to be cross-referenced with clauses 18(1)(a) and 18(2). The comments from Council are to be read with respect to comments in clauses 18(1)(a) and 18(2).

<p>63(2)</p> <p>Meetings to be open to the public unless specified circumstances apply</p>	<p>Neutral</p>	<p>Council is supportive of this clause subject to the retention of an equivalent provision to section 89(2)(i) in the current Act.</p>	<p>The new provision for what constitutes confidential information is set in the definitions section of the exposure draft. The provision also provides for further information to be prescribed as confidential in the regulations.</p> <p>The provision does not enable a council to go into a closed session to debate the merits of dealing with a matter in closed session. The current Act under section 89(2)(i) provides this opportunity and it should be retained.</p>
<p>70(8)(a)</p> <p>Making a Local Law</p> <p>8 (a) proposes that a qualified person means a person who is an Australian Lawyer who has been admitted to the legal profession for at least 5 years.</p> <p>This relates to the context that before Council makes a local law, council must obtain a certificate from a qualified person stating that the person is of the opinion that the proposed local law is consistent with the local law requirements.</p>	<p>Do Not Support</p>	<p>Council suggests that from a good governance perspective, it would be appropriate that the Australian lawyer be required to hold a current practising certificate.</p> <p>It is the understanding of Council that an Australian lawyer is a person who is admitted to the legal profession under the Act (or a corresponding law interstate) but such a person does not have to hold a practising certificate. Whereas an Australian legal practitioner is a person who holds a current Australian practising certificate.</p>	
<p>74(1)</p> <p>Penalties</p> <p>Section 1 refers to a local law having the ability to prescribe a penalty not exceeding 20 penalty units for a contravention of a local law, and a</p>	<p>Do Not Support</p>	<p>Council is of the view that 20 penalty units for a contravention of a local law is not sufficient to act as a deterrent.</p> <p>Councils and the community are familiar with the fixing of penalty units under the <i>Monetary Units Act 2004</i></p>	<p>Council is supportive of further reforms regarding the maximum penalties permissible under local laws. The <i>Local Government Act 1989</i> currently limits fines to 20 penalty units (\$2,000) per offence under a local law. Council alternatively has the ability to</p>

penalty not exceeding 2 penalty units for each day after finding of guilt or conviction of an offence during which the contravention continues, and prescription of higher penalties (not exceeding 20 penalty units) for a subsequent offence.

and Council considers the alignment of penalty units under local laws with penalty units prescribed under the *Monetary Units Act 2004* to be the appropriate reform.

prosecute an offender in the Magistrates Court, which may result in a conviction in addition to the fine. It is both costly and time-consuming to regularly prosecute alleged offenders in the Magistrates Court.

Council is of the view that the current \$2,000 fine per offence is insufficient in some instances to act as a deterrent. For example, Boroondara has introduced a *Tree Protection Local Law* (the Local Law) that requires a permit be obtained for the removal of a canopy tree. Council's experience to date is that magistrates are reluctant to convict offenders, even when found guilty, and that fines rarely exceed \$2,000.

In light of land values and development profits in the municipality, a \$2,000 fine appears to be considered by some as simply a (relatively low) cost of doing business. The value of a penalty unit under Section 110(2) of the Sentencing Act has remained unchanged since 1991 and at only \$100 is of insufficient value to deter illegal activity compared to 26 years ago.

By way of comparison, had this penalty unit been indexed in the same manner as other penalty units, it would currently be worth \$158.57.

In the view of Council, the reforms should significantly increase the maximum penalties permissible

			<p>under local laws to ensure that local laws can appropriately punish transgression of community standards, as well as serve as a deterrent to the offender and others.</p>
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Do you have any overall comments on Part 3 of the Exposure Draft Bill?

Council believes there is an opportunity to enhance Part 3 of the Exposure Bill Draft. If the suggestions from Council as highlighted above were incorporated into the Bill, Council believes this will ensure council decision making powers will be open, transparent and inclusive.

Part 4: Planning and financial management

Clause (No.)	Support / Do Not Support / Neutral	What changes do you propose and why?	Are there any other comments you would like to make on this clause?
<p>83</p> <p>Community Vision</p> <p>This section proposes the council maintain a community vision developed in consultation with the community, for at least the next 10 financial years and must describe the vision for the future of the municipality.</p>	Neutral		<p>The current wording states that the Community Vision “must be maintained” and “is for a period of at least the next 10 years.”</p> <p>These statements indicate the Community Vision must be updated annually. The Community Vision of a community does not change radically in that time frame.</p> <p>It is suggested council be required to develop a Community Vision during the term of the council elected in October 2020 and reviewed at least once in the period of each successive council.</p>
<p>84</p> <p>Strategic Planning Principles</p> <p>This section proposes that council follow strategic planning principles (integrated approach to planning, addressing the community vision, considers resources needed for implementation, identify risk and ongoing monitoring of progress).</p>	Support		The strategic planning principles are supported.
<p>85</p> <p>Council Plan</p> <p>This section details the preparation of council plan and inclusion such as</p>	Neutral		<p>Council acknowledges the tight timeframes in preparing a Council Plan especially following a general election.</p> <p>Council suggests that further</p>

<p>strategies, objectives, indicators, description of initiatives and priorities for services).</p>			<p>consideration be given to requiring the operational period for Council Plans to be four years commencing in July, the second year after a general election (that is, 19 months after the election) to allow for full community engagement.</p>
<p>86</p> <p>Financial Plan</p> <p>This section details the proposed direction to mandate the development, adoption and enforcement of a financial plan, for at least the next 10 financial years.</p>	<p>Support</p>		<p>Council strongly supports long-term strategic financial planning.</p>
<p>87</p> <p>Asset Plan</p> <p>This section details the proposed direction to mandate an Asset Plan, for a period of at least then next 10 financial years.</p>	<p>Support</p>		<p>Council is very supportive of long-term strategic planning and the allocation of financial resources to fund the renewal of and investment in community infrastructure.</p>
<p>88</p> <p>Revenue and Rating Plan</p> <p>Specifies that council must prepare and adopt a Revenue and Rating Plan by the 30 June after a general election for a period of at least the next 4 financial years.</p>	<p>Support</p>		<p>Council is of the view that the alignment of budgetary cycles in local government with those of State Government is very beneficial.</p>

<p>90</p> <p>Revised Budget</p> <p>Provides provisions relating to mandating the adoption of a revised budget before a council can make a variation to the declared municipal rate, can undertake and borrowings that have not been approved in the budget, or make a change to the budget that the council considers should be the subject of community engagement.</p>	<p>Do Not Support</p>	<p>Changes to municipal rates should not require an amended budget where the adjustment is within the rate cap set by the Minister.</p>	<p>The Essential Services Commission (ESC) annual report on rate capping for 17-18 identified a number of councils that due to an administration error, did not comply with the rate cap.</p> <p>Council is of the view that councils should be allowed to correct these administrative errors without undertaking a revised budget.</p>
<p>92 (3)</p> <p>Quarterly Budget reports</p> <p>This clause requires that the second quarterly report of a financial year must include a statement by the Chief Executive Officer as to whether a revised budget is, or may be, required.</p>	<p>Do Not Support</p>	<p>Remove the requirement.</p>	<p>This is an unnecessary bureaucratic measure which serves no purpose. External economic or natural events could render the statement from the Chief Executive Officer meaningless within a short period.</p>
<p>99</p> <p>Borrowings</p> <p>This clause proposes that a council cannot borrow money unless the proposed borrowings were included in the budget or revised budget.</p>	<p>Do Not Support</p>	<p>Remove the requirement.</p> <p>Council is of the view that the need to have borrowings included in an adopted or revised budget removes the potential for councils to take advantage of opportunities as they arrive. The need to purchase a property coming up for auction is a classic example of the need for a more flexible approach to this.</p>	<p>Council believes that the time taken to turn around a revised budget, have it endorsed for public consultation at a meeting of council, seek submissions, hear submissions, consider submissions and then formally adopt a revised budget is prohibitive to an empowered and responsive organisation.</p>

Do you have any overall comments on Part 4 of the Exposure Draft Bill?

Council believes that it is appropriate to adopt financial plans and documents for a period greater than the term of council. This will result in improved investment in infrastructure for the community we are elected to serve.

Council is concerned that clause 99 is too prescriptive. Council is therefore of the view that rather than imposing a prescriptive obligation, council's should be given the autonomy to prudently manage borrowings according to unique circumstances, community interest and the expectations that attach to each such transaction.

Part 5: Rates and charges

Clause (No.)	Support / Do Not Support / Neutral	What changes do you propose and why?	Are there any other comments you would like to make on this clause?
Division 2 Special Purpose Charge Relates to the declaration of a special purpose charge on rateable land.	Neutral	Require clarification as per comments column.	Council is of the opinion that it is unclear whether 'special purpose charges' is defined in exactly the same way as 'special rate and charges' in the current Act and elaborated on in the Ministerial Guideline on Special Rates and Charges published in September 2004. i.e. Council can currently apply a rate raised by apportioning cents in the \$ of CIV of a property and applying minimum and maximum amounts.
111(1) Special Purpose Charge The proposed clause mandates that council must declare a special purpose charge on rateable land for the purpose of paying any expenses, or repaying (with interest) any advancement made to, or debt incurred, or loan raised by, the Council in relation to the provision of works or services in the performance of a function or the exercise of a power of the council.	Neutral	Refer wording 'or the exercise of a power of Council'.	Is a Marketing and Business Development/Improvement Fund requested by an incorporated trader association aligned with this clause and wording?
116 Discontinuance of a special purpose charge	Neutral	Council is of the view that there needs to be a clause to specify that excess money/retained funds are to be returned to occupiers or owners of	

<p>This clause stipulates that for complying with the procedure for the levying of a special purpose charge, a council may discontinue the whole or part of any purpose for which it is charging the special purpose charge or resolve not to proceed with the purchase of any land for any such purpose.</p>		<p>the relevant land who paid the special purpose charge.</p>	
<p>121(1)</p> <p>Payment</p> <p>This proposes that a council must allow a person to pay a municipal rate or service charge in 4 instalments or as a lump sum.</p>	<p>Do Not Support</p>	<p>Council supports the mandating the option of payment of rates by 4 instalments but does not support the need to offer payment by lump sum.</p> <p>Lump sum payments have significant intra year cash flow implications for many councils. Removing the need to offer payment by lump sum reduces the financial impact on ratepayers.</p>	
<p>123</p> <p>Incentives for prompt payment</p> <p>This clause proposes that council may declare that incentives are to be given by it for the payment of municipal rates, service charges or special purpose charges before the due date.</p>	<p>Support</p>		<p>Council believes the ability to declare incentives for the payment of municipal rates, service charges or special purpose charges before the due date respects and promotes the autonomy of councils to make decisions with regard to its particular circumstances and in the best interests of its community.</p>
<p>140</p> <p>Definitions</p> <p>The definition of Rb is ‘the total annualised revenue leviable from a) municipal rates; and b) rates under</p>	<p>Do Not Support</p>	<p>Under definition of “Rb” remove - (c) service charges prescribed by regulations</p>	<p>Council understands that this clause is aimed at waste service charges. Waste service costs are driven by external factors outside of Council’s control such as land fill costs, contractor, fleet and fuel costs and government levies.</p>

<p>the Cultural and recreational Lands Act 1963; and c) service charges prescribed by the regulations in rateable properties within the council's municipal district as at 30 June in the base year.</p>			<p>Changes to waste service provision such as increased recycling and food waste disposal may require these fees to be adjusted outside of CPI parameters.</p> <p>Council believes that State government policies to reduce waste to landfill will be rendered ineffective if council's who are the primary collection agencies are unable to fund changes to services.</p> <p>Council also suggests that clause should be written in such a way that the 'ordinary person' can clearly understand and interpret the meaning of the clause.</p>
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Do you have any overall comments on Part 5 of the Exposure Draft Bill?

Whilst the Bill provides options for councils to provide alternate payment options which is strongly supported, the mandating of payment by lump sum compared with the current legislation "may allow payment by lump sum" in the opinion of Council works against the intention of the expanded payment options.

Part 6: Council operations

Clause (No.)	Support / Do Not Support / Neutral	What changes do you propose and why?	Are there any other comments you would like to make on this clause?
<p>146</p> <p>Complaints Policy</p> <p>This mandates that complaints policy must be developed and to deal with complaints made to council, including review a process.</p>	Support		<p>Council acknowledges the merits of each council adopting a customer complaints policy.</p> <p>Council acknowledges that many council decisions or processes are subject to separate statutory review and is supportive that statutory review processes are not usurped or duplicated by internal review mechanisms.</p>
<p>147</p> <p>Procurement Policy</p> <p>Details the proposal that a council must prepare and adopt a Procurement Policy which must be reviewed at least once during the council's 4-year term.</p>	Support		<p>Council is supportive subject to further consultation with the sector on provisions in the Regulations. Consideration should be given to the consistency across the sector and the potential impact this could have on providers and suppliers.</p>
<p>154(3)</p> <p>Lease of Land</p> <p>Proposes that Council has power to lease any land to any person is limited to leases for a term of 50 years or less. Any proposal to lease land in a financial year must be included in the budget where the lease is for 1 year or more and he rent is either for any period of the</p>	Do Not Support		<p>Council is of the opinion that the clause is ambiguous.</p> <p>Where a council has previously resolved to lease land, that intention can be readily detailed in budget documents. In circumstances where council officers may have received offers or generated proposals to lease land, "council's intention" is not known. Including unapproved officer proposals in community consultation</p>

lease is \$100 000 or more a year; or the current market rental value of the land is \$100 000 or more a year or for 10 years or more.

may generate unnecessary debate and conjecture within the community as part of the budget process, as well as unnecessary angst to tenants and neighbours of the subject properties.

Also unclear is whether councils will retain the autonomy and flexibility to lease land in response to opportunities that may arise throughout the financial year. Such opportunities may not have been apparent at the time of consultation with the community and therefore not included in the budget.

The City of Boroondara, like most local governments, leases numerous parcels of land and buildings to a variety of organisations, such as scouts, neighbourhood centres, kindergartens, clubs and societies. Council also leases land to utility companies for the provision of services, in addition to some commercial leases.

Including details of existing, long term leases in the public consultation phase of council's budget would add a costly administrative burden on council, and add little value to the budget process.

Any requirement to included details of the council's expected returns from commercial leases in budget papers could also compromise council's ability to maximise rental yields contrary to the public interest.

			<p>There may be times when consideration of such transactions is appropriate to be done in concert with a budget, such as where other budget measures outcomes are contingent upon the transactions. There may be other times however, when council and the community's focus should be on the merits of the proposed use, before or after the lease and consequently consideration separate from the budget, in the opinion of Council, would be more appropriate.</p> <p>Council is therefore of the view that rather than imposing prescriptive obligations, council's should be given the autonomy to prudently manage such transactions according to the unique circumstances, community interest and expectation that attaches to each such transaction.</p>
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<p>Do you have any overall comments on Part 6 of the Exposure Draft Bill?</p>
<p>Council is generally supportive of Part 6 of Exposure Draft Bill.</p>

Part 7: Council integrity

Clause (No.)	Support / Do Not Support / Neutral	What changes do you propose and why?	Are there any other comments you would like to make on this clause?
165 Conflicts of interest <i>Definitions domestic partner, family member, matter, not for profit organisation, relevant person.</i>	Support		Council has no objection to the definitions.
166 General Conflicts of interest <i>The Bill proposes that a general conflict of interest is defined to be where an impartial, fair minded person would consider that the person private interest could result in that person acting in a manner that is contrary to their public duty.</i>	Support		The current conflict of interest regime is complex and confusing for councillors. The proposed change goes somewhat towards a significantly simplified conflict of interest framework.
167 Material Conflicts of interest <i>Is defined where an affected person would benefit or suffer a loss depending on the outcome of the matter.</i>	Support		See above.
168 Exemptions <i>Details the exemptions as to where a conflict of interest would not arise.</i>	Support		Council believes the exemptions of conflicts of interest provide further clarity around the current ambiguity that exists in understanding and interpreting conflicts of interest. However, section 79C of the current

Clause (No.)	Support / Do Not Support / Neutral	What changes do you propose and why?	Are there any other comments you would like to make on this clause?
			Act lists a number of circumstances where a councillor is not taken to have a conflict of interest (e.g. for the election of the mayor). This is not included in the exposure draft. Council considers that it should be.
<p>169</p> <p>Disclosure of conflict of interest</p> <p>The section applies to the process and penalties associated of declaring/ non declaration of a conflict of interest that is considered a council meeting, a meeting of a delegated committee and proposes.</p>	Support		Council is supportive the processes required to disclose a conflict of interest and penalties associated with non-disclosure.
<p>170</p> <p>Disclosure of conflict of interest at other meetings</p> <p>Details proposed process for declaring conflicts at other meetings conducted under the auspice of the council that is not a meeting specified under section 169 (1) (a).</p>	Support		Council supports the requirement of councillor to declaring conflicts of interest conducted under the auspice of the council that is not a meeting specified in Clause 169(1) (a) or (b).
<p>174</p> <p>Public Access to summary of personal interests</p> <p>This clause details the preparation of personal interest information, required inclusions and proposed mandate that the Chief Executive Officer must publish the summary of</p>	Support		In our current heightened security environment, Council believes the summary of the personal interest's information has struck the right balance between a commitment to openness and the need for confidentiality in some circumstances.

Clause (No.)	Support / Do Not Support / Neutral	What changes do you propose and why?	Are there any other comments you would like to make on this clause?
<p>personal interests on the Councils Internet site, and make available for inspection at the council office.</p>			
<p>176</p> <p>Councillor Gift policy</p> <p>This clause mandate that a councillor gift policy must come into effect 6 months after this section comes into operation.</p>	Support		<p>Council supports the requirement to adopt a gift policy.</p> <p>Council believes that the implementation of a gift policy and maintenance of a gift register further protects and provides guidance to councillors in avoiding conflicts of interest and improved councillor transparency.</p>
<p>177</p> <p>Certain gifts not to be accepted</p> <p>This clause details when a councillor should or should not directly or indirectly receive a gift. It also details, if received, the parameters as to why accepting the gift was permissible and penalties associated with breaches.</p>	Support		<p>In respect to the support above, Council also supports the legislation outlining when councillors should and should not receive gifts.</p>
<p>179</p> <p>Councillor Code of Conduct</p> <p>Details requirements for a council to develop a Councillor Code of Conduct.</p>	Support		<p>Council believes there is an opportunity to enhance this clause by mandating a provision to appoint an independent arbiter to address and resolve disputes between councillors concerning bullying, harassment and sexual harassment allegations made by one councillor against another councillor.</p>

Clause (No.)	Support / Do Not Support / Neutral	What changes do you propose and why?	Are there any other comments you would like to make on this clause?
<p>181</p> <p>Internal resolution procedure of council</p> <p>This clause explains the requirement for the council to develop and maintain an internal resolution process for dealing with alleged contraventions of the Code of Conduct and to resolve disputes between councillors. It details the steps and processes proposed to be undertaken.</p>	Neutral		<p>Council is of the view that there is an opportunity to strengthen the internal resolution procedures for addressing and resolving disputes between councillors.</p> <p>Council suggests the Councillor Code of Conduct must include provisions that there be an independent arm's length process for addressing and resolving disputes between councillors concerning bullying, harassment and sexual harassment allegations made by one councillor against another councillor. It is suggested that the Bill provide for an independent arbiter to address these matters.</p>
<p>182</p> <p>Sanctions that may be imposed on by a Council</p> <p>Details when an arbiter finds a councillor has breached the Code of Conduct the consequences post findings.</p>	Neutral		<p>Council suggests that this clause could be enhanced by mandating a provision that if an independent arbiter makes a finding that a Councillor has breached the Councillor Code of Conduct this be reported to the Minister for Local Government.</p> <p>The Minister may then give a direction to a Council to adopt any recommendation made, or take any action recommended by the independent arbiter.</p>

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

Overall Council is supportive of Part 7 of the Exposure Draft Bill.

Part 8: Ministerial oversight

Clause (No.)	Support / Do Not Support / Neutral	What changes do you propose and why?	Are there any other comments you would like to make on this clause?
<p>209</p> <p>Minister may give direction</p> <p>This clause details the proposed process in where the minister may issue a direction to Council.</p>	Support		Council is of the view that it is appropriate for the minister to issue such a direction, where the minister has been satisfied by the municipal monitor, the chief municipal inspector, a Commission of Inquiry, the Ombudsman or the Independent Broad-based Anti-Corruption Commission, there have been governance failings.
<p>211</p> <p>Application for compliance exemption</p> <p>Details proposed process for when a Council can apply to the Minister for a compliance exemption from a regulatory requirement under this act or regulations specified in the application.</p>	Support		Council is supportive of a power to the minister to release a council from the regulatory requirements under the Act or the regulations.
<p>243</p> <p>Suspension of a Councillor</p> <p>This clause provides a proposal on how the Minister upon recommendation, can suspend a Councillor via Order in Council.</p>	Support		Council is supportive of this clause subject to a councillor being provided with the opportunity to respond to a proposed suspension direct to the Minister.

<p>245</p> <p>Suspension of all of the Councillors of a Council</p> <p>This clause provides a proposal on how the Minister upon recommendation, can suspend all Councillors within a Council via Order in Council.</p>	<p>Support</p>	<p>In the interests of good governance and transparency, Council suggests that an additional clause be included requiring the Minister to give notice to a council outlining the reason for suspension of all Councillors of a Council. Further, a council should be given the opportunity to respond to the Minister within ten (10) working days before the Minister makes a recommendation to the Governor in Council.</p>	<p>Council accepts that there are times, regrettably, when governance failures may necessitate drastic intervention. Good local governance however is underpinned by democratically elected local representatives who are directly accountable to their community.</p> <p>Council is of the view therefore that where drastic intervention is required, there should be a presumptive provision that the period of administration should extend only as far as the next scheduled election.</p> <p>Of course, it is important that administrators have the necessary opportunity to address the underlying causes of any governance failure. As such, it would be appropriate that the presumption apply unless the municipal monitor, the Chief Municipal Inspector, the Ombudsman or the Independent Broad-based Anti-Corruption Commission have satisfied the minister that there are compelling reasons for administration to extend beyond the next scheduled general election.</p>
<p>247</p> <p>Temporary administration if multiple extraordinary vacancies created</p>	<p>Not Support</p>	<p>Council believes this clause needs greater clarity and suggests that a definition of the threshold that constitutes 'multiple extraordinary vacancies' is required.</p> <p>It is the view of Council that multiple extraordinary vacancies can only be created if the number of councillors falls below a quorum for the offices of</p>	

		<p>councillors of a council.</p> <p>Council also recommends that this clause be amended to provide for the Minister to inform a council of his/her intention to appoint a temporary administrator and for the council to be given an opportunity to respond to the proposal.</p>	
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<p>Do you have any overall comments on Part 8 of the Exposure Draft Bill?</p>
<p>Council is generally supportive of Part 8 of the Exposure Draft Bill.</p>

Part 9: Electoral provisions

Clause (No.)	Support / Do Not Support / Neutral	What changes do you propose and why?	Are there any other comments you would like to make on this clause?
<p>276</p> <p>Voting Systems</p> <p>This clause proposes the voting system to be used for general elections and by-elections. It details that the determination is to be made by the Minister at least 12 months before each date of the general election to be held in 2020 and the potential for the Minister to change the voting system to be used at least 12 months prior. The voting system must be the same for general elections and by-elections.</p>	<p>Do Not Support</p>	<p>Council is of the view that the Minister should not mandate one approach. It should be left to each individual council to determine whether the voting system is postal, or attendance having regard to its own unique circumstances.</p>	<p>Council acknowledges there are different views regarding the merits of postal voting and attendance voting.</p> <p>Council remains of the view however that it is preferable to have consistency across local government with respect to the voting method, as suggested by the Local Government Electoral Review Panel in 2013-14 and would be supportive of a reform proposing uniform postal voting.</p> <p>Council is not however, supportive that the uniform voting method is to be determined at the discretion of the minister with only 12 months' notice to councils and more importantly, to the community.</p> <p>Council understands that the justification is based upon the grounds it will facilitate the adoption of as yet unknown advancements in voting technology.</p> <p>One of the essential ingredients of any democratic system is public confidence in the voting system employed.</p> <p>There are significant risks associated with the loss of confidence in the voting system and these risks are not necessarily quarantined by jurisdiction or level of government. For example, the irregularities discovered in Western Australia in 2013 by the Australian Electoral Commission have had significant repercussions for Federal, State and Local Government elections held since.</p> <p>As local government elections are conducted by the VEC, any issues associated with new technology deployed at Council elections can be expected to influence the confidence Victorians have in their electoral</p>

			<p>commission for future Local Government and Victorian Government elections.</p> <p>As such, Council is of the view that the decision to deploy new technology is significant enough to warrant consideration by the Victorian Parliament by way of legislative amendment.</p>
<p>281 and 282</p> <p>Conduct of Election and VECs Election and Enforcement Expenses</p> <p>Proposes that the election is to be conducted by the VEC and processes to follow if Councils consider that the amount sent to the council does not fairly represent the cost of conducting the election the Council has the opportunity to make a written request to the Essential Services Commission to review the account.</p>	<p>Neutral</p>		<p>Council is supportive of the right for councils if dissatisfied with the election costs proposed by the Victorian Electoral Commission to refer the matter to the Essential Services Commission (ESC) to investigate.</p>
<p>299</p> <p>Proposes for counting of votes at a countback</p> <p>This clause details the process for the counting of votes at a count back.</p>	<p>Support</p>		<p>At council elections involving the counting of votes at a count back Council favours all valid votes being counted not just those of the vacating councillor. Council support the direction in the Draft Bill stipulating that all votes cast in the election will be recounted until a candidate is elected.</p>

<p>304</p> <p>Authors to be identified</p> <p>This clause requires an author to be identified on printed electoral material.</p>	<p>Neutral</p>	<p>Clause 301 of the exposure draft deals with printing and publication of electoral material. Clause 304 deals with the identification of authors of various types of printed electoral material. These clauses do not deal with electronic material and the identification of authors.</p> <p>Council proposes that further consideration be given to these clauses in relation to electronic election material.</p>	
<p>320</p> <p>Candidates must lodge campaign donation returns</p> <p>Proposes that a candidate must lodge an election campaign donation return to the Chief Municipal Inspector no later than 21 days after the candidate receives the election campaign donation.</p>	<p>Support</p>		<p>Council supports the change and increased rigour of the campaign donation regime with the addition of the requirement that the returns be lodged with the Chief Municipal Inspector within 21 days of receipt of each donation and that the summaries be published on the Inspectorate website. Council agree that this change will give voters more information on each candidate's supporters and allow voters to make a more informed decision. It also removes the Chief Executive Officer from the process and places more accountability on the candidate to submit their donations accordingly.</p>

Do you have any overall comments on Part 9 of the Exposure Draft Bill?

Council acknowledges that there is no change to the electoral franchise proposed in the Draft Bill and that voting entitlements remain unchanged.

Council supports in part, Part 9 - Electoral Provisions however reiterates our concerns and non-support for the recommendation for the Minister to determine the uniform voting method to be employed by the sector at least one year ahead of the general elections.

Council is of the opinion that the requirement of campaign donation returns to be lodged with the Chief Municipal Inspector replacing the requirement for candidates to submit their return to the council Chief Executive Officer is a positive step forward.

Part 10: General provisions

Clause (No.)	Support / Do Not Support / Neutral	What changes do you propose and why?	Are there any other comments you would like to make on this clause?
326 Authorised Officers This clause details the proposed general provisions relating to authorised officer's appointments for the purposes of administration and enforcement of this Act.	Support		Council suggests that consideration be given to reinstating the provisions in the <i>Local Government Act 1989</i> to enable an authorised officer to administer and enforce any Act which relates to the functions of a council.
340 Regulations This clause specifies the process required to be undertaken to prescribe any regulation.	Neutral		Councils should not be subject to the political whims of an individual Minister. Council is supportive on the condition that the Minister is required to consult with the local government sector before prescribing any regulation. It is suggested that the Minister be required to complete a Regulatory Impact Statement before issuing any regulation.

Do you have any overall comments on Part 10 of the Exposure Draft Bill?

Council is generally supportive of Part 10 of the Exposure Draft Bill. Given the absence of any requirement to conduct a regulatory impact statement before issuing regulations, Council is of the view that the minister's power should be conditional upon prior engagement with the sector, consistent with the principles of community engagement as proposed in the Exposure Draft Bill.

Part 11: Consequential amendments and repeals

Clause (No.)	Support / Do Not Support / Neutral	What changes do you propose and why?	Are there any other comments you would like to make on this clause?

<p>Do you have any overall comments on Part 11 of the Exposure Draft Bill?</p>