

Submission Template

Local Government Bill – Exposure Draft

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

Organisation or council name	Hobsons Bay City Council
Are you providing this submission on behalf of the organisation or council?	Council

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** ~~16 March 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 Submissions that are defamatory or offensive will not be published.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?

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

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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?
8 – Overarching governance principles and supporting principles	Support		Council is supportive of the governance principles and supporting principles. With a greater emphasis on both sets of principles throughout the Draft Bill, it remains to be seen what will be provided in terms of information sheets, guidance notes and/or regulations.
10 – Power of delegation	Support		To seek clarification on the intent and effect of cl 10(2)(a) on the powers of the CEO to delegate functions delegated to the CEO by the Council with cl 46(1), which provides for the CEO to delegate powers, duties and functions that have been delegated to the CEO by the Council.
12 – Constitution of a Council	Do not support	That the provisions of the LGA 1989 be retained enabling Councils to be unsubdivided, all single wards, uniform multimember wards, non-uniform multimember wards, mixed single and multimember wards.	The proposed provision is narrow and does not provide flexibility in enabling representational structures to suit local circumstances and communities of interest. Whilst single member wards are considered more accountable, entirely uniform multi member wards has limited application, and therefore reduces the overall options available for a municipal area. In any event, the application of the proposed clause will force a review of ward structures on any municipality that does not 'fit' through a VEC electoral review process before the next general election.
17 – Role of the Mayor	Support		Council supports the expanded roles and responsibilities of the Mayor and increased leadership role in community engagement and of the Council.
18 – Specific powers of the Mayor	Do not support	Remove this provision.	The appointment of a Councillor to a delegated committee should have the support of the Council and be made by the Council. Council opposes the specific powers of the Mayor proposed in the Draft Bill that would enable the Mayor to appoint a Councillor to be a chair of a delegated committee, over any appointment made by the Council.

20 – Declaration of office Mayor to be vacant	Do not support	Remove this provision.	The removal of a Mayor mid-term by notice of motion and voting is not supported and destabilising for the Council even in the event that the motion is defeated. Furthermore the requirement in cl 20(3) for a vote of the majority of at least three quarters of all Councillors in office is inconsistent with the meaning of absolute majority which is greater than half the total number of the Councillors in office.
21 – Roles and powers of the deputy Mayor	Support		Council has no objections to this provision.
23 – Local government mayoral advisory panel	Do not support	Should the provision be retained, that an additional clause be included to specify that the representation of Mayors appointed to the panel be consistent, as a minimum, with the ‘Victorian Local Government Comparator Groups’ (VLGCG).	That the ‘Victorian Local Government Comparator Groups’ (VLGCG) as defined within the LGPRF Practice Note No.5 be adopted, as a minimum guide, for the purpose of selecting Mayors to proportionately represent LGA’s (Metropolitan, Interface Councils, Regional City, Large Shire, Small Shire).
25 – Election of the Mayor	Support		Council has no objections to this provision.
26 – Mayoral term	Support		Council supports the provision that the Council may elect the term of the Mayor, by resolution, for a 1 or 2 year term.
27 – Election of a Deputy Mayor	Support	Inclusion of clause to clearly state that the Deputy Mayor be elected on the same election term as that determined for the Mayor.	Council supports the provision with the inclusion that the Deputy Mayor to be voted in on the same election term as that of the Mayor to avoid the need to conduct a separate election for a single vacant position (either Mayor or Deputy Mayor).
37 – Minister may set allowances for Mayors, Deputy Mayors and Councillors	Support	Provision to include that an independent panel must, at least once every year, review the limits and ranges of Councillor and Mayoral allowances.	Supported with the inclusion of annual reviews.
40 – Council expenses policy	Support	Provision to include that a register of reimbursements to Councillors of out of pocket expenses be made available for public inspection and is to be published on the internet website of the Council.	Whilst many Councils already publish expenses on its website, it should be consistent across the sector.
44 – CEO employment and remuneration policy	Support		Council has no objections to this provision.

45 – Functions of the CEO	Support	Council generally supports clause 45 with a further consultation/review of cl 45 (4)(a)(i) to (iii) be undertaken.	Further consultation must take place with the sector in relation to the operation of the plan and on the notion of gender equity targets. Whilst the Draft Bill is silent on senior officers which will enable Councils to decide if senior officers remain on contracts or not, there are a number of complexities that will arise with the introduction of new legislation, specifically any 'out of cycle' reviews of a Council's EBA to deal with the employment of senior officers (if contained) and related industrial relation issues for senior officers currently on contracts.
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Do you have any overall comments on Part 2 of the Exposure Draft Bill?

Part 3: Council decision making

Section	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?
54 – Community engagement policy	Support		In the absence of prescribed 'levels of engagement', Council supports the development and adoption of a community engagement policy and that its application be at the discretion of the Council, with consideration made to available resourcing and Council's overall capacity to engage with the community in a meaningful way.
55 – Community Engagement principles	Support		Council supports the introduction of community engagement principles.
56 – Public transparency policy	Support		Council supports the introduction of a public transparency policy.
57 – Public transparency principles	Support		Council supports the introduction of public transparency principles.
58 – Governance rules	Support		Council supports the introduction of governance rules however requests that further direction be provided for minimum conditions of practice at Council meetings to ensure consistency across the sector. Further direction and guidance on standard rules for the consistent management of confidential documents including rendering of confidential documents and the inclusion of sunset clauses including: <ul style="list-style-type: none"> - That a register be kept of resolutions of confidential council reports and sunset provisions - a review of the register, at least annually, be conducted.
59 – Council meetings	Support	That subsection (4)(e) be amended to state: <i>subject to subsection (4)(a), for the purpose of determining the result of a vote, a Councillor attending the meeting, who does not vote is to be taken to have voted against the question.</i>	Cl 4(e) be amended with the inclusion of ' subject to subsection (4)(a) '. A Councillor who was absent at the previous meeting of Council is not entitled to vote on the question before the Council to ' <i>move the minutes of the previous meeting</i> '. The

			Councillor's non vote is not to be taken to having voted against the question as the Councillor is not entitled to vote on that question, having been absent at that meeting.
60 – Joint meetings of councils	Support	Guidance on the governance rules to be applied to joint meetings of Council be included in the regulations.	Council's preference is for collaboration without the need for a joint Council meeting. Should the provision be retained that guidance be provided in establishing the governance rules for joint meetings.
61 – Delegated committees	Do not support	That cl 61 (2)(b) be amended to remove the ability for the Mayor to appoint the Chair of a delegated committee.	Council specifically opposes the provision that enables the Mayor to appoint the Chair to a delegated committee. Appointments to Chairs can have political connotations and therefore any appointment to the Chair must be made by the Council.
62 – Community asset committee	Support	Provision to clarify if the Community Asset Committee is a delegated committee.	Clarification is sought on this provision as to whether it is a delegated committee as this will require that 2 Councillors be included on the committee.
63 – Meetings to be open to the public unless specified circumstances apply	Support	Retain the LGA 1989 s89(2) enabling Councils to close a meeting to the public by resolution of Council.	In the absence of existing infrastructure, Councils will be forced to invest resources, financial and otherwise, to comply with the cl 63(3) and (4). Failure to provide viewing means or equipment, at the time the new Act is introduced, may affect the security and/or orderly conduct of a meeting if the meeting cannot be closed the public to comply with the requirements of cl 63(3).
64 – Council decision making where quorum cannot be maintained.	Support	Review of cl 64(4) and arrangements to make a decision where a quorum cannot be maintained.	This clause is problematic in that the decision to establish a delegated committee cannot be achieved if a quorum cannot be achieved, therefore an exemption would be required for those Councillors who have declared a conflict of interest which is causing the failure to achieve a quorum, to enable them to participate in the appointment of the delegated committee. Further clarification is also sought on what is meant by 'other persons that the Council considers suitable'.
70 – Making of a local law	Support		Agree with the certification by a legally trained 'qualified persons'.
82 – Minister may issue good practice guidelines	Support	Include in the provision a minimum period of time that relevant documents must be made available to Councils, before a Council must comply with the specific provision in the Act.	Good practice guidelines, and checklists, should be developed in conjunction with the sector, and must available well in advance (at least 6 months) of statutory due dates, to enable the development of relevant documents, engagement with

			the community and adoption of matters at an ordinary meeting of Council.
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Do you have any overall comments on Part 3 of the Exposure Draft Bill?

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?
83 – Community vision	Support	Recommend that a Community vision/plan be developed with each successive Council and that it be prepared by 31 Dec in the year following the general election to enable sufficient time for community engagement (concurrent with engagement on the Council Plan).	<p>Council recommends that transition arrangements be in place to enable Councils to develop/renew their 10 year Community Vision/Plan by 31 Dec of the year following the general election (31 Dec 2021).</p> <p>Should the clause be adopted, clarity is sought regarding:</p> <ul style="list-style-type: none"> - the treatment of existing have Community Vision/Plan documents in place in excess of 10 years - reviews of existing Community Visions/Plans - when is it to occur - what the minimum level of community engagement is considered appropriate.
84 – Strategic planning principles	Support		Council has no objections to this provision.
85 – Council plan	Support		Council supports the provision that the Council Plan be developed by 30 Jun in the year following the election for at least the next 4 financial years.
86 – Financial plan	Support	That the 10 year Financial Plan be developed by 31 Dec in the year follow the general election.	Council recommends that transition arrangements be in place to enable Councils to develop a 10 year Financial Plan by 31 Dec of the year following the general election (31 Dec 2021).
87 – Asset plan	Support	That the Asset Plan be developed by 31 Dec in the year follow the general election.	Council recommends that transition arrangements be in place to enable Councils to develop a 10 year Asset Plan by 31 Dec of the year following the general election (31 Dec 2021).
88 – Revenue and rating plan	Support		Council supports the provision that the Revenue and Rating Plan be developed by 30 Jun in the year following the election for at least the next 4 financial years.
89 – The budget	Do not support	That an annual Budget be developed with a 3 year forecast by 30 Jun in the year follow the general election.	Councils view is that a four year budget cannot adequately be prepared for in the absence of future rate cap increases, supplementary valuations, investment returns, provisions of EBA's, carry over funds and emerging issues not yet realised.

			Council also seeks clarification as to what the minimum level of community engagement is considered appropriate.
93 – Annual Report	Support		Council has no objections to this provision.
95 – Meeting to consider the annual report	Support		Council support the provision and the requirement for the Mayor to publically report on the implementation of, and annual progress against, the Council Plan at a meeting held to consider the Annual Report.
97 – Financial policies	Support		Support the provision in the absence of matters prescribed by the regulations.
98 – Investments	Support		Council has no objections to this provision.

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

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?
101 – Rateable land			Council has no objections to this provision.
102 – Council must use the capital improved values system of valuation	Do not support	Retain the provisions of the LGA 1989.	Council recommends that the provisions of the LGA 1989 be retained which provides Councils the flexibility to choose the appropriate method of valuation for their local circumstances and communities.
105 - Differential rate	Support	That the provision includes differential rates for venues with electronic gaming machines.	That further consultation with sector on the Ministerial guidelines be undertaken and that a provision for differential rates for venues with electronic gaming machines be included.
106 – Municipal rates	Do not support	That the provisions of the LGA 1989 be retained.	Council supports the provisions of the LGA 1989 and that municipal charge be retained at a maximum of 20% and not reduced to 10% in the absence of any compelling policy base.
134 – Environmental upgrade agreement	Support		Supported subject to further consultation with the sector on the content of the guidelines.
141 – Minister may set average rate cap by general Order	Do not support		Council considers that the fair go rates system conflicts with the broad enabling powers that the new Act proposes and does not recognise the different capacities of Councils in delivering services and programs relevant to its local circumstances and communities.

Do you have any overall comments on Part 5 of the Exposure Draft Bill?

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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?
145 – Service performance principles	Support		Council has no objections to this provision.
146 – Complaints policy	Support		Council has no objections to this provision.
147 – Procurement policy	Support		In light of the impact this provision may have on providers and suppliers, Council requests that further consultation be undertaken with the sector in relation to: <ul style="list-style-type: none">- the development of the provisions in the regulations- a consistent approach to the development of policies and procedures
149 – Beneficial enterprise	Support		Council recommends further consultation with the sector be undertaken regarding monitoring and compliance.
153 – restriction on power to sell or exchange land	Support		Council has no objections to this provision.

Do you have any overall comments on Part 6 of the Exposure Draft Bill?

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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?
166 – General conflict of interest	Do not support	That the provision of the LGA 1989 be retained.	Council considers the provisions of the Draft Bill are too narrow and does not adequately provide a systematic approach for determining if a conflict of interest does or does not exist.
167 – material conflict of interest	As above	As above	As above
170 – Disclosure of conflict of interest at other meetings	Do not support		<p>The provisions of cl 169 and cl 170 provide for different arrangements and treatment in the disclosure of conflicts of interest at a meeting.</p> <p>Council is of the view that it is in the best interest of the public that people who have a conflict of interest exclude themselves from any discussion or vote on a matter. For that reason cl 169 and cl 170 should have the same arrangements to avoid any confusion or reliance upon other members present as detailed in cl 170(2)(b), which then may lead to a person/Councillor remaining for a discussion.</p>
176 – Councillor gift policy	Support		Council supports the provision of a Gifts Policy for Councillors.
179 – Councillor code of conduct	Support	That the Councillor Code of Conduct includes a reference to obligations placed on Councillors by other Acts.	Council has no objections to this provision.
189 – Application to Councillor conduct panel	Support		Council has no objections to this provision.
206 – Application to VCAT on grounds of gross misconduct	Support		Council has no objections to this provision.

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

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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?
211 – Application for compliance exemption	Support		Council has no objections to this provision.
221 – Offences relating to investigations	Support		Council has no objections to this provision.
243 – Suspension of a Councillor or Councillors	Support	Inclusion of a clause or provision for appropriate procedural fairness, including the right of appeal or review direct to the Minister.	Council does not object to the provision subject to a Councillor being provided procedural fairness, including an opportunity to respond to a proposed suspension or review, direct to the Minister.
245 – Suspension of all of the Councillors of a Council			Council supports the 'MAV submission' to the Government to the proposed provision.

Do you have any overall comments on Part 8 of the Exposure Draft Bill?

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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?
276 – Voting system	Do not support	Retain the provisions of the LGA 1989.	Council supports the retention of the provisions in the LGA 1989 and the conduct of elections both postal and attendance, enabling Councils to decide on a method to suit local circumstances and their community.
299 – Process for counting of votes at a countback	Support		Council supports the proposal for countbacks recounting all votes cast in the election, not just those of the vacating councillor.
301 – Printing and publication of printed electoral material	Support	Consideration of electronic electoral material be included in this provision and any provisions relating to electoral material.	Council supports the provision however further consideration is to be given to electronic electoral material, and in any provision in the Draft Bill that deals with or relates to electoral material. The transmission of or display of electoral material by electronic forms, must be considered including misleading or deceptive matter (cl 302) and authors to be identified (cl 304).
320 – Candidate donation return	Support		Council has no objections to this provision.
324 – Application to VCAT for review	Support		Council has no objections to this provision.

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

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	Do not support	Reinstate the provisions LGA 1989 (s224) which enables an authorised officer to administer and enforce any Act which relates to the functions of a Council.	The Draft Bill restricts the authorised officers ability to administer and enforce any Act, regulation or local law which relate to the functions of a Council, including the ability to enter any land or building in the municipal district (eg Municipal Fire Prevention officer entering properties to conduct inspections).

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

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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?

Do you have any overall comments on Part 11 of the Exposure Draft Bill?

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