

ALL WARDS**ACT FOR THE FUTURE – DIRECTIONS FOR A NEW LOCAL GOVERNMENT ACT – DRAFT SUBMISSION**

SUMMARY: *Manager – Governance & Innovation (Fleur Cousins)*

This report seeks endorsement of a submission on behalf of Knox Council to the ‘Act for the Future – Directions for a new Local Government Act’ directions paper released on 8 June 2016 by the Victorian State Government. The directions paper proposes key reforms to the Local Government Act and the Victorian State Government is seeking submissions on the 157 proposed directions by Friday 16 September 2016.

RECOMMENDATION

That Council endorse the submission at Appendix A for submission to the Victorian State Government in response to the directions paper titled ‘Act for the Future – Directions for a new Local Government Act’.

1. INTRODUCTION

In 2015 the Minister for Local Government initiated a review of the Local Government Act 1989 and commenced this review by releasing a discussion paper in September 2015. The discussion paper canvassed issues in the current Local Government Act that need to be addressed in a new Local Government Act for Victoria. Knox Council endorsed its submission to this discussion paper at its November 2015 Ordinary Council meeting.

On 8 June 2016, the Victorian Government released a directions paper titled ‘Act for the Future – Directions of a new Local Government Act’ that outlines 157 directions that seek to respond to the issues identified in the previous discussion paper.

There are five principles articulated in the directions paper that are being used to inform and guide the reform directions, they are as follows:

Principle 1 An Act that is contemporary and meets future needs, is clear and comprehensive, and does not duplicate other legislation.

Principle 2 Enhance democracy, diversity of representation, council transparency and responsiveness to the community and the state.

Principle 3 Improve corporate efficiency and reduce the administrative burden.

Principle 4 Facilitate collaborative arrangements.

Act for the Future – Directions of a new Local Government Act – Draft Submission (cont'd)

Principle 5 Create a systematic hierarchy of legislative obligations:

- An Act that is principle-based, providing greater autonomy to councils, balanced with effective ministerial intervention.
- Regulations that specify the more prescriptive detail.
- Non-statutory guidelines.

2. DISCUSSION

The attached submission, refer Appendix A, has been prepared for endorsement by Council.

The draft submission seeks to respond to each of the 157 proposed directions raised in the directions paper from a Knox Council perspective and has been informed by feedback from Councillors during a discussion at a Confidential Issues Briefing held Tuesday 9 August 2016.

Submissions to the directions paper are due by Friday 16 September 2016. It is proposed that following Council endorsement of the submission at Appendix A, the endorsed submission will be submitted to the Victorian State Government by the due date.

The following table, as presented in the directions paper titled 'Act for the Future – Directions for a new Local Government Act', outlines the high level timeline for the review and reform of the Local Government Act, with the highlighted row indicating the current phase.

Phase	Year
Issues identification	2015-16
Consultation	
Reform directions	2016
Consultation	
Exposure draft bill	2017
Consultation	
Bill	2017
Act	2018

Act for the Future – Directions of a new Local Government Act – Draft Submission (cont'd)

3. CONSULTATION

Local Government Victoria, on release of the directions paper, has been conducting a range of information sessions across the state. In addition to these sessions, a number of sector stakeholders including the Victorian Local Governance Association (VLGA), Municipal Association of Victoria (MAV) and Local Government Professionals (LGPro) have held information and feedback sessions on the directions paper. Council officers and Councillors have had an opportunity to participate in these sessions and will continue to do so during the consultation phase.

Councillors were provided an opportunity to input to the submission during a Confidential Issues Briefing held on Tuesday 9 August 2016.

Further opportunities for involvement in the review of the Local Government Act are expected to be available through technical working groups and further consultation as the new Act is drafted.

4. ENVIRONMENTAL/AMENITY ISSUES

There are no environmental or amenity issues associated with the preparations of this report.

5. FINANCIAL & ECONOMIC IMPLICATIONS

There are no financial or economic implications associated with this report.

6. SOCIAL IMPLICATIONS

The Local Government Act is the key legislation authorising Councils to act. It is important that the significant role of local government in the community is recognised and enabled by the legislation.

7. RELEVANCE TO CITY PLAN 2013-17 (INCORPORATING THE COUNCIL PLAN)

This draft submission support Theme 5 of the City Plan; Democratic and Engaged Communities.

8. CONCLUSION

The Victorian State Government is providing a unique opportunity to provide input to the direction of a new Act for local government in Victoria. The preparation of a draft submission to the 157 proposed directions outlined in the 'Act for the Future – Directions for a new Local Government Act', provides Knox Council the ability to provide views on these proposed directions and highlight the need for an enabling Act that articulates the principles local government should demonstrate when representing and responding to the needs and expectations of its local community.

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

Name	Mr Tony Doyle
Suburb	
Age*	
Gender*	

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

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

Organisation or council name	Knox City Council
Position	Chief Executive Officer
Are you providing this submission on behalf of the organisation or council?	Council

Key information about making a submission

Who can make a submission?

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

How will submission be used?

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

Will submissions be made publicly available?

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

Can I provide a submission in another format?

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

Do I have to respond to all of the questions in the template?

You're welcome to respond to as many, or as few, of the questions as you would like.

How do I make a submission?

Submissions can be made in three ways:

- **Online** via the online submission form, or by uploading your completed submission form
- **Email** your completed form to local.government@delwp.vic.gov.au
- **Post** your completed form to:
Local Government Act Review Secretariat
C/o Local Government Victoria,
PO Box 500, Melbourne VIC 3002

Chapter 2: Contemporary councils capable of meeting future challenges

Direction 1 proposes to:

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

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Knox Council supports using a principle based approach to enable Councils to make decisions and perform the work that they do efficiently and effectively for the benefit of the community.

Direction 2 proposes to:

Provide that the role of a council is to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

The proposed role better articulates Council's role to engage with community and fulfil a number of functions including the provision of services and infrastructure based on the needs of the local community.

Direction 3 proposes to:

Provide that councils have the powers described in the Act and in other legislation.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Provided the powers conferred on Council is clear within the Act and not limiting Council's ability to respond to the needs of its community.

Direction 4 proposes to:

Make the following reforms to the election of mayors:

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

Do you support this direction? Yes No **-SEE NOTES BELOW**

What other comments would you make for this proposal?

The current LG Act provides for Mayors to be elected for up to 2 years and to date few Councils have chosen to use this provision. Knox Council supports retaining the current provisions for each Council to determine the length of term for its own Mayor to a maximum of 2 years. Feedback from current councillors express concern that a two year term is too long, and in particular for Councillors who are engaged in full time work or business, the role of Mayor would have a significant impact on their employment and/or business. This would potentially lead to Councillors determining to not take on the role of Mayor.

Knox Council supports the retention of the current provisions to elect the Mayor by Council.

Knox Council does not support the provision for directly elected Mayors, particularly given the additional costs this would impose on ratepayers.

If provisions are made in the Act to allow Councils **to apply** for the option of a directly elected Mayor, the application should demonstrate a community desire for such a process and provisions should also be made for a Council to apply to cease the arrangement.

Direction 5 proposes to:

Expand the role of the mayor to include the following powers and responsibilities:

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

Do you support this direction? Yes No **SEE NOTES BELOW**

What other comments would you make for this proposal?

Council administrations are more corporate in their approach in a manner which is consistent with community and government expectations of public administrations. It must also be clear that Councils are a 'distinct and essential tier' of government governed by democratically elected members. It is not an appointed Board to a public authority. Elected Councillors, like elected representatives of all other levels of government, bring a diversity of skills and backgrounds to their roles, and may not necessarily have the specific skills required to fulfil the responsibilities of a skills-based appointed Corporate Board.

Legal liabilities and responsibilities are different for elected representatives compared to Company directors and this should be considered when determining the future roles and responsibilities of the positions of Mayor and Councillor.

Knox Council does not support the Mayor having the responsibility to 'lead' the engagement with community to inform the Community and Council Plan or the appointing of chairs to committees. These are roles that should be fulfilled by the democratically elected Council (not an individual Councillor).

The Council should have the power and responsibility to determine the approach for engagement with Community, however the implementation of this engagement should be undertaken by appropriately skilled professional staff. The role of the Mayor in engagement activities should be determined by the Council.

Knox Council supports the clarification between the role of the administration and that of elected representatives, however the proposed roles and responsibilities of the Mayor do not provide this clarity.

Knox Council supports the following roles for the Mayor:

- Support Councillors in their role
- Remove a Councillor from a meeting if the councillor disrupts the meeting
- To be a spokesperson for the council and represent it in conduct of public civic duties.

Direction 6 proposes to:

Review the formula for setting mayoral allowances in light of the proposed expanded role of mayors.

Do you support this direction? Yes No

What other comments would you make for this proposal?

The Mayor and Councillor allowances should reflect the roles and responsibilities of the respective positions and balance this with the expectations of the community for individuals holding public office. Consideration should also be given to the fact that many elected Councillors do not undertake this role in a full time capacity and are often engaged in other employment and/or business arrangements.

Direction 7 proposes to:

Formalise the status of the Local Government Mayoral Advisory Panel (LGMAP) by making it a statutory advisory board to the minister under the Local Government Act.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Knox Council supports the formalising of the Local Government Mayoral Advisory Panel as an advisory committee to the Minister.

The LGMAP should be transparent in its membership with members selected by and representatives of the sector along with the responsibilities of the panel being transparent. The Panel should also be required to report back to the sector on its discussions and position.

Direction 8 proposes to:

Require all councils to appoint a deputy mayor elected in a manner consistent with the mayor. That is:

- where councillors elect their mayor, councillors elect the deputy mayor for the same two-year period
- where the mayor is directly elected, a deputy mayor is jointly elected with the mayor on the same ticket.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Knox Council supports the option of having a deputy mayor, however does not support this being a mandatory provision. If a Council agreed to the appointment of a deputy mayor then it is appropriate for Council to elect the deputy mayor for the same period as the mayoral term.

Direction 9 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Knox Council does not support an additional allowance for the role of deputy mayor in light of operating in a financially constrained environment.

Optional

Where a deputy mayor is appointed and assumes the role of mayor for an extended period (greater than 4 consecutive weeks), there could be a provision for the councillor's allowance to be increased for this period.

Direction 10 proposes to:

Require councillors to actively participate in engagement processes mandated by the Act.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Councillors – do not have full time council responsibilities with majority of Knox councillors working in other employment and/or business arrangements.

On this basis Councillors should not be mandated to participate in community engagement activities.

Councillors are elected representatives and are subject to the judgement of the local community at each election, the same as for state and federal elected members.

The mandating of any participation would create further red tape and administrative burden on Councils ultimately impacting on the benefits Councils can deliver to their local communities.

If the Act seeks to prescribe the roles and responsibilities of Councillors beyond current expectations then consideration should be given to the impact this would have on participation rates and the skill set of potential candidates as well as the level of allowance provided for the role.

Direction 11 proposes to:

Require councillors to recognise and support the role of the mayor specified in the Act.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Pleased to see that Councillors are required to support the Mayor in their duties.

Direction 12 proposes to:

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

Do you support this direction? Yes No In Part

What other comments would you make for this proposal?

Need to ensure that the provisions within the Act reflect the role of Councillors who are not full time and in many instances have paid employment and/or conduct their own businesses.

Knox Council supports Councillors continuing to be entitled to reimbursement of reasonable expenses incurred while fulfilling the role of Councillor i.e. child care.

Any additional entitlements need to be considered in the context of the impact/cost to the community and not be a duplication of other employment entitlements.

Direction 13 proposes to:

Require the CEO to provide support to the mayor by:

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

Do you support this direction? Yes No In Part

What other comments would you make for this proposal?

Knox Council believes the role of CEO should be extended to:

- Support all councillors in the performance of their roles including the mayor, noting the additional responsibilities the mayoral role has.
- Informing the elected Council of the progress of implementing significant Council decisions.
- Communicating with the elected Council on any significant organisational changes being made that impact the delivery of the Council Plan.

The proposed direction in its current form is too focussed on the mayor and needs to be more balanced in supporting both mayor and councillors, and recognise the status of the elected Council.

Direction 14 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Knox Council supports in principle the alignment of the CEO remuneration policy to the VPS Policy on Executive Remuneration for Public Entities in the Broader Public Sector, however does not support the element of 'annual performance incentives'.

Direction 15 proposes to:

Require the audit and risk committee to monitor and report on a council's performance against the remuneration policy.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Refer to other audit committee responses.

Direction 16 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

The provision should relate to the Council seeking independent advice (not only the Mayor).

Direction 17 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

While the removal of detailed prescription is supported, information and support around possible processes to follow in best practice guidelines would be of benefit.

Direction 18 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 19 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Knox Council supports this in principle and only on the basis that the adoption of rules is not prescriptive placing unnecessary administrative and cost burdens on Council.

Direction 20 proposes to:

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

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Knox Council supports the refined scope of confidential information. The determination of confidential information should be retained from the current LG Act.

Direction 21 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 22 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Administrative committees imply that they have responsibilities on behalf of Council including certain Council powers, however this proposal does not consider how the powers would be 'limited'. This provision is supported on the basis that it is an enabling provision, providing Councils with the option to establish other committee types as they choose.

Direction 23 proposes to:

Apply legislative provisions exclusively to special committees that have delegated council powers and to administrative committees (as described in the proposed direction above).

Do you support this direction? Yes No

What other comments would you make for this proposal?

Suggest that legislative provisions apply to any committee where Council has delegated a power or function, irrespective of the type of committee.

Direction 24 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 25 proposes to:

Remove matters about employing council staff from the Act.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 26 proposes to:

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

Do you support this direction? Yes No - **SEE NOTES BELOW**

What other comments would you make for this proposal?

Knox Council supports a principle based legislative framework and on this basis does not support the proposed direction as it seeks to add a layer of prescription to the legislation.

Knox Council would support the principles of maintaining a workforce that has the skills and capabilities required to deliver the objectives and directions of the Council, however that should be developed and determined by the CEO.

Knox Council does not support the mandating of a consultation clause within the Local Government Act. The consultation process is managed under other legislative provisions relating to staff employment matters such as the Fair Work Act and the Modern Awards. This provision is inconsistent with a principles based legislation and duplicates provisions and matters which can be handled elsewhere.

Direction 27 proposes to:

Require a council CEO to consult the staff if there is a major organisational restructure.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Knox Council does not support this provision to be within the Local Government Act as it adds unnecessary prescription to the Act. There are a range of provisions in other legislative instruments that require staff consultation on employment matters such as the Fair Work Act and the Modern Awards.

Direction 28 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 29 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

The discussion paper notes that there are inconsistencies among Local Laws for Council's. The preparation of local laws needs to respond to local community issues and circumstances, and therefore it is appropriate that there are different mechanisms across different local governments.

Need to define what an 'appropriately qualified' person is, and ensure that this provision does not create unnecessary cost and administrative overhead burden.

Direction 30 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 31 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Provision of best practice local laws guidelines or model local laws would be of assistance to Councils and is supported on the basis that there is not a requirement on Councils to adopt the model local laws.

Direction 32 proposes to:

Consult to determine the appropriate value of a penalty unit for local laws and whether the value should be indexed annually.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Knox Council strongly support the indexation of penalty units on an annual basis to ensure that they keep pace with the costs of undertaking enforcement activities.

Direction 33 proposes to:

Remove the requirement to submit local laws to the minister.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Knox Council supports the removal on unnecessary administrative requirements within the Act

Chapter 3: Democratic and representative councils

Direction 34 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Knox Council is concerned with the prospect of increasing the number of elected representatives based on the additional costs this would impose on the ratepayer and believes the current representative ratios for Knox are sufficient.

Knox Council recognises that for some growth areas there may be a need to increase the number of elected representatives to achieve equitable representation compared to other municipal areas.

When setting the number of elected representatives for a municipal area it is strongly suggested that Councils comprise an odd number of Councillors.

Direction 35 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 36 proposes to:

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

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

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

Do you support option 1? Yes No

Do you support option 2? Yes No

What other comments would you make for this proposal?

Knox City Council has single member wards and continues to support this as the preferred representative model, as this model accurately reflects communities of interest across the Knox area.

As a distinct and essential tier of government, a consistent approach to ‘representative house’ electoral models along with State and Federal governments, where members are elected on a single-member representative basis, should be retained. Local governments should be entitled to use the same representation model as other levels of government. Knox Council also acknowledges that different communities may have different needs and community characteristics, and therefore should have the ability to define their own representation model to best meet their specific community needs.

Therefore Knox Council recommends that a Council and its community should have a significant influence over the representation model when electoral reviews are undertaken by the VEC and the 3 different representation models are provided as options.

Direction 37 proposes to:

Subject to fixing councillor numbers by formula and reducing the range of representative structures, conduct future electoral representation reviews by exception when the minister directs the VEC to conduct a review on the basis of:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Should the VEC determine Councillor numbers by formula, consideration will need to be given where new developments within an area may impact on electoral boundaries.

Suggest that where a Council has determined the representative structure, this is only changed upon request from the Council or where directed to do so by the Minister. Boundary reviews should be undertaken by the VEC to confirm representation in accordance with the agreed formula.

Direction 38 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 39 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 40 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Knox Council supports this to provide greater clarity of the provisions related to the respective models.

Direction 41 proposes to:

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

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

Do you support option 1? Yes No

Do you support option 2? Yes No

What other comments would you make for this proposal?

Compulsory voting should be consistent with State and Federal Governments, whereby all voters on the State role should be required to vote.

Direction 42 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 43 proposes to:

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

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

Do you support option 1? Yes No

Do you support option 2? Yes No

What other comments would you make for this proposal?

The proposed direction to require candidates to obtain a police check and ASIC check seem unnecessary, where it is a requirement for all candidates to explicitly state that the disqualification conditions do not apply. Adding further requirements of potential candidates could impact on the potential participation rates of candidates. Further, any checking provisions should be consistent with representation/nomination at State and Federal levels.

Direction 44 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

The determination of the council election voting method should be retained by local governments where there remains a variety of voting methods available to choose from. If consistency of voting across the sector is desired then Local Government needs to be respected as a distinct and essential tier of government and therefore attendance voting in line with the method used at both State and Federal government levels should be used.

Chapter 4: Councils, communities and participatory democracy

Direction 45 proposes to:

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

Do you support this direction? Yes No - **SEE NOTES BELOW**

What other comments would you make for this proposal?

Knox Council supports the principle of community engagement being included in the Act. Community engagement is supported and recognised as an important process in working with local communities to understand community need and sentiment as well as to build a shared responsibility in the progression of the local area. The term 'deliberative' seeks to add an intent to consider and discuss matters with the community through community engagement activities, moving further along the IAP2 public participation spectrum, that adds greater expectation of the process and potential outcomes.

While there will be times that deliberative community engagement is appropriate it is not always the most appropriate mechanism.

It is also important to note that the process of implementing deliberative community engagement activities requires skilled practitioners and facilitators, takes time for it to be meaningful and can be costly. The timeline outlined on page 62, provides for 5 months to conduct the deliberative community engagement activities. In our experience this time is not sufficient for the processes to be robust and meaningful to community. Nor does the timeline acknowledge the time required to prepare considered reports for Council.

In relation to requiring Councillors to participate in deliberative community engagement, once again the role of Councillor needs to be cognisant that they are not full time public officials and therefore any mandating of participation in community engagement activities should be reconsidered.

Rather than participating, Councillors would be better required to consider the outcomes of any deliberative community engagement activities in its decision making.

Direction 46 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Knox Council supports principle based legislation and on this basis does not support the inclusion of this direction in the Act. Including the principle of community engagement in the Act is supported.

The preparation of a community consultation and engagement policy is good practice and the preparation of such a policy is supported as a recommendation to demonstrate a Council's approach to embedding this principle.

The preparation of such a policy early in a Council term is not supported. Incoming Councils are required to focus on a substantial amount of strategic approaches and information and would be better placed to consider such a policy in the middle of the council term.

For a new Council to develop a community consultation and engagement plan to inform the development of the four-year council plan and ten year community plan and conduct the engagement processes and approve the Council plan by 31 December of the second term still creates difficulty in meeting these timelines. Practice to date on undertaking a robust community engagement program to inform the development of a four year Council term has required a full 18 months.

Direction 47 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

While the conduct of deliberative community engagement is considered appropriate to inform the development of the Council plan, sufficient time is required to make the process meaningful and responded to in an appropriate way through the development of the Council Plan. On this basis Knox Council recommends that the commencement of deliberative engagement commences prior to the incoming Council.

Direction 48 proposes to:

Include in regulations that an engagement strategy must ensure:

- the community informs the engagement process
- the community is given adequate information to participate
- the scope/remit of the consultation and areas subject to influence are clear
- those engaged are representative of the council's demographic profile.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Knox Council does not support the inclusion of overly prescriptive requirements and the associated costs and financial burden placed on ratepayers to achieve these principles.

Clarity needs to be provided as to the difference between the community consultation and engagement policy referred to in direction 46, compared with an 'engagement strategy' referred to in this direction.

Good community engagement clearly outlines the scope of the engagement along with the commitment and role within the decision making process.

The provision of a best practice guide on suitable engagement activities and approaches would be sufficient guidance for Councils, many who already implement strong community engagement practices to inform their decisions.

Direction 49 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

The proposed direction of mandating incoming Councils to develop an engagement approach, lead a deliberative community engagement process and adopt a new Council Plan by 31 December of the second term is not supported by Knox Council.

Some councillors have articulated the challenge of considering substantial information and making significant strategic directions early in a council term, however some have also expressed the desire to set a clear direction as a Council and aligned to the budget process.

The opportunity to review the Council Plan and Community Plan should be made available to Councils at any time during its term.

Direction 50 proposes to:

Require the mayor to report to the community each year about how the council plan has implemented the community's priorities as directed through the deliberative community engagement process.

Do you support this direction? Yes No

What other comments would you make for this proposal?

This proposal should be the responsibility of the Council (not the Mayor as only one Councillor) and require the Council to report back to its community on the progress of implementing the Council Plan. It is important to separate the role the deliberative community engagement process has had in informing the Council Plan compared to the decision of Council as to what is in the approved Council Plan. Once the plan is adopted the reporting mechanisms should not distinguish between the priorities derived from the engagement process compared to other identified priorities of the Council.

Direction 51 proposes to:

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

Do you support this direction? Yes No **SEE NOTES BELOW**

What other comments would you make for this proposal?

In the interests of transparency and accountability this proposal is supported, where the registers do not contain personal or sensitive information in accordance with the Information Privacy Principles. However, the proposed direction is overly prescriptive for the Act and therefore this direction should be included in best practice guides as a way to demonstrate the principle of transparency and accountability to the community.

Direction 52 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

The proposed direction is overly prescriptive for the Act and therefore this direction should be included in best practice guides as a way to demonstrate the principle of transparency and accountability to the community.

Direction 53 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Where regulations and best practice processes are recommended, safeguards should be included to protect people's personal information in accordance with the Information Privacy Principles.

Direction 54 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Knox Council does not support defining 'customer complaint' within the Act, however this provision would be supported in either regulation or best practice guides (e.g. adopting the Victorian Ombudsman's recommended definition).

Defining this term within the Act will create an unnecessary administrative burden and has the potential for increasing compliance requirements on Councils.

Direction 55 proposes to:

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

Do you support this direction? Yes No – In Part

What other comments would you make for this proposal?

The proposed direction is overly prescriptive for the Act and therefore this direction should be included in best practice guides as a way to demonstrate the principle of transparency and accountability to the community.

The Act should be retained as an enabling piece of legislation that outlines the principles to be used and demonstrated and supported through regulation and best practice guidelines to support the achievement of these principles.

Where a complaints policy is required it is recommend that any decision made by the Council at a formal meeting should not be subject to the complaints policy.

Chapter 5: Strong probity in council performance

Direction 56 proposes to:

Incorporate the current councillor conduct framework largely unamended in the Act, including:

- the definitions
- the principal requirements imposed on councils and councillors, relevant statutory officers, principal councillor conduct registrars
- the role and powers of the minister and ministerial monitors and the Chief Municipal Inspector (CMI).

Do you support this direction? Yes No

What other comments would you make for this proposal?

The current councillor conduct framework has only recently been amended, therefore it is too early to provide any feedback contrary to these provisions.

Direction 57 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Based on the proposed legislative framework approach, it is appropriate that the detail specified in the current councillor conduct framework be in regulations and supported with best practice guides.

Direction 58 proposes to:

Extend the offence of release of confidential information to council staff who unlawfully disclose confidential information.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Knox Council supports the extension of the offence for unlawful release of confidential information to council employees.

Direction 59 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

This proposed direction discusses two levels of breach related to the release of confidential information and currently relies upon the Victorian Local Government Investigations and Compliance Inspectorate instigating criminal prosecution for more serious offences. For the purpose of clarity there would be benefit in defining what would constitute a serious breach liable for criminal prosecution in the Act.

Direction 60 proposes to:

Provide that a conflict of interest exists where:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Any changes proposed to defining conflicts of interest should be supported with guidance material and practical examples to support Councillors in determining whether any conflicts exist.

Direction 61 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 62 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 63 proposes to:

Retain the current legislative provision on misuse of position.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 64 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 65 proposes to:

Retain the current enforcement role, functions and powers of the CMI and the inspectorate.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Chapter 6: Ministerial oversight of councils

Direction 66 proposes to:

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

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 67 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 68 proposes to:

Retain the power of the minister to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 69 proposes to:

Empower the minister to recommend that a councillor be suspended by an order in council where the councillor is contributing to or causing serious governance failures at a council. This power to only be exercisable in exceptional circumstances in that:

- the councillor has caused or substantially contributed to a breach of the Act or Regulations by the council or to a failure by the council to deliver good government and
- a council (by resolution), a municipal monitor, the CMI, the Ombudsman or the Independent Broad-based Anti-corruption Commission have recommended that the minister suspend the councillor on these grounds and
- the council, the municipal monitor, the CMI, the Ombudsman or the Independent Broad-based Anti-corruption Commission have satisfied the minister that the councillor has been provided with detailed reasons for the recommendation and was given an opportunity to respond to their recommendation and
- the minister is satisfied that if the councillor is not suspended that there is an unreasonable risk that the council will continue to breach the Act or continue to be unable to provide good government for its constituents.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 70 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

The recent amendments to the LG Act through the Local Government (Improved Governance) Act 2015 providing for the removal of a councillor impacting on the governance and operation of the Council is a positive step forward and may limit the need to dismiss a Council outright. These provisions have not had sufficient time to be tested.

Direction 71 proposes to:

Streamline the minister's power to conduct inquiries into councils into a single power to appoint commissions of inquiry consisting of one or more commissioners to inquire into and make recommendations to the minister about any matter as requested by the minister. This will include, but not be limited to:

- governance issues
- financial probity issues
- disputes between councils and between councils and other parties.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Knox Council does not support the catch all approach for the Minister to have the power to conduct inquiries on any matter.

Local Government is currently subjected to the conduct of inquires from many jurisdictions including the Victorian Ombudsman, Victorian Auditor General and Independent Broad-based Anti-corruption Commission (IBAC) in addition to the Victorian Local Government Investigations and Compliance Inspectorate. It is also noted that a number of other 'commissions' also conduct inquiries and reviews of Local Government i.e. Victorian Human Rights and Equal Employment Opportunity Commissioner and the FOI & Privacy Commissioner.

Knox Council strongly recommends that parameters are placed around the power to conduct inquiries and that it does not duplicate the other jurisdictions.

Direction 72 proposes to:

Retain the existing power to forbid a council from employing a new CEO or entering into a new contract with an existing CEO but amend the power to provide that it can only be exercised on the recommendation of a municipal monitor or the CMI.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 73 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Knox Council supports the removal of staff employment matters from the Act.

Direction 74 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Knox Council is of the strong view that the 'Fair Go Rates System', rate capping, limits the capacity of local government to provide services and infrastructure that continues to meet the expectations and needs of the community. Furthermore, should the proposals of deliberative community engagement be introduced into the LG Act, it should be Council and its communities role in setting an appropriate rate increase to deliver on the community priorities.

However, Knox Council agrees with the bringing together of all legislative provisions into the Local Government Act.

Direction 75 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 76 proposes to:

Empower the minister to issue non-regulatory guidelines on any matter under the Act.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 77 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 78 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 79 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

This exploration should be considered in the context of any proposed changes to the conflict of interest provisions outlined in direction 60-62.

Chapter 7: Integrated planning

Direction 80 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

It is suggested that an integrated strategic planning and reporting framework would be more suited to Regulations and Best Practice Guidelines, rather than enshrining a framework in the Act. The Act should provide clear principles for planning without prescriptive measures.

The integrated planning and reporting framework should also give consideration to other planning requirements in other legislation that prescribe Council responsibilities including the Public Health and Wellbeing Act and the Planning and Environment Act.

Direction 81 proposes to:

Include in Regulations and guidelines details about the information a council will include in each plan.

Do you support this direction? Yes No

What other comments would you make for this proposal?

As highlighted above information that should be contained in each plan identified should not be overly prescriptive and linked to the principles outlined in the Act.

Direction 82 proposes to:

Require:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Knox Council does not support the delayed timelines for the development of a four year council plan after a general election as it does not provide alignment to the budget cycle and delays an incoming Council's ability to set its clear priorities and direction within an integrated planning process.

Knox Council supports the use of a range of community engagement processes to inform the development of the council plan, however does not support that this process commence after the general election. Ongoing community engagement throughout the 4 year Council term should be used to inform the development and updating of a Council Plan.

As outlined in the response to direction 80 and 81, details of what is expected to appear in each plan should not be prescriptive and would be better placed in regulation and best practice guidelines.

Direction 83 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 84 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Once again Knox Council believes this is a prescriptive requirement and should not be enshrined within the Act, rather outlined within regulation and best practice guidelines.

Clarity is sought on the expectations of the Community Plan and this information should be provided for in best practice guidelines. Council's have for many years prepared Vision documents outlining the aspirations for its community, this should be included within the context of a Community Plan. In preparing a Community Plan of at least 10 years, this plan should be rolling in nature and be reviewed and updated after each general election, rather than indicate that a new 10 year Community Plan be developed.

Direction 85 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 86 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

As with previous comments, the requirement to adopt a rolling financial plan should be set out in regulations rather than be prescriptive within the Act. The principles of sound financial management should be outlined within the Act.

Direction 87 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 88 proposes to:

Require the financial plan to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

The first two elements of the financial plan are supported in principle, however the second dot point should not be prescriptive, rather expect that all key assumptions used within the preparations of the financial plan be disclosed.

In relation to the financial plan being informed by a deliberative community engagement process, where such a process is undertaken to inform the community plan and council plan the process should be also used to inform the financial plan.

Direction 89 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

In principle the need for Councils to plan for assets is supported. However, the preparation of a single plan for all asset categories that includes information outlined within Direction 90 is impractical. Knox Council, for example, has developed a number of asset management plans across various asset types and categories, and updates these plans on a rolling basis to manage the workload involved.

Direction 90 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

As outlined above, a single 10 year asset plan covering all asset categories is impractical, however, the elements outlined in this direction are suitable for inclusion when preparing asset management plans for different classes of assets.

Direction 91 proposes to:

Set out requirements for what is to be included in the financial and asset plans in Regulations and guidelines.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Knox Council supports including the requirements for what is included in financial and asset plans in regulations and guidelines.

Direction 92 proposes to:

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

Do you support this direction? Yes No – In Part

What other comments would you make for this proposal?

Knox Council supports the preparation of a budget annually, however the requirement to review it mid-cycle within the Act is not supported. The monitoring of an annual budget to demonstrate sound financial management should be outlined in best practice guidelines which could incorporate a review at anytime and subject to a formal review only in the event of a material variation (to be defined in guidelines, based on best practice financial accounting standards).

Direction 93 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

The defining of material variations is supported to be plus or minus ten (10) percent, however this should be within Regulations not enshrined in the Act.

Direction 94 proposes to:

Remove the requirement to submit a copy of the adopted budget to the minister.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 95 proposes to:

Require all councils to establish an audit and risk committee with an expanded oversight of:

- the integrated strategic planning and reporting framework and all associated documents
- financial management and sustainability
- financial and performance reporting
- risk management and fraud prevention
- internal and external audit
- compliance with council policies and legislation
- service reviews and continuous improvement
- collaborative arrangements
- the internal control environment.

Do you support this direction? Yes No - In Part

What other comments would you make for this proposal?

The expanded scope of the Audit committee has naturally been progressing over time and this reflects Knox's current practice.

Knox Council is supportive of the scope of the Audit and Risk Committee to provide oversight of dot points 2, 3, 4, 5, 6 (in part) and 9. Part 6 should be limited to policies and legislation that support financial and risk management.

Dot points 1 and 7 should remain the domain of Council to provide oversight and monitoring.

Further clarity is required on the intent of dot point 8.

Direction 96 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 97 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

The reporting of the Audit and Risk Committee activities should be on an annual basis. Biannual reporting places an increased administrative burden on a committee comprising of independent members and councillors.

Direction 98 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 99 proposes to:

Remove the requirement for a council to submit a copy of its annual report to the minister.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 100 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

The running of special meetings for a singular process is an unnecessary administrative overhead, given that ordinary Council meetings are open to the public and provide advance notice of the business being considered at the meeting. The presentation of the annual report should be presented to an ordinary meeting of Council.

Direction 101 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

This direction is supported in principle, however Councils should not necessarily be bound by regional and state plans when their community engagement indicates they are not supported.

Chapter 8: Sustainable finances for innovative and collaborative councils

Direction 102 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Knox Council supports the inclusion of principles of sound financial management..

Direction 103 proposes to:

Include in the Act the following principles of sound financial management:

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

Do you support this direction? Yes No – In Part

What other comments would you make for this proposal?

While principles of sound financial management are supported, the prescriptive nature of the principles should be minimised. Principles should be premised on those that are applicable to other levels of government and be consistent with appropriate Accounting Standards.

Direction 104 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 105 proposes to:

Require a council at the start of the council term to develop and adopt a procurement policy that is consistent with the principles of sound financial management and require that all council procurement practices and contracts comply with this policy.

Do you support this direction? Yes No – In Part

What other comments would you make for this proposal?

The development of a Procurement Policy is supported and this requirement should be specified within regulation rather than being enshrined in the Act.
Careful consideration should be given to the expectations of what is required to be prepared within the start of a council term.

Direction 106 proposes to:

Specify in Regulations what must be included in a procurement policy, including when council will go to tender for the provision of goods and services (including thresholds), the process for going to tender and what collaborative arrangements have been explored to deliver value for money for the council.

Do you support this direction? Yes No – In Part

What other comments would you make for this proposal?

This information would be best outlined in best practice guidelines.

Direction 107 proposes to:

Require the audit and risk committee to review compliance with the procurement policy and require a council to report in its annual report any non-compliance with its procurement policy.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 108 proposes to:

Require a council to make its procurement policy available on its website.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 109 proposes to:

Remove the requirement for an annual review of the procurement policy and the requirement to obtain ministerial exemptions for failure to go to tender in certain circumstances.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 110 proposes to:

Provide councils with automatic access to state purchase contracts, whole-of-Victorian-Government contracts and the *Construction Suppliers Register* to save time, strengthen standards and improve efficiency.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Knox Council supports this direction in principle, however the direction should not restrict access to other purchasing schemes already available to local government (e.g. MAV or Procurement Australia).

Direction 111 proposes to:

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

Do you support this direction? Yes No – In Part

What other comments would you make for this proposal?

Consideration should be given to the preparation of a broad financial management policy that outlines how Councils will meet the sound financial management principles within the Act. This could include the elements of investment, debt management and loan borrowings, rather than individual policies for each element.

Direction 112 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 113 proposes to:

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

Do you support this direction? Yes No – In Part

What other comments would you make for this proposal?

Consideration should be given to the preparation of a financial management policy that outlines how Council's will meet the sound financial management principles within the Act. This could include the elements of investment, debt management and loan borrowings (see response to direction 111).

Direction 114 proposes to:

Require the audit and risk committee to review compliance with the debt policy and require a council to report any non-compliance with its debt policy in its annual report.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 115 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 116 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

The sale, exchange and leasing of land is often not aligned to budgetary processes. The declaration of an intention to sell land well in advance may inhibit a Council's ability to obtain best market value and therefore should not be mandated to be included in budget documents.

It is supported that where information relating to the sale, exchange or leasing of land is known and can be included in budget documents without prejudice, this should remove the need to consult individually on the arrangements.

Direction 117 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 118 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 119 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Chapter 9: Fair rates and sustainable and efficient councils

Direction 120 proposes to:

Require a council to prepare a revenue and rating strategy that:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Note that while Knox Council generally supports this direction, it is opposed to the State Government capping the rates of local government as a distinct and essential tier of government, as it unreasonably fetters the power for Council to raise funds to meet community needs and expectations, particularly in an environment of shrinking grants from other levels of government, increasing compliance costs and cost shifting.

Direction 121 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 122 proposes to:

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

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

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

Make land rateable that is:

- owned by a for-profit organisation but leased to a charitable organisation
- used exclusively for mining purposes. **(Option 2)**

Do you support option 1? Yes No

Do you support option 2? Yes No

What other comments would you make for this proposal?

Direction 123 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 124 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 125 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 126 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 127 proposes to:

Require councils to clearly specify how the use of differential rating contributes to the equitable and efficient conduct of council functions compared to the use of uniform rates (including specification of the objective of and justification for the level of each differential rate having regard to the principles of taxation, council plans and strategies and the effect on the community).

Do you support this direction? Yes No

What other comments would you make for this proposal?

This information should be incorporated into the revenue and rating strategy outlined in direction 120.

Direction 128 proposes to:

Retain the requirement that the highest differential rate must be no more than four times the lowest differential rate.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 129 proposes to:

Retain service rates and charges, renamed 'service charges' but remove their application to the provision of water supply and sewage services.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 130 proposes to:

As part of these changes, provide the minister with the power to prescribe the setting of other service charges in Regulations.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Knox Council does not support being responsible for the collection of taxes and fees on behalf of other levels of government. Experience to date is that the cost of collecting these taxes and fees places a significant administrative and cost burden on Councils and that it is cost shifting and does not reflect the appropriate role and responsibility of local government (to be a tax collector of other levels of government).

Direction 131 proposes to:

Retain special rates and charges, but provide clearer guidance in the Act about the purpose of special rates and charges, and about the criteria councils should use when declaring them and determining the benefit ratio.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 132 proposes to:

Allow councils to offer ratepayers the ability to pay by lump sum or more frequent instalments on a date or dates determined by a council, provided all ratepayers have the option to pay in four quarterly instalments. Penalty interest when it is charged is to be charged on any late payment from the respective instalment due date.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 133 proposes to:

Allow a council to use rebates and concessions to support the achievement of their council plan's strategic objectives, provided that the purpose is consistent with their role

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 134 proposes to:

Clarify in the Act that, where a ratepayer successfully challenges the rateability of land, a refund of rates may only be backdated to the date of most recent ownership.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 135 proposes to:

Establish a uniform process and timeline for people wanting a review or to appeal a rates or charges decision.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 136 proposes to:

Incorporate the municipal council rating provisions in the *Cultural and Recreational Lands Act 1963* in the Local Government Act. Require in the Act that councils disclose the rates that are struck for cultural and recreational lands.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 137 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Chapter 10: A rational legislative hierarchy

Direction 138 proposes to:

Create a systematic legislative hierarchy comprising new principle-based provisions in the Act and new Regulations setting out the processes required to meet the obligations set out in the Act, and with the capacity for the minister to issue ongoing non-statutory sector guidance as required about any aspect of the Act.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Knox Council supports this direction, however remains concerned that some of the proposals contained in earlier directions in this paper suggest a highly regimented and structured approach to some areas. The principles based provision should be consistent across all provisions.

Direction 139 proposes to:

Include an overarching statement of the Act's objectives, intended outcomes and a plan of the remaining provisions in the Act.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 140 proposes to:

Include high-level statements to frame the structure, language and content of the remainder of the Act, including new sections setting out the roles and functions and powers of councils.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 141 proposes to:

Include a general power for the minister to make Regulations setting out the requirements councils must meet when exercising their powers or discharging their responsibilities under the Act (for example, requirements about the conduct of elections and mandated obligations under the councillor code of conduct framework). Include in this power capacity for other relevant subordinate legislation (such as legislative instruments like ministerial orders and governor-in-council orders) with the subordinate legislation only relating to matters permitted by the Act.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 142 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 143 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Knox Council supports this direction, subject to it being able to included different, additional or other information to support its particular circumstances.

Direction 144 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 145 proposes to:

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

- the need for transparency and accountability
- the need for deliberative community engagement
- the principles of sound financial management
- the economic, social and environmental sustainability of the municipality
- the potential for cooperation with other councils, tiers of government or other organisations
- plans and policies in relation to the municipality, region, state and nation

Do you support this direction? Yes No

What other comments would you make for this proposal?

The above principles are mostly supported by Knox Council, however the principle referencing 'deliberative' community engagement should be further refined to the need for deliberative community engagement when planning for the future of the community. Deliberative community engagement is not necessary or suitable on all occasions and needs to respect the nature of representative government.

Direction 146 proposes to:

Retain the current power of the minister to intervene where a council does not comply with the obligations set out in the Act or regulations by imposing a municipal monitor or by issuing a ministerial governance direction.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 147 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

While supported in principle, further clarity is required as to which subordinate legislation is being referred to.

Direction 148 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 149 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 150 proposes to:

Create best-practice versions of essential documents that councils are required to adopt. Adoption of these best-practice documents will constitute compliance.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 151 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 152 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 153 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Knox Council looks forward to an opportunity to consult and discuss these matters to clarify responsibilities between different levels of government and authorities.

Direction 154 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 155 proposes to:

Repeal the *City of Greater Geelong Act 1993* and include relevant provisions in the new Act.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 156 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 157 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

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- Email Address

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