



16 September 2016

The Director
Local Government Act Review Secretariat
C/- Local Government Victoria
PO Box 500
Melbourne, Vic, 3002

Dear Sir/Madam

The Committee for Geelong (CfG) welcomes the opportunity to respond to the Local Government Act Review Directions Paper.

The CfG is an independent, member-based organisation that advocates for the best overall long-term outcomes for Geelong. Our members represent the broad political spectrum and a breadth of industry both by sector and size. We work with members, leaders, stakeholders and governments to provide strategic leadership and influence to leverage the economic potential of the region to make Geelong a world-class place. As an independent advocate for Geelong, the CfG has a history of achieving genuine results by actively looking at ways to solve problems and confront challenges. As a direct result of the tangible outcomes the CfG has achieved, its highly valued opinion is consistently sought by key decision makers.

The following document is in two parts:

- Template Response document with answers to the 157 directions.
- A supporting submission in response to the Directions Paper.

Please note the CfG's submission is not confidential.

Yours faithfully

Rebecca Casson
Chief Executive Officer
Committee for Geelong

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Act for the Future

Directions for a new Local Government Act

Submission Template

Name	Rebecca Casson
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	COMMITTEE FOR GEELONG (CfG)
Position	CEO
Are you providing this submission on behalf of the organisation or council?	Organisation

Key information about making a submission

Who can make a submission?

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

How will submission be used?

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

Will submissions be made publicly available?

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 Submissions that are defamatory or offensive will not be published.

Can I provide a submission in another format?

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

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

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

How do I make a submission?

Submissions can be made in three ways:

- ➔ **Online** via the online submission form, or by uploading your completed submission form
- ➔ **Email** your completed form to local.government@delwp.vic.gov.au
- ➔ **Post** your completed form to:

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?

The Committee for Geelong (CfG) welcomes the move away from prescriptive legislation towards a principle driven Act.

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?

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?

Direction 4 proposes to:

Make the following reforms to the election of mayors:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

The CfG supports the retention of a directly elected Mayor for the City of Greater Geelong and also supports the proposal for a Mayor and Deputy Mayor being jointly elected at large. It also supports the Minister having the power to approve a municipality having a directly elected mayor, rather than it requiring special and separate legislation.

While the first dot point declares that all mayors are to be elected for two year terms it is understood that directly elected mayors/deputy mayors would be elected for four year terms, i.e. the whole period between elections.

The CfG agrees with a four year term for the directly elected Mayor/Deputy Mayor.

The fourth dot point could be interpreted to mean that a municipality, including the City of Greater Geelong, by having a directly elected mayor/deputy mayor, would automatically require councillors to be elected at large (i.e. an un-subdivided municipality) but further enquiry reveals that this is not necessarily so. This is addressed in response to Direction 36.

The CfG has noted that the Minister for Local Government has convened a Citizen's Jury to advise on this issue for the City of Greater Geelong, presumably for the 2017 election. Beyond that date any reviews would presumably be conducted according to the provisions of the new Local Government Act.

Direction 5 proposes to:

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

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

The CfG believes that it is important to prescribe measures to increase the prospects of directly elected Mayors/Deputy Mayors being people of high calibre and capable of performing the role. One such measure would be a Job Description for the directly elected Mayor and Deputy Mayor, setting out the role and responsibilities and also setting out the personal and professional attributes required.

If not set out in the Act itself it could be done under the Ministerial power proposed under Direction 143 “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).”

Direction 6 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 7 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 8 proposes to:

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

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

The CfG first argued for this concept in its submission to the State Government in 2011 and therefore welcomes this direction. The CfG understands that a directly elected Mayor and Deputy Mayor would serve for the whole four year term between council elections, not two years.

Direction 9 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 10 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

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?

This direction is specifically important in relation to the City of Greater Geelong where, in the past, the directly elected Mayor's whole-of-municipality public mandate has not been respected.
Role clarity and significant relationship building between councillors will be required to make this work.

Direction 12 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

The CfG believes that councillors should receive all relevant entitlements consistent only with those received by local government employees. For example, we question whether certain expenses, such as childcare expenses, should be covered by rate-payer's money as this privilege is not usually afforded to local government employees.

Direction 13 proposes to:

Require the CEO to provide support to the mayor by:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Graham Sansom, argues that the relationship between the Mayor and the CEO is crucial for success (Sansom Background Paper No. 8)

Therefore, the provisions in the Act should be constructed to ensure that there is an over-arching requirement for the Mayor and the CEO to work collaboratively, each respecting the different roles to be performed and being accountable where accountability is required, and supportive where support is required.

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?

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?

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 CfG believes that the Mayor should seek independent advice and further that a Council should establish a panel with an independent chair and independent members for CEO recruitment etc.

It is understood that the City of Greater Geelong already engages an independent chair for recruitment of the CEO.

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?

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?

Direction 20 proposes to:

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

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 21 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 22 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Annual approval of committee rules may be more frequent than necessary.

Direction 23 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 24 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 25 proposes to:

Remove matters about employing council staff from the Act.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 26 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

CfG has not answered this direction because it supports the need for the CEO to establish a workforce plan etc. but being an industrial relations matter is it a requirement that needs to be prescribed in the new Local Government Act?

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?

No answer given. Again this is an IR matter - See comment on Direction 26.

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?

Direction 30 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 31 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 32 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

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?

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?

The CfG favours keeping the number of councillors at the present level i.e. not more than 12. If the next Geelong council comprised say 7 or 9 councillors it would allow room to grow to 12 as population increases.

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?

The CfG supports this, but within the parameters of our answer to 34.

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?

Achieving an effective representational structure has been, and still is, a key concern for the Committee for Geelong. We believe that the single ward structure used in Geelong for a long period has failed, only serving to deliver geographical representation at the expense of representation of all other non-geographical communities of interest. Option 2 is therefore strongly opposed, notwithstanding that single wards may suit other councils.

In our submission to the Review of the Local Government Act the CfG argued for an expansion of the representation structure models available to the VEC when it conducts reviews and placing a responsibility on the VEC to recommend equitable structures. One of the structure models advocated by the CfG was the hybrid or mixed model where some councillors would be elected at large and some elected from wards. The at large election would enhance the prospects of candidates who represent non-geographical communities of interest being elected while the ward elections would achieve some geographical spread.

Direction 4 suggests that in municipalities where the mayor/deputy mayor are directly elected at large, the councillors will also be elected at large – i.e. un-subdivided – on the basis that this is the system that currently exists in the City of Melbourne.

When clarification was sought on this point it was explained that this would not mean that a ward based structure might not be considered at some future time for municipalities, including Melbourne, where the mayor/deputy mayor are directly elected.

When past VEC reviews of the City of Greater Geelong are examined, including the most recent review, it is likely that the VEC would have some difficulty in producing an equitable ward structure with each ward having the same number of councillors. A practical consequence of narrowing the options could result in un-subdivided municipalities becoming more prevalent, thereby complying with a preference advocated by Yehudi Blacher in his background paper.

The CfG has some reservations about the merit of limiting the structure options but has supported the direction expressed in option 1 in answering this question.

The CfG has noted that the Minister for Local Government has convened a Citizen’s Jury to advise on this issue, presumably for the 2017 election. Beyond that date any reviews would presumably be conducted according to the provisions of the new Local Government Act.

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?

The CfG agrees that VEC reviews 'on demand' seems reasonable.

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?

Partial preferential is supported for marking of ballot papers provided that vote counting and election of candidates is based on the proportional representation system.

Direction 39 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 40 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 41 proposes to:

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

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

Do you support option 1? Yes No

Do you support option 2? Yes No

What other comments would you make for this proposal?

The CfG believes that a property owner voting entitlement should be retained and as neither option provides for full retention, neither option has been answered. Many property owners who pay rates in a municipality but do not reside there, and therefore are not enrolled in that municipality, may see the removal of their entitlement as unacceptable. Like Melbourne (where special provisions apply) Geelong has property owners in the CBD who may not live in the municipality.

Under option 1 the problem is that as those property owners grandfathered on to the rolls die out the rolls would become, over time, purely adult franchise.

Option 2 has some merit but seems administratively cumbersome.

In principle the CfG supports compulsory voting but the desired direction of making voting compulsory for all enrolled voters adds a complication for absentee property owners in that they would be required to vote, whereas they are presently not required to vote.

If the status quo cannot continue it seems that option 2 is the better option in that property owners wanting to vote can enrol, and having enrolled should not be opposed to it being compulsory for them 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 CfG believes that the CEO conducting checks after a councillor has been elected is too late. This is why political parties experience trouble with some candidates pre-selected for Federal and State seats.

Direction 44 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Chapter 4: Councils, communities and participatory democracy

Direction 45 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

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?

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?

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?

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?

Direction 50 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 51 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

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 CfG also supports requiring the Council to publish its remuneration policy on its website for the executive leadership team.

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?

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?

Direction 55 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Chapter 5: Strong probity in council performance

Direction 56 proposes to:

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

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 57 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 58 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

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?

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?

The onus for assessing whether a conflict of interest exists, and declaring it, should rest with the individual councillor. Council officers should not be called upon to assist councillors in assessing whether a conflict of interest exists as it leaves the way open for officers to give incorrect advice if the councillor does not reveal all the facts, or misrepresents the facts.

Direction 61 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 62 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 63 proposes to:

Retain the current legislative provision on misuse of position.

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 64 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 65 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Chapter 6: Ministerial oversight of councils

Direction 66 proposes to:

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

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 67 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 68 proposes to:

Retain the power of the minister to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 69 proposes to:

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

- the councillor has caused or substantially contributed to a breach of the Act or Regulations by the council or to a failure by the council to deliver good government and

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 70 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 71 proposes to:

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

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

The CfG believes that behavioural issues should also be included under governance issues.

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?

Under Direction 16 the CfG proposed the creation of an independent chair and panel for recruitment of the CEO. If this was done would the requirement under this Direction 72 be needed?

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?

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?

Given that Direction 120 requires a council to prepare a sophisticated revenue and rating strategy it could be argued that under a Local Government Act that is giving councils greater autonomy rate capping should not be required. However, CfG supports the direction with a proviso that councils should be able to exceed the rate cap if a good case is made to warrant it. There should be an avenue available for councils to make their case and gain approval.

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?

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?

Direction 81 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 82 proposes to:

Require:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 83 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 84 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 85 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 86 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 87 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 88 proposes to:

Require the financial plan to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 89 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 90 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 91 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 92 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 93 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 94 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 95 proposes to:

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

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 96 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 97 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 98 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 99 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 100 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

An annual community forum could be a better concept than an annual general meeting?

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?

Chapter 8: Sustainable finances for innovative and collaborative councils

Direction 102 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 103 proposes to:

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

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 104 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 105 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 106 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 107 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 108 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 109 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 110 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 111 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 112 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 113 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 114 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

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 CfG has some reservations about the commercial risks associated with this direction.

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?

Following the Commission of Inquiry, it is understood that the existing process is flexible and works well.

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?

Geelong is a City where entrepreneurial activities are needed and the Council should be able to engage in these activities where appropriate, provided that robust risk assessments are undertaken. Existing provisions may need refinement, but not removal.

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?

This is a good direction, with or without rate capping.

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?

The CfG favours councils having a power to expand the rateability of religious and charitable classes of property whether they are owned or leased – seems that option 1 best describes our view.

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?

Given that Direction 120 requires a council to prepare a sophisticated revenue and rating strategy it could be argued that under an Act giving councils greater autonomy a constraint on the municipal charge should not be required. However, CfG believes that - with a proviso - councils should be able to exceed the maximum of 10% if the strategy is sound and exceeding the 10% is warranted. There should be an avenue available for councils to make their case and gain approval.

Direction 126 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 127 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 128 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 129 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 130 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 131 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 132 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 133 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 134 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Clarify retrospectivity – is it a refund for the most recent ownership which may go back several years or is it just a refund for the current year? This may have an effect on Councils’ budgets and needs to be managed with care. Any re-payment should not be to the detriment of the tax payer.

Direction 135 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 136 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 137 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Chapter 10: A rational legislative hierarchy

Direction 138 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 139 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 140 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 141 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 142 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 143 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 144 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 145 proposes to:

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

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 146 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 147 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 148 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 149 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 150 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 151 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 152 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 153 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

Direction 154 proposes to:

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

Do you support this direction? Yes No

What other comments would you make for this proposal?

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?

The CfG supports the repeal of this Act provided that any special arrangements that Geelong should have to effectively perform its role as Victoria's second city are not diluted and brought to a lowest common denominator.

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?



COMMITTEE FOR GEELONG

SUBMISSION IN RESPONSE TO

**LOCAL GOVERNMENT ACT REVIEW
DIRECTIONS PAPER**

16 September 2016

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1. Introduction

The Committee for Geelong (CfG) welcomes the opportunity to respond to the Local Government Act Directions Paper. In addition to responding to the 157 directions in the template response provided, we wish to elaborate on the extent to which the new directions will deliver on the three main areas of interest we addressed in our earlier submission, namely:

- **The need for Geelong to have a Council with wide discretionary powers to allow it to do what has to be done;**
- **The need for Geelong to have a Council with strong pro-active leadership at its head;**
- **The need for Geelong to have a Council made up of high calibre people, representative of diverse community interests.**

In relation to the second and third dot points it is noted that the Minister for Local Government announced on 12 July 2016 that a Citizen's Jury would be convened to provide a recommendation in regard to how the Mayor, Deputy Mayor and councillors are elected, how many councillors should be elected and to comment on the representative structure i.e. un-subdivided or divided into wards, and whether wards are multi member or single member wards.

It is understood that the recommendations from the Citizen's Jury will guide the Minister when making the arrangements for the election scheduled for October 2017. It is assumed that any future review of arrangements would be carried out in accordance with the provisions of the new Local Government Act.

The CfG's comments in sections 3 and 4 of this submission seek, in the main, to influence the provisions in the new Local Government Act, but they are also pertinent to the considerations of the Citizen's Jury and they have already been submitted through an avenue made available in that process.

2. A Council with wide discretionary powers

The CfG believes the Directions paper delivers on this need. We support the concept of a principle driven Act with a minimum level of prescription.

Proposals in the Directions paper that would give the City of Greater Geelong Council the scope to exercise greater autonomy are welcomed. We believe that this increased autonomy is rightly tempered with requirements for the Council to engage with the community, to undertake substantial forward planning and be more transparent and accountable. Proposals calling for fiscal competence and for greater probity and sanctions for impropriety also temper the increased freedom.

The CfG senses a strong expectation in the Geelong community that the Council will not only deliver the local day-to-day services that a modern society requires, but will also articulate a shared vision for the future and deliver on local and regional priorities that strengthen the overall economy. The proposals in the Directions paper seem to provide the Council with the opportunity to meet that expectation.

3. A Council with strong, pro-active leadership at its head

Proposals which provide the opportunity for Geelong to be led by a directly elected Mayor with enhanced powers and the introduction of a Deputy Mayor being directly elected on the same ticket as the Mayor are also welcomed. In our original submission we argued a comprehensive case for Geelong retaining the directly elected Mayoral system and adding a directly elected Deputy Mayor. We believe that the value of mutual support generated with such a team will enhance the prospects of 'good candidates' standing for the positions.

The CfG believes that accountability will be enhanced if candidates in Mayoral teams (Mayor and Deputy) spell out a vision, policy platform, programs and plans for their four year term. This would leave the way open for the Mayor and Deputy Mayor to run as the leaders of a team that would extend to include candidates contesting ordinary councillor positions across the municipality, whether they be councillors representing wards or an un-subdivided municipality.

Direction 11 requiring councillors to recognise and support the role of the Mayor specified in the Act is specifically important to the City of Greater Geelong where, in the past, the directly elected Mayor's whole-of-municipality public mandate has not been respected. It is acknowledged that role clarity and significant relationship building will be required to make this work.

The CfG believes that it is important to prescribe measures to increase the prospects of directly elected Mayors/Deputy Mayors being of high calibre and capable of performing the roles. One such measure would be a Job Description for the directly elected Mayor and Deputy Mayor, setting out the role and responsibilities and also setting out the personal and professional attributes required. If not set out in the Act itself it could be done under the Ministerial power proposed under Direction 143 "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)."

Graham Sansom, argues that the relationship between the Mayor and the CEO is crucial for success (Sansom Background Paper No. 8). Therefore, the provisions in the Act should be constructed with an over-arching requirement for the Mayor and the CEO to work collaboratively, followed by requirements underneath that set out the different roles to be performed, the accountabilities where accountability is required, and the support where support is required.

The Minister's brief to the Citizen's Jury seems to leave the way open for all methods of electing the Mayor to be considered and it is hoped that a fully informed Citizen's Jury will see the merit of retaining the directly elected model for Geelong, despite the shortcomings that have been evident in Geelong's experience so far.

4. A Council of high calibre people, representing diverse interests

Arguably this is the most critical issue to be resolved and the rules set down in the new Local Government Act are very important. In our original submission we argued for all existing electoral structure options to be available for consideration, plus an additional option which is a hybrid or mixed model where some councillors would be elected at large from across the whole municipality and some from wards. Our arguments for a broadened range of structure options being available

have not been adopted by the Victorian State Government, and we have revised our thinking in light of that outcome.

4.1 The number of councillors

The CfG does not support Direction No.34 proposing that the maximum number of councillors in a municipality be increased to 15.

When considering the balance between representativeness and efficiency, the CfG would be prepared to trade-off some representation in order to achieve greater efficiency. The CfG would therefore be attracted to models with a fewer number of councillors, increasing the prospects of council governance being more corporate and board-of-directors-like.

4.2 The electoral structure

The CfG is prepared to support option 1 under Direction No 36 which proposes that electoral structures be limited to two models - un-subdivided municipalities and municipalities with ward structures which yield the same number of councillors in each ward.

It is recognised that single ward structures may suit some municipalities, but the CfG opposes option 2 under Direction 36 proposing single ward structures. We do this on the grounds that it has proved to be an unsatisfactory structure for Geelong. Our concerns about the shortcomings of the single ward model are set out below and, in light of those shortcomings, the CfG would have preferred the single ward option not being available for consideration by the Citizen's Jury. While the single ward structure may have superficial appeal within the community, it is hoped that a well-informed Citizen's Jury will come to the view that there are better electoral structure options for Geelong than a single ward structure.

In our original submission we identified the factors which have influenced our thinking in relation to electoral structures viz:

Adequate, fair and effective representation

The CfG has given consideration to what constitutes an adequate, fair and effective representational structure for Geelong and subscribes to the following:

Adequate representation is generally interpreted as a sufficient number of representatives:

- Relative to the number of electors
- To provide various interests and sectors within the electorate with an opportunity of representation within the council membership
- To effectively fulfil the legislative and community requirements of the role.

Fair representation is generally interpreted as requiring:

- A democratic election process
- An equality of representation for electors
- That the system does not favour any interest group or geographic location, but all electors are provided with an equal opportunity for representation.

Effective representation is achieved when councillors:

- Demonstrate a capacity for strategic decision making

- Play a collective leadership role
- Work towards the advancement of the community as a whole, rather than represent small pockets or narrow interests.

4.2.1 Why CfG opposes single member ward structures

The CfG has come to the view that the only community of interest served by a single councillor ward structure is a geographical community of interest and, in Geelong, this gives a clear weighting to residential voters. Significant non-geographical ‘community of interest’ sectors such as the agriculture, tourism and retail sectors and, for example, community groups representing the aged, people with a disability and the culturally and linguistically diverse are not well represented in a single ward structure. The CfG also believes that a single councillor ward structure potentially facilitates parochialism that limits the opportunity for a broad, whole-of-municipality approach to the identification of strategic issues, the development of regional projects together with broad-based decision making.

‘Mirror representation’, as cited in the 2013 Local Government Electoral Review discussion paper, states that more effective representation occurs when specific groups in a society are represented according to their ratio in the community. Representatives should, as closely as possible, represent the shades of opinion, the interests, and diversity of the community at large.

The Proportional Representation Society of Australia, Victorian-Tasmanian Branch (PR Society), an organisation which rigorously studies representational structures and voting systems, claims that the preferential voting system used in single member wards limits the proportion of effective votes cast for a candidate, and thereby generates a high proportion of ‘wasted’ votes. It can also allow minority groups to achieve control of a council at the expense of majorities. In submissions to the VEC’s recent electoral review on the CoGG it states:

“Single-councillor ward electoral systems exaggerate majorities, particularly quite small majorities, and as a consequence lead to under representation of quite large majority viewpoints and a distortion of the community’s views. Such under-representation inevitably leads to an increase in the level of dissatisfaction with local government. It may also lead to an unhealthy interest in the exact configuration of boundaries rather than service the interests of the community as a whole. Proportional representation, on the other hand, provides the best opportunity for the widest variety of community opinion to be represented on Council.”

Tellingly the PR Society adds: “Proportional representation does not reduce geographically based communities of interest, but single-councillor ward systems arbitrarily and unnecessarily destroy any non-geographical communities of interest.”

4.2.2 Why CfG supports an un-subdivided municipality

An un-subdivided municipality appeals to the CfG, because it is capable of accommodating non-geographical community of interest sectors described in 4.2.1 above. Under a single ward structure the voices of important interest sectors are indistinct and constrained.

In excluding an un-subdivided option for Geelong from its most recent recommended electoral arrangements the VEC made the following comment on an un-subdivided Geelong:

“An un-subdivided structure can bring the benefits of proportional representation, provide voters with a greater choice of candidates and facilitate a whole-of-municipality strategic focus. An un-subdivided structure was preferred by some submitters but did not have significant support in submissions overall. In Greater Geelong City Council elections, the number of candidates is likely to be very high, given it is the second largest municipality in Victoria in terms of voter numbers (there were almost 60 candidates at the 2012 election). The VEC has observed that a high number of candidates can create an unwieldy ballot paper for voters, resulting in a higher informal voting rate.”

An un-subdivided municipality may, in the opinion of the VEC, have some drawbacks, but it is a good way in which sectors of interest within the community at large can assemble voting support in sufficient numbers to give candidates representing those sectors a reasonable chance of succeeding in an election to become a councillor. If the size of the ballot for the 2016 Senate election was considered acceptable then ballot paper size is not a persuasive argument against an un-subdivided municipality.

An un-subdivided municipality, together with the proportional representation system of voting, increases the prospects of candidates representing sector constituencies being successful. In part, this is because successful candidates only have to receive a quota of votes, not a majority as in preferential voting, and their chances of obtaining the quota are enhanced if they can gain voting support across the whole municipality. This level of support is quite difficult to achieve in a geographically prescribed ward.

Another important argument in favour of an un-subdivided municipality goes to the matter of budget allocation and decision making. As in most municipalities, the total budget available in the CoGG is never enough to do all that the Council would like to do. In municipalities with a ward structure (single or multi) this sets up the imperative for competition between ward councillors for budget allocations leading to the criticism that councillors are only concerned with the welfare of their own ward and not the municipality as a whole.

4.2.3 CfG supports multi-councillor ward models but observes problems with uniform numbers in each ward

A key advantage of multi councillor wards is that the proportional representation (PR) voting system used in multi councillor wards delivers enhanced fairness and equity

outcomes that are generally absent under a single councillor ward structure. Under PR, the full value of the votes of a higher percentage of voters is used in multi councillor wards to elect a representative.

But there are at least two problems associated with insisting on each ward having the same number of councillors when seeking to achieve fairness and equity.

First, the PR Society goes further than advocating uniform numbers of councillors from each ward. It prefers a municipality being divided into an **odd number of wards** with the same **odd number of councillors** being elected from each ward, as it claims that this ensures that the majority of councillors have been elected by the affirmative votes of an absolute majority of voters in each ward. It claims that wards electing an even number of councillors is a poor use of PR because the anomaly may arise that one candidate might win 65% of the vote and another just 35% yet the two would have equal representation. In its submission to the most recent VEC review of Geelong, the PR Society strongly urged the VEC not to recommend any electoral districts with an even number of councillors. It stated: "Only by having an odd number of councillors elected in each ward can the important democratic principle that majority support should lead to majority representation be maintained."

The second problem with uniform numbers of councillors from each ward is that in seeking to get the number of voters in each ward within the 10% variation it could cause ward boundaries defining communities of interest to be realigned to achieve the 10% requirement thereby distorting the community of interest. The most recent VEC review of Geelong arrangements recommended a 3 x 3 and 1 x 2 structure in the interests of maintaining good community of interest ward boundaries.

If there is validity in these two problems it is possible that ward structures will become too difficult to achieve and, by default, an un-subdivided municipality will be recommended by reviewers. Again if this is a valid observation it could be construed to be aiming to achieve a preference expressed by Yehudi Blacher in his Background Paper (No.5) to have all municipalities un-subdivided.

5. Conclusion

Overall, the CfG supports the general thrust of the proposals in the Directions paper and appreciates the opportunity to express that support and to express our disagreement with, and reservations about, some specific proposals.

The CfG is open minded as to whether legislative arrangements for CoGG are in a separate Act of Parliament, as at present, or contained within a revised Local Government Act. Designers should be able to produce a comprehensive single Act, ensuring that diversity and special circumstances are taken into account. However, if there is any risk that a single Act would attract a lowest common denominator outcome, the CfG would favour retention of a separate Act in order to achieve and secure suitable arrangements for local government in Victoria's second city, Geelong.

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