

[ON MAYOR'S LETTERHEAD]

[DATE] February 2018

Local Government Act Review Secretariat
c/o Local Government Victoria
PO Box 500
Melbourne VIC 3002

Submission by email to: local.government@delwp.vic.gov.au

Dear Minister for Local Government

Submission to the Exposure Draft of the Local Government Bill

This submission is made by Melton City Council in relation to the Exposure Draft of the Local Government Bill released on 12 December 2017. The submission addresses the operation of a number of the provisions in the Draft Bill.

Council has three submissions it wishes to make to the Draft Bill and these are set out below:

Submission #1

Clause 12 of the Draft Bill says:

12 Constitution of a Council

- (1) A Council must consist of not fewer than 5 Councillors and not more than 12 Councillors.
- (2) The Mayor and Deputy Mayor are Councillors of the Council.
- (3) The number of Councillors of a Council for the purposes of subsection (1) is to be determined in accordance with the criteria prescribed by the regulations.
- (4) A Council may be constituted so that it consists of—
 - (a) all Councillors elected to represent the municipal district as a whole; or
 - (b) all Councillors elected to represent multi-member wards into which the municipal district is divided with an equal number of Councillors to represent each ward; or
 - (b) all Councillors elected to represent single member wards into which the municipal district is divided.

Melton City Council does not support cl 12(4) as it removes the option for wards with differing numbers of Councillors in different wards. This clause only provides for three options; viz, unsubdivided, uniform multi member wards or single wards.

The option for wards with differing numbers of Councillors provides the best response to the differing demographic and geographic profiles that Councils have and should be retained. In other words, it provides a flexibility that the Draft Bill removes.

At present, Victorian councils may be constituted in one of five structural models:

- unsubdivided
- divided into single-member wards
- divided into uniform multi-member wards (equal numbers in each ward)
- divided into non-uniform multi-member wards (different numbers of councillors in different wards)
- an amalgam of single and multi-member wards.

The Directions Paper released in 2016 entitled "Act for the future – Directions for a new Local Government Act" said on this matter; 'The strength of this range of possible structures is that it allows them to be adapted to suit local circumstances and to account for communities of interest.'

The Directions Paper went on to say that the weaknesses of this range of structures include that inconsistencies can lead to community perceptions of arbitrariness and that councils with both single- and multi-member wards require two different ballot-counting systems for the same election, which can contribute to a community perception that votes are treated inconsistently.

The Paper also pointed out that the consequence of municipalities having wards with different numbers of councillors (mixed single- and multi-member ward structures or non-uniform multi-member ward structures) is that councillors require different quotas and different numbers of votes to secure office in the same election. This compounds a perception that votes are being treated inconsistently.

It is noted that the new provisions in the Draft Bill would require the VEC to conduct representation reviews to arrive at new structures for those councils that do not have uniform multi-member wards or have a mix of multi-member and single member wards.

Melton believes that the strength of the current system that allows for adaptation to suit local circumstances and to account for communities of interest clearly outweighs the perceived disadvantages put forward in the Directions Paper. Melton's view on this matter is supported by the MAV.

As a final comment, while Melton supports an option for councils to be made up of single-member wards, it does not believe that is an appropriate option for its ward structure.

Submission #2

Clause 276 of the Draft Bill says:

276 Voting system

- (1) The voting system to be used for general elections and by-elections is to be determined by the Minister in accordance with this section.
- (2) Subject to subsection (6), the Minister must determine the voting system to be used for general elections and by-elections to be held after the general election in 2020 at least 12 months before the date of the general election to be held in 2020.
- (3) The Minister must publish a notice of the determination under subsection (2) in the Government Gazette.
- (4) Subject to subsection (6), the Minister may determine to change the voting system to be used for general elections and by-elections to be held after a subsequent election at least 12 months before the date of the subsequent general election.
- (5) The Minister must publish a notice of the determination under subsection (4) in the Government Gazette.
- (6) The voting system must be the same for general elections and by-elections.
- (7) In this section, *voting system* means—
 - (a) postal voting; or
 - (b) attendance voting; or
 - (c) any other form of voting determined by the Minister.

Melton does not support that the determination of the voting system be with the Minister (cl 276(1)) but rather supports either;

1. the retention of both postal and attendance voting with the voting method to be decided at the discretion of individual councils; or
2. the voting system to be postal voting

We propose that one of these two options be included in the Draft Bill.

We note that provisions in the Draft Bill (cl 276(7)(c)) provide for another voting method such as electronic voting in the future.

We further note that the Directions Paper (Proposed Direction #44) in discussing this issue intimated that a postal voting system was the way to achieve uniform voting method. The Paper also said that 'uniform postal voting systems would also support a transition to electronic voting should it become technically viable to do so, while preserving the integrity of the election.'

Submission #3

Clause 154 of the Draft Bill says:

154 Lease of land

- (1) A Council's power to lease any land to any person is limited to leases for a term of 50 years or less.
- (2) Subject to any other Act, and except where section 155 applies, if a Council leases any land to any person subject to any exceptions, reservations, covenants and conditions, it must comply with this section.
- (3) A Council must include any proposal to lease land in a financial year in the budget, where the lease is—
 - (a) for 1 year or more and—
 - (i) the rent for any period of the lease is \$100 000 or more a year; or
 - (ii) the current market rental value of the land is \$100 000 or more a year; or
 - (b) for 10 years or more.
- (4) If a Council proposes to lease land to which subsection (3) does not apply, the Council must enter into the lease in accordance with the Council's community engagement policy.

Melton City Council believes that a process whereby leases within the parameters set out in cl 154(3) are to be in the budget is completely unworkable. It is impossible to know (with any accuracy) 12-24 months out what property may be sold, leased or exchanged. This clause in the Draft Bill is too restrictive and inflexible.

The MAV supports this stance saying in their response to the Directions Paper that 'the current provisions provide for appropriate levels of community consultation and transparency for the sale, lease and exchange of community assets. The inclusion of details in the budget would be both cumbersome and would not provide increased transparency for the community.'

In fact Melton believes that placing a proposal to lease land within the budget would lessen transparency as the proposal could be 'lost' or hard to find in the budget document.

Finally, Melton believes that the current community engagement process for proposed leases sits well with the principles based approach of the Draft Bill and we therefore support its retention.

Yours sincerely

Cr Bob Turner

Mayor