

# Better Local Governance

## Consultation Summary

June 2008

### Introduction

Local Government Victoria released “Better Local Governance” in November 2007 for consultation comment. Submissions were due by 29 February 2008. This document summarises responses made in submissions.

### Submissions

Seventy-six submissions were received as summarised in the following table.

Local Government Sector		Other Submissions	
COUNCILS	<b>50</b>	INDIVIDUALS	<b>14</b>
COUNCILLORS	<b>4</b>	COMMUNITY ASSOCIATIONS	<b>3</b>
LOCAL GOVERNMENT PEAK BODIES	<b>3</b>	OTHER BODIES	<b>2</b>
TOTAL	<b>57</b>	TOTAL	<b>19</b>

### Summary

The summary records how many submissions agreed or disagreed with each proposal in the consultation paper. Separate records are provided for submissions from the local government sector and other submissions.

It should be noted that not all submissions responded to every issue, so the number or responses on any particular matter will not tally with the total number of submissions.

Where there has been a common response to a proposal, or where an issue is raised in a number of submissions, those responses and issues are summarised in the notes following each proposal.

## Councillor Conduct

### PROPOSED FRAMEWORK

- 1a. The package of reforms to support Better Local Governance should include a suite of initiatives to support Councillor Codes of Conduct and to address councillor conduct issues.

<u>Local Government Sector</u>		<u>Other Submissions</u>	
AGREE	DISAGREE	AGREE	DISAGREE
<b>51</b>	<b>4</b>	<b>12</b>	<b>1</b>

- Wide, in principle, support for establishing new arrangements.

### PRINCIPLES OF COUNCILLOR CONDUCT

- 1b. Principles of Councillor Conduct should be specified in the Local Government Act for inclusion in Councillor Codes of Conduct in place of the existing requirements in section 76C of the Act.

<u>Local Government Sector</u>		<u>Other Submissions</u>	
AGREE	DISAGREE	AGREE	DISAGREE
<b>50</b>	<b>6</b>	<b>10</b>	<b>2</b>

- Strong support for the principles as a suitable representation of community expectations.
- Some specific textual changes proposed in a number of submissions.

### COUNCILLOR CONDUCT PANELS

- 1d. Provision should be made to establish Councillor Conduct Panels which may hear alleged breaches of councils' Codes of Conduct.

<u>Local Government Sector</u>		<u>Other Submissions</u>	
AGREE	DISAGREE	AGREE	DISAGREE
<b>47</b>	<b>7</b>	<b>11</b>	<b>2</b>

- Proposed direction widely supported.
- Various and differing suggestions received about the makeup of Panels.
- Several Councils proposed that a Panel only be formed when a council has been unable to resolve a matter through internal processes.

**VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL**

1g. VCAT should be given powers to hear cases of serious misconduct by a councillor and appeals against decisions of a Councillor Conduct Panel.

<u>Local Government Sector</u>		<u>Other Submissions</u>	
AGREE	DISAGREE	AGREE	DISAGREE
<b>44</b>	<b>9</b>	<b>8</b>	<b>5</b>

- General support given for the proposed VCAT role and powers.
- Six Council submissions proposed reductions in VCAT powers of varying kinds.
- Four Council submissions proposed a role for the Minister after VCAT.

**Councillor Disqualification**

**RELIEF FROM DISQUALIFICATION**

1i. The existing relief provisions should be replaced by an ability to apply to VCAT for relief from disqualification after a period of 4 years.

<u>Local Government Sector</u>		<u>Other Submissions</u>	
AGREE	DISAGREE	AGREE	DISAGREE
<b>34</b>	<b>14</b>	<b>3</b>	<b>5</b>

- Majority support for the proposed direction.
- Three community and four Council submissions advocated there be no relief from disqualification.
- Various other modifications proposed to disqualification and relief provisions.

**LEAVE OF ABSENCE**

1j. Provisions should be made for a councillor to take leave of absence when awaiting a Court decision that may have the effect of disqualifying them as a councillor.

<u>Local Government Sector</u>		<u>Other Submissions</u>	
AGREE	DISAGREE	AGREE	DISAGREE
<b>42</b>	<b>8</b>	<b>8</b>	<b>1</b>

- General support given for the proposed leave requirements.
- Three Councils expressed concern about the need for a presumption of innocence.

## Conflict of Interest

Comments were invited about specific ways in which conflict of interest requirements could be made clearer and more effective (Particularly in relation to the Issues referred to in the Consultation Paper).

- Most submissions commented on conflict of interest issues and many endorsed the issues listed in the Consultation Paper.
- A substantial number of submissions stated that the existing conflict of interest provisions are confusing and unclear, and some specifically recommended the provisions be rewritten.
- Some Council submissions recommended that guidelines and training be provided for councillors.
- Other matters raised in submissions included:
  - i. Need to update the threshold for shares exemptions
  - ii. Councillors with conflicts of interest should be excluded from the debate
  - iii. Gifts should be taken into account when defining conflicts of interest
  - iv. More clarity is required about how much information to disclose
  - v. Penalties are inadequate.

## Elections

### VOTING PROCESS

2a. Councils should continue to decide whether to use attendance or postal voting for council elections.

Local Government Sector		Other Submissions	
AGREE	DISAGREE	AGREE	DISAGREE
<b>52</b>	<b>3</b>	<b>3</b>	<b>9</b>

2b. A council election should be conducted using the same voting system as the previous election unless the council resolves to change no later than eight months before the next election.

Local Government Sector		Other Submissions	
AGREE	DISAGREE	AGREE	DISAGREE
<b>46</b>	<b>7</b>	<b>4</b>	<b>6</b>

- The proposed directions were generally supported
- A majority of non-council submissions opposed Councils retaining the power to decide which system to use.
- Most opposing submissions advocated a common system for all councils.
- Four submissions expressed a specific preference for postal voting and four for attendance voting.

### COUNTBACKS

2c. All countbacks should be conducted in accordance with the process described in the consultation paper.

<u>Local Government Sector</u>		<u>Other Submissions</u>	
AGREE	DISAGREE	AGREE	DISAGREE
<b>45</b>	<b>8</b>	<b>9</b>	<b>1</b>

- General support given for the proposed countback process.
- Some submissions opposed the use of countbacks.

### ELECTION DATES

2d. All nominations for local government elections should close at 12 noon on the day that is 32 days before election day.

<u>Local Government Sector</u>		<u>Other Submissions</u>	
AGREE	DISAGREE	AGREE	DISAGREE
<b>51</b>	<b>2</b>	<b>10</b>	<b>1</b>

2e. Dates for by-elections may be altered to avoid a clash of enrolment or voting periods with Christmas or the summer holiday period.

<u>Local Government Sector</u>		<u>Other Submissions</u>	
AGREE	DISAGREE	AGREE	DISAGREE
<b>52</b>	<b>1</b>	<b>10</b>	<b>1</b>

- The proposed changes to election dates and times were supported.

### VOTERS' ROLLS

2f. All corporation voting representatives for council elections should be required to be reappointed for each general election.

<u>Local Government Sector</u>		<u>Other Submissions</u>	
AGREE	DISAGREE	AGREE	DISAGREE
<b>51</b>	<b>2</b>	<b>7</b>	<b>1</b>

- The proposed change to corporation voter enrolments was supported.

## Council

### COUNCIL MEETINGS - NOTICE

2g. Councils and special committees should give 7 days public notice of meetings or explain in the minutes why such notice was not given.

<u>Local Government Sector</u>		<u>Other Submissions</u>	
AGREE	DISAGREE	AGREE	DISAGREE
<b>39</b>	<b>15</b>	<b>8</b>	<b>4</b>

- The proposal that councils be required to give specified notice of meetings received majority support, but was opposed by a number of councils.
- Community submissions opposing the proposal advocated a longer notice period.
- Council submissions opposing the proposal generally cited various administrative difficulties with providing 7 days notice.

### COUNCIL MEETINGS - VOTING

2h. Except when electing a mayor, councillors should vote openly at council and special committee meetings.

<u>Local Government Sector</u>		<u>Other Submissions</u>	
AGREE	DISAGREE	AGREE	DISAGREE
<b>49</b>	<b>4</b>	<b>8</b>	<b>3</b>

- Proposal for open voting was widely supported.
- Some submissions opposed secret voting in Mayoral elections.

### COUNCIL COMMITTEES

2i. Councils should review delegations to all special committees, as well as exemptions under section 81(2A) of the Local Government Act, within 12 months after a general election.

<u>Local Government Sector</u>		<u>Other Submissions</u>	
AGREE	DISAGREE	AGREE	DISAGREE
<b>54</b>	<b>2</b>	<b>9</b>	<b>1</b>

2j. Provisions relating to confidential information and misuse of position should apply to members of audit committees.

<u>Local Government Sector</u>		<u>Other Submissions</u>	
AGREE	DISAGREE	AGREE	DISAGREE
<b>53</b>	<b>3</b>	<b>10</b>	<b>0</b>

- Almost universal support for the proposed directions relating to committee delegations and audit committees.

## COUNCILLORS

2k. A councillor who ceases to live in the municipality should be considered to have lost their enrolment qualification as a resident voter for the purpose of section 28 of the Local Government Act.

<u>Local Government Sector</u>		<u>Other Submissions</u>	
AGREE	DISAGREE	AGREE	DISAGREE
<b>51</b>	<b>2</b>	<b>9</b>	<b>1</b>

2l. A councillor who changes his or her enrolment entitlement should not cease to hold office merely because of a failure to notify the CEO of their new entitlement.

<u>Local Government Sector</u>		<u>Other Submissions</u>	
AGREE	DISAGREE	AGREE	DISAGREE
<b>50</b>	<b>4</b>	<b>5</b>	<b>4</b>

2m. A councillor should be able to resign in such a way that their resignation takes effect when a replacement councillor is elected.

<u>Local Government Sector</u>		<u>Other Submissions</u>	
AGREE	DISAGREE	AGREE	DISAGREE
<b>46</b>	<b>6</b>	<b>5</b>	<b>4</b>

- Proposals relating to councillors were widely supported.
- Concerns were raised in a few submissions about the status of a councillor who has resigned but who continues in office for a period.

## PUBLIC CONSULTATION – TIME PERIOD

2n. The period allowed for public submissions under section 223 of the Local Government Act should be extended to 28 days.

<u>Local Government Sector</u>		<u>Other Submissions</u>	
AGREE	DISAGREE	AGREE	DISAGREE
<b>20</b>	<b>34</b>	<b>10</b>	<b>0</b>

- A majority of councils opposed the extension of the section 223 consultation period from 14 to 28 days.
- The main reasons given by councils for opposing the proposal were:
  - i. Councils already have the flexibility to extend the period and often do so,
  - ii. The longer period may cause unnecessary delays in implementing matters,
  - iii. Councils may face difficulties meeting Council Plan deadlines, and
  - iii. There may be administrative difficulties.
- No community submissions opposed the proposal.

**PUBLIC CONSULTATION – PROCESS**

2o. Section 223 processes should be clarified to ensure that, when submissions are heard by a committee that is not making the decision, a full report on submissions must be provided to the council or special committee making the decision.

<u>Local Government Sector</u>		<u>Other Submissions</u>	
AGREE	DISAGREE	AGREE	DISAGREE
<b>49</b>	<b>4</b>	<b>10</b>	<b>2</b>

– The proposed changes to the section 223 process were broadly supported.

**Administration**

**CEO APPOINTMENT**

2p. A council should be required to appoint a new permanent CEO as soon as practicable after the permanent position becomes vacant.

<u>Local Government Sector</u>		<u>Other Submissions</u>	
AGREE	DISAGREE	AGREE	DISAGREE
<b>48</b>	<b>7</b>	<b>9</b>	<b>2</b>

– This proposal was generally supported, although some submissions queried its likely effectiveness.

**PUBLIC INFORMATION**

2q. The definition of “public notice” should include publication on the council’s web site in addition to publication in a local newspaper.

<u>Local Government Sector</u>		<u>Other Submissions</u>	
AGREE	DISAGREE	AGREE	DISAGREE
<b>52</b>	<b>4</b>	<b>12</b>	<b>0</b>

2r. The current local laws of a council should be published on the council’s web site.

<u>Local Government Sector</u>		<u>Other Submissions</u>	
AGREE	DISAGREE	AGREE	DISAGREE
<b>56</b>	<b>0</b>	<b>12</b>	<b>0</b>

2s. Public consultation, under section 125(9) of the Local Government Act, about changes to an approved Council Plan should only be required for changes to the strategic objectives, strategies or indicators.

<u>Local Government Sector</u>		<u>Other Submissions</u>	
AGREE	DISAGREE	AGREE	DISAGREE
<b>51</b>	<b>3</b>	<b>6</b>	<b>4</b>

– The proposed directions dealing with public information were supported.

- No submissions opposed local laws being published on council web sites and many councils stated that this was their current practice.
- Some community submissions expressed concern about altering consultation requirements for Council Plan variations

### SPECIAL RATES & CHARGES - INSTALMENTS

2t. Special rates and charges for capital works projects should be able to be paid in quarterly instalments over at least four years.

<u>Local Government Sector</u>		<u>Other Submissions</u>	
AGREE	DISAGREE	AGREE	DISAGREE
<b>41</b>	<b>12</b>	<b>8</b>	<b>3</b>

- Majority support for the proposed direction.
- A number of councils recommended that instalment requirements should be more flexible.
- Three councils expressed concern about impacts on borrowing limits.

### SPECIAL RATES & CHARGES – LEGAL COSTS

2u. The Local Government Act should be amended to exclude the costs of possible VCAT appeals from the amounts levied under special rates or charges.

<u>Local Government Sector</u>		<u>Other Submissions</u>	
AGREE	DISAGREE	AGREE	DISAGREE
<b>36</b>	<b>17</b>	<b>9</b>	<b>2</b>

- Wide community support for the proposed direction.
- Majority support from the local government sector, but disagreement from almost one-third.
- Several councils stated that a council's legal costs should be paid by the ratepayers who are subject to the scheme, rather than from general revenue raised from all ratepayers.

### SPECIAL RATES & CHARGES - AMENDMENTS

2v. Councils may only amend formally proposed special rates or charges in response to public submissions and in a way that reduces the burden on ratepayers.

<u>Local Government Sector</u>		<u>Other Submissions</u>	
AGREE	DISAGREE	AGREE	DISAGREE
<b>37</b>	<b>18</b>	<b>10</b>	<b>1</b>

- Wide community support for the proposal and majority support from the local government sector.

- A number of councils expressed concern that the proposal would limit council's ability to respond to issues arising through the consultation process.

**PROCUREMENT POLICY**

2w. Each council should develop and adopt a Procurement Policy and the Local Government Act should allow for statutory guidelines or regulations on procurement.

<u>Local Government Sector</u>		<u>Other Submissions</u>	
AGREE	DISAGREE	AGREE	DISAGREE
<b>40</b>	<b>13</b>	<b>11</b>	<b>1</b>

- Wide community support and majority council support.
- A number of councils expressed concern about risks of over-regulation.

**Additional Matters**

The submission template provided space for additional comments. Many submissions included additional comments and proposals in regard to a wide range of matters. The following notes some of the most frequently raised matters.

- Election caretaker periods for councils should be shorter and more closely resemble the periods for State and Federal elections.
- Council elections should be in October, rather than November, to assist in preparation of the Council Plan.
- Candidates for election should be required to disclose party affiliations.
- "Dummy" candidates should be prevented.
- The current \$100,000 threshold for council contracts to be subject to public tendering should be raised.