


Local Government Bill – A reform proposal

2018 Bill		New reforms	
<ul style="list-style-type: none"> Enhanced leadership roles and responsibilities for Mayors Each council to formally elect a Mayor and a Deputy Mayor Community engagement policy Integrated strategic planning and reporting processes Community Vision statement to inform the Council Plan 10-year financial plans and asset plans An emphasis on financial viability of councils, with overarching principles emphasising financial sustainability and collaboration with other councils and public bodies 	+	<ul style="list-style-type: none"> Simplified franchise Standardised electoral structures Training <ul style="list-style-type: none"> > Candidate training > Councillor induction training Donation reform Improved conduct <ul style="list-style-type: none"> > Codes of conduct > Arbitration process Community accountability <ul style="list-style-type: none"> > Disqualification > Community initiated Commission of Inquiry 	= Local Government Bill 2019 

Comments

We welcome your feedback on these reforms before **17 July 2019**.

Please send any feedback you have on the proposed reforms to local.government@delwp.vic.gov.au using the subject line Local Government Bill 2019.

https://www.localgovernment.vic.gov.au/_data/assets/pdf_file/0022/422905/LG-Bill-2019-Consultation-Paper-v.30-.pdf

Previous CoM Submissions:

Local Government Bill – Exposure Draft (March 2018)

<https://www.melbourne.vic.gov.au/SiteCollectionDocuments/local-gov-bill-submission.pdf>

Local Government Act 1989 Review – Submission (December 2015)

<https://www.melbourne.vic.gov.au/SiteCollectionDocuments/submission-local-government-act-1989-review.pdf>

Local Government Bill – A reform proposal

Feedback Table: Local Government Bill – A reform proposal	
Reform 1	<p>Simplified Franchise</p> <p>It is proposed to make council electoral rolls more closely aligned with the State electoral roll. Voters whose only entitlement is as an owner or lessee of a property in the municipality will be required to lodge an enrolment form to vote in that municipality's election if they want to vote.</p>
Additional context	<p>Separate arrangements will apply for Melbourne City Council reflecting its unique status.</p> <p>Melbourne City Council has separate voter franchise arrangements. At that Council, direct enrolment of non-resident owners will continue with one exception. It is proposed to remove the requirement for the Melbourne City Council to directly enrol property owners and corporation representatives whose primary residence is outside Australia. Overseas owners/representatives will retain the right to apply for enrolment. The changes through amendments to the City of Melbourne Act 2001 will be fully implemented for the 2020 election.</p>
City of Melbourne comment	<p>The difficulty in implementing this reform will be influenced by inconsistent disclosure of owner residential status by property agents.</p> <p>We recommend an additional requirement be introduced to compel owners to accurately nominate their current principal place of residence. The current obligation to include this information in the notice of acquisition under the <i>Local Government (General) Regulations 2015</i> is often incorrectly responded to or misunderstood.</p> <p>We suggest the introduction of a penalty for non-compliance may assist in ensuring non-resident data is accurate.</p>
Reform 2	<p>Electoral Structures</p> <p>Representative structures and election processes are to be simplified and made consistent.</p>
Additional context	<p>It is proposed to move to a single consistent model of single member wards, unless it is impractical to subdivide a council into wards.</p>
City of Melbourne comment	<p>It is our understanding that as the City of Melbourne is an unsubdivided municipality as specified in the <i>City of Melbourne Act 2001</i>, it is not proposed to introduce single member wards in this municipality.</p> <p>We consider it impractical to subdivide the municipality into wards on the basis that the necessity to alter boundaries would be constant. The rapid growth in the population of the City of Melbourne would mean the boundaries would require changing every election. In addition, as the capital city council, it is considered appropriate that councillors represent the entire municipality.</p>

Local Government Bill – A reform proposal

Reform 3	<p>Training</p> <p>Communities deserve the highest calibre councillors representing local community issues. It is proposed to introduce new requirements on candidates and councillors to improve competency, skills and transparency.</p>
Additional context	<p>All new candidates at council elections will be required to undertake training in order to nominate.</p> <p>All elected councillors will also be required to undertake induction training within six months of being elected.</p>
City of Melbourne comment	<p>We support this reform proposal and the principle of training candidates, and councillors being required to undertake training post-election. However, we seek clarification on the following points.</p> <ul style="list-style-type: none"> • For what period of time will the training remain valid? • Will the mandatory training be a requirement for each and every election and subsequent by-elections?
Reform 4	<p>Donation Reform</p> <p>A number of recent changes to the electoral campaign donations arrangements in Victorian Parliamentary elections will be extended to local government elections.</p>
Additional context	<ul style="list-style-type: none"> • Foreign donations will be banned. Donors will need to be an Australian citizen or resident, or a business with an Australian Business Number. • Electoral campaign donations to individual candidates and candidate groups from a single donor will be capped at an aggregated amount of \$4,000 for Melbourne City Council elections. • The ‘gift disclosure threshold’ which applies to campaign donations and other gifts received by councillors will remaining at \$500 for the Melbourne City Council.
City of Melbourne comment	<p>Whilst acknowledging that the capped amount for Melbourne City Council electoral campaign donations is proposed to be higher than other councils it should be noted that single donations of up to \$80,000 were received by some individual candidate groups in the 2016 Melbourne City Council elections.</p> <p>In order to understand the impact of this reform, we seek clarification on:</p> <ul style="list-style-type: none"> • The definition of ‘single donor’ and whether this will include individuals and organisations? • Will individual members of an association be separately considered as single donors? For example, will donations from individual members of the Australian Hotels Association and a donation from the Australian Hotels Association be permitted? • Will the onus be on the candidates to ensure that donors are Australian citizens, residents or a business with an ABN? • If a foreign company has an ABN (perhaps as a subsidiary company) is it acceptable to allow donations from it?

Local Government Bill – A reform proposal

	<ul style="list-style-type: none"> Will donations from candidates who are members of ‘teams’ running for election be considered in the same way and capped at the same level, effectively preventing candidates from contributing (above the cap) to their own election campaign? <p>As councils will be required to have a gift register and publicly transparent gift policies covering the acceptance of and disposal of gifts by councillors and staff, will the gift disclosure threshold of \$500 for Melbourne City Council councillors also apply to City of Melbourne staff?</p>
Reform 5	<p>Improved conduct</p> <p>Councillor conduct is an ongoing challenge for the local government sector. It is proposed to introduce mandatory standards of conduct, a clear and consistent arbitration process and provide the arbiter powers to impose sanctions.</p>
Additional context	<p>The 2019 Bill will no longer include the Councillor Conduct Principles. Instead it will require each council to adopt a councillor code of conduct that includes the standards of conduct prescribed in Regulations.</p> <p>A legislated arbitration process will also be put in place to deal with allegations of councillor misconduct rather than councils developing their own processes.</p>
City of Melbourne comment	<p>As per the City of Melbourne submission to the Local Government Bill – Exposure Draft, we are of the view that Occupational Health and Safety issues need to be expressly dealt with in either the legislation or regulations.</p> <p>We also recommend where there are allegations involving serious Occupational Health and Safety issues, an independent person such as the Chief Municipal Inspector, should have a power to immediately issue interim directions to the alleged perpetrator (without testing the evidence or forming any view of guilt), that will make the workplace safe and protect the alleged victim eg not attend (be ‘stood down’) the workplace for a defined period of time.</p> <p>Serious Occupational Health and Safety issues would include where an allegation is made of sexual harassment, the threat of violence and/or serious intimidatory behaviour. This is similar to an employer standing down an employee on full pay, where the nature of the allegation poses a serious Occupation Health and Safety risk, or the like.</p>
Reform 5	<p>Community Accountability</p> <p>It is proposed to make councillors more accountable through stronger sanctions for serious conduct violations and the introduction of a community initiated Commission of Inquiry.</p> <p>There will be two clear new pathways that can lead to disqualification, these are:</p> <ol style="list-style-type: none"> where a councillor has been subject to a finding of Serious Misconduct on two occasions over an eight year period; or where a community initiated Commission of Inquiry, appointed as a result of a petition, makes a finding that a councillor has caused or contributed to: <ol style="list-style-type: none"> a failure by the council to provide good governance; or

Local Government Bill – A reform proposal

b. a failure by the council to comply with a governance direction.	
Additional context	If a Councillor Conduct Panel makes a finding of serious misconduct against a councillor twice in eight years, that councillor will be disqualified for four years. If a petition is received by more than 25% of enrolled voters at a council calling for a Commission of Inquiry into a council, and the Commission subsequently makes a finding that a councillor has significantly caused/contributed to governance failures at the council, the councillor is disqualified for four years.
City of Melbourne comment	<p>We note the reform proposal to implement stronger sanctions for serious conduct violations.</p> <p>As per the City of Melbourne submission to the Local Government Bill – Exposure Draft, we are of the view Occupational Health and Safety issues need to be expressly dealt with in either the legislation or regulations.</p> <p>We also recommend where there are allegations involving serious Occupational Health and Safety issues, an independent person such as the Chief Municipal Inspector, should have a power to immediately issue interim directions to the alleged perpetrator (without testing the evidence or forming any view of guilt), that will make the workplace safe and protect the alleged victim eg not attend (be ‘stood down’) the workplace for a defined period of time.</p> <p>Serious Occupational Health and Safety issues would include where an allegation is made of sexual harassment, the threat of violence and/or serious intimidatory behaviour. This is similar to an employer standing down an employee on full pay, where the nature of the allegation poses a serious Occupation Health and Safety risk, or the like.</p>
Additional City of Melbourne comment	<p>For rating purposes, we suggest consideration be given to changing the current occupancy based assessment to an ownership based assessment for the following reasons:</p> <ul style="list-style-type: none"> • Ownership information provided to Council via acquisition notices is both current and reliable, as opposed to occupancy information which is collected via physical survey by Council, frequently changes and is merely a snapshot at a particular point in time. • The liability to pay rates rests with the owner of a property. • It allows consolidation of all information so that the owner of a large multi-storey commercial building could be issued with one notice, but still have the option to request a schedule of the breakdown of each individual occupancy if so required. • It aligns with other property tax regimes, such as land tax and fire services and property levy etc. • It would streamline the election process. • It would remove ambiguity, as ‘ownership’ is clearly defined in legislation. <p>The definition of rateable property in both the Draft Bill and <i>City of Melbourne Act 2001</i> refers to a number of exclusions. It is becoming increasingly difficult to separate these out and we suggest they be removed from the definition altogether. They are:</p> <ul style="list-style-type: none"> • parking a single motor vehicle within the meaning of section 3(1) of the <i>Road Safety Act 1986</i>; or • mooring a single vessel within the meaning of section 3(1) of the <i>Marine Safety Act 2010</i>; or

Local Government Bill – A reform proposal

	<ul style="list-style-type: none">• storage, being a single lockable unit with a floor area not exceeding 25 square metres.
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