



Local Government Finance Professionals

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16 March 2018

Graeme Emonson
Executive Director
RE: Local Government Act Review Secretariat
C/o Local Government Victoria,
PO Box 500, Melbourne VIC 3002

Email: local.government@delwp.vic.gov.au

Dear Graeme

Submission to Stage 4 – Local Government Bill Exposure Draft

Thank you for the opportunity to make this submission to the final consultative phase of the Local Government Act reform - Stage 4 – Local Government Bill Exposure Draft.

One of the key objectives of FinPro is to provide advocacy for local government practitioners on issues, which affect the industry as a whole, and to act as the focal point of reference by regulatory bodies on financial issues affecting the sector. Therefore, the attached submission has been written on behalf of the members of FinPro.

Our specific recommendations are in the attached submission (template) and focus on the issues that we believe require better explanation/change or deletion. We have not commented on every section so please take it as read that we are generally in support of those sections. However, we also stand by our previous submissions related to the new Act and where practicable those suggestions/recommendations should be considered for incorporation in the final Bill.

Thank you for the opportunity to once again take part in the review of the proposed Act. as our membership appreciates the opportunity given to be engaged in this process. Please feel free to contact me at danny.wain@monash.vic.gov.au or on 9518 8508, or our Executive Officer, Gabrielle Gordon, at gabrielle@finpro.org.au on 0400 114 015.

Yours sincerely

Danny Wain
Vice President-Technical Committee

Submission Template

Local Government Bill – Exposure Draft

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

Organisation or council name	FinPro
Position	Vice President Technical Committee
Are you providing this submission on behalf of the organisation or council?	Organisation

Key information about making a submission

What feedback should I provide on the exposure draft bill?

Following an extensive consultation process that considered the policy issues that underpin the Local Government Act, we are now seeking feedback on the Local Government Exposure Draft Bill to inform the final draft legislation before the Government reviews it to present to the Victorian Parliament. We strongly encourage you to read the explanatory document (*A New Local Government Act for Victoria*) to assist you to navigate the draft legislation.

What is the closing date for submissions?

The closing date for submissions is **5:00 pm, Friday 23 February 2018**. Given that the draft bill is subject to parliamentary timeframes, submissions received after this date will be considered at the Government's discretion.

How do I make a submission?

Submissions can be made in three ways:

- **Online** by uploading your submission to the www.yourcouncilyourcommunity.vic.gov.au website
- **Emailing** your submission to local.government@delwp.vic.gov.au
- **Posting** your submission to:
Local Government Act Review Secretariat
C/o Local Government Victoria,
PO Box 500, Melbourne VIC 3002

How do I complete this template?

To complete this template:

- (1) Locate the part of the Draft Bill you wish to comment on.
- (2) Insert the clause number, your level of support for the clause, the proposed change and any other comments into the table.

Can I provide a submission in another format?

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

Will submissions be made publicly available?

Written submissions and the name of the author will be published on the www.yourcouncilyourcommunity.vic.gov.au website unless confidentiality is requested and the Executive Director of Local Government Victoria grants it, or if it is determined your submission should remain confidential. Submissions that are defamatory or offensive will not be published.

Please contact the Local Government Act Review Secretariat if you have any questions on (03) 9948 8518 or local.government@delwp.vic.gov.au

Part 1: Preliminary

Clause (No.)	Support / Do Not Support / Neutral	What changes do you propose and why?	Are there any other comments you would like to make on this clause?
			<i>Press tab to insert additional rows (as needed)</i>

Do you have any overall comments on Part 1 of the Exposure Draft Bill?

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Part 2: Councils

Clause (No.)	Support / Do Not Support / Neutral	What changes do you propose and why?	Are there any other comments you would like to make on this clause?
48	Part Support	The code of conduct for members of Council staff doesn't call out as applying to contractors, consultants, agency staff or volunteers. The community shouldn't experience different standards depending upon how a person is engaged by Council.	Should reference compliance by non-Council staff
52	Support	FinPro is supportive of having robust and consistent provisions around the formation of Audit & Risk Committees particularly;	
53(2)(1)	Do not support	Audit Advisory Committee must monitor compliance of Council Policies and Procedures with overarching governance principles and the Act – therefore meaning every Council Policy and procedure would have to be a) either audited or b) go to Audit Committee prior to Council.	To require the AAC to sign off that all policies and procedures comply with governance principles of the Act is overkill and again will likely require the AAC to conduct an audit of all existing policies and any new ones.
			<i>Press tab to insert additional rows (as needed)</i>

Do you have any overall comments on Part 2 of the Exposure Draft Bill?

Part 3: Council decision making

Clause (No.)	Support / Do Not Support / Neutral	What changes do you propose and why?	Are there any other comments you would like to make on this clause?
54(1)&(2)	Support	These provisions are positive and are supported. It is agreed that councils should have an Engagement Framework.	
54(3)	Do not Support	<p>This point requires councils to develop the Council Plan and first budget after a general election to be “undertaken in collaboration” with the municipal community. Such terminology requires much more than simple informing, consulting and involvement of community. This term has deliberately been included to prescribe the use of “deliberative” methods of community engagement and participatory decision-making by Councils, where:</p> <ul style="list-style-type: none"> • Councils must “partner with the public in each aspect... including development of alternatives and identification of solutions” • Councils promise their community that it will look to citizens for their direct advice, innovation and ideas ... and will use these to the maximum extent in the decision-making and recommendations. 	<p>We believe the clauses are too prescriptive and resource intensive for Councils to undertake such processes every four years.</p> <p>These types of community engagement fit best for development of the required “community Vision for the future of the municipality” and “long- term 10 year financial plan for Council. These then become the strategic drivers for the 4 year Council Plans and Budgets and new policies.</p> <p>Councils can plan ahead to allocate resources and schedule deliberative forums and deploy other participatory and consensus-building methods for the longer term vision and plan.</p> <p>There would be inadequate time to undertake such elaborate community engagement between “a general election and the next 30 June” as required under Clause 85 (1) of the Bill.</p> <p>Modification proposed... Clause 54 Point (3) refers instead to “development of the community vision and Council’s 10 year Financial Plan and Asset Plan be undertaken in collaboration with the municipal community”.</p>

			<i>Press tab to insert additional rows (as needed)</i>
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Do you have any overall comments on Part 3 of the Exposure Draft Bill?

Part 4: Planning and financial management

Clause (No.)	Support / Do Not Support / Neutral	What changes do you propose and why?	Are there any other comments you would like to make on this clause?
85,88	Part Support	Council Plan and Revenue & Rating Plan have a requirement to be adopted by 30 June following a general election.	We firmly believe in the requirements for a Council Plan and a Revenue & Rating Strategy. However, we also contend that the timeframe specified is too onerous and effectively only allows about 2-3months of effective work-time to work with a new council and manage these significant tasks. Suggest change to within 12 months (e.g. October/November at the end of the Council's first year).
89	Do not support	The Annual Budget must now be based on a four-year budget basis – due also by 30 June following election. Budget must be prepared in accordance with financial management principles and community engagement policy.	The current provisions (LGA 1989) are adequate providing forecasts for four years.
90	Part Support	The triggers for a formal revised budget are any variation to the declared rates or service charges, any borrowings not included in the original budget.	The concept of materiality should be considered particularly with very minor changes to the rate in the dollar. Council's have now lost control of the annual valuations which could impact councils decision making and rate setting (e.g. rate in the dollar) if valuations vary after draft budgets and budgets are adopted.
93(4)(a) & 93(3)(d)		There is a duplication of effort required for the Annual Report. S93(4)(a) in the Bill is a direct repeat of s93(3)(d). Reporting on the indicators of service should only be included in the Annual Report once, either in the Report of Operations or the Performance Statement.	Having to include this information in the Annual Report twice is redundant and adds to the already onerous amount of administrative work for councils in developing the Annual Report. Any duplication of reporting requirements is not supported.
			<i>Press tab to insert additional rows (as needed)</i>

Do you have any overall comments on Part 4 of the Exposure Draft Bill?

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Part 5: Rates and charges

Clause (No.)	Support / Do Not Support / Neutral	What changes do you propose and why?	Are there any other comments you would like to make on this clause?
121	Do Not Support	<p>Rate Payment Dates – The draft Bill does nothing to sort out the present issue Council has where the payment option is mandatory instalments – and should ratepayers wish to pay a single payment then they need to do this by 30 September. This clause states that Council must allow a person to pay rates in 4 instalments OR as a lump sum –with the applicable dates set the Minister. This could lead to a person being able to say they must have the option of paying in a lump sum and the date set by the Minister is 15 February. This needs to be fixed or better explained how this section is going to work to allow the over 30 odd Councils to continue with mandatory instalments and to be able to advertise 30 September as the applicable date if paying by lump sum.</p>	<p>Councils have expressed concern where they have only 4 instalment options available and with a mandatory allowance for a lump sum option will impact on councils that have cashflow issues particularly in a rate capping environment.</p>
140	Do Not Support	<p>The definition for capped rates should not include;</p> <ul style="list-style-type: none"> • (b) rates under the Cultural and Recreational Lands Act 1963; and • (c) service charges prescribed by the regulations 	<p>The CRLA Act provides for the setting of rates for recreational land as follows:</p> <p>4(1) Notwithstanding the provisions of any Act or enactment relating to the making and levying of charges by a municipal council in lieu of the rates that would otherwise be payable to a municipal council in respect of recreational lands there shall be paid to the municipal council as a charge in each year such amount as the municipal <i>council thinks reasonable having regard to the services provided by the municipal council in relation to such lands and having regard to the benefit to the community derived from such recreational lands.</i></p> <p>Clearly this requires each council to make judgements from time to time that may vary (higher or lower than the rate cap) in order to satisfy the above requirements- therefore should be excluded from the rate cap calculation. This raises concerns</p>

			<p>about council's abilities to vary CRLA charges and annual compliance for the ESC rate cap.</p> <p>Service charges prescribed by the regulations raises concern that service charges (e.g. waste charges are now clearly linked to the cap whereas they are currently excluded under the existing legislation.</p>
CL. 141 & 142 Rate Caps	Do not support	The application process for a variation to the cap needs to be reviewed and streamlined.	<p>FinPro has previously opposed the introduction of a rate cap based on CPI. It is inconsistent with the notion of enabling councils and giving them greater autonomy. It is particularly difficult for growth councils and regional councils to be sustainable under a rate cap environment. The current provision which allow application for a variation to the rate cap are lengthy, complex and likely to deter councils from seeking a variation, even when justified.</p>

<p>Do you have any overall comments on Part 5 of the Exposure Draft Bill?</p> <p>Finpro is strongly opposed to the Fair Go Rates System.</p>

Part 7: Council integrity

Clause (No.)	Support / Do Not Support / Neutral	What changes do you propose and why?	Are there any other comments you would like to make on this clause?
			<p><i>Press tab to insert additional rows (as needed)</i></p>

Do you have any overall comments on Part 7 of the Exposure Draft Bill?

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Part 8: Ministerial oversight

Clause (No.)	Support / Do Not Support / Neutral	What changes do you propose and why?	Are there any other comments you would like to make on this clause?
			<i>Press tab to insert additional rows (as needed)</i>

Do you have any overall comments on Part 8 of the Exposure Draft Bill?

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Part 9: Electoral provisions

Clause (No.)	Support / Do Not Support / Neutral	What changes do you propose and why?	Are there any other comments you would like to make on this clause?
			<i>Press tab to insert additional rows (as needed)</i>

Do you have any overall comments on Part 9 of the Exposure Draft Bill?

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Part 10: General provisions

Clause (No.)	Support / Do Not Support / Neutral	What changes do you propose and why?	Are there any other comments you would like to make on this clause?
			<i>Press tab to insert additional rows (as needed)</i>

Do you have any overall comments on Part 10 of the Exposure Draft Bill?

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Part 11: Consequential amendments and repeals

Clause (No.)	Support / Do Not Support / Neutral	What changes do you propose and why?	Are there any other comments you would like to make on this clause?
			<i>Press tab to insert additional rows (as needed)</i>

Do you have any overall comments on Part 11 of the Exposure Draft Bill?

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