

CITY OF WHITTLESEA
SUBMISSION TO THE REVIEW OF THE HEALTH ACT 1958

Issue	Comment
1. Should the Act be renamed and, if so, what name would best reflect the role & purpose of the new Act?	<ul style="list-style-type: none"> ➤ Yes, the Act should be renamed to signify the change of direction & it would be appropriate to call it the 'Public Health Act'.
6. Should the new Act contain a provision specifying guiding principles, &, if so, what principles should be included?	<ul style="list-style-type: none"> ➤ Yes, it would be relevant and consistent with other legislation to include provisions specifying guiding principles. The following principles should be included: <ul style="list-style-type: none"> • Precautionary principle • Principle of accountability • Principle of preventing unnecessary encroachment on individual rights • 'Polluter pays' principle • Principle recognising that the promotion & protection of public health is a collaborative & intersectoral effort
9. Should the new Act retain the functions for municipal councils as set out in the current Act?	<ul style="list-style-type: none"> ➤ It is proposed that the role of local government should include: <ul style="list-style-type: none"> • Initiating, supporting and managing public health planning processes at the local level; • Facilitating, supporting and co-ordinating the efforts of other local public health agencies to improve public health status' • Ensuring that National, State and Regional priorities inform and influence Council's service planning activities and the service planning activities of local health agencies; • Ensuring development of healthy public policies through the integration of the public health planning processes with other strategic planning processes of Council.
<p>10. Should the new Act recognise municipal councils' role in:</p> <ul style="list-style-type: none"> ➤ Planning, advocating and providing organised public Health programs? ➤ Developing & implementing strategies to promote & improve public health & promote community health & wellbeing? 	<ul style="list-style-type: none"> ➤ Yes, the new Act should include the proposed additional amendments to section 29A listed in Issue 10. ➤ Local Government in its planning role should take leadership in development of community-wide MPHP and should: <ul style="list-style-type: none"> • Consult widely with its community and other agencies in the community with a public health commitment; • Promote the health of the population through policy development across Council functions which impact on the public health, creation of environments which support the health of the community and strengthening of the capacity of communities and individuals to achieve better health.

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11. Should the concept of partnership between state & local government, & between government & non-government, be addressed in the new Act?	<ul style="list-style-type: none"> ➤ Yes, this concept should be included as a guiding principle, as suggested in issue 6. ➤ State and Federal Governments should contribute support via legislation, population health information, and resources. The DHS should collate, analyse health information and inform local government in order to contribute to better population health planning in the future. State Government needs to play a central role in this area. Local government should then report these results to the State. The State and Federal Governments should be responsible for data collection and analysis, then inform local government and the community about general health findings/outcomes/status and best practice results. Improved information will help improve population health outcomes.
12. Should the new Act place greater emphasis on implementing the MPHP & achieving its outcomes, rather than just developing a document, & if so, how could it be achieved?	<ul style="list-style-type: none"> ➤ In principle, shifting the emphasis in the new Act from just developing a MPHP to include implementation and outcomes is a good idea. However, it would be necessary to avoid onerous reporting requirements, an inflexible legislative approach (for example if reporting is delayed) and the potential for punitive measures if expected outcomes are not achieved. ➤ Therefore, perhaps it would be more useful to strengthen existing reporting requirements, and make these annual reports easily accessible on a central database so that they may assist Councils statewide in achieving health and well being outcomes for their communities.
13. Should the new Act require that municipal councils set out how they intend to fulfil their statutory functions in their MPHPs?	<ul style="list-style-type: none"> ➤ Council's draft MPHP (to be adopted at the end of November 2004) already includes the statutory functions in Section 29A of the Health Act that Council must carry out as strategies in the Action Plan.
14. Should the new Act retain the requirement to prepare MPHPs at set intervals & to review MPHPs annually in consultation with the DHS?	<ul style="list-style-type: none"> ➤ The new Act should retain the requirement to report on the Health Plan annually, and it should retain the requirement to prepare MPHPs at set intervals. However, the current flexibility in preparing the MPHP should be retained.

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15. What should be the local government reporting requirements, if any, under the new Act?	<ul style="list-style-type: none"> ➤ Current reporting requirements should be retained. Submitting the MPHP and creating a central database of all Council health plans would be an extremely useful resource for Council Health Planners. There would also be value in making the annual reports centrally available. ➤ Council believes that it is important that the MPHP process be accountable with a more explicit reporting requirement. It is proposed that there be a requirement for annual reporting on the progress of the MPHP to Council and to the DHS (the content of such report to be meaningful and useful to assist in better health planning and assessment of priority needs).
16. Should the new Act link the requirement to prepare a MPHP to other planning processes within local government, such as the Council Plan?	<ul style="list-style-type: none"> ➤ Linking the requirement to prepare a MPHP with the other planning processes would be of great value by: <ul style="list-style-type: none"> • Elevating the importance of the MPHP, and thereby the health and well being needs of the community • Supporting a “whole of Council” approach in planning processes, promoting uniformity and consistency • Supporting the development of stronger partnerships across Council and the municipality through strategies identified in the planning processes. ➤ A legislative requirement to link the planning processes would have much greater effect and impact than current non-legislated efforts.
17. Should the new Act remove the requirement that every council appoint a MOH, & instead rely on non-legislative mechanisms for ensuring municipal councils have access to medical expertise?	<ul style="list-style-type: none"> ➤ The role of the MOH needs to be reviewed. The current role is primarily focussed in the immunisation area but provides advice in emergency management and health planning issues. By necessity, Council requires the advice of health “experts” on occasion but may not necessarily turn to the MOH for this advice. Council questions the continuing relevance of the MOH as a required statutory appointment. Expertise in infectious disease control already exists at DHS and the Melbourne Diagnostic Unit. These expert personnel are generally available to assist in most matters.
18. Should an EHO who is appointed by a council automatically be an authorised officer for the purposes of the Act?	<ul style="list-style-type: none"> ➤ Yes, this would simplify any administrative processes and remove any doubts about legal requirements.
19. Should the new Act require specific qualifications &/or experience for appointment as an EHO?	<ul style="list-style-type: none"> ➤ Yes, the Act should require specific qualifications for an EHO but not the experience requirement.

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20. Should the new Act require that authorised officers have qualifications &/or experience prescribed by the Secretary?	<ul style="list-style-type: none"> ➤ No, the Act should remain as before, not requiring qualification requirements. It should be council's prerogative to determine who is appropriately competent.
21. Alternatively, should the Act provide that councils may only authorise persons appropriately competent?	<ul style="list-style-type: none"> ➤ Yes (refer to Q20)
37. Should a general statutory duty of care, if adopted, replace the separate nuisance provisions &, if so, should municipal councils still retain responsibility for dealing with public health risks similar to nuisances in their municipalities?	<ul style="list-style-type: none"> ➤ It is recognised that there should be a general statutory duty of care to increase the scope of the Act to deal with a wider range of public health issues i.e. infectious disease. ➤ There is still a need to retain some form of separate nuisance provisions. A duty of care could not cope with or deal with small scale nuisance issues such as pest control & general neighbourly disputes. ➤ A general duty of care should be complementary to the nuisance provisions and not replace them. ➤ Local government is in the best position to deal with the nuisance type public health issues. If this was not by council, who would deal with these issues?
38. If separate nuisance provisions are retained, should nuisance be defined so as to focus on public health risks &, if so, does removing the term 'annoying' from the definition of 'offensive' achieve this?	<ul style="list-style-type: none"> ➤ The definition of a nuisance is too broad and can effectively constitute any kind of disturbance or annoyance. The provisions place an onus on Council to undertake an investigation. Council often has to mediate neighbourhood disputes that take away valuable resources from other public health priorities. Nuisance needs to be more tightly defined to apply to public health issues i.e. removal of the word "annoying" from the definition of offensive. ➤ Local Laws now contain many public health orientated provisions that offer alternative avenues to control public health risks. They also have a penalty system that further services to discourage risk behaviour. ➤ The new definition of nuisance needs to find a balance between discouraging frivolous complaints and protecting the health of the individual. It needs to minimise bureaucratic processes and be easily understood by the community.

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39. If the obligation on municipal councils to abate nuisance in their municipality is retained, should the abatement provisions be removed & municipal councils instead rely on general enforcement provisions under the new Act?	<ul style="list-style-type: none"> ➤ It would make more sense to have a general enforcement provision in the new Act. ➤ The use of a special tribunal (i.e. VCAT) or dispute resolving centres should also be considered. ➤ Within the enforcement provisions there should be the ability to issue notices or on the spot fines without the need to get a court order first. This will ensure that a nuisance can be dealt with, without the delays of a court process.
43. What criteria should be used in deciding which activities should be subject to the requirement of registration or licensing?	<ul style="list-style-type: none"> ➤ Likely risk to public health. ➤ Processes that involve skin penetration and/or contact with blood. ➤ Processes that need to sterilize equipment. ➤ Premises not monitored by any other regulatory body or industry organisation.
44. What regulatory parameters for registration/licensing would provide a more up-to-date, flexible, graduated & responsive approach to the level of public health risk?	<ul style="list-style-type: none"> ➤ Refer to Q43 parameters should be risk based. ➤ The parameters should be flexible to include a range of public health risk which would include premises not currently covered by the current Act. ➤ A set of guidelines could be developed by DHS establishing the parameters which will assist local government in determining what operations should be registered.
45. Are there any other public health risk activities that should be regulated under the new Act through the system?	<ul style="list-style-type: none"> ➤ Public swimming pools & spas ➤ Solariums ➤ Public gyms ➤ Colonic irrigation ➤ Children's play centres
46. Should there be a positive obligation on persons conducting activities subject to registration/licensing to notify authorities in event of certain types of incidents occurring?	<ul style="list-style-type: none"> ➤ Yes, but there should be definition or clarification on what constitutes a type of incident to be reported.

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47. Should there be an obligation placed on proprietors of non-registered premises to notify authorities where there has been an incident that might present a risk to public health?	➤ Yes, all relevant premises should be registered.
48. Should all enforcement powers be brought together in one part of the Act?	➤ Ideally yes for practical reasons.
49. Should the enforcement provisions of the Health (Infectious Diseases) Regulations 2001 be broadened to cover other public health threats not involving infectious diseases?	➤ Yes, in conjunction with emergency provisions.
50. Are the enforcement powers in the Health Act appropriate to allow authorised officers & EHOs to carry out their duties?	➤ No, provision should be made to include the ability to issue on-the-spot fines to registered premises who repeatedly do not comply with the requirements of the Act and in dealing with offences under the nuisance provisions.
51. In addition to the power to take samples & make copies of seized documents, are there any other additional powers that should be included in the new Act?	➤ Power to seize items or objects not complying with the Act i.e. removing potentially hazardous equipment from a registered premises if they fail to comply with an order.
52. Should the power to search for & seize goods without a warrant be widened to allow the Secretary to search for & seize things other than goods, such as records, biological agents or other items?	➤ Yes, refer to Q51.
72. Should the new Act introduce PERIN for suitable offences?	<p>➤ Yes, the ability to use on-the-spot fines would be extremely useful for premises registered/licensed under the Act. Especially in circumstances where there is a continued non-compliance of a single minor item which in itself would not warrant taking formal court proceedings.</p> <p>➤ Legal proceedings under the nuisance provisions of the Act are often too long, expensive and do not achieve a satisfactory result for Council or the aggrieved persons. The courts are reluctant to impose high fines or place court orders for clean up etc.</p> <p>➤</p>

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103. Should the new Act state the role of municipal councils in relation to immunisation as 'co-ordinating & providing immunisation services to children living or being educated within the municipal district?	<ul style="list-style-type: none"><li data-bbox="810 277 1452 365">➤ The Act should remain in its current form so that local government ensures immunisation services are provided for their local communities.<li data-bbox="810 400 1452 577">➤ If the Act specifically required councils to also be the providers of immunisation services in their municipality then local government would also expect the appropriate cost recovery such a new level of legislated responsibility would necessitate.