Review of the Health Act 1958 - City of Yarra Submission

List of issues for comment

	Issue	Section reference
1	Should the Act be renamed and, if so, what name would best reflect the role and purpose of the new Act?	3.1
Comment: The name of the Act should be consistent across Australia. As the majority of States have their Health Act named the 'Public Health Act', we propose Victoria's Act be named this also.		
2	Are there matters that are currently dealt with by other legislation that should be included in the new Act?	3.2
Comment: Parts 5A and 5B of the Building Act dealing with cooling towers should be transferred to the new Act because of the link of preventing an infectious disease ie legionella. It is appropriate that specific health related issues are to be dealt within their own legislation e.g. Tobacco Act, Food Act. Historically, these issues were all included in the Health Act but were separated to make administration clearer.		
3	Should the new Act recognise the importance of promoting public health, and, if so, how should the new Act aim to achieve this?	3.2
Comment: Yes, it should recognize the importance of promoting public health. Municipal Public Health Plans are a way of doing this. Health promotion activities should be separated from the enforcement roles of authorised officers (health protection) to give clarity of roles and responsibilities.		
4	Should the new Act recognise the need to address inequalities in the health and wellbeing of disadvantaged communities and, if so, how should the Act aim to achieve this?	3.2
Comment: Yes – again through the MPHP's.		
5	What objects provisions would represent the public health objectives, values and outcomes that the new Act should be aiming to achieve?	3.3
Comment:		
6	Should the new Act contain a provision specifying	3.4

	Issue	Section reference
	guiding principles, and, if so, what principles should be included?	
Comment:		
7	Should the new Act include a statement that the function of the Secretary is to implement policies and programs to achieve the objects of the Act?	4.1
Comment:		
8	Should the new Act include a power for the Secretary to conduct inquiries into matters of public health concern and, if so, who should have the power to direct that an inquiry be conducted?	4.1
Comment:		
9	Should the new Act retain the functions for municipal councils as set out in the current Act?	4.2
Comment: The roles of Councils should be clearly specified in the Act. At present the functions are vague and there has been occasions when additional work has been handed over to Council's under a broad heading of "it is Council's public health responsibility under the Act". There is opportunity to clearly specify and update what Council's are expected to do under the Act. This will enable Councils to better plan and resource their activities and at the same time make them more accountable for delivering on these functions. There should be some scope for DHS to provide funding for carrying out of certain functions as opposed to relying only on rate revenue.		
10	Should the new Act recognise municipal councils' role in: ➢ Planning, advocating and providing organised public health programs? ➢ Developing and implementing strategies to promote and improve public health and promote community health and wellbeing?	4.2

	Issue	Section reference
Comment: Yes. Roles need to be clear and include the enforcement of requirements when necessary. In addition, the critical role that local governments provide across the full spectrum of health approaches: preventative, promotion, community development, advocacy, facilitation should be recognised. Councils should be supported by DHS by adequate resources and funding as opposed to reliance on rate revenue to cover cost in delivering on the roles. It should give Councils the ability to respond to emerging public health issues, particularly those that are not covered by other mechanisms.		
11	Should the concept of partnership between state and local government, and between government and non-government, be addressed in the new Act?	4.3
Comment: It is important that there is an open channel of communication between State Government, Local Government and non-government organisations. Given the critical nature of funding arrangements, shared programs and local area agreements, this concept would be appropriately articulated within the Health Act.		
12	Should the new Act place greater emphasis on implementing the MPHP and achieving its outcomes, rather than just developing a document, and if so, how could this be achieved?	4.4
Comment: Certainly agreed and the move from strategy to implementation/action is something that the City of Yarra is firmly committed to as it moves into a new four year planning cycle. Council believes that the proposed link to the Council Plan (refer response to question 16) is a clear way of ensuring that this occurs. This would occur through: links to the preparation of the annual budget, mandatory reporting requirements internally and externally; and ensuring connections to individual department service/activity plans through the annual planning process.		
13	Should the new Act require that municipal councils set out how they intend to fulfil their statutory functions in their MPHPs?	4.4
Comment: If the Act clearly specifies what the statutory duties are then the MPHP may be a way for the Council to ensure they are resourced sufficiently to fulfil their obligations, but there needs to be adequate guidance provided to ensure all statutory obligations can be addressed in developing the MPHPs. Further guidance from Local Government Victoria and the Municipal Association of Victoria will be invaluable here.		

	Issue	Section reference
14	Should the new Act retain the requirement to prepare MPHPs at set intervals and to review MPHPs annually in consultation with the Department of Human Services?	4.4
Comment: Refer response to question 12 and 16. Link to the new local government four-year cycle and reporting requirements associated with the Council Plan are critical here.		
15	What should be the local government reporting requirements, if any, under the new Act? For example, should the new Act retain the requirement to report annually, and at other times as directed by the Secretary? Should there be a requirement to submit MPHPs at set intervals? If so, what would be the expected value of such reporting requirements?	4.4
Comment: Primarily DHS should be ensuring Councils are fulfilling statutory obligations and regular reporting may be the best way to do this provided it is not too onerous a task. This will allow DHS and Councils to address areas requiring attention in a timely manner and not before it is too late. In addition and pre-empting question 16, any reporting requirements should be folded into requirements associated with the Council Plan (with a link to the MPHP as suggested) to avoid duplication and encourage integration in planning and monitoring.		
16	Should the new Act link the requirement to prepare a MPHP to other planning processes within local government, such as the Council Plan? For example, should the requirement be to prepare MPHPs every four years?	4.4
Comment: Council is currently adopting this approach and therefore would endorse this proposal. The development of the City of Yarra MPHP links to the annual planning process including the development of a new Council Plan for 2005/09 and the review of the Municipal Strategic Statement. The terms of our new plan will be four years with annual reviews processes linked to the annual budget built in. The development of the Council Plan around a four-year period establishes a defined statutory planning period. It is sensible for the MPHP to emulate this planning period.		
17	Should the new Act remove the requirement that every council appoint a MOH, and instead rely on non-legislative mechanisms for ensuring municipal	4.5

	Issue	Section reference
	councils have access to medical expertise?	

Comment:
The MOH has been a high profile role in past years but mainly in relation to immunisation programs. However, since the introduction of immunisation nurses in 1998, the role of MOH has become less involved and more consultative. Council is currently legally required to employ MOH to support immunization nurses. The legal requirement is contained in `Approval for nurses to immunize under drugs, poisons and controlled substances Regulations 1995'. Removal of MOH role may raise indemnity issues for immunisation nurses and Council and so would need to be addressed.

However there may be other options for medical advice to be provided to Council, including through DHS, and support the removing of this current requirement imposed on Councils

18	Should an EHO who is appointed by a council automatically be an authorised officer for the purposes of the Act?	4.6

Comment:
Yes. An EHO will have the required skills and knowledge to investigate and enforce the Act where authority to do so is required. Automatic authorization ensures clarity in legal responsibility.

19	Should the new Act require specific qualifications and/or experience for appointment as an EHO?	4.6

Comment:
No. Qualifications and experience should not be specified in the Act. The current situation where the Secretary declares the qualifications that are necessary across the range of authorities should be maintained. Administratively this allows for amendment as situations change.

20	Should the new Act require that authorised officers have qualifications and/or experience prescribed by the Secretary?	4.7

Comment:
Yes, ensuring that competency based assessments for the specified authorities are included as part of the declaration of qualifications and experience.

21	Alternatively, should the Act provide that councils may only authorise persons appropriately competent?	4.7

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	Issue	Section reference
Comment: Qualifications and experience should be the primary criteria for EHO appointments. Specific competency based authorities and appointments should also be an option This allows for the situation of students and technical officers being trained by employers and being able to perform duties in a specified area in which they are competent. Required competencies should be set by the Secretary to help facilitate consistency amongst Councils.		
22	Are the current powers of the Secretary under the Health Act with respect to the collection of health information adequate to ensure access to comprehensive and reliable data necessary to monitor and assist in the protection of public health?	5.1
Comment:		
23	Should the new Act make more explicit the forms which such collection of comprehensive data may take? For example, should the new Act provide for the Secretary to establish registers, databases and other collections of public health information and to state some of the uses of that information?	5.1
Comment:		
24	Should the provisions regarding consultative councils be consolidated in the new Act to provide: ➢ General provisions regarding establishment and functions of all consultative councils? ➢ Standard provisions regarding the establishment of sub-committees? ➢ A power to make recommendations in relation to investigations or inquiries? ➢ An obligation to produce an annual report?	5.3
Comment:		
25	What sort of information might each of the consultative councils need to ensure that they can carry out their functions effectively?	5.3
Comment:		

	Issue	Section reference
26	Should the new Act contain more specific provisions requiring: ➢ Reporting to consultative councils on specified incidents? ➢ Regular provision of specified information relevant to the statutory functions of consultative councils? ➢ Preparation, by medical practitioners, of a report for the Council in relation to a matter that it is investigating?	5.3
Comment:		
27	Should Victoria continue to rely on a legislative requirement for HIA in EIA legislation?	6.2
Comment:		
28	Alternatively, should a separate requirement for HIA be introduced in the new Act and, if so, in what circumstances should HIA be conducted and what should be the threshold for triggering it?	6.2
Comment:		
29	Should the new Act support and enhance the practice of risk management?	7.1
Comment: Yes. The new Act should support a risk management approach. However applying such an approach to all issues in the Act may be difficult especially in relation to individuals and small business where such an approach may be well beyond their capabilities. As such clear general requirements may still be required. Risk management should apply to Government, Non-Government organizations and businesses.		
30	Should the new Act include a general statutory duty of care?	7.2
Comment: Yes. This approach could be useful in the new Act provided the wording is specific enough to be clear in application.		
31	If so, what should be the scope of the duty?	7.2

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	Issue	Section reference
Comment: The duty of care should apply to situations where there is the public in general may be effected as opposed to only small issues effecting on one or two people where the Act's general nuisance provisions are more appropriate.		
32	If adopted, should the duty be positive or only negative?	7.2
Comment: The duty of care should be negative. At present, our Public Health Unit actively promotes public health in a number of programs and this is an important role, however, we believe that this should not be legislated.		
33	What should follow from being in breach of the duty: criminal and/or civil liability or should the consequences of breach be limited to administrative powers?	7.2
Comment: Given the range of potential health issues and offences there should be a range of penalties. The penalty needs to reflect the severity of the offence.		
34	Should failure to comply with the duty be the basis on which costs are recovered?	7.2
Comment: Yes. Cost recovery is a good remedy to many situations (not just Council's costs). Failure to comply with the duty should be the basis on which costs are recovered, in addition to the impact or consequence of non-compliance.		
35	Should compliance with the duty provide a defence against some offences under the Act?	7.2
Comment: Yes however could lead to inconsistency with other areas of the Act.		
36	How might the duty of care work in practice?	7.2
Comment: What is reasonably required for each person will vary according to their skills and knowledge.		
37	Should a general statutory duty of care, if adopted, replace the separate nuisance provisions and, if so, should municipal councils still retain responsibility for dealing with public health risks similar to	7.3

	Issue	Section reference
	nuisances in their municipalities?	

Comment:
No. Councils should retain responsibility for dealing with nuisances that are a public health risk. Existing Act nuisance provisions have established precedent and although not definitive Councils are familiar with their use. Replacement with the general duty of care may make application ambiguous resulting in inconsistency amongst Councils.

38	If separate nuisance provisions are retained, should nuisance be defined so as to focus on public health risks and, if so, does removing the term 'annoying' from the definition of 'offensive' achieve this?	7.3

Comment:
Nuisances under the Act should be defined more narrowly to focus on real health issues and not just trivial or annoying issues. Removing the word annoying goes some way to achieve this. This will assist to ensure that matters nuisances dealth with under the Act have a clear health related focus. Control of the other more annoying or trivial issues should be dealt with (if there is a need to deal with them) under Local Laws.

In relation to some noise issues the subjective nature of the current provisions allow for interpretation that is helpful in some instances.

39	If the obligation on municipal councils to abate nuisance in their municipality is retained, should the abatement provisions be removed and municipal councils instead rely on general enforcement provisions under the new Act?	7.3

Comment:
Yes. Replacing abatement provisions with the general enforcement provisions will simplify the enforcement process and remove the need for multiple types of improvement or compliance notices. The current abatement processes are not necessary in achieving the outcome as non-compliance with them only gives rise to additional penalties. In reality they do the same as an improvement notice or other direction to comply.

40	Should best practice standards continue to have a role in the regulation of public health risks?	7.4

Issue		Section reference
Comment: Standards of Practice/Best Practice Guidelines etc are an excellent way to provide guidance and assistance on compliance with health outcomes in a non-prescriptive way. There benefit comes when there exists adequate legally enforceable requirements in laws that the guidelines clearly provide advice on. It needs to be clear that the detail in the S of Ps and guidelines are not mandatory requirements and that there should be no need to make them so if the general laws that exist link in with the advice provided. To date many S of Ps and guidelines have continued to cause enforcement concerns (such as EHOs wanting to make them enforceable) because the link to obligations under the Act or regulations may not be clear. The new Guidelines for Businesses Providing Personal Services are a case in point with enforcement officers (EHOs) seeking ways to require businesses to comply with the guidelines (make them enforceable) and not being aware that their status is to provide advice to businesses on how to comply with the outcomes required in the current Infectious Disease Regulations. The status of guidelines and Standards of Practice needs to be clear. In relation to Best Practice Guidelines these usually set a "higher than minimum" standard and can be recommended but, from an enforcement point of view, compliance with minimum standards should be adequate. The motivation for a business to aim for best practice should be some type of industry award or recognition as opposed to enforcement agencies attempting to mandate the best practice.		
41	Should RMPs have a role in the regulation of public health risks under the new Act?	7.5
Comment: Yes. This situation has been beneficial for the food industry and so could be extended to cover issues provided under the new Act. Support in the way of resources and information would be required for this to be implemented. They must not be seen as being too onerous or create a prescriptive procedural compliance situation for enforcement as opposed to the achieving of health outcomes.		
42	Who should be required to prepare RMPs: ➢ persons undertaking a registrable or licensable activity by way of a condition of registration/licence? ➢ persons required to do so by an improvement notice?	7.5

	Issue	Section reference
Comment: Potentially both of these categories could be required to prepare RMPs, however requiring a RMP for an individual may be too onerous as indicated above. The nature of a RMP will ensure that only businesses with high risk operations or those that have poor performance history will be required to work to a management system. Similar to Food Safety Program implementation, templates will be required to assist in this process. Training on infectious disease control would be a suggested requirement for premises identified as high risk. However it should also be kept in mind that many poor performers are usually least able to work to or implement a risk management plan or system.		
43	What criteria should be used in deciding which activities should be subject to the requirement of registration or licensing?	7.6
Comment: The potential risk to the public should be the criteria used in the requirement of registration or licensing. The registration of certain accommodation and/or hairdressing establishments may not be necessary. Council does have a responsibility to follow up complaints made about premises – whether they are registered or not. On the other hand, Council does receive income from these registrations and having a data base of like premises allows for timely information dissemination in times of need.		
44	What regulatory parameters for registration/licensing would provide a more up-to-date, flexible, graduated and responsive approach to the level of public health risk?	7.6
Comment: A risk management approach to registration/licensing is suggested. This allows for time and resources to be spent on premises/procedures that have the potential for significant public health impact. Competency based training for operators of these businesses, similar to FSS requirements for food businesses, is recommended. The registration should relate to a person or business as opposed to the premise.		
45	Are there any other public health risk activities that should be regulated under the new Act through the system of registration or licensing and, if so, what specific requirements should be imposed on those activities?	7.6

	Issue	Section reference
Comment: Swimming Pools, Spas, Colonic Irrigation Clinics and Solariums should be registered/licensed. Most Councils already inspect public pools and spas and they generally pose a greater health risk than some premises that are currently subject to registration such as hairdressers but are not subject to the same registration requirements. RMPs would be recommended and linked to legislation. Competency based training is also recommended. Sex On Site (SOS) businesses are a premises where a potentially high risk activities occur and it has been discussed as to whether these should be regulated or are they related to people making a particular lifestyle choice where education and not regulation should be involved.		
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?	7.6
Comment: Yes, where there is a high risk to health caused by operations and notification forms part of their RMP, however there must be a clear procedure for the enforcement agency to follow on notification.		
47	Should there be an obligation placed on proprietors of non-registered premises (for example, swimming pools and brothels) to notify authorities where there has been an incident that might present a risk to public health?	7.6
Comment: We feel that these premises should be registered, inspected and required to have RMPs. Again there must be a clear procedure to follow. Notification by businesses will be difficult to enforce if there is no registration process in place Inspection of premises registered under the Act should continue to be optional as there may be other methods other than inspection that can assess compliance. This leaves the method of checking compliance flexible.		
48	Should all enforcement powers be brought together in one part of the Act?	7.7
Comment: Yes. This will provide a more efficient approach to enforcement such as not requiring a myriad of different notice types for different offences.		
49	Should the enforcement provisions of the Health	7.7

	Issue	Section reference
	(Infectious Diseases) Regulations 2001 be broadened to cover other public health threats not involving infectious diseases?	
Comment: No. Non-infectious disease/public health risks should come under Health Act enforcement provisions.		
50	Are the enforcement powers in the Health Act appropriate to allow authorised officers and EHOs to carry out their duties?	7.7
Comment: Yes. The use of on the spot fines would be a useful tool where there is a clear breach of the Act (rather than a subjective assessment)		
51	In addition to the power to take samples and make copies of seized documents, are there any other additional powers that should be included in the new Act?	7.7
Comment: Yes. The ability to close a premises during/following investigation of a public health breach should be considered.		
52	Should the power to search for and seize goods without a warrant be widened to allow the Secretary to search for and seize things other than goods, such as records, biological agents or other items?	7.7
Comment: Yes, if there is a considered need for the Secretary to respond.		
53	Should the new Act contain a procedure for the issuing of improvement and prohibition notices by authorised officers?	7.7
Comment: Yes.		
54	Should notices cover: ➢ nuisance? ➢ licensable or registrable public health risk	7.7

	Issue	Section reference
	activities? ➢ where the activity may otherwise contravene the Act?	
Comment: Yes notices should cover all of above but specifically apply to persons or businesses causing or allowing any activity, condition or thing that is or likely to be a risk to health to exist.		
55	Should the new Act establish general criteria for issuing notices?	7.7
Comment: Some general criteria may be appropriate however specific conditions should be detailed as above (No. 54) to ensure ease of interpretation and implementation.		
56	Should the new Act set out an inclusive list of the types of work a person subject to an improvement notice could be required to perform?	7.7
Comment: No		
57	What method of review should apply to improvement and prohibition notices?	7.7
Comment: VCAT or a similar board of reference may be more appropriate than the Magistrates Court. Consideration should be given to accessibility and cost.		
58	Should emergency powers be general for 'public health emergencies' or be specific to infectious diseases?	7.8
Comment: Emergency powers can be general as long as the definition of public health emergencies includes impact by infectious diseases.		
59	Should the proclamation of an emergency be extended to four weeks, with renewal periods not exceeding two weeks, to a maximum of six months?	7.8

	Issue	Section reference
Comment:		
60	Should there be a fast-track mechanism for notifying a disease associated with a public health emergency?	7.8
Comment:		
61	Should the Secretary be given powers in a public health emergency to compel examination, testing, vaccination, treatment (including preventative treatment), isolation and quarantine?	7.8
Comment:		
62	Should the Secretary be given a 'catch all' power in a public health emergency such as 'any other order deemed necessary'?	7.8
Comment:		
63	Should compliance with demands from the Secretary during an emergency or outbreak of an infectious disease be specifically exempted from confidentiality?	7.8
Comment:		
64	Should the Secretary's power to act when local government is in default be limited in any way?	7.8
Comment:		
65	Should the new Act include a provision for cost recovery where a person: ➢ has been convicted of an offence? ➢ has contravened the Act, but there has been no conviction? ➢ has caused a risk to public health?	7.9
Comment: Yes.		

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	Issue	Section reference
66	Should the new Act include a new offence of 'risk to health'?	7.10
Comment: This may not be necessary if captured by the duty of care or general nuisance provisions.		
67	If so, what should amount to a 'risk to health?	7.10
Comment: Specific definition would be required to cover intent – is a person's physical wellbeing the only area covered or should the definition extend to emotional, social and mental health?		
68	If adopted, what should be the defences, if any, to the offence of 'risk to health'	7.10
Comment: Compliance with duty of care or reasonable precautions.		
69	What should be the scope of the offence?	7.10
Comment: The scope of this offence is very broad and may capture actions (or inaction) by government, non government organisations, registered and non registered premises. individuals or companies.		
70	Should the 'risk to health' offence subsume the offence for knowingly and recklessly infecting another person with an infectious disease?	7.10
Comment: Yes		
71	Should the offence for knowingly or recklessly infecting another person with an infectious disease not be re-enacted due to the existence of the knowing and reckless offences in the *Crimes Act 1958* (that is, sections 22 and 23)?	7.10
Comment: Yes		
72	Should the new Act introduce PERIN for suitable offences?	7.11

	Issue	Section reference
Comment: On the spot fines should only cover issues where there is a clear contravention and not offences that require opinions or subjective determinations (that may be subject to challenge). There is benefit in on the spot fines when a legal direction has not been complied with such as exists in Section 48A of the Environment Protection Act.		
73	Should public health offences attract similar penalties to those attracted by offences under environment protection legislation?	7.12
Comment: Penalties need to reflect the severity of the consequence.		
74	Should the new Act allow for greater penalties where the offender is a body corporate?	7.12
Comment: Yes – penalties for organizations need to have a financial impact to be a disincentive to offend.		
75	Should the new Act include a statutory defence of due diligence?	7.13
Comment: Yes. Is this the same as 'duty of care'?		
76	What method of review should apply to administrative decisions made under the Act?	7.15
Comment: The most cost and time effective option is required - VCAT?		
77	Do the current provisions appropriately address the public health risk associated with hairdressing, beauty therapy and skin penetration?	8.1
Comment: No Legislation should support the requirements of high risk activities within the guidelines. It is debatable whether hairdressing activities require any regulation due to their minimal public health risk.		
78	Should the brothels provisions be transferred to the Prostitution Control Regulations 1995, and Department of Human Services officers exercise their inspectorial powers in relation to infection control issues under the *Prostitution Control Act*	8.1

	Issue	Section reference
	1994?	
Comment: For ease of understanding and administration, all requirements relating to a class of premises should be contained in the one Act.		
79	Do the current provisions appropriately address the public health risk associated with prescribed accommodation (for example, hotels, motels, hostels and holiday camps)?	8.2
Comment: Yes. Clearly some of the modern hotels do not provide a public health risk and perhaps do not need to be registered.		
80	Should an additional guiding principle for provisions in relation to the management and control of infectious diseases be that, wherever practicable, the least coercive power should be used first?	8.3
Comment:		
81	Should the new Act clearly set out the action that may be taken when contact tracing is authorised and the protections provided to individuals that may be required to provide personal information under these provisions?	8.3
Comment:		
82	Should the Secretary to the Department of Human Services have the power to authorise an autopsy where they believe there is a risk to public health and the Coroner does not have jurisdiction over the body?	8.3
Comment:		
83	Should the new Act continue to outline the procedures for non-consensual testing orders where consent for testing has been refused?	8.4
Comment:		

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	Issue	Section reference
84	Should the new Act introduce a system for the authorisation of non-consensual testing where consent cannot be given to testing?	8.4
Comment:		
85	Should the provisions in the new Act be extended to beyond the care giver or custodian situation and, if so, to what situations?	8.4
Comment:		
86	Should public health orders under the new Act apply to any infectious disease or condition where there is a serious risk to public health?	8.5
Comment:		
87	Should the new Act provide a power for involuntary testing with reasonable use of force? If so, should it be exercised by 'an authorised officer', a delegate of the Secretary and/or the police?	8.5
Comment:		
88	Should the Act contain a list of the types of restrictions that may be imposed by an order of the Secretary?	8.5
Comment:		
89	Should the new Act introduce a power to order that a person undergo treatment where treatment is refused? If so, what limits should be placed on the use of the power?	8.5
Comment:		
90	Should there be time limits imposed on orders and, if so, what time limits should apply?	8.5
Comment:		
91	Should any or all public health orders require court/tribunal confirmation?	8.5

	Issue	Section reference
Comment:		
92	Should there be a power for the police to apprehend a person who fails to comply with a public health order, rather than merely the ability to provide 'assistance' to the medical officer? If so, should there be a requirement to obtain a warrant to apprehend the person?	8.5
Comment:		
93	Should the new Act continue to provide that it is an offence for a person to fail to comply with an order?	8.5
Comment:		
94	What appeal and external review processes should be made available under the new Act?	8.5
Comment:		
95	Should the new Act provide for introducing new notification requirements by an Order of the Governor in Council where it is necessary to respond quickly to new and emerging diseases?	8.6
Comment:		
96	Should the new Act require that hospitals have processes in place to ensure that notification requirements under the Act are met?	8.6
Comment:		
97	Should the term 'notifiable disease' be replaced with the term 'notifiable condition'?	8.6
Comment:		
98	Would alternative non-regulatory mechanisms (for example, best practice guidelines) be effective in ensuring pre-and post-test information and counselling for infectious diseases (other than HIV) is provided by appropriately qualified health care professionals?	8.7

	Issue	Section reference
Comment:		
99	Should the new Act rely on the privacy framework for all health records, rather than include specific privacy provisions?	8.7
Comment:		
100	Should the new Act retain the provision specifying that the court may be closed when evidence is presented concerning any matter related to HIV?	8.7
Comment:		
101	Should the new Act provide for a court to be closed when evidence is presented concerning other diseases?	8.7
Comment:		
102	Should the Act include a regulation-making power to ensure participation in current quality assurance programs and supply of data for epidemiological analyses by HIV testing laboratories?	8.7
Comment:		
103	Should the new Act state the role of municipal councils in relation to immunisation as 'co-ordinating and providing immunisation services to children living or being educated within the municipal district'?	8.8
Comment: By adding 'providing', this seems to mandate that Councils must provide immunisation services. Although currently in Victoria Council do provide an immunisation service it is not agreed that it is mandatory but agree that they should continue to have a coordinating role especially when the funding provided is minimal at this time. There may be other options available to a council, especially country Councils, such as using medical centres or private practices with Councils continuing to promote immunisations and enforce requirements for School Entry Immunisation Certificates etc.		
104	Should provisions regarding recording the immunisation status of children at children's services be retained in the Children's Services Regulations 1998 (rather than included in the new	8.8

	Issue	Section reference
	Act)?	

Comment:
For ease of administration and understanding, all requirements relating to immunisation records should be included in the one set of legislation. Immunisation records are kept for a specific health purpose so it makes sense they come under this Act.

105	Should the new Act require school principals of primary schools to make reasonable efforts to seek an ISC in respect of every child enrolled in the school, and an immunisation update on re-enrolment?	8.8

Comment: Yes - many primary schools (but not all) already do actively seek ISC's. This requirement would bring all primary schools into line and ensure all performed in this area to the same level. It may improve immunization rates in pre school children. Penalties for non compliance need to be looked at as at present the penalty as a motivation to comply is never used.

106	Should the new Act introduce an obligation on parents to supply evidence of immunisation on enrolment of their child into secondary school and an obligation on school principals to make reasonable efforts to seek immunisation records in respect of every child enrolled in the school?	8.8

Comment:
The benefit of the ISC for primary school is that it can ensure that those that are overdue for immunisation are able to catch up. There is no additional immunisation during primary school so the requirement for ISC seems to be unnecessary. It seems that introducing such a requirement would only create an administration burden to Secondary Schools with little benefit in relation to improved immunisation levels or reduced spread during an outbreak.

107	Should the new Act introduce an obligation on tertiary students to supply evidence of immunisation on enrolment and an obligation on tertiary facilities to make reasonable efforts to seek immunisation records in respect of every student enrolled in the facility? If so, for which diseases should immunisation records be required?	8.8

Issue		Section reference
Comment: No – Similar comment to 106. Tertiary students are adult, should take responsibility for their own immunisation status. Could be overwhelming issue for Tertiary facilities (administratively). Perhaps overseas students should be asked to provide records on enrolment – assuming that Australian students have already been vaccinated.. Past cases have involved young adults traveling overseas, contracting measles and returning to spread the disease to others. Diseases could be: Tetanus/Diphtheria/Pertussis, Measles/Mumps/Rubella, Meningococcal C, Hepatitis B. One strategy to assist the situation would be a requirement to promote immunization through medical centres on site and provide information on cases of infectious diseases at the campus.		
108	Should the new Act provide for different forms of evidence of immunisation? If so, what should they be?	8.8
Comment: A variety of evidence forms should be accepted by providers but not by schools. eg - patient held records, provider or ACIR records, laboratory evidence of natural immunity eg.statement from doctor or pathologist, statement from doctor re belief of severe reaction to vaccine, statutory declaration already immunized or conscientious objection to immunization, undertaking to immunize – should all be accepted by providers and many are now. These different forms of evidence of immunization should only be accepted by council or other legislated ISC providers, not directly to schools. This could cause a major issue for schools, having to face a large array of different records and place an undue pressure on school administration staff.		
109	Should the new Act introduce a penalty for failure on behalf of a parent or guardian to produce immunisation records on secondary school entry?	8.8
Comment: Providing a penalty for not submitting an ISC is a very unsavory way to get parent to comply. Such a requirement already exists in relation to primary schools and I am not aware of any Council contemplating imposing the penalties despite there being a considerable level of non compliance among parents. If penalties were to be included or maintained under the Act a thorough education / information program would be necessary – charging of a penalty is likely to affect CALD / low literacy populations. However encouraging Councils to enforce the requirements may result in improved compliance. In relation to secondary schools our previous comments under 106 apply.		
110	Should the new Act require the principal teacher or	8.8

	Issue	Section reference
	person in charge of the school to take reasonable steps to ensure that immunisation records are maintained, and to allow inter-school transfer of ISCs?	
Comment: Yes - Definitely allow inter transfer of ISC between schools to avoid duplication.		
111	Should the new Act facilitate consistency with the NHMRC schedule for immunisation?	8.8
Comment: Yes - all vaccines on the standard Australian schedule should be included on ISC relevant to commencement of schedule .ie Men C could be included due to Australia wide catch up program conducted in 2003, Hepatitis B commenced in 2000 so could be included in 2005.		
112	Should school principals and persons in charge of children's services be required to seek advice from the Department of Human Services before excluding children during an actual or suspected outbreak of an infectious disease?	8.9
Comment: Yes – support and advice would be required		
113	Should there be a power in the new Act for the Secretary to waive or alter the prescribed periods in individual cases?	8.9
Comment: Yes		
114	Should the requirement for a parent to inform the principal or a person in charge of a school or children's services centre be limited to where their child has a vaccine preventable or excludable disease?	8.9
Comment: No – however there would be issues regarding privacy and where do you draw the line with notifications. Areas that could be included would be head lice, gastro, slapface.		
115	Should the new Act facilitate consistency with the NHMRC *Guidelines on the Recommended Minimum Periods of Exclusion from School, Preschool and Child Care Centres of Infectious Disease Cases and*	8.9

	Issue	Section reference
	Contacts?	
Comment: Yes.		
116	Should provisions dealing with offensive waterways not be included in the new Act?	9.1
Comment: Yes. These issues are covered within other legislation.		
117	Should public health risks related to rats, mice, vermin, pests or other animals suspected of having a disease capable of transmission to humans be dealt with by the issue of an improvement notice?	9.1
Comment: Yes.		
118	Should Parts 5A and 5B of the *Building Act 1993* be transferred to the new public health Act?	
Comment: Yes.		
119	Are there other amendments that should be made to provisions currently in Parts 5A and 5B of the Building Act that would improve the effectiveness of the legislative scheme?	
Comment:		
120	Should the new Act re-enact provisions relating to meat supervision?	9.3
Comment: No, as long as this area is covered adequately in the Meat Industry Act 1993.		
121	Should the offence under the *Food Act 1984* in relation to the sale of 'unsafe food' be broadened to include food that cannot be sold for human consumption under section 34(1) of the *Meat Industry Act 1993*?	9.3
Comment: Yes.		

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	Issue	Section reference
122	Who should be required to hold a licence to use pesticides under the new Act?	9.4
Comment:		
123	Does the new Act need to deal with the use of pesticides not associated with a commercial enterprise? If so, what non-commercial activities should be regulated and how should these be regulated?	9.4
Comment:		
124	Are there any areas of overlap or duplication between the regulation of the use of pesticides under the Health Act and the *Agricultural and Veterinary Chemicals (Control of Use) Act 1992*?	9.4
Comment:		