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December 1, 2004

Dr Jaqueline Goodall  
Department of Human Services  
GPO Box 4057  
MELBOURNE VIC 3001



Dear Dr Goodall,

**Re: Review Health Act 1958**

I advise that Council wishes to make a submission to the Department in relation to the above review. The Council's resolution is reprinted below.

**4.2 FUNCTIONS OF MUNICIPAL COUNCILS**

*THE NEW ACT SHOULD RETAIN THE CURRENT FUNCTIONS OF MUNICIPAL COUNCILS (ISSUE 9) AND ALSO RECOGNISE COUNCILS' INCREASED ROLE IN PROMOTING PUBLIC HEALTH IN THE COMMUNITY (ISSUE 10). THE MUNICIPAL PUBLIC HEALTH PLAN (MPHP) (THE HEALTH AND WELL BEING PLAN) IS A KEY PART OF COUNCIL'S PLANNING FOR THE HEALTH OF THE COMMUNITY WITH EMPHASIS ON ADVOCACY AND INFRASTRUCTURE CONSIDERATIONS RATHER THAN TAKING IN NEW RESPONSIBILITY TO DIRECT SERVICES*

**4.3 PARTNERSHIPS IN PUBLIC HEALTH**

*THE CONCEPT OF PARTNERSHIP BETWEEN STATE AND LOCAL GOVERNMENT, AND BETWEEN GOVERNMENT AND NON GOVERNMENT, SHOULD BE ADDRESSED IN THE NEW ACT (ISSUE 11).*

**4.4 MUNICIPAL PUBLIC HEALTH PLANS**

*THE MPHP SHOULD PLACE A GREATER EMPHASIS ON ACHIEVING OUTCOMES (ISSUE 12) AND SHOULD INCLUDE REGULATORY FUNCTION OUTCOMES (ISSUE 13).*

*THE MPHP SHOULD BE INCORPORATED IN THE COUNCIL PANNING PROCESS (ISSUE 16) RATHER THAN THE EXISTING REQUIREMENTS FOR REVIEW BEING RETAINED (ISSUE 14). THERE SHOULD BE NO REQUIREMENTS FOR ANY REPORTING TO DHS IF IT IS PART OF THE COUNCIL PLANNING PROCESS (ISSUE 15).*

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#### 4.5 MEDICAL OFFICERS OF HEALTH (MOHS)

COUNCIL IS REQUIRED TO HAVE ACCESS TO A GENERAL PRACTITIONER TO OVERSEE THE IMMUNISATION NURSES. THIS IS CURRENTLY THE MEDICAL OFFICER OF HEALTH (MOH). SHOULD THE REQUIREMENT TO HAVE A MOH BE REMOVED (ISSUE 17) THEN COUNCIL WOULD STILL BE REQUIRED TO HAVE ACCESS TO A GENERAL PRACTITIONER. THE ROLE OF THE MOH HAS DECREASED OVER THE YEARS.

#### 4.6 ENVIRONMENTAL HEALTH OFFICERS (EHOS)

GIVEN THE IMPORTANCE OF PUBLIC HEALTH, ENVIRONMENTAL HEALTH OFFICERS (EHOS) SHOULD AUTOMATICALLY BE AUTHORISED OFFICERS UNDER THE ACT (ISSUE 18) AND THE ACT SHOULD DETERMINE THE QUALIFICATIONS AND EXPERIENCE OF AN EHO (ISSUE 19).



#### 4.7 AUTHORISED OFFICERS

THE QUALIFICATIONS AND EXPERIENCE FOR AUTHORISED OFFICERS SHOULD BE SET OUT IN THE ACT AS IT WOULD PROVIDE GREATER CONSISTENCY AND GUIDANCE TO COUNCILS IN APPOINTING SUCH OFFICERS (ISSUE 20-21)

#### 7.3 DUTY TO ABATE A NUISANCE

THE ISSUES AROUND THE NUISANCE PROVISIONS OF THE ACT ARE VERY COMPLEX. IN GENERAL TERMS IT IS BELIEVED THAT THE NUISANCE PROVISIONS SHOULD DEAL WITH PUBLIC HEALTH RISKS OF A MORE DEFINED NATURE. GIVEN THAT THE CURRENT DEFINITION THAT NUISANCE INCLUDES 'ANNOYING', THIS DEFINITION AND THE DIFFICULTIES IN ABATING NUISANCES NEEDS TO BE ADDRESSED (ISSUE 38).

#### 7.6 REGISTRATION AND LICENSING

PREMISES THAT SHOULD BE SUBJECT TO REGISTRATION AND LICENCING ARE THOSE THAT SHOW MORE THAN JUST A LOW RISK OF DISEASE TRANSMISSION. (ISSUE 43).

THERE SHOULD BE A POSITIVE OBLIGATION ON BOTH REGISTERED AND NON-REGISTERED PREMISES TO REPORT CERTAIN TYPES OF INCIDENTS THAT MIGHT PRESENT A RISK TO PUBLIC HEALTH (ISSUES 46-47).

#### 7.7 ENFORCEMENT POWERS

ISSUE 50 - THE ENFORCEMENT POWERS UNDER THE ACT ARE CURRENTLY NOT APPROPRIATE FOR EHOS AND AUTHORISED OFFICERS TO CARRY OUT THEIR DUTIES. THIS IS ESPECIALLY HIGHLIGHTED WITH RESPECT TO NUISANCES WHERE A PERSON NOT COMPLYING WITH A COUNCIL NOTICE HAS TO BE TAKEN TO THE MAGISTRATE'S COURT TO PROVIDE A REMEDY. THIS ENFORCEMENT PROCESS IS NOT RESPONSIVE AND DOES NOT ALLOW QUICK AND EFFECTIVE RESOLUTIONS OF NUISANCES. IN SOME CASES

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*AUTHORISED OFFICERS HAVE TO RELY ON THE POWERS OF OTHER AUTHORITIES TO EFFECT A REMEDY.*

*THE NEW ACT NEEDS TO CONTAIN A PROCEDURE FOR THE ISSUING OF IMPROVEMENT AND PROHIBITION NOTICES BY AUTHORISED OFFICERS FOR NUISANCES, REGISTRABLE PREMISES ACTIVITIES AND OTHER PUBLIC HEALTH RISK ACTIVITIES. THESE ORDERS SHOULD BE ENFORCEABLE WITH ON THE SPOT FINES. A PROVISION FOR APPEALING TO VCAT SHOULD BE INCLUDED. (ISSUES 53, 54, 57).*

7.9 COST RECOVERY

*THE NEW ACT SHOULD ALLOW FOR COST RECOVERY WHERE A PERSON HAS BEEN CONVICTED OF AN OFFENCE OR CONTRAVENED THE ACT WITHOUT CONVICTION OR HAS CAUSED A RISK TO PUBLIC HEALTH (ISSUE 65).*



7.11 'ON THE SPOT FINES'

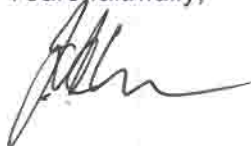
*PERIN SHOULD BE INTRODUCED FOR SUITABLE OFFENCES (ISSUE 72).*

8.8.1 IMMUNISATION

*THE NEW ACT SHOULD STATE THE ROLE OF MUNICIPAL COUNCILS IN RELATION TO IMMUNISATION AS COORDINATING AND PROVIDING IMMUNISATION SERVICES TO CHILDREN LIVING OR BEING EDUCATED WITHIN THE MUNICIPAL DISTRICT' (ISSUE 103).*

If you have any further queries, please contact John Roche on ph 03 51 539 500.

Yours faithfully,



**JOHN ROCHE**  
**Manager Health**

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