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Dear Jacqueline,

Re: Health Act Review

I refer to the discussion paper "A new legislative framework for public health in Victoria – Review of Health Act 1958". After reviewing the discussion paper, I have submitted a number of comments for your consideration. These comments are based on the potential impact the proposed changes may have on the public health services provided by this Shire and as such any comments provided are restricted to Local Government orientated services only.

My first comment relates to the implementation of the Act when adopted. As with any legislative change, the relevant enforcement or implementation agency will interpret the respective provisions according to their previous practices and/or legislative precedent. The adoption of the new legislative framework provides an excellent opportunity for the Department to also include a series of "best practice" papers on the relevant sections of the Act. This could prove to be an excellent resource tool for LGAs to review their existing method of service delivery and assist in the fine tuning of our public health services as we progress into the next decade.

1. Promoting Public Health/Addressing Health Inequalities – Page 10 & 11

The review has raised the potential to allow for the adoption of regulation making powers within the Act to deal with products, services, facilities and other things associated with ill health & accidental injury. This concept has merit but the delivery and costs associated with the implementation strategy would need to be clearly defined and resourced at a state government level before this Shire would commit additional resources to service delivery.

The expansion of local government public health services into a broader or coordinated health promotion role to address the national & state health goals or to address localized inequalities in health, is something

that is not currently included within Council's corporate plan and so is not likely to be included in our core activities unless the program is fully funded by the Department. The best practice papers could however provide examples of where LGAs could expand these services without incurring any additional costs to their respective programs.

2. Functions of municipal councils – Page 17 & 18

Section 29A presently specifies a number of functions of councils to protect public health, seek to prevent disease, prolong life and promote public health. These provisions have traditionally formed the structure for a range of core municipal public health functions. Their interpretation of these provisions and hence the adoption of the core public health functions varies from municipality to municipality. The best practice papers could assist in reviewing the method of service delivery for respective LGAs, this in turn could define the reporting processes as discussed latter in this review.

3. Partnerships in public health – Page 18

This Shire as with the majority of LGAs has developed strong working relationship with all health service providers. As with any relationship however there are times when these can become strained. Whenever this occurs the department's regional office usually plays an active role in the meditation process that follows. The proposal to review the roles and responsibilities of all organisations may assist in reducing inter-agency conflict and assist in streamlining service delivery. The Department could play an active role in monitoring these functions.

4. Municipal health plans – Page 19

The proposal to place greater emphasis on the achievement of outcomes would be welcomed by this Shire. The plans plus the planning cycle need to reflect current corporate processes. The MPHP component should simply form a part of the Shire's Corporate Plan. This would ensure that the plan fits neatly within the corporate agenda which is not only advantageous from a reporting perspective (both internally & external) but would also streamline the community consultation processes that follow the development of any plan. As with the Corporate plan the Shire would support a four year cycle for MPHP's.

5. Medical officers of health – Page 20

The role of the MOH has changed dramatically over the past ten years from one of purely an immunisation provider to a generalist public health expert. This Shire favours the retention of the MOH appointment as it has proved to be beneficial whenever a medical opinion or the direct service provision of a GP is required.

Whether these services are for a localized public health emergency as in the case of a meningococcal outbreak or whether they require the services of an MOH to address the health & welfare of a Shire resident having an MOH appointed within the Shire, usually ensures a rapid response.

Without such an appointment it would be difficult to attract a General Practitioner from a busy clinic to perform isolated services on purely a fee for service basis.

6. Environmental health officers – Page 21

These officers provide a range of public health services for local government. The suggestion that their automatic authorisation under the Health Act creates operational difficulties has not been the case in this Shire, if such an issue did arise, the matter would be dealt with in accordance with our organisational process as is the case with other professional staff.

In relationship to the Secretary determining the qualifications required for the position, this process requires further examination. The Australian Institute of Environmental Health is the professional body for Environmental Health Officers and has been regularly resourced by the Department over a number of years. This body specifies the criteria required for membership (which includes qualifications) plus professional development and continuous improvement programs for its members across Australia. The AIEH have also recently introduced professional enhancement programs for persons who have failed to meet the qualification criteria. The qualification requirements for EHOs should be structured around eligibility to meet the criteria for membership to this professional body and not be subject to approval by the Secretary.

Where the qualifications to such a position is at the discretion of the Secretary it could result in local government agencies appointing non qualified staff as is the case with the Department's recent REHO positions. Last year the Secretary appointed a REHO to a temporary position in Gippsland, this officer's qualifications and experience were from an IT background and not environmental health. Prior to that the Secretary appointed an officer to the REHO position in the Barwon Region who again has no formal Environmental Health qualifications.

If undergraduates are to be attracted into the Environmental Health profession they should be able to complete their respective degrees knowing that once qualified their will be suitable positions available for them. If this Shire was unable to attract an Environmental Health Officer to fill a municipal vacancy we would not appoint someone to the position that did not have the qualifications appropriate to that position.

Numerous industries across this nation are suffering a skills shortage, we need to develop and implement a systematic approach to address this shortage which includes the recruitment of students into the respective educational institutions plus a greater commitment from all industry sectors to assist in the training and nurturing of these undergraduates to ensure we have the necessary workforce to meet our needs.

The proposal of a "nearest the pin" mentality to the appointment of personnel is to simplistic and will not address the skill shortage over the long term.

7. Authorised officers – Page 21

The provision of a competency based programs for key professionals is now standard practice across a range of disciplines. The provision of competency standards for EHOs has been established by the EHO national body (AIEH) and their commitment to professional development at a state level is well documented.

It may be appropriate for the department to establish competency based standards for EHO working in various locations. For example the competency levels required for EHO working as a sole practitioner in a rural Shire is likely to be higher than an EHO working within a larger municipality that has a well developed management & mentoring structure in place. The development of best practice guidelines for the varying positions may prove to be a valuable resource in the recruiting processes for local government.

8. General statutory duty of care – page 35

The proposal to define a statutory duty of care under the Act has merit and needs to be reviewed further. How this can be achieved without restricting service delivery and without dramatically increasing the service cost will need to be clearly defined.

Again the development of best practice papers on this process would assist local government to meet this requirement.

9. Nuisance provisions – Page 39

The existing nuisance provisions have proved to be beneficial in the abatement or enforcement of public health hazards. These issues whenever they arise are often localized public health issues that impact on a small number of individuals. The nuisance provisions have also been the trigger for interagency responses to public health issues. These activities usually involve welfare agencies and the police plus establish the legal framework to abate the respective nuisance.

Local government via their EHOs & MOHs are well placed to deal with localized public health issues as and whenever they arise. These could take the form of a cluster of Meningococcal cases within a specified township or the discharge of offensive particulate matter from industry. These incidents although rare can be quickly actioned under this section, so this Shire would support the retention of the present provisions.

The term “annoying” within the present provisions has only been activated once over the past seven years in this municipality but proved to be extremely effective in the abatement of the respective nuisance. The inclusion of term annoying in the definition of a nuisance if used judiciously, can assist in the abatement of nuisances that are often difficult to address at a local government level.

The development of best practice guidelines again for this section would ensure that this section is not used for matters which could be addressed via local laws or private civil action.

#### 10. Standards of practice and guidelines – Page 41

Standards of practice play an important role in day to day management of public health risks. If these SOPs are to be utilised successfully by LGAs, the Department must ensure that these standards are current and conform to best practice standards at the time. As such these standards should be reviewed on a regular basis, i.e.

Bi annual reviews to ensure standards are applicable to modern day practice.

#### 11. Risk management plans – Page 41

The concept of RMPs has merit however the review has failed to detail who will prepare these plans, who will monitor these plans plus define the process where an RMP would be required. So the impact on local government is difficult to define.

The introduction of Food Safety Plans for the small business sector initially required a lengthy introduction period, the department would need to ensure that adequate resources and appropriate EHO training is undertaken before these plans were introduced. If EHOs are not to be used for RMP assessment are independent auditors to be appointed as with the Food Act? In the absence of this information, this Shire would not support the implementation of RMPs.

#### 12. Registration & licensing – Page 43

The Act presently specifies the types of premises to be registered and once registered to be inspected by the licensing authority. This Shire supports the retention of the present registration process as it ensures that these premises are assessed and monitored on a regular basis at a local level.

The Act should be strengthened to include swimming pool & brothels and or any other at risk industry type which would be required to notify the local authority should a public health risk occur.

In the case of a public swimming pool this could include the failure to two consecutive water samples to comply with the microbial standards prescribed within the regulations.

The development of best practice standards and RMPs for some business types i.e tattooists may prove to be beneficial.

#### 13. Enforcement powers – Page 45

These provisions need to be retained. The Act however could be restructured to ensure all enforcement provisions are provided within one section of the Act which could streamline implementation.

The Health Infectious Diseases Regulations need to be strengthened to ensure that they are applicable to address the myriad of perceived threats that may occur over the next decade i.e. avian bird flu. The development of best practice standards to define local government roles in these programs will need to be further developed if non infectious disease public health threats are to be included as a local government responsibility.

The Act presently gives authorised officers the authority to take samples & copy seized documents. The Act could be strengthened to enable authorised officers to activate programs/responses or works to reduce the immediate threat if and whenever such a public health threat arose within a municipal district. Again best practice guidelines on the format of this type of response would be required. Such authority may prove to be a valuable tool in regional areas where access to key departmental staff is not always possible.

The provision of improvement & prohibition notices under the Act would assist in the enforcement provisions of this Act and should be broad enough to cover all sections of the Act i.e. nuisances, infectious diseases, emergency powers.

The review process for public health threats will need to be further defined as the present process for appeals through either VCAT or the Magistrate's Court may not provide the rapid or immediate review required for such issues. The review process could simply be an independent panel established by the Secretary.

#### 14. Emergency powers – page 50

These powers need to be broad enough to enable the Secretary or the delegated agency to respond to and address public health threats.

This process for declaring these threats and prescribing the corresponding actions that follow need to be clearly defined.

These declarations need to be prescribed for set time periods. The process required to be undertaken need to be treated in a confidential manner and as such should not be subjected to freedom of information requirements.

The Act should enable the Secretary to take action where a local government agency has defaulted in its duty of care during a public health threat.

#### 15. Cost recovery – Page 53

The Act should include cost recovery provisions where a public health risk has occurred, where the Act has been contravened and where the respective agency has undertaken remedial works to address this contravention.

16. Model for offence of risk to health – Page 55

The Act and the best practice guidelines should provide a model and appropriate flow path to define a risk to health. The definition of this risk would also need to be defined (mental, physical, environmental). Once declared the process to be undertaken could be specified within these guidelines.

The process will also need to qualify the degree of risk to public health i.e. Is the health risk restricted to one family in an isolated dwelling or several thousand residents as was the case recently with the Victorian meningococcal outbreak in the south west.

The development of a health risk matrix that not only defines the degree of risk but also established the agencies to be consulted to assist with the risk could prove to be a valuable tool in this process.

17. On the spot fines – Page 59

This Shire would not support the introduction of the Perrin system for offences under the Act.

18. Penalties to reflect seriousness of offence – Page 60

This Shire supports the introduction of increased penalties under the Act which are consistent with our similar legislation i.e Food Act and Environmental Protection Act.

19. Defence of due diligence – Page 60

This Shire supports the proposal for a statutory defence of due diligence.

20. Appeal rights for administrative decisions – Page 61

The current process for appeals to the County Court & Supreme Court is out dated. This Shire would support the proposal for administrative appeals being heard by VCAT, as this forum is now commonly regarded as the appeal forum.

21. Control of infectious diseases – Page 62

The current guidelines address the health risk associated with hairdressing, beauty therapy and skin penetration. This guidelines need to be reviewed and updated bi annually in order to reflect the changes within the industry. This Shire would support the continuation of the guidelines and a legislative link to the Act should the guidelines not be complied with.

## 22. Prescribed accommodation – Page 63

The present guidelines are out dated and do not reflect current accommodation trends within this State. This Shire would support the development of appropriate Codes of Practice or Accommodation guidelines for this expanding industry with legislative link to the Act should the Codes of Practice or guidelines not be complied with.

## 23. Immunisation – Page 74

As there are now a number of immunisation providers, the proposal to make the provision of immunisation within local government a mandatory function is out of step with current practices. As you are no doubt aware, LGAs within this State play an active role in the provision of immunisation services to their respective communities. This is clearly evident by the ACIR quarterly reports that highlight the Victoria immunisation rates for the three reporting cohorts which are consistently above the national average. I am concerned that the proposal to now amend the Act to include the words “providing immunisation” would provide a mandatory requirement to continue this role. This mandatory role could have an impact on other service providers and restrict the methods of service delivery currently employed within local government. This proposal also raises the issue of service costs associated with this service. The recent MAV immunisation survey has clearly highlighted the additional costs Victorian LGAs incur as opposed to their interstate counterparts. With the immunisation schedules again being expanded, the additional costs associated with this program need to be addressed at both a State and National level before this Shire would support a mandatory requirement to provide immunisation services.

The immunisation requirements within the Children Services Regulations can now be deleted as ACIR is now providing immunisation reporting for School immunisation certificates.

This Shire would support the introduction of School immunisation certificates for secondary school enrolments. The schools however need access to the ACIR data base to check immunisation status so additional linkages would need to be created before this requirement could be introduced. If adopted a duty of care provision should be inserted to ensure school principals take all necessary steps to comply with this requirement.

## 24. Environmental health – Page 79

This Shire would support the removal of offensive waterways from the Act and support the development of uniform guidelines to address the public health risk associated with rats, mice and other pests capable of the transmission of disease to humans.

This Shire would not support the re enactment of the meat supervision provisions any changes to the meat supervision provisions would need to be contained within the Food Act with corresponding link to the Meat Industry Act.



Yours faithfully

A handwritten signature in black ink, appearing to be 'K. Grigsby'.

KELLY GRIGSBY  
Manger Citizens Services