



Knox City Council

# RESPONSE TO DISCUSSION PAPER

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REVIEW OF THE HEALTH ACT 1958 – A NEW  
LEGISLATIVE FRAMEWORK FOR PUBLIC  
HEALTH IN VICTORIA

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## REVIEW OF THE HEALTH ACT 1958 – A NEW LEGISLATIVE FRAMEWORK FOR PUBLIC HEALTH IN VICTORIA

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### OVERALL COMMENTS

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Knox City Council is pleased to be able to participate and provide feedback on the review of the Health Act 1958 and the development of a new legislative framework for public health in Victoria. As a service provider and authority to the local community, the Council has a key role in ensuring that public health is maintained and services are available to its local community.

The discussion paper provided raises a range of proposed changes and it is identified that many of these changes would have both financial and resourcing implications for Council and possibly businesses. We ask that any amendments that are proposed in future consultation papers be accompanied with an impact statement that identifies how the State Government will address any financial and resourcing implications.

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### Q1 – Q6 OVERARCHING FRAMEWORK

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Q1. Support is given to the renaming of the new Act to reflect the aim and purpose of the Act. Given that the Act sets out a public health legislative framework the Act should be called the Public Health Act.

Q5. The insertion of an objects provision within the Act outlining the philosophical position of Parliament through the statement of core public health objectives, values and outcomes that the Act aims to achieve, is a positive move. The insertion of this would further define the intent of the legislation and provide guidance to administration and enforcement of the Act. The objects provision suggested in the discussion paper would be satisfactory.

Q6. The provision specifying guiding principles should also be incorporated into the Act, once again to assist with guiding the administration and enforcement of the Act. All principles suggested within the discussion paper should be included.

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### Q7. FUNCTIONS OF THE SECRETARY

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Within the current Act there is no clear statement of the function of the Secretary apart from the requirement to collect data. While support is given for the function of the Secretary to include the implementation of policies and programs to achieve the objects of the Act, it is necessary that a section clearly define the responsibilities of the Secretary and how these responsibilities will be achieved similar to the way 'Functions for Municipal

Councils' within the current Act are defined. This will also aid the principle of recognising the intersectoral relationship between state and local government.

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### **Q9 – Q10 FUNCTIONS OF MUNICIPAL COUNCILS**

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The recognition that municipal councils have a range of roles including being a planner, advocator and service provider should be included within the Act. We support the Act recognizing these roles in addition to the roles specified within the current Act. In addition to these roles municipal council's should also be recognized as a facilitator within the community and between agencies providing services to support public health within the municipal district.

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### **Q11 PARTNERSHIPS IN PUBLIC HEALTH**

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The recognition that promoting and protecting public health relies on partnerships between agencies including both government and non-government is important and should be addressed within the guiding principles of the Act. However, the Act should not prescribe or legislate these partnerships, particularly due to the evolution of these arrangements. By prescribing parameters around partnerships the Act would possibly lose flexibility in this area.

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### **Q13-Q16 MUNICIPAL PUBLIC HEALTH PLANS**

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Q13. Over the past years there has been a shift with Municipal Public Health Planning to a more strategic approach, planning for health at a local level and recognising that it is a collaborative effort to achieve better health outcomes for the community instead of being the responsibility of local government. Therefore the inclusion of Council's statutory functions, which are operationally based, would impact the strategic nature of the plan and impede the overall objective of public health planning. This proposal is not supported.

Q15. Council does not oppose the submission of MPHPs to the Department of Human Services, however ideally the Department would need to undertake some form of analysis of these documents rather than being just a repository for all the plans. Analysis of the plans by the Department could feed back in the review of the plans as well as provide evidence for future strategic planning and decision making by the Department. Council however supports the involvement of the Department of Human Services along with other stakeholders in the development, implementation and review of the Municipal Public Health Planning process.

Q16. Council would support the amendment to development of plans on a four yearly interval to be consistent with other Council and State Government planning processes.

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**Q17. MEDICAL OFFICERS OF HEALTH**

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Council supports the move to delete the requirements for every municipal council to appoint a Medical Officer of Health (MOH). In line with the response in Question 11, we support that the role of the MOH is best done through a partnership approach either at a Regional level or alternatively with the local Divisions of General Practice.

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**Q18-Q21 ENVIRONMENTAL HEALTH OFFICERS & OTHER AUTHORISED OFFICERS**

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The requirement for the appointment of Environmental Health Officers should be retained within the Act. The appointment of an Environmental Health Officer should automatically authorise the person as an authorised officer under the Act. The issue of who may be appointed as an Environmental Health Officer through the prescribing of specific qualifications requires further investigation and discussion with the Municipal Association of Victoria (MAV) and the Australian Institute of Environmental Health (AIEH).

The appointment of other authorised officers should also be retained within the Act, however guidance should be provided within the Act as to the functions and powers these officers have. Depending upon the functions and powers of other authorised officers, prescription of qualifications and experience may be required. Once again, this would need to be discussed in more detail with the MAV and AIEH.

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**HEALTH IMPACT ASSESSMENTS**

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If Health Impact Assessments (HIA) were to be introduced it should remain part of the Environmental Impact Assessment process to allow for a cohesive assessment process and integration across government regulatory authorities. Further detail would need to be provided as to who would be responsible for undertaking the HIA and the process for determining the adequacy of the assessment.

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**GENERAL STATUTORY DUTY**

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It would seem appropriate that a general statutory duty be incorporated into the new public health legislative framework, however it is recommended that this duty be in the negative to give a more narrow interpretation. This would aid with enforcement and administration of this duty.

It is supported that should the general statutory duty be introduced, that a breach of this duty would result in administrative powers defined within the Act, rather than being a source of civil action.

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### **Q37-39 NUISANCES**

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Complaints lodged with Council as a nuisance are continually on the increase and the current provisions are relied upon to resolve many of these matters effectively, particularly the definition of nuisance incorporating ‘offensive’ and ‘annoying’ enables us to deal with issues before they become a risk to health.

Q37. It is envisaged that a general duty of care would compliment the nuisance provision but would not replace them.

Q38 Council supports the retaining of separate nuisance provisions and the term ‘annoying’ in the definition of ‘offensive’. This enables the continuation of complaint investigation and resolution under a supportive legislative framework.

Q39. The obligation on Councils to ‘remedy as far as reasonably possible all nuisances in its municipal district’ should be retained and general enforcement provisions be provided to do this. Abatement notices may be included as an enforcement option.

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### **Q42 RISK MANAGEMENT PLANS**

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Q42. The idea of risk management plans for registered or licensed businesses under the Act would appear to be in line with other recent legislative changes such as the Food Act 1984. Council supports the introduction of risk management plans for businesses within the new Act. However, it would seem inappropriate to use this method for the management of nuisances by individuals.

The introduction of risk management plans for businesses enables them to focus on safe outcomes and for them to demonstrate practices that manage the identified risks.

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### **REGISTRATION AND LICENSING**

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The current criteria used to determine which businesses should be registered under the Act should remain, that being ‘without certain standards of hygiene and cleanliness being observed, there is an increased risk of transmission of disease.’

Recent guidelines produced by the Department of Human Services outlined a range of businesses, currently not able to be registered under the current Act, and provided guidance around hygiene and cleanliness practices. Based on the above criteria it would seem appropriate that the businesses captured within the Health Guidelines for Personal Care and Body Art industries be registered. This would include businesses undertaking colonic irrigation, massage, solarium and businesses using flotation tanks.

It would also seem appropriate that the registration of public pools and spas be prescribed in the Act given the need to comply with subordinate legislation being the Health (Infectious Diseases) Regulations. It is noted that this subordinate legislation should also

address flotation tanks given they encounter similar public health issues associated with water quality.

The idea of requiring persons involved with registered/licensed businesses to notify of specific health incidents appears an onerous one and would be impossible to manage let alone trying to enforce this requirement on non-registered businesses.

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#### **RISK TO HEALTH**

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With the introduction of a statutory duty it would seem that a new offence 'risk to health' is not required. As discussed in the discussion paper there are current specific offences for breaches of the legislation in place that would seem adequate.

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#### **ON THE SPOT FINES**

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The introduction of on the spot fines could only be applied to offences that are clear without any discretionary powers. This may be of use for offences such as not being registered as required by the Act. However, the Act would have very few offences that are this clear and therefore the question needs to be asked about the value of introducing such an enforcement power for such few offences.

If on the spot fines were to be introduced there would need to be a clear guidelines provided to ensure they are used appropriately and consistently across municipal districts.

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#### **IMMUNISATION**

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Council supports retaining the current wording of the role of municipal councils 'co-ordinating the immunisation of children living or being educated within the municipal district', thereby not mandating that Council must be a service provider. Should this function be clearly mandated within the role of municipal councils, appropriate cost recovery/funding would need to be provided to council.

Council does not support the need for tertiary students to provide evidence of immunisation on enrolment.

To assist schools and children's facilities collect the information about children's immunisation status, limited forms of evidence should be provided such as an Immunisation Status Certificate in the prescribed form and history record produced by the ACIR. It would appear unfair for the responsibility of interpreting immunisation records to determine appropriate immunisation status be left to schools and children's facilities given the complexity of immunisation schedules. It would seem more appropriate for immunisation providers to be given responsibility for determining immunisation status.

Council would support the Act to allow the transfer of Immunisation Status Certificates between schools when students transfer.