

**SUBMISSION OF BANYULE CITY COUNCIL  
TO THE HEALTH ACT REVIEW DRAFT POLICY PAPER**

**Recommendations**

	<b>Issue</b>	<b>Section reference</b>
1	That the new Act be named the <i>Public Health Act</i> .	1.1
<b>Comment:</b> Agree.		
3	That the public health Act recognise the importance of promoting public health.	1.2
<b>Comment:</b> Agree		
4	That the public health Act recognise the need to address inequalities in the health and wellbeing of disadvantaged communities.	1.2
<b>Comment:</b> Agree		
5	That the initial print of the public health Act include the explanatory memorandum at the front of the Act (subject to the approval of Parliamentary Counsel).	1.3
<b>Comment:</b> Agree		
6	That the term "health and wellbeing" be defined in the public health Act to include health as a positive condition, not merely the absence of disease, and be inclusive of physical, social and mental wellbeing (both individual and collective) and apply to the provisions in the public health act relating to the following: (a) objects (see 1.6) (b) guiding principles (see 1.7) (c) functions of Secretary, Chief Health Officer and municipal councils (see 1.8 to 1.10) (d) public health inquiries (see 2.1)(e) (e) municipal public health plans (see 3.1)(f) (f) health information management (see 3.6).	1.4
<b>Comment:</b> Agree		
8	That the public health Act provide that it applies throughout Victoria (including areas that do not form part of a municipal district).	1.5

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	Issue	Section reference
<b>Comment:</b> Agree		
11	<p>That the public health Act include the following statement of objects:</p> <p><i>Whereas</i></p> <p>The State of Victoria has a significant role in promoting and protecting the health of all Victorians; and</p> <p>It is accepted that health is a state of individual and collective wellbeing, not merely the absence of disease; and</p> <p>One of the ways it is possible to improve the population’s health status and reduce health inequalities is through public health interventions —</p> <p>The objects of the Act are:</p> <ul style="list-style-type: none"> <li>(a) to protect public health and prevent disease, illness, injury, disability and premature death;</li> <li>(b) to promote conditions in which the people of Victoria can be healthy; and</li> <li>(c) to reduce social and health inequalities and enable all Victorians to achieve the best possible state of health and wellbeing.</li> </ul>	1.6
<b>Comment:</b> Agree		
12	<p>That the provision of evidence-based information to the public about the health of the population be incorporated into the functions of the Chief Health Officer under the new Act, rather than as an object provision.</p>	1.6
<b>Comment:</b> Agree		
13	<p>That the public health Act include the following guiding principles:</p> <ul style="list-style-type: none"> <li>(a) Principle of evidence-based decision making</li> </ul> <p>Decisions as to the most effective and efficacious public health interventions and</p>	1.7

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	<p>efficient use of resources to protect and promote public health are informed by reliable and relevant evidence (where available in the circumstances).</p> <p>(b) Precautionary principle</p> <p>If there are threats of a serious public health risk, lack of full scientific certainty should not be used as a reason for postponing measures to prevent or control the public health risk (based on section 1C of the <i>Environmental Protection Act 1970</i> (Vic)).</p> <p>(c) Principle of the primacy of prevention</p> <p>Preventing harm or damage is preferable to repairing it later. Promoting resilience and building capacity is preferable to allowing deficits or problems to otherwise undermine health or autonomy.</p> <p>(d) Principle of accountability</p> <p>Public health officials should ensure, as far as is practicable, that decisions made under the Act are transparent, systematic and appropriate. The community should therefore be given:</p> <ul style="list-style-type: none"> <li>(i) access to reliable information in appropriate forms to facilitate a good understanding of public health issues; and</li> <li>(ii) opportunities to participate in policy and program development (based on section 1L of the <i>Environmental Protection Act 1970</i> (Vic)).</li> </ul> <p>(e) Principle of proportionality</p> <p>Acts taken and decisions made by officials under the public health Act should be proportionate to the harm to be prevented, minimised or controlled. Where action is necessary to protect public health, the action chosen must be the least intrusive means</p>	

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	<b>Issue</b>	<b>Section reference</b>
	<p>available to achieve that goal and must not be imposed in an arbitrary way.</p> <p>(f) Principle of collaboration</p> <p>Public health is enhanced by collaborative approaches between national, state and local government, the community sector, industry and individuals.</p>	
<b>Comment:</b> Agree		
15	<p>That the public health Act include the following statement of function of the Secretary under the Act:</p> <p>(a) to develop and implement policies and programs to achieve the objects of the Act</p> <p>(b) to assist other agencies which have an impact on public health to enhance opportunities for public health</p> <p>(c) to support, equip and empower communities to address their health needs</p> <p>(d) to establish and maintain a comprehensive information system which includes information on:</p> <p>(i) the health status of Victorians and groups of Victorians including the extent and effects of illness, injury and premature death</p> <p>(ii) the determinants of health(iii) health system performance in Victoria.</p>	1.8
<b>Comment:</b> Agree		
16	<p>That, if a statutory position of Chief Health Officer is established, the public health Act require the Chief Health Officer to ensure that a comprehensive report on the health and wellbeing of Victorians is made available to the public on a biennial basis.</p>	1.8
<b>Comment:</b> Agree		
17	<p>That the public health Act establish the position of the Chief Health Officer, who is a registered medical practitioner appointed by the Minister and can</p>	1.9

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	Issue	Section reference
	delegate his or her powers to an employee or officer of the Department of Human Services, who is a registered medical practitioner.	
<b>Comment:</b> Agree		
18	That the public health Act include the following statement of functions of the Chief Health Officer: (a) to develop and implement strategies to promote and protect public health (b) to advise the Minister about public health issues (c) to carry out any other functions granted to the Chief Health Officer under the public health Act or any other Act (d) to ensure that a comprehensive report on the health and wellbeing of Victorians is made available to the public on a biennial basis.	1.9
<b>Comment:</b> Agree		
19	That the public health Act include the following statement of the function of the municipal councils: The function of every council under this Act is to seek to protect and improve public health, and promote community wellbeing by: (a) creating environments which support the health of the local community and strengthen the capacity of communities and individuals to achieve better health (b) initiating, supporting and managing public health planning processes at the municipal level (c) developing and enforcing up-to-date public health standards and intervening if the health of people within the municipal district is, or may be, affected (d) facilitating and supporting the efforts of other local agencies whose work has an impact on public health to improve public health status of the local community (e) coordinating and providing immunisation services to children living or being educated within the municipal district.	1.10

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	Issue	Section reference
<b>Comment:</b> Agree		
20	That the public health Act not re-enact the requirement for municipal councils to report annually to the Secretary, but the requirement to report as required by the Secretary be retained.	1.10
<b>Comment:</b> Agree		
21	That the public health Act provide that the exercise by a delegate of council's power to refuse an application for registration under the Act is only valid if the council later ratifies that refusal.	1.10
<b>Comment:</b> Agree		
22	That the Secretary retain the power to perform the functions of municipal councils in emergency situations where there is a serious risk to public health (based on section 36A of the Health Act).	1.10
<b>Comment:</b> Agree		
23	That the public health Act not include the legislative requirement that every municipal council appoint a medical officer of health.	1.12
<b>Comment:</b> Agree.		
24	That non-legislative mechanisms be employed to assist municipal councils obtain public health expertise.	1.12
<b>Comment:</b> Agree		
25	That the public health Act re-enact the requirement for every municipal council to appoint one or more environmental health officers, and allow environmental health officers to be shared between councils.	1.12
<b>Comment:</b> Agree		
26	That an environmental health officer who is appointed by a council automatically be an	1.12

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	Issue	Section reference
	authorised officer for the purposes of the public health Act (see paragraph (b) of the definition of "authorised officer" in section 4(1) of the <i>Food Act 1984</i> (Vic)).	
<b>Comment:</b> Agree		
27	That the public health Act require that a council only appoint as an environmental health officer a person who has qualifications and/or experience nominated by the Secretary, or by a person approved by the Secretary.	1.12
<b>Comment:</b> Agree with the information that the AIEH has input into what qualifications and/or experience are to be nominated by the secretary		
30	That the Secretary or municipal council (as appropriate) may only appoint a person to be an authorised officer if the Secretary or municipal council (as appropriate) is satisfied that the person has the qualifications or experience required to perform his or her functions. Those competencies regarding qualifications or experience would not be specified in the public health Act.	1.12
<b>Comment:</b> Agree		
31	That consideration be given to the development, in consultation with stakeholders, of non-legislative guidelines as to competencies and minimum standards of training required to fulfil particular statutory functions.	1.12
<b>Comment:</b> Agree with the proviso that the AIEH is involved.		
32	That the public health Act include a provision allowing the Secretary to appoint analysts for specified purposes under the Act.	1.13
<b>Comment:</b> Agree		
33	That where an analyst carries out an analysis, the analyst may prepare and sign a certificate in writing of the analysis.	1.13

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	<b>Issue</b>	<b>Section reference</b>
<b>Comment:</b> Agree		
34	That any such certificate of analysis may be produced as evidence to a court of the thing in relation to which the certificate is issued, and is presumed to be accurate and precise, unless evidence to the contrary is presented.	1.13
<b>Comment:</b> Agree		
35	That the public health Act provide for a broad power to conduct inquiries into matters of public health concern (modelled on the modern public health inquiries powers in other jurisdictions' public health Acts), including the power to appoint independent experts to conduct the inquiry.	2.1
<b>Comment</b> Agree		
36	That the public health Act continue to provide that such an inquiry can be initiated at the direction of the Governor in Council, the Minister or the Secretary, or on the initiative of the Secretary.	2.1
<b>Comment:</b> Agree		
37	That, if a statutory position of Chief Health Officer is established, the public health Act provide that the Chief Health Officer may conduct and initiate an inquiry.	2.1
<b>Comment:</b> Agree		
38	That there be a requirement that a report on any inquiry be made available to the public (subject to exceptions relating to privacy and confidentiality).	2.1
<b>Comment:</b> Agree		
39	That the public health Act provide that, when conducting an inquiry, the Secretary, Chief Health Officer, person or panel: (a) must act as quickly, and with as little formality and technicality, as is consistent with a fair and proper consideration of the issues.	2.1

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	<b>Issue</b>	<b>Section reference</b>
	<ul style="list-style-type: none"> <li>(b) is not bound by the rules of evidence;</li> <li>(c) may inform itself in any way it considers appropriate, including by holding hearings;</li> <li>(d) subject to any directions, may decide the procedures to be followed for the inquiry; and</li> <li>(e) may allow or refuse to allow a person, including a lawyer, to represent someone else at the inquiry.</li> </ul>	
<b>Comment:</b> Agree		
40	That the public health Act require that, when conducting an inquiry, the Secretary, Chief Health Officer, person or panel must observe the principles of natural justice.	2.1
<b>Comment:</b> Agree		
41	That the provisions regarding the constitution, procedures and functions of all consultative councils be consolidated in one part of the public health Act.	2.2
<b>Comment:</b> Agree		
44	That the public health Act retain the capacity for the Minister to establish a consultative council, or appoint a body as a consultative council.	2.2
<b>Comment:</b> Agree		
45	<p>That the public health Act provide that a consultative council established or appointed by the Minister may be prescribed to:</p> <ul style="list-style-type: none"> <li>(a) have confidentiality provisions based on the provisions currently applying to the Consultative Council on Paediatric Mortality and Morbidity</li> <li>(b) disclose information in accordance with recommendation 52 below.</li> </ul>	2.2
<b>Comment:</b> Agree		
46	That the public health Act provide that consultative councils established by the Minister, which are prescribed as a consultative council for the purpose of the confidentiality and disclosure provisions,	2.2

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	Issue	Section reference
	<p>have the following core minimum functions specified in the public health Act:</p> <ul style="list-style-type: none"> <li>(a) to monitor, analyse and report on key areas of concern as specified for each consultative council</li> <li>(b) to liaise with other consultative councils on issues of common concern, including the development of appropriate systems for practitioners reporting relevant cases</li> <li>(c) to improve practice by publication and dissemination of relevant information and practical strategies identified during deliberations of the council</li> <li>(d) to consider, investigate and report on matters referred to the council by the Minister or Secretary</li> <li>(e) to publish an annual report of the Council's research and activities.</li> </ul>	
<b>Comment:</b> Agree		
47	That a consultative council established by the Minister has a chairperson and the majority of its members with special knowledge in the matters referred to the council in the order establishing the council.	2.2
<b>Comment:</b> Agree		
48	That the public health Act contain a provision allowing the Minister to empower the Consultative Council on Paediatric Mortality and Morbidity (or another consultative council established by the Minister) to co-opt any person with special knowledge or skill. This would include a consumer representative (or any other relevant person) to assist the council. Such a person should be regarded as a member of the consultative council to which they are appointed, until their period of co-option ends.	2.2
<b>Comment:</b> Agree		
49	That the public health Act include a provision enabling the Consultative Council on Paediatric	2.2

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	Issue	Section reference
	Mortality and Morbidity and consultative councils established by the Minister to establish subcommittees.	
	<b>Comment:</b> Agree	
50	That the public health Act include a provision enabling consultative councils to disclose information to another consultative council, if the council considers that the information is relevant to the functions of the other council. It is proposed that this power only be exercised following a formal determination by the council that such information should be disclosed to the other council.	2.2
	<b>Comment:</b> Agree	
51	That consultative councils could, in appropriate cases, jointly examine matters. For instance, if there was a maternal death while the mother was anaesthetised, Consultative Council on Paediatric Mortality and Morbidity and the Consultative Council on Anaesthetic Mortality and Morbidity could jointly examine the death.	2.2
	<b>Comment:</b> Agree	
52	That the public health Act enable the Consultative Council on Paediatric Mortality and Morbidity and prescribed consultative councils to disclose information to the following specified entity or entities, if the councils determine it is in the public interest to do so: (a) the Secretary to the Department of Human Services (b) the Medical Practitioners Board of Victoria (c) the Nurses Board of Victoria (d) the State Coroner (e) a Ministerial Committee (ie the Victorian Child Death Review Committee) (f) a protective intervener under section 64(1) of the <i>Children and Young Persons Act 1989</i> (Vic), if the council believes on reasonable grounds that a child is in need of protection	2.2

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	<b>Issue</b>	<b>Section reference</b>
	<p>(g) (g) a day procedure centre, multipurpose service, private hospital, public hospital and denominational hospital within the meaning of section 3(1) of the <i>Health Services Act 1988</i> (Vic)</p> <p>(h) any person or body in another state or territory that the council determines has functions corresponding to a body referred to above</p> <p>(i) any other prescribed person or class of person.</p>	
<b>Comment:</b> Agree		
53	That the public health Act contain a regulation-making power regarding the mandatory notification of specified events by health service providers to prescribed consultative councils established by the Minister.	2.2
<b>Comment:</b> Agree		
54	That the public health Act provide that a prescribed consultative council established by the Minister may request a health service provider to provide information to the council and the health service provider is authorised to provide that information to the council. This could be a general request or made in a particular case.	2.2
<b>Comment:</b> Agree		
55	That in order to protect and promote public health within their municipal district, municipal councils be required to prepare a municipal public health plan (in consultation with the Department of Human Services) within 12 months after each general election.	3.1
<b>Comment:</b> Agree		
56	<p>The public health Act list matters to be addressed in municipal public health plans as follows:</p> <p>(a) examine data about health status and health determinants in the municipal district</p>	3.1

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	Issue	Section reference
	<p>(b) identify goals and strategies based on available evidence for creating healthy communities, to enable people living in the municipal district to achieve maximum health and wellbeing</p> <p>(c) describe how the local community is engaged in developing, implementing and evaluating the plan</p> <p>(d) address how municipal councils work in partnership with the Department of Human Services and others undertaking public health initiatives, projects and programs within the municipal district to accomplish goals and priorities identified in the municipal public health plan.</p>	
<b>Comment:</b> Agree		
57	That the public health Act provide that each municipal council be required to review its municipal public health plan annually and, if appropriate, amend the plan.	3.1
<b>Comment:</b> Agree		
58	That the public health Act provide that each municipal council must submit its municipal public health plan ("MPHP") to the Department of Human Services within 12 months after each general election. Where the plan is amended, it must be submitted annually. The MPHPs would be made available on a central database as a resource for council health planners. Further, MPHPs would inform the development of state public health planning and policies.	3.1
<b>Comment:</b> Agree		
59	That the Department of Human Services continue to support municipal councils in the development, implementation and evaluation of municipal public health plans through non-legislative mechanisms, including developing and implementing tools and capacity building initiatives such as <i>Environments for Health</i> .	3.1

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	Issue	Section reference
<b>Comment:</b> Agree		
60	That municipal public health plans be required to be consistent with the council plan prepared under section 153A of the <i>Local Government Act 1989</i> (Vic) and municipal strategic statement prepared (Vic) and municipal strategic statement prepared under section 12A of the <i>Planning and Environment Act 1987</i> (Vic) for the municipal district.	3.1
<b>Comment:</b> Agree		
61	That the Department of Human Services develop a non-legislative public health plan that assesses and sets priorities for the public health system. However, at this stage, the Act should not require the Secretary to develop such a plan.	3.2
<b>Comment:</b> Agree		
64	That there is further consideration regarding whether public health issues are adequately addressed in the <i>Planning and Environment Act 1987</i> (Vic).	3.4
<b>Comment:</b> Agree		
65	That, at this stage, there is no new statutory obligation to require a health impact assessment to be conducted. However: <ul style="list-style-type: none"> <li>(a) the Secretary to the Department of Human Services and Chief Health Officer would have the statutory power to conduct and initiate inquiries</li> <li>(b) the Secretary's statutory functions include assisting other agencies which have an impact on public health, to enhance opportunities for public health (see 1.8)</li> <li>(c) the Department of Human Services and councils could prepare non-statutory health impact assessments.</li> </ul>	3.4
<b>Comment:</b> Agree		
66	That the Department of Human Services consider	3.5

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	Issue	Section reference
	non-legislative guidelines for consultation, if appropriate, to support provisions in the new Act.	
<b>Comment:</b> Agree		
67	That the public health Act continue to provide for the collection of the following information: (a) notifiable diseases (Health Act, s 138) (b) perinatal data (Health Act, ss 162F, 162G) (c) HIV incidence (Health Act, s 130).	3.6
<b>Comment:</b> Agree		
68	That the public health Act authorise the establishment of registers by regulation. The Act would set out general provisions as to the purposes and procedures for registers established and their proposed use and confidentiality requirements (modelled on the proposed Public Health Bill (NZ)). Registers that may be established by regulation include: (a) an environmental events register (modelled on the <i>Public Health Act 2005 (Qld)</i> ) (b) a register of public health information held by the Department of Human Services and provided to third parties, for example, for research purposes (modelled on the <i>Public Health Act 2005 (Qld)</i> ).	3.6
<b>Comment:</b> Agree		
69	That the public health Act provide that, if the Secretary determines it is in the public interest, he or she may release information held by the Secretary or an authorised officer to a statutory authority if, in the opinion of the Secretary, the disclosure would assist the body to carry out one or more of its functions.	3.6
<b>Comment:</b> Agree		
70	That the public health Act provide that, if the municipal council determines it is in the public interest, it may release information held by the council to a statutory authority if, in the opinion of	3.6

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	Issue	Section reference
	the council, the disclosure would assist the body to carry out one or more of its functions.	
<b>Comment:</b> Agree		
71	That the public health Act support and enhance the practice of risk management, rather than incorporate specific procedural requirements.	4.1
<b>Comment:</b> Agree		
72	That the Department of Human Services consider developing administrative guidelines where appropriate, to ensure that issues of risk are addressed properly and in a consistent manner (such as guidelines for the issue of improvement and prohibition notices: see 4.9).	4.1
<b>Comment:</b> Agree		
73	<p>That it is a condition of licences and registration made under the Act that, except in relation to cooling tower systems, the holder of the licence or registration must comply with the following duty:</p> <p style="text-align: center;"><i>The person must not undertake the licensable/registered activity in a manner that may result in a serious harm to health of another person unless the person takes all reasonable and practicable measures to prevent or minimize the possibility of that harm occurring (“General Duty”)</i></p> <p>That, in relation to cooling tower systems, the Act includes a regulation-making power allowing the General Duty to be imposed by regulation. For instance, it could be imposed on the person who manages or controls the system.</p>	4.2
<b>Comment:</b> Agree however a definition of ‘serous harm’ is required.		
83	That the new Act continue to deal separately with environment related health risks that arise at the local level (nuisances) and broader public health	4.4

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	Issue	Section reference
	risks that affect the community or subsections of the community.	
<b>Comment:</b> Agree		
84	That the nuisance provisions apply to nuisances which are, or are liable to be, dangerous to health or offensive, including nuisances arising from or constituted by: (a) any building or structure (b) any land, water or land covered by water (c) any insect or animal capable of carrying a disease transmissible to humans (d) any refuse (e) any noise or emission (f) any state, condition or activity (g) any other matter or thing.	4.4
<b>Comment:</b> Agree however we believe that the liable to be needs to be clearly defined as to when it becomes liable. For example a septic tank could be liable if damaged but is fine until it becomes damaged.		
85	That "offensive" be defined as "noxious or injurious to personal comfort" and the reference to "annoying" be removed.	4.4
<b>Comment:</b> Agree		
86	That a risk of a "nuisance" be sufficient to trigger powers.	4.4
<b>Comment:</b> Agree		
87	That, in determining whether a state, condition or activity is a nuisance which is, or is liable to be, dangerous to health or offensive: (a) regard must not be had to the number of people affected or that may be affected by the state, condition or activity; and (b) regard may be had to the degree of offensiveness of the state, condition or activity (as in s 40(2)).	4.4
<b>Comment:</b> Agree		

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	<b>Issue</b>	<b>Section reference</b>
88	That each municipal council continue to have a duty to “remedy as far as is reasonably possible all ‘nuisances’ in its municipal district” (as in s 41).	4.4
<b>Comment:</b> Agree		
89	That the following administrative powers continue to be applied to the duty to abate a nuisance: (a) notification of nuisance (ss 43(1) and (2)) (b) failure of council to investigate complaint (s 45) (c) nuisance caused by two or more people (s 46) (d) who may institute proceedings (s 47) (e) delegation (s 47A) (f) investigation outside districts (s 47B) (g) nuisances on unoccupied land (s 47C) (h) regulation-making power (s 47D).	4.4
<b>Comment:</b> Agree		
90	That it continue to be an offence to cause a “nuisance” (as in s 42).	4.4
<b>Comment:</b> Agree		
91	That if, upon investigation, a nuisance is found to exist, the council must: (a) take action to abate the nuisance; or (b) if the council is of the opinion that the matter is better settled privately, advise the person notifying the council of the nuisance of any available methods for settling the matter privately (s 43(3)).	4.4
<b>Comment:</b> Agree		
93	That the Department of Human Services continue to issue best practice standards of practice, as appropriate. Compliance with standards of practice would be non-binding, unless they were set out in the regulations. However, compliance with guidelines could be a defence under the public health Act, if the guidelines relate to the General Duty.	4.5

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	Issue	Section reference
<b>Comment:</b> Agree		
95	That there is consideration regarding whether any other people undertaking a registerable or licensable activity should be required to prepare a risk management plan. The Act would specify whether such people are required to prepare a risk management plan.	4.6
<b>Comment:</b> Agree however we believe that a risk management plan for Beauty treatment (or the like) premises would be outside their expertise and impose additional costs on proprietors that would outweigh the associated risks		
97	That an improvement notice could require a person to prepare a risk management plan (see 4.9). (This would not include the requirement that external approved auditors audit the plan.)	4.6
<b>Comment:</b> Agree		
98	That the public health Act provide powers for the Secretary (or municipal council, where applicable) to: (a) grant, renew, vary, suspend or cancel the registration/licence (b) determine whether the registration/licence applicant is a fit and proper person (c) set registration/licensing periods for public health risk activities within specified parameters (for example, a maximum licensing period of three years) (d) set conditions to which the licence is subject (registration would not be subject to conditions) (e) make enquiries regarding the authenticity and suitability of documents presented with licence or registration applications (f) reissue a licence or certificate of registration upon application of a licence holder that the original licence/registration has been lost, stolen or destroyed (g) monitor the activities of licence/registration holders, to ensure that they comply with any requirements of the licence/registration.	4.7

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	Issue	Section reference
<b>Comment:</b> Agree		
99	<p>That the public health Act:</p> <ul style="list-style-type: none"> <li>(a) set out criteria for registration/licence applications, renewals, variations, transfers, suspensions or cancellations of registration/licences, so that the registration/licensing process is transparent and decisions to register/licence are consistent</li> <li>(b) set out eligibility requirements for a licence/registration, such as prescribed qualifications or training competencies</li> <li>(c) provide for prescribing fees, including for the issue and reissue of a registration/licence, and for late applications.</li> </ul>	4.7
<b>Comment:</b> Agree		
100	<p>That the following offence provisions be set out in the public health Act:</p> <ul style="list-style-type: none"> <li>(a) conducting an activity for which a licence is required, without the operator being registered/licensed</li> <li>(b) breaching the conditions of the licence</li> <li>(c) making a false or misleading statement in relation to an application for the grant, renewal or variation of a registration/licence</li> <li>(d) failing to prepare a risk management plan (where there is an obligation to have a risk management plan)</li> <li>(e) an offence of failing to notify authorities in the event of certain types of incidents occurring.</li> </ul>	4.7
<b>Comment:</b> Agree		
101	<p>That a person whose registration/licence has been cancelled by the Secretary/municipal council has the right to re-apply for registration/licence, but could be required to inform the registration/licensing authority of previous cancellations or suspensions. Failure to do so could be grounds for refusing to issue a registration/licence, or for cancelling any registration/licence subsequently issued.</p>	4.7

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	<b>Issue</b>	<b>Section reference</b>
<b>Comment:</b> Agree		
102	That (at this stage) there should not be a requirement that solaria be registered with municipal councils (or the Secretary).	4.7
<b>Comment:</b> Agree		
103	That there should not be a requirement that public events be registered with municipal councils (or the Secretary).	4.7
<b>Comment:</b> Agree		
104	That regulation-making powers allow for an obligation being imposed on people conducting activities subject to registration/licensing and on proprietors of non-registered premises (for example, proprietors of swimming pools or brothels) to notify the relevant authority (Secretary or municipal council) in the event of prescribed circumstances.	4.7
<b>Comment:</b> Agree		
105	That the Secretary or municipal council (as appropriate) must issue the authorised officers with identity cards that: <ul style="list-style-type: none"> <li>(a) contain the authorised officers' name and photo</li> <li>(b) identify the authorised officers as authorised officers under the Act</li> <li>(c) are signed by the authorised officer</li> <li>(d) are signed by the Secretary (for Department of Human Services officers) or a member of council staff authorised to issue the identity cards (for council officers or employees).</li> </ul>	4.8
<b>Comment:</b> Agree		
106	That an authorised officer is subject to the directions of the Secretary or municipal council (as appropriate) in the performance of his or her functions, or the exercise of his or her powers under the Act or the regulations. A direction of the	4.8

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	Issue	Section reference
	Secretary or municipal council (as appropriate) may be of a general nature or may relate to a specified matter or specified class of matter.	
<b>Comment:</b> Agree		
107	<p>That an authorised officer must produce his or her identity card for inspection:</p> <ul style="list-style-type: none"> <li>(a) before exercising any of the powers noted below (general enforcement powers, incident powers and emergency powers), unless the request is made in writing or it is otherwise not practicable, such as entry onto land that is temporarily unoccupied)</li> <li>(b) if asked to produce his or her card by the occupier of the premises during the exercise of the power.</li> </ul>	4.8
<b>Comment:</b> Disagree due to some impracticalities it should be changed to may not must.		
110	<p>That the public health Act provide that an authorised officer is able to exercise powers to monitor compliance and investigate possible contraventions of the Act. This should include the power to (at any reasonable time) exercise the following "general enforcement powers":</p> <ul style="list-style-type: none"> <li>(a) enter a place</li> <li>(b) stop and search any person, animal, vehicle, vessel or other means of conveyance</li> <li>(c) inspect, examine and make enquiries at the place</li> <li>(d) examine or inspect any thing at the place</li> <li>(e) bring any equipment or materials to the place that may be required</li> <li>(f) seize any thing, including a document, at the place, where: <ul style="list-style-type: none"> <li>(i) the seizure is required to determine whether there has been a contravention of the Act; or</li> <li>(ii) the seized thing may be used as evidence for a possible prosecution; or</li> <li>(iii) the seizure is required to minimise a risk to health</li> </ul> </li> <li>(g) seal a place or thing</li> </ul>	4.8

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	Issue	Section reference
	<ul style="list-style-type: none"> <li>(h) take a sample of any thing at the place</li> <li>(i) take any photographs or measurements or make sketches, impressions or any audio or visual recordings</li> <li>(j) make copies of, or take extracts from, any document kept on the place</li> <li>(k) use or test any equipment at the place</li> <li>(l) request a person at the place to provide information or produce documents</li> <li>(m) request a person at the place to operate equipment to access information from that equipment (such as from a disk or tape)</li> <li>(n) request a person at the place to provide any document that is needed to investigate or monitor compliance</li> <li>(o) use any assistants the authorised officers considers necessary to exercise the powers conferred on an authorised officer</li> <li>(p) exercise any other power conferred on the authorised officer by the public health Act</li> <li>(q) do any other thing that is reasonably necessary for the purpose of the authorised officer performing his or her functions, or exercising his or her powers, under the public health Act.</li> </ul>	
<b>Comment:</b> Agree		
111	That there is no need to have a warrant to perform any of the above powers.	4.8
<b>Comment:</b> Agree		
112	<p>That the following provisions apply for seized things:</p> <ul style="list-style-type: none"> <li>(a) the authorised officer must provide a receipt for any seized thing in the prescribed form</li> <li>(b) seized things may be held for up to 60 days, unless: <ul style="list-style-type: none"> <li>(i) the Magistrates' Court extends the period of seizure, on the application of an authorized officer; or</li> <li>(ii) the thing had to be destroyed by the Secretary or council (for example, due to contamination)</li> </ul> </li> </ul>	4.8

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	Issue	Section reference
	(c) the seized things should be returned (if practicable) if the reason for their seizure no longer exists. If the thing cannot be returned, it becomes the property of the Secretary or council.	
<b>Comment:</b> Agree		
114	That the public health Act include offences regarding: (a) impersonating an authorised officer (b) failure to answer questions of an authorised officer without a reasonable excuse (c) knowingly providing an authorised officer, council, Secretary or Chief Health Officer with information that is false or misleading (d) interference with, or obstruction of, an authorised officer (e) failure of a person that is required to keep records to (upon request by an authorised officer) provide the records to the authorised officer.	4.8
<b>Comment:</b> Agree		
144	That the requirement that businesses conducting hairdressing be registered with municipal councils not be re-enacted in the public health Act.	5.1
<b>Comment:</b> Disagree. The registration requirement currently on hairdressers assists in ensuring that the premises are constructed in such a manner to minimise potential infection risk (eg suitable cleaning equipment to prevent contamination). The registration requirement also allows for the identity of the proprietor of the business. Disagree It is already difficult to ensure home hairdressers a designed and operate to minimize potential infection/risk.		
145	That the requirement that a person conducting a business of beauty therapy be registered with municipal councils be re-enacted.	5.1
<b>Comment:</b> Agree, further clarification is needed on what is defined as a beauty treatment eg spray tan.		

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	<b>Issue</b>	<b>Section reference</b>
146	That businesses conducting tattooing, skin penetration and colonic irrigation be required to be registered with municipal councils.	5.1
<b>Comment:</b> Disagree with colonic irrigation – more of a medical procedure. EHO's not trained adequately for this process.		
<b>Comment:</b> Agree		
195	That the public health Act require principals to take reasonable steps to ensure that immunisation records are kept up-to-date for each child enrolled in the school.	5.8
<b>Comment:</b> Agree		
197	That there be no offence for a parent or guardian failing to produce immunisation records to the school.	5.8
<b>Comment:</b> Agree		
198	That an immunisation status certificate under the public health Act include one of: (a) a certificate issued in the prescribed form by a person authorised to do so by a municipal council (b) a certificate issued in the prescribed form by a person who is authorised by the Australian Childhood Immunisation Register to be an immunisation provider (c) a prescribed person who certifies that the person has been presented with the required documentary evidence in relation to each prescribed infectious disease (d) a prescribed document (it is proposed that the Child History Statement issued by the Australian Childhood Immunisation Register would be prescribed to be an immunisation status certificate).	5.8
<b>Comment:</b> Agree		
202	That an immunisation status certificate must cover the prescribed diseases. The vaccines listed under	5.8

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	Issue	Section reference
	the National Health and Medical Research Council <i>National Immunisation Program</i> could be prescribed.	
<b>Comment:</b> agree		
211	That the regulation-making powers in the public health Act be broad enough to make regulations to control specific public health risks, including public health risks posed by insects and animals capable of carrying a disease transmissible to humans.	6.1
<b>Comment:</b> agree		
226	That consideration be given to whether the <i>Food Act 1984</i> (Vic) should be amended, in line with the proposed provisions in the public health Act, to provide that a municipal council may appoint an authorised officer under the <i>Food Act 1984</i> (Vic), if the council is satisfied that the authorized officer has the training or experience required to perform his or her functions. The competencies regarding training or experience would not be specified in the Act.	6.3
<b>Comment:</b> Great deal of thought is needed to determine minimum competencies and proof of competencies that should be across the state.		