

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

	<b>Issue</b>	<b>Section reference</b>
2	That non-legislative mechanisms, such as a Memorandum of Understanding, be entered into with agencies administering legislation that interface with public health legislation, as required in the particular circumstance.	1.2
<p><b>Comment:</b> Agreed, however it is important that the public health Act is not a fall back for other agencies that may be under resourced to fully administer the legislation that is their responsibility. For example noise issues that are covered clearly by the EP Act appear to be more and more passed back to local government due to lack of officers in the EPA. Comprehensive and clear MOUs must be developed as required.</p>		
7	That the term “health” apply to all other provisions and be defined narrowly, to exclude concepts of social and mental wellbeing.	1.4
<p><b>Comment:</b> Agree that this must be included to ensure clarity for legal enforcement provisions as indicated in the discussion and separated from those issues that are promotional or empowering to the public.</p>		
9	That the Governor in Council may declare that a municipal council has specified powers and functions under the public health Act in relation to an area that is outside a municipal district, as if the area was within that municipal council’s municipal district. (The Minister for Health would be required to consult with the Minister administering the <i>Local Government Act 1989</i> (Vic), before making a recommendation to the Governor in Council in relation to this issue.)	1.5
<p><b>Comment:</b> Agree but account must taken of resources and skills of municipalities.</p>		
13	<p>That the public health Act include the following guiding principles:</p> <p>Principle of evidence-based decision making</p> <p>Decisions as to the most effective and efficacious public health interventions and efficient use of resources to protect and promote public health are informed by reliable</p>	1.7

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<b>Issue</b>	<b>Section reference</b>
<p>and relevant evidence (where available in the circumstances).</p> <p>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>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>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>access to reliable information in appropriate forms to facilitate a good understanding of public health issues; and</li><li>opportunities to participate in policy and program development (based on section 1L of the <i>Environmental Protection Act 1970</i> (Vic)).</li></ul> <p>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 available to achieve that goal and must not be imposed in an arbitrary way.</p> <p>Principle of collaboration</p>	

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	<b>Issue</b>	<b>Section reference</b>
	Public health is enhanced by collaborative approaches between national, state and local government, the community sector, industry and individuals.	
<b>Comment:</b> All supported.		
14	<p>That the public health Act continue to have provisions for the Minister for Health and the Department of Human Services:</p> <ul style="list-style-type: none"> <li>creation of Secretary (based on section 6 of the Health Act)</li> <li>Secretary subject to direction of Minister in relation to the Secretary's exercise of powers and functions under the public health Act, or any other Act (based on section 8 of Health Act)</li> <li>delegation by the Secretary under the public health Act or any other Act (based on section 8A of the Health Act)</li> <li>delegation by the Minister under the public health Act or any other Act (based on section 8B of the Health Act).</li> </ul>	1.8
<b>Comment:</b> Supported		
19	<p>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:</p> <ul style="list-style-type: none"> <li>creating environments which support the health of the local community and strengthen the capacity of communities and individuals to achieve better health</li> <li>initiating, supporting and managing public health planning processes at the municipal level</li> <li>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</li> <li>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</li> </ul>	1.10

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	<b>Issue</b>	<b>Section reference</b>
	coordinating and providing immunisation services to children living or being educated within the municipal district.	
	<b>Comment:</b> Supported. This appears to provide a clarity of two distinct roles of Councils, one of health protection and one of health promotion. This should allow clarity in roles of Councils carrying out the enforcement roles primarily through EHOs or other authorized officers and the promotion roles normally carried out by Community Development type units. The Act should not place all its focus on health planning issues as there needs to be clear direction that Councils must carry out a statutory role of enforcement when necessary.	
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> Supported	
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> Unnecessary to have a delegation when it must be ratified by Council in any case. Should therefore leave that power up to Councils. However what course of action can be taken in the case of a serious risk by the continued operation of a registered premises? Are there sufficient powers in regulations to be able to act quickly to remove the risk such as seizure?	
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> Supported. However what are the ramifications if a Council does not comply with an order to perform any duty?	
23	That the public health Act not include the legislative requirement that every municipal council appoint a medical officer of health.	1.12

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	<b>Issue</b>	<b>Section reference</b>
	<b>Comment:</b> Supported. In light of this, there must be access to advice of a medical nature provide by or through DHS.	
24	That non-legislative mechanisms be employed to assist municipal councils obtain public health expertise.	1.12
	<b>Comment:</b> Guidelines required.	
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> Supported	
26	That an environmental health officer who is appointed by a council automatically be an 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)).	1.12
	<b>Comment:</b> Supported.	
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> Supported	
28	That the provision of the Health Act that provides that, in addition to any other duties, the Secretary, "health officers", environmental health officers and "engineers" have the same powers and duties as environmental health officers and medical officer of health appointed by municipal councils not be re-enacted.	1.12
	<b>Comment:</b> Supported	
29	That the public health Act provide that:	1.12

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	<b>Issue</b>	<b>Section reference</b>
	the Secretary may appoint Departmental officers as authorised officers a municipal council may appoint employees or officers of the council as authorised officers.	
<b>Comment:</b> Supported		
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> Supported.		
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> Guidelines should be developed to ensure some form of consistency between Councils.		
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> Supported		
33	That where an analyst carries out an analysis, the analyst may prepare and sign a certificate in writing of the analysis.	1.13
<b>Comment:</b> Supported		
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

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	<b>Issue</b>	<b>Section reference</b>
<b>Comment:</b> Supported.		
<b>Comments on 55-60 are combined.</b>		
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
56	<p>The public health Act list matters to be addressed in municipal public health plans as follows:</p> <ul style="list-style-type: none"> <li>examine data about health status and health determinants in the municipal district</li> <li>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</li> <li>describe how the local community is engaged in developing, implementing and evaluating the plan</li> <li>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.</li> </ul>	3.1
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
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
59	That the Department of Human Services continue	3.1

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	<b>Issue</b>	<b>Section reference</b>
	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> .	
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 under section 12A of the <i>Planning and Environment Act 1987</i> (Vic) for the municipal district.	3.1
<p><b>Comments on Recommendations 55-60:</b> Yarra City Council adopted a new Municipal Public Health Plan (MPHP) 2005-2008 in December 2005, 12 months after the election of a new Council. The MPHP represents a strategic approach to health and wellbeing in terms of integration with the Council Plan 2005-2009 and review of the Municipal Strategic Statement. Given this alignment, there is scope to extend the current MPHP to cover a four year period</p>		
<p>The MPHP embodies a number of the recommendations listed, in terms of examining the health status and determinants of health, as well as consulting and engaging Yarra's diverse communities in the identification of priorities, objectives and actions to improve health and wellbeing. Community interests will play a critical role in the implementation and review of the MPHP through a broad-based advisory committee, including representation of the Department of Human Services.</p>		
<p>In summary, the provisions outlined in the Draft policy paper largely mirror the approach adopted by Council in developing its new MPHP. It is recommended that the State Government outline more specifically how MPHPs collectively will inform future State health planning policy, including mechanisms to involve local governments more directly.</p>		

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63	That Victoria continue to rely on a legislative requirement for health impact assessment in the <i>Environment Effects Act 1978</i> (Vic) and the <i>Environment Protection Act 1970</i> (Vic).	3.4
<b>Comment:</b> Supported		
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> Supported		
65	<p>That, at this stage, there is no new statutory obligation to require a health impact assessment to be conducted. However:</p> <ul style="list-style-type: none"> <li>the Secretary to the Department of Human Services and Chief Health Officer would have the statutory power to conduct and initiate inquiries</li> <li>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>the Department of Human Services and councils could prepare non-statutory health impact assessments.</li> </ul>	3.4
<b>Comment:</b> (a) is supported, (c) is unnecessary.		
67	That the public health Act continue to provide for the collection of the following information: notifiable diseases (Health Act, s 138) perinatal data (Health Act, ss 162F, 162G) HIV incidence (Health Act, s 130).	3.6
<p><b>Comment:</b> It is not clear if the new Act will include the birth notification requirements or whether the intention is to transfer this to the new Child Wellbeing and Safety Act.</p> <p>If it is transferred to another Act it is not required in the new public health Act.</p>		
71	That the public health Act support and enhance the practice of risk management, rather than incorporate specific procedural requirements.	4.1

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<b>Comment:</b> Supported.		
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> Supported		
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> Supported, however serious harm must be defined.		
74	Monitoring compliance with the General Duty in these circumstances would be the responsibility of the registering or licensing authority (Secretary or municipal council).	4.2
<b>Comment:</b> This indicates that the General Duty only applies to licensed operations. This should be the case.		
75	That a registration or licence holder's compliance with the duty could be determined as follows: if there is a method outlined in the Regulations, these must be complied with if the Chief Health Officer develops guidelines that state how to minimise public health risk, then the person must either:	4.2

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adopt and follow the method stated in the guideline; or  
adopt and follow another way that minimises the public health risk; and  
where there is neither a prescribed method nor any Chief Health Officer guideline, then the person may choose the method by which they discharge their obligation.

Notice of the Chief Health Officer's guidelines would need to be published in the Government Gazette and the guidelines would need to be published on the Department of Human Service's website.

**Comment:** If regulations are not complied with there would be offences created within the regulations such as in the Infectious Disease Regulations. Therefore the additional offence of not complying with the general duty would seem to be duplicitous.

76	That the public health Act not impose a General Duty on all people.	4.2
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**Comment:** Supported.

77	<p>That the following limits be imposed on the scope of the General Duty:  applies only to material risks and not trivial risks  requires people to refrain from conduct that is injurious to public health, rather than create a positive duty to promote public health  only requires people to act reasonably and appropriately, and by expecting them to do the things that can practicably be expected of them.</p>	4.2
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Reasonableness of a person's conduct would be considered having regard to:  
the nature of the conduct and the circumstances in which it occurred  
the likelihood of a person suffering harm as a result of the conduct  
the nature and seriousness of the harm that may be suffered as a result of the conduct  
the number of people who may be harmed by the conduct  
the reason why the person engaged in the conduct and the social utility of the

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	<p>activity</p> <p>the knowledge and information that the person had or ought reasonably to have had or acquired about the risk, nature and scale of harm that may be suffered as a result of the conduct</p> <p>whether and, if so, what precautions the person took to prevent or reduce the harm that may be suffered as a result of the conduct, or to reduce the risk that harm may occur as a result of the conduct</p> <p>the ease or difficulty with which people at risk of suffering harm as a result of the conduct could protect themselves against the risk of harm and the extent to which they voluntarily accepted the risk</p> <p>any other relevant factors.</p> <p>Could specifically exclude harm to self and hypersensitivities.</p>	
<b>Comment:</b> This seems to cover more than just licensed operations.		
78	That compliance with other laws would not exclude the operation of the General Duty. However, there needs to be a clear understanding of which Act (and agency) takes precedence in particular areas.	4.2
<b>Comment:</b> Supported.		
82	That the public health Act not introduce a "risk to health" offence.	4.3
<b>Comment:</b> Supported.		
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 risks that affect the community or subsections of the community.	4.4
<b>Comment:</b> Supported, whether it is nuisance or risk to health as they appear to be very similar in intent.		
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	4.4

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	<p>constituted by:  any building or structure  any land, water or land covered by water  any insect or animal capable of carrying a disease transmissible to humans  any refuse  any noise or emission  any state, condition or activity  any other matter or thing.</p>	
<b>Comment:</b> Supported		
85	That "offensive" be defined as "noxious or injurious to personal comfort" and the reference to "annoying" be removed.	4.4
<b>Comment:</b> Supported. Must relate to issues that pose some type of health impact for it to be included in the public health Act. Don't agree that the public health Act should be used to solve trivial disputes as these are better and more appropriately covered by minor legislation such as local laws.		
86	That a risk of a "nuisance" be sufficient to trigger powers.	4.4
<b>Comment:</b> Must be a real risk. Almost any activities people undertake could fall within this category if the person carrying out that activity does not take care. It requires some type of qualification.		
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: regard must not be had to the number of people affected or that may be affected by the state, condition or activity; and 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> Degree of offensiveness is too subjective despite it being in the current Act some guidance should be provided.		
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> Supported.		
89	That the following administrative powers continue	4.4

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to be applied to the duty to abate a nuisance:  
notification of nuisance (ss 43(1) and (2))  
failure of council to investigate complaint (s 45)  
nuisance caused by two or more people (s 46)  
who may institute proceedings (s 47)  
delegation (s 47A)  
investigation outside districts (s 47B)  
nuisances on unoccupied land (s 47C)  
regulation-making power (s 47D).

**Comment:** supported

90	That it continue to be an offence to cause a "nuisance" (as in s 42).	4.4
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**Comment:** Supported.

91	That if, upon investigation, a nuisance is found to exist, the council must: take action to abate the nuisance; or 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
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**Comment:** Better guidance on how the matter is better settled privately is needed. What if the Council's determine it is better settled privately, (which most neighbourhood disputes are) but those involved do not wish to participate perhaps due to a history of ill feeling between the parties involved? Does the Council fulfil its obligation by advising them of the methods they can use to settle privately? Could advising either of the parties to take their own private legal action be appropriate advice for settling the matter privately? Mediation is a growing area but is there enough of these services around? It is not known what other available methods for settling matters privately are around. Mediation appears to be the only option. If Council is satisfied that a nuisance exists and mediation does not work then does Council still need to take action to abate. This are issues requiring clarity with the current Act as well.

92	That nuisance abatement provisions (s 44) be removed, and municipal councils instead rely on the general enforcement provisions under the new Act; that is, improvement notices and prohibition notices (see 4.9).	4.4
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**Comment:** Supported

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93	<p>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.</p>	4.5
<p><b>Comment:</b> Supported. It is important that any such guidelines or standards of practice be written in a way that is simple and clearly covers any legal requirements that they would purport to provide advice on how compliance could be achieved. Guidelines should also cover nuisance situations.</p>		
95	<p>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.</p>	4.6
<p><b>Comment:</b> Not totally convinced that the requirement to prepare a RMP will reduce risk of activities if it is mandatory. Provided there are clear public health outcomes that are specified in legislation, the preparation of the RMP could be one way a business could ensure compliance. However the mandatory preparation of the RMP would place too much importance on the preparation of an adequate written document rather than ensure that, whatever system is used, the outcomes are being achieved. Preparation of RMP can be a time consuming and technical process and a system that may not be clearly understood by those it is imposed on.</p>		
96	<p>That the provisions in the public health Act regarding risk management plans in the case of registerable/licensable activities, be based on the approach used in Part 5B of the <i>Building Act 1993</i> (Vic) in relation to cooling tower systems. For instance:</p> <ul style="list-style-type: none"> <li>there would be provision for approved auditors who are approved by the Secretary</li> <li>approved auditors would need to comply with any conditions imposed on their approval</li> <li>the approved auditors would assess whether the risk management plan addresses the required matters, but not its adequacy</li> <li>there would be provisions regarding reporting "failed" audits to the registering authority (the Secretary or municipal council)</li> </ul>	4.6

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there would be provisions regarding conflicts for approved auditors, granting audit certificates and impersonation of approved auditors.

**Comment:** See comment above for 95. Use of auditors and possible additional cost was proposed under the Food Act and did not progress due to the additional cost burden on businesses. The use of an auditing system for most registered premises under the Health Act is an unnecessary method of improving compliance especially based on Yarra experience that these premises currently have a high level of compliance. Additionally Yarra is not aware of any reports of infectious disease outbreaks associated with them unlike outbreaks associated with food businesses that triggered the FSP requirement.

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
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**Comment:** Don't agree that the preparation of a RMP should be required as a result of another non-compliance. If the licensing activity does not comply with the outcomes required by legislation I believe it may well create another technical non-compliance issue. It could be that you advise a non compliant licensed business that the RMP would assist in achieving compliance but action should always be taken on the issue creating the risk, that is, the non compliance with the public health outcomes required in the first place, rather than the technical non-compliance that a RMP requirement may create.

98	<p>That the public health Act provide powers for the Secretary (or municipal council, where applicable) to:</p> <ul style="list-style-type: none"> <li>grant, renew, vary, suspend or cancel the registration/licence</li> <li>determine whether the registration/licence applicant is a fit and proper person</li> <li>set registration/licensing periods for public health risk activities within specified parameters (for example, a maximum licensing period of three years)</li> <li>set conditions to which the licence is subject (registration would not be subject to conditions)</li> <li>make enquiries regarding the authenticity and suitability of documents presented with licence or registration applications</li> <li>reissue a licence or certificate of registration upon application of a licence holder that the original</li> </ul>	4.7
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	<p>licence/registration has been lost, stolen or destroyed</p> <p>monitor the activities of licence/registration holders, to ensure that they comply with any requirements of the licence/registration.</p>	
<p><b>Comment:</b> Supported.</p>		
99	<p>That the public health Act:</p> <p>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</p> <p>set out eligibility requirements for a licence/registration, such as prescribed qualifications or training competencies</p> <p>provide for prescribing fees, including for the issue and reissue of a registration/licence, and for late applications.</p>	4.7
<p><b>Comment:</b> Supported. Being able to charge of late fee is inconsistent with the Food Act.</p>		
100	<p>That the following offence provisions be set out in the public health Act:</p> <p>conducting an activity for which a licence is required, without the operator being registered/licensed</p> <p>breaching the conditions of the licence</p> <p>making a false or misleading statement in relation to an application for the grant, renewal or variation of a registration/licence</p> <p>failing to prepare a risk management plan (where there is an obligation to have a risk management plan)</p> <p>an offence of failing to notify authorities in the event of certain types of incidents occurring.</p>	4.7
<p><b>Comment:</b> Supported.</p>		
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</p>	4.7

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	refusing to issue a registration/licence, or for cancelling any registration/licence subsequently issued.	
<b>Comment:</b> Supported.		
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> Supported.		
103	That there should not be a requirement that public events be registered with municipal councils (or the Secretary).	4.7
<b>Comment:</b> Supported.		
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> Supported. However this reinforces the comments on recommendation 150 that public pools should be subject to registration/licensing. How will the relevant authority know they are complying with notification requirements?		
105	That the Secretary or municipal council (as appropriate) must issue the authorised officers with identity cards that: contain the authorised officers' name and photo identify the authorised officers as authorised officers under the Act are signed by the authorised officer 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).	4.8
<b>Comment:</b> Supported		
106	That an authorised officer is subject to the directions of the Secretary or municipal council (as	4.8

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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 Secretary or municipal council (as appropriate) may be of a general nature or may relate to a specified matter or specified class of matter.

**Comment:** Supported.

107	<p>That an authorised officer must produce his or her identity card for inspection: 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) if asked to produce his or her card by the occupier of the premises during the exercise of the power.</p>	4.8
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**Comment:** Should only need to be shown if requested to do so.

108	<p>That an authorised officer may not continue to exercise any of his or her powers if he or she fails to produce on request his or her identity card for inspection by the occupier of the premises.</p>	4.8
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**Comment:** Supported.

109	<p>That before entering a premises to exercise a general enforcement, incident or emergency power, the authorised officer must (subject to the exceptions noted in this paragraph) announce that he or she is authorised under the public health Act to enter the premises and give any person at the premises an opportunity to allow entry to the premises. The exceptions to this requirement are if: it is not practicable (the premises are vacant) the authorised officer believes on reasonable grounds that immediate entry to the premises is required to ensure: the safety of any person; or the effective exercise of the powers noted below.</p>	4.8
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**Comment:** Supported provided it is not taken as requiring consent in all circumstances with the effect of hindering an effective investigation.

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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>enter a place</li><li>stop and search any person, animal, vehicle, vessel or other means of conveyance</li><li>inspect, examine and make enquiries at the place</li><li>examine or inspect any thing at the place</li><li>bring any equipment or materials to the place that may be required</li><li>seize any thing, including a document, at the place, where:<ul style="list-style-type: none"><li>the seizure is required to determine whether there has been a contravention of the Act; or</li><li>the seized thing may be used as evidence for a possible prosecution; or</li><li>the seizure is required to minimise a risk to health</li></ul></li><li>seal a place or thing</li><li>take a sample of any thing at the place</li><li>take any photographs or measurements or make sketches, impressions or any audio or visual recordings</li><li>make copies of, or take extracts from, any document kept on the place</li><li>use or test any equipment at the place</li><li>request a person at the place to provide information or produce documents</li><li>request a person at the place to operate equipment to access information from that equipment (such as from a disk or tape)</li><li>request a person at the place to provide any document that is needed to investigate or monitor compliance</li><li>use any assistants the authorised officers considers necessary to exercise the powers conferred on an authorised officer</li><li>exercise any other power conferred on the authorised officer by the public health Act</li><li>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>	4.8
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<b>Comment:</b> Fully supported.		
111	That there is no need to have a warrant to perform any of the above powers.	4.8
<b>Comment:</b> Fully supported.		
112	That the following provisions apply for seized things: the authorised officer must provide a receipt for any seized thing in the prescribed form seized things may be held for up to 60 days, unless: the Magistrates' Court extends the period of seizure, on the application of an authorized officer; or the thing had to be destroyed by the Secretary or council (for example, due to contamination) 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.	4.8
<b>Comment:</b> Supported.		
113	That self-incrimination is not an excuse from complying with a request of the authorised officer. However, any self-incriminatory statement made under a direction is not admissible in any criminal proceedings against that person, unless: the answer is admitted in respect of a proceeding regarding the provision of false information to an authorised officer; or the information is contained in any document or item that a person is required to keep by any Australian law.	4.8
<b>Comment:</b> Supported.		
114	That the public health Act include offences regarding: impersonating an authorised officer failure to answer questions of an authorised officer without a reasonable excuse knowingly providing an authorised officer, council, Secretary or Chief Health Officer with information that is false or misleading	4.8

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	interference with, or obstruction of, an authorised officer failure of a person that is required to keep records to (upon request by an authorised officer) provide the records to the authorised officer.	
<b>Comment:</b> Supported.		
115	That the public health Act provide that an improvement or prohibition notice could be issued by a municipal council or the Secretary, where the council or Secretary believes on reasonable grounds that a person is breaching or may breach an obligation under the public health Act or its regulations.	4.9
<b>Comment:</b> Not clear from the policy paper as to the intent of the prohibition notice as opposed to improvement notice. It is assumed it allows for prohibiting a certain activity from occurring. Needs clarity on conditions to be imposed on its use.		
116	That the public health Act provide an illustrative list or examples of some of the types of improvement or prohibition notices that could be issued under the Act. An improvement or prohibition notice would be able to achieve everything that a "notice to abate" can achieve under section 44 of the Health Act.	4.9
<b>Comment:</b> Refer comment above. Rather than being in the Act the list should be in guidelines.		
117	That failure to comply with an improvement or prohibition notice is an offence under the public health Act.	4.9
<b>Comment:</b> Supported. Is this an additional offence to the non compliance that initiated the issuing of the improvement or prohibition notice meaning that action could be taken for multiple offences?		
118	That the public health Act provide for additional powers where: The Chief Health Officer is of the view that there is a serious risk to public health (the reference to "a serious risk to public health" incorporates risks that may eventuate). In these circumstances, authorised officers should have the ability to respond quickly to the relevant	4.10

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incident to protect the health and safety of people.  
The Chief Health Officer is of the view that an epidemic or the risk of an epidemic of a disease poses a serious risk to public health. In these circumstances, authorised officers (who are registered medical practitioners) should have the ability to respond quickly to the relevant incident to protect the health and safety of people, by providing treatment or prophylaxis.

**Comment:** Supported.

119	<p>That in the event that the Chief Health Officer (“CHO”) determines that there is a serious risk to public health, the CHO can, in order to lessen or prevent the serious risk to public health, authorise an authorised officer to exercise the following “incident powers”:</p> <ul style="list-style-type: none"> <li>close any premises, place, vehicle or vessel, including a school, children’s services centre or shopping centre</li> <li>direct a person or group of people to enter, not to enter, to stay at or to leave any particular place</li> <li>enter any, place and search for and seize any thing (without a warrant) for the purpose of investigating the serious risk to public health</li> <li>require the provision of information to investigate the serious risk to public health or to address that risk</li> <li>inspect any place where a disease may be spread</li> <li>require cleaning or disinfection of any place where the risk may arise</li> <li>require disposal or destruction of any thing in order to address the risk</li> <li>direct the proprietor of a business or the person in charge of a place to take any action necessary to address the risk</li> <li>direct any person to take any other action that the CHO considers reasonably necessary to prevent or address the risk</li> <li>exercise any of the general enforcement powers noted in any of the earlier recommendations.</li> </ul>	4.10
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**Comment:** Supported

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122	That, in exercising these powers, a search warrant should not be required. (There would be requirements that the authorised officers identify themselves and display their identification.)	4.10
<b>Comment:</b> Supported.		
126	That if a person is prosecuted and found guilty of contravening the public health Act, the following provisions apply: a municipal council or the Secretary could seek reimbursement of costs it has incurred costs as a result of the contravention (such as clean-up costs) if a municipal council or the Secretary is awarded legal costs, it could seek payment for the costs incurred by its officers to investigate the contravention.	4.11
<b>Comment:</b> Would need to have the power to carry out clean up work at the time a contravention is detected rather than requiring the offender to carry out the work in order for this to be applicable. The awarding of such cost is something that courts have not been willing to do saying that such costs are part of the expenses Councils incur in carrying out their duties and would be contributed by the ratepayers.		
127	That if a person fails to comply with a direction of a municipal council, authorised officer, the Secretary or an improvement or prohibition notice and the municipal council, authorised officer or Secretary steps in to perform that task, then the municipal council or Secretary would be entitled to seek the cost of performing that task.	4.11
<b>Comment:</b> I have not read in the policy paper as to whether Councils will have the power to perform the tasks or clean ups in the event of an offence. If so, what is the legal process? Can Council carry out the works as an alternative to prosecuting and still require reimbursement? The concept is supported as it will provide a more speedy resolution of the health risk associated with any non-compliance.		
128	That expenses incurred by a municipal council in the abatement of a nuisance can be recovered from the occupier of the land, even if there has not been a prosecution.	4.11
<b>Comment:</b> Refer comments for 126 and 127.		

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130	That there be the capacity for contraventions of some provisions of the public health Act to be enforced through the Penalty Enforcement by Registration of Infringement Notice system.	4.12
<p><b>Comment:</b> Agree and support. However such PINs need to relate to offences where the offence is a clear and unambiguous offence. It should not be used for offences that are based on the authorized officer forming an opinion as these can be subjective and should be ultimately argued in a court. PINs should only be for clear cut issues.</p>		
131	That during the development of the relevant regulations that determine which offences are subject to the Penalty Enforcement by Registration of Infringement Notice system, the Department of Human Services consult closely with local government and other relevant stakeholders.	4.12
<p><b>Comment:</b> Supported for the reasons outlined in 130.</p>		
132	That the public health Act set penalty levels that reflect the seriousness of the public health consequences of a breach and be sufficient to deter conduct that creates an unacceptable risk to public health.	4.12
<p><b>Comment:</b> Supported.</p>		
133	That higher penalties be imposed on bodies corporate, than those imposed on individuals. The maximum fine would be 5 times the maximum fine for a natural person.	4.12
<p><b>Comment:</b> Supported.</p>		
134	That, based on the offence provisions that are currently proposed for the public health Act, the public health Act not introduce a defence of due diligence (modelled on section 17E of the <i>Food Act 1984</i> (Vic)).	4.13
<p><b>Comment:</b> Supported.</p>		
137	That there is a review mechanism for improvement and prohibition notices that specifies the steps to be undertaken. The review mechanism needs to be prompt and review should be by the Victorian Civil and Administrative Tribunal.	4.14

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**Comment:** Guidance on use of these would be vital to avoid every notice being subject to review.

138	An application for an appeal in relation to licences/registrations and review in relation to improvement/prohibition notices must be made within 28 days after the later of: the day on which the applicant was notified of the decision the day on which the eligible person is notified by the Secretary/municipal council of the eligible person's right to a review.	4.14
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**Comment:**

144	That the requirement that businesses conducting hairdressing be registered with municipal councils not be re-enacted in the public health Act.	5.1
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**Comment:** Do not support. Risks associated with hairdressers may sometimes be under-estimated. Most hairdressers include shaving of the neck and there is a high chance of bleeding and contamination of instruments that will require appropriate cleaning or disposal. If the hairdresser only cuts hair and does not undertake shaving the risk is minimal and there would be support for not registering such premises. However the current system of registration and inspection of all hairdressers may be the reason for good compliance and low risk. Removing the need for registration and inspection could result in an increase risk.

145	That the requirement that a person conducting a business of beauty therapy be registered with municipal councils be re-enacted.	5.1
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**Comment:** Supported. There is a risk of transmitting infections in minor treatments such as nails.

146	That businesses conducting tattooing, skin penetration and colonic irrigation be required to be registered with municipal councils.	5.1
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**Comment:** Supported.

147	That the specific regulatory scheme set out in the Regulations would be proportionate to the level of risk associated with the specific activity. For example, the regulations for premises conducting skin penetration could be more prescriptive than the regulations for premises conducting beauty	5.1
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	therapy.	
	<b>Comment:</b> The current regulations appear to adequately cover the issues. Beauty treatments such as nail can provide the same risk if blood is drawn, so there should be a similarity in requirements based on outcomes.	
148	That definitions for “beauty therapy”, “tattooing”, “skin penetration” and “colonic irrigation” be included in the public health Act. The definition of skin penetration would include various cosmetic and decorative procedures such as scarification, branding and beading.	5.1
	<b>Comment:</b> Supported. When doing nail treatments and the cuticle is cut away it becomes a skin penetration process. There would obviously be some overlap with terminology. “Beauty treatment” is very general covering a variety of treatments even those of skin penetration. Therefore the definition requires certainty of what it is intended to cover.	
149	That the practices of professionals who are trained in infection control and regulated by professional bodies which regard poor infection control practices as unprofessional conduct (registered medical practitioners, dentists, nurses, podiatrists and acupuncturists) be exempted from the requirement to register with municipal council. The practices of accredited pathology services and hospitals should also be exempted from the requirement to register with municipal council. However, exempt businesses would still be required to comply with the requirements regarding cleanliness of equipment (including sterilisation) and personal hygiene of each person in the business that conducts the skin penetration activity.	5.1
	<b>Comment:</b> Supported.	
150	That proprietors of swimming pools continue to be subject to regulation under the public health Act, but not be required to be registered with municipal councils.	5.1

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**Comment:** Disagree. Public pools and spas should be subject to registration and compliance checks similar to the other premises. Clause 4.7.1 of the policy paper clearly indicates that a public pool is an activity that fits the requirement for registration and licensing, perhaps more so, than some activities already subject to registration/licensing such as prescribed accommodation. Yarra disagree with the comment contained within 4.7.3.1 of the paper that indicates the current scheme of regulation under the Health (Infectious Disease) Regulations appears adequate to address public health risk associated with public swimming pools. It is most likely that due to the lack of registration/licensing many public pools and spas would never be checked for compliance. Many Councils undertake an inspection activity in much the same way for other registered premises but this is largely due to a proactive approach to an activity that poses a risk to public health. It may well be that many public pools in Gymnasiums, hotels, motels and other facilities are never checked. By virtue of Yarra's proactive inspection process of public pools and spas we have identified a number of pools that have had serious problems relating to non-compliance including very poor knowledge by the operators. The distinction between public pool activities and those of other registerable premises is still not clear in the policy paper. It is not believed that the cost of registration/licensing would be too great an impost on these activities as it appears they fall well within the intent of this Section of the public health Act. If the Department is concerned about the cost of registration it could set a cap or provide guidance on what the level should be. Yarra believes it is the registration process and accompanying surveillance process that is important not what the registration fee is.

151	That the brothel provisions under the Health (Infectious Diseases) Regulations 2001 (Vic) not be transferred to the Prostitution Control Regulations 1995 (Vic), but that administrative arrangements between the Department of Justice and the Department of Human Services ensure that the members of the industry are informed of their requirements under the Health (Infectious Diseases) Regulations 2001 (Vic).	5.1
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**Comment:** Supported. Clarity of roles of DHS and local government Health Departments need to be provided.

152	That public health risks associated with sex on premises venues be addressed under the public health Act, by the ability for the Chief Health Officer to issue an improvement or prohibition notice if the proprietor fails to take all reasonable and practicable measures to prevent or minimize the possibility of a serious harm happening to another person (such as the spread of sexually transmitted infections).	5.1
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	transmissible infections).	
	<b>Comment:</b> Sex On Site (SOS) businesses are businesses that encourage the conduct of potentially high risk activities so ensuring the activities are controlled by the public health Act is supported. However it is unclear if this should be administered through DHS or Local Government Health Departments. If Local Government is to be the administering body then registration should be required as per previous comments.	
153	That the public health Act have regulation-making powers broad enough to allow regulation of sex on premises venues, should voluntary arrangements not succeed.	5.1
	<b>Comment:</b> Supported.	
154	The public health Act continue to require registration of premises providing accommodation to a high number of people (such as tourist accommodation and rooming houses).	5.2
	<b>Comment:</b> Supported	
155	That the regulation-making power under the public health Act be broad enough to regulate accommodation provided by people who are not necessarily “in the business” of providing prescribed accommodation. This would be broad enough to regulate accommodation provided to seasonal workers (if appropriate).	5.2
	<b>Comment:</b> Supported	
156	That the public health Act continue to prescribe by regulation the classes of accommodation to be registered. It is expected that the classes of accommodation currently required to be registered will continue to be prescribed by regulation, except for some residential accommodation that is adequately regulated under other legislative regimes, for example accommodation regulated under the <i>Children and Young Persons Act 1989</i> or the or the <i>Intellectually Disabled Persons’ Services Act 1986</i> . The classes of accommodation currently exempt from the requirement to be registered will probably continue to be exempt, although it would be appropriate to carefully consider facilities provided to non-permanent residents in care	5.2

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	parks.	
<b>Comment:</b> Supported		
157	That the specific regulatory scheme set out in the Regulations be proportionate to the level of risk associated with that activity.	5.2
<b>Comment:</b> Supported		
158	That the following principles apply in relation to the investigation and control of infectious diseases: the general principles that apply to the whole Act (see 1.7) the guiding principles which are currently in section 119 of the Health Act (except to the extent that the principles are incorporated into the general guiding principles).	5.3
<b>Comment:</b> Supported. This is the general philosophy of the City of Yarra in any case.		
159	That the following people be authorised to exercise contact tracing powers for a notifiable condition under the public health Act: authorised officers of the Department of Human Services, subject to directions of the Secretary authorised officers of council, but only if directed to do so by the Secretary and subject to the directions of the Secretary.  These powers authorise the collection, use and disclosure of personal information and health information.	5.3
<b>Comment:</b> Supported.		
160	That contact tracing powers extend to permit information to be obtained from: the person with the condition and their contacts any other person who has or may have relevant information, including: business records other records held about the person.	5.3
<b>Comment:</b> Supported		
161	That the public health Act clearly set out what	5.3

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	action 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 (modelled on the <i>Public Health Act 2005 (Qld)</i> ).	
175	That reasonable use of force may be exercised by an authorised officer or the police to enforce a public health order made under this section. If an authorised officer exercises the power, the person may obtain the assistance of any member of the police force.	5.5
<b>Comment:</b> Supported		
180	That the term “notifiable disease” be replaced by the term “notifiable condition” in the public health Act.	5.6
<b>Comment:</b> Supported		
181	That notifiable conditions (notifiable diseases) continue to be prescribed in a schedule to the regulations.	5.6
<b>Comment:</b> Supported		
182	That the public health Act enable the Governor in Council to proclaim that a condition is a notifiable condition. The proclamation would be used for new and emerging diseases. This proclamation would last for up to 12 months and be a disallowable instrument.	5.6
<b>Comment:</b> Supported.		
190	That provisions in relation to immunisation records in children’s services (Regs 14(2) and 16(0)) be retained in the Children’s Services Regulations 1998 (Vic), rather than included in the public health Act.	5.8
<b>Comment:</b> Supported.		
191	That the current requirement for a parent or guardian to provide an immunisation status certificate on enrolment of their child in primary school be retained.	5.8

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<b>Comment:</b> Supported		
192	That a parent or guardian be required to provide evidence of immunisation status on enrolment of their child in secondary school.	5.8
<b>Comment:</b> Supported		
193	That no obligation be imposed on people enrolling in tertiary facilities to provide evidence of immunisation status.	5.8
<b>Comment:</b> supported		
194	That the public health Act require school principals to make reasonable efforts to seek an immunisation status certificate for every child enrolled in the school (this would apply to primary and secondary schools).	5.8
<b>Comment:</b> Supported		
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> Supported		
197	That there be no offence for a parent or guardian failing to produce immunisation records to the school.	5.8
<b>Comment:</b> If there is no offence, why is there a statutory obligation? It will be a meaningless requirement.		
198	That an immunisation status certificate under the public health Act include one of: a certificate issued in the prescribed form by a person authorised to do so by a municipal council a certificate issued in the prescribed form by a person who is authorised by the Australian Childhood Immunisation Register to be an immunisation provider a prescribed person who certifies that the person has been presented with the required documentary evidence in relation to each	5.8

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	<p>prescribed infectious disease 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).</p>	
<b>Comment:</b> Supported		
199	<p>That a person authorised to do so by a municipal council must issue an immunisation status certificate to a parent, where: The parent produces for each prescribed infectious disease one of the forms of evidence listed in recommendation 201 below; and The child resides in the municipal district or attends, or proposes to attend, a school in the municipal district.</p>	5.8
<b>Comment:</b> Supported		
200	<p>A prescribed person or a person authorised by the Australian Childhood Immunisation Register to be an immunisation provider, may issue an immunisation status certificate if the parent produces for each prescribed infectious disease one of the forms of evidence listed in recommendation 201 below. However, it would not be a statutory obligation for these people to issue an immunisation status certificate.</p>	5.8
<b>Comment:</b> Supported		
201	<p>That an immunisation status certificate be issued if the parent or guardian of the child produces for each prescribed infectious disease: evidence that the child has been immunised (this may include patient-held records, provider held records or an Australian Childhood Immunisation Register report) laboratory evidence that the child has developed a natural immunity and does not require immunisation evidence that the child has not been immunised against the disease(s) due to the reasonable belief of a registered medical practitioner that the child may suffer an adverse reaction to the vaccination</p>	5.8

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	<p>a statutory declaration that the parent or guardian believes that the child has been vaccinated</p> <p>a statutory declaration that the parent or guardian has a conscientious objection to vaccination against a specified disease</p> <p>(f) other prescribed evidence (it is envisaged that the regulations would provide that a parent report of varicella infection (chicken pox) would be prescribed).</p>	
	<b>Comment:</b> Supported.	
202	That an immunisation status certificate must cover the prescribed diseases. The vaccines listed under the National Health and Medical Research Council <i>National Immunisation Program</i> could be prescribed.	5.8
	<b>Comment:</b> Supported.	
203	That a parent or guardian be required to notify the school if their child is infected or comes into contact with a person infected with a vaccine preventable or excludable infectious disease.	5.9
	<b>Comment:</b> Supported.	
204	That exclusion periods from schools and children's services for infectious disease cases and contacts continue to be prescribed.	5.9
	<b>Comment:</b> Supported.	
205	That the Chief Health Officer be given discretion to waive or alter the prescribed periods in individual cases.	5.9
	<b>Comment:</b> Supported.	
206	That school principals and people in charge of children's services be required to seek advice from the Department of Human Services before excluding children where: the child enrolled in the school or children's service is suffering from a vaccine preventable illness the child enrolled in the school or children's service has not been immunised and has been in contact with a person at the school or service	5.9

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	who is infected with the disease.	
<b>Comment:</b> this is supported as long as the exclusions do not include head lice.		
207	That the provisions in the new Act and Regulations be consistent with National Health and Medical Research Council <i>Guidelines on the Recommended Minimum Periods of Exclusion from School, Preschool and Child Care Centres of Infectious Disease Cases and Contacts</i> .	5.9
<b>Comment:</b> Supported provided the exclusions do not include head lice.		
208	That the provisions of the Health Act concerning offensive waterways (ss 68–72) not be included in the public health Act.	6.1
<b>Comment:</b> Supported		
210	That a separate regulation-making power regarding rats and mice, as is currently contained in section 87 of the Health Act, not be included in the public health Act.	6.1
<b>Comment:</b> Supported.		
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> Supported		
212	That, subject to the amendments noted below, Parts 5A and 5B of the <i>Building Act 1993 (Vic)</i> be transferred to the public health Act.	6.2
<b>Comment:</b> Supported.		
213	That responsibility for registration transfer from the Building Commission to the Secretary to the Department of Human Services.	6.2
<b>Comment:</b> Supported.		

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214	That the public health Act provide that the owner of the land on which there is a cooling tower system must ensure that the system is registered.	6.2
<b>Comment:</b> Supported.		
215	That the public health Act continue to provide that the owner of the land on which there is a cooling tower system is responsible for the obligations noted in sections 75EA, 75EB, 75EC, 75ED and 75FA of the <i>Building Act 1993</i> (Vic).	6.2
<b>Comment:</b> Supported.		
216	That the public health Act provide that the Secretary is able to vary the risk management requirements for a particular cooling tower system or class of systems, including: specified maintenance and testing requirements specified aspects of risk management plans specified audit requirements where the Secretary is satisfied that such an exemption would not pose a higher health risk.	6.2
<b>Comment:</b> Supported.		
217	That the public health Act include a power to make regulations that exempt a person from complying with the requirements of the Act. These exemptions could be made subject to conditions.	6.2
<b>Comment:</b> Supported.		
219	That the public health Act not include a provision enabling the owners of mobile cooling tower systems to register that cooling tower system and notify the Secretary where it is located. The owner of the land on which the cooling tower system is located would need to register the system.	6.2
<b>Comment:</b> Supported.		
220	That the public health Act not re-enact Part 15 of the Health Act.	6.3
<b>Comment:</b> Supported.		
221	That there is a consequential amendment made to	6.3

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	<p>section 35(2) of the <i>Meat Industry Act 1993</i> (Vic), so that the reference to “consulting the Minister administering the <i>Health Act 1958</i>” is changed to “consulting the Minister administering the <i>Food Act 1984</i>”. (Section 35(2) relates to consultation before there is an exemption by the Governor in Council from the prohibition of selling meat for human consumption, which is from a mammal that is not a “consumable animal”.)</p>	
	<b>Comment:</b> Supported.	
222	<p>That the provisions in Part 15 of the Health Act not be incorporated into either the <i>Meat Industry Act 1993</i> (Vic) or the <i>Food Act 1984</i> (Vic).</p>	6.3
	<b>Comment:</b> Supported.	
223	<p>That the <i>Food Act 1984</i> (Vic) be amended so that it is an offence against the <i>Food Act 1984</i> (Vic) for a person to contravene the requirements of section 34(1) of the <i>Meat Industry Act 1993</i> (Vic) at, on or in respect of:          food premises that are registered under Part 6          food premises that are required to be registered under Part 6.</p> <p>The penalty would be the same as it is for a breach of section 34(1) of the <i>Meat Industry Act 1993</i> (Vic) (100 penalty units; subsequent offence 500 penalty units or 12 months imprisonment).</p>	6.3
	<b>Comment:</b> Supported.	
224	<p>That the authorised officers under the <i>Food Act 1984</i> (Vic) could prosecute a person under the provision outlined in recommendation 223 above and the provisions in Part 5 of the <i>Food Act 1984</i> (Vic) (Analysts) and Part 8 (Legal Proceedings) would apply to these prosecutions.</p>	6.3
	<b>Comment:</b> Supported.	
225	<p>That, following further analysis of the provisions in Part 20 of the <i>Health Act 1958</i> (Vic) and Parts 8 (Vic) and Parts 8 and 9 of the <i>Food Act 1984</i> (Vic), consequential amendments be made to the <i>Food Act 1984</i> (Vic) so that the relevant provisions of</p>	6.3

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	Part 20 of the Health Act (as amended) are inserted into the <i>Food Act 1984</i> (Vic) as new and separate provisions.	
<b>Comment:</b> Supported.		
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> Supported.		
227	That consideration be given to whether the <i>Food Act 1984</i> (Vic) should be amended, in line with recommendations 8 and 9 above to provide: That the <i>Food Act 1984</i> (Vic) applies throughout Victoria (including areas that do not form part of a municipal district) That the Governor in Council may declare that a municipal council has specified powers and functions under the <i>Food Act 1984</i> (Vic) in relation to an area that is outside a municipal district, as if the area was within that municipal council's municipal district. (The Minister for Health would be required to consult with the Minister administering the <i>Local Government Act 1989</i> (Vic), before making a recommendation to the Governor in Council in relation to this issue.)	6.3
<b>Comment:</b> Supported.		
242	That Part 13 of the Act (s 228), which empowers the Governor in Council to make regulations relating to precautions against fire, not be re-enacted in the public health Act.	6.5
<b>Comment:</b> Supported.		