

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

Recommendations

	Issue	Section reference
1	That the new Act be named the <i>Public Health Act</i> .	1.1
<i>Comment: Greater Shepparton City Council supports the recommendation.</i>		
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
<i>Comment: Greater Shepparton City Council supports the recommendation.</i>		
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
<i>Comment: Greater Shepparton City Council supports the recommendation.</i>		
7	That the term "health" apply to all other provisions and be defined narrowly, to exclude concepts of social and mental wellbeing.	1.4
<i>Comment: Greater Shepparton City Council supports the recommendation.</i>		
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
<i>Comment: Greater Shepparton City Council supports the recommendation.</i>		
9	That the Governor in Council may declare that a municipal council has specified powers and	1.5

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	<p>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.)</p>	
<p><i>Comment: Greater Shepparton City Council supports the recommendation.</i></p>		
10	That the public health Act bind the Crown.	1.5
<p><i>Comment: Greater Shepparton City Council supports the recommendation.</i></p>		
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"> (a) to protect public health and prevent disease, illness, injury, disability and premature death; (b) to promote conditions in which the people of Victoria can be healthy; and (c) to reduce social and health inequalities and enable all Victorians to achieve the best possible state of health and wellbeing. 	1.6
<p><i>Comment: Greater Shepparton City Council supports the recommendation.</i></p>		

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	Issue	Section reference
13	<p>That the public health Act include the following guiding principles:</p> <p>(a) 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 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> <p>(i) access to reliable information in appropriate forms to facilitate a good understanding of public health issues; and</p> <p>(ii) opportunities to participate in policy and program development (based on section 1L of the <i>Environmental Protection Act 1970</i> (Vic)).</p> <p>(e) Principle of proportionality</p>	1.7

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<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>(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>	
<p><i>Comment: Greater Shepparton City Council does not support the introduction of Guiding Principles until further guidelines are developed explaining how the principles are to be applied in Council's decision making process, including cost analysis and legal implications.</i></p>	
<p>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:</p> <ul style="list-style-type: none"> (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. 	<p>1.10</p>

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	<i>Comment: Greater Shepparton City Council supports the MAV response that should the word “providing” in relation to immunisation services is included in the public health Act, that Council would seek full cost recovery for this service.</i>	
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
	<i>Comment: Greater Shepparton City Council supports the recommendation that annual reports are no longer required unless directed by the Secretary.</i>	
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
	<i>Comment: Greater Shepparton City Council supports the recommendation.</i>	
23	That the public health Act not include the legislative requirement that every municipal council appoint a medical officer of health.	1.12
	<p><i>Comment: Council does not support the removal of MOH as the MOH has local knowledge and experience in public health matters and can provide prompt advice in the event of a public health issue, for events such as an influenza pandemic. Department of Human Services medical officers may not be able to promptly respond and provide advice. To remove the MOH will require the EMP and MPHP to be reviewed and alternative medical experts identified and contact details maintained.</i></p> <p><i>Also municipal councils that offer immunisation services via nurse immunisers are required to employ or contract a MOH to provide advice to nurse immunisers under the Drugs, Poisons and Controlled Substances Regulations 1995.</i></p> <p><i>Suggest recommendation 23 be altered so that council’s who wish to retain a MOH can, and those that do not/cannot be required to seek alternative mechanisms to obtain expert medical advice when needed.</i></p>	
24	That non-legislative mechanisms be employed to assist municipal councils obtain public health expertise.	1.12
	<i>Comment: Greater Shepparton City Council recommends that this is an option.</i>	

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	Issue	Section reference
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
<i>Comment: Greater Shepparton City Council supports the recommendation.</i>		
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
<i>Comment: Greater Shepparton City Council supports the recommendation.</i>		
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
<i>Comment: Greater Shepparton City Council supports the recommendation.</i>		
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
<i>Comment: Greater Shepparton City Council supports the recommendation.</i>		
29	That the public health Act provide that: (a) the Secretary may appoint Departmental officers as authorised officers (b) a municipal council may appoint employees or officers of the council as authorised officers.	1.12
<i>Comment: Greater Shepparton City Council supports the recommendation.</i>		
30	That the Secretary or municipal council (as appropriate) may only appoint a person to be an	1.12

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	Issue	Section reference
	<p>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.</p>	
	<p><i>Comment: Greater Shepparton City Council supports the recommendation.</i></p>	
31	<p>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.</p>	1.12
	<p><i>Comment: Greater Shepparton City Council supports the recommendation; however DHS will have to develop clear guidelines as to minimum competencies to fulfill particular statutory functions.</i></p>	
55	<p>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.</p>	3.1
	<p><i>Comment: Greater Shepparton City Council supports the recommendation.</i></p>	
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"> (a) examine data about health status and health determinants in the municipal district (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 (c) describe how the local community is engaged in developing, implementing and evaluating the plan (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 	3.1

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	Issue	Section reference
	health plan.	
	<i>Comment: Greater Shepparton City Council supports the recommendation.</i>	
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
	<i>Comment: Greater Shepparton City Council supports the recommendation.</i>	
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
	<i>Comment: Greater Shepparton City Council supports the recommendation.</i>	
71	That the public health Act support and enhance the practice of risk management, rather than incorporate specific procedural requirements.	4.1
	<i>Comment: Greater Shepparton City Council adopts a similar opinion as the MAV response and does not support the adoption of a risk management approach until DHS provide more information as to how the risk management approach applies in Council’s decision making process and clearly identify which matters under the public health Act this risk management approach applies to. In developing these guidelines, DHS will need to consult local government. DHS will need to consider and address the possible implications of cost, legal liability and response time/delay in investigation and action.</i>	
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

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	Issue	Section reference
	<i>Comment: Greater Shepparton City Council supports and encourages DHS developing administrative guidelines to ensure issues of risk are addressed properly and consistently, however local government should be consulted.</i>	
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 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
	<i>Comment: Greater Shepparton City Council does not support the recommendation at this stage until it is clear what activities represent a general duty. Based on the recommendations provided, it is assumed that the Chief Health Officer will have enforcement powers. Council would like clarification on what constitutes a breach of general duty and how breaches of general duty will be enforced and what is required of Council.</i>	
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
	<i>Comment: see comments noted for recommendation 73 above.</i>	
82	That the public health Act not introduce a “risk to health” offence.	4.3
	<i>Comment: Greater Shepparton City Council supports the recommendation.</i>	
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.	
	<i>Comment: Greater Shepparton City Council supports the recommendation.</i>	
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
	<i>Comment: Greater Shepparton City Council supports the recommendation.</i>	
85	That "offensive" be defined as "noxious or injurious to personal comfort" and the reference to "annoying" be removed.	4.4
	<i>Comment: Greater Shepparton City Council supports the recommendation.</i>	
86	That a risk of a "nuisance" be sufficient to trigger powers.	4.4
	<i>Comment: Council does not support this recommendation.</i>	
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
	<i>Comment: Greater Shepparton City Council supports the recommendation.</i>	
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

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	Issue	Section reference
	<i>Comment: Greater Shepparton City Council supports the recommendation.</i>	
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
	<i>Comment: Greater Shepparton City Council supports the recommendation.</i>	
90	That it continue to be an offence to cause a "nuisance" (as in s 42).	4.4
	<i>Comment: Greater Shepparton City Council supports the recommendation.</i>	
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
	<i>Comment: Greater Shepparton City Council supports the recommendation.</i>	
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
	<i>Comment: Greater Shepparton City Council supports the removal of nuisance abatement notices and supports in principle, the new enforcement provisions of Improvement or Prohibition Notices. Council would like to see the development of guidelines for the format of Improvement of Prohibition Notices.</i>	
93	That the Department of Human Services continue to issue best practice standards of practice, as	4.5

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	Issue	Section reference
	<p>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>	
	<p><i>Comment: Greater Shepparton City Council supports the recommendation.</i></p>	
94	<p>That there continue to be an obligation for the owner of land on which there is a cooling tower system to ensure that a risk management plan is prepared in relation to the system (see recommendation 215).</p>	4.6
	<p><i>Comment: Greater Shepparton City Council does not want any involvement in the licensing or monitoring the operation of owners of cooling towers.</i></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><i>Comment: Greater Shepparton City Council does not support the proposal and would rather State Government focus its resources on developing guidelines for people undertaking a registerable or licensable activity.</i></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"> (a) there would be provision for approved auditors who are approved by the Secretary (b) approved auditors would need to comply with any conditions imposed on their approval (c) the approved auditors would assess whether the risk management plan addresses the required matters, but not its adequacy (d) there would be provisions regarding reporting "failed" audits to the registering authority (the Secretary or municipal council) 	4.6

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	Issue	Section reference
	(e) there would be provisions regarding conflicts for approved auditors, granting audit certificates and impersonation of approved auditors.	
	Comment:	
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
	<i>Comment: Greater Shepparton City Council would support this recommendation as an enforcement action. See comments under recommendation 115 regarding Improvement and Prohibition Notices.</i>	
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"> (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
	<p><i>Comment: Greater Shepparton City Council supports part of this recommendation in relation to grant, renew, vary, suspend or cancel registration/licence; to set conditions and to monitor the activities of the licence/registration holder to ensure compliance with the requirements of licence/registration.</i></p>	
	<p><i>Council DOES NOT support the recommendations relating to council determining whether a person is fit and proper person and make enquiries as to the authenticity and suitability of documents presented with the application. Council is concerned why it needs to be legislated to reissue a certificate or licence on application if it had been lost, stolen or destroyed as it is not provided in other legislative provisions for registrable activities (ie food premises). There are no clear guidelines to determine how a fit and proper person could be consistently addressed. DHS will need to develop guidelines to define what constitutes a fit and proper person and how to consistently assess this requirement.</i></p>	
99	<p>That the public health Act:</p> <ul style="list-style-type: none"> (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 (b) set out eligibility requirements for a licence/registration, such as prescribed qualifications or training competencies (c) provide for prescribing fees, including for the issue and reissue of a registration/licence, and for late applications. 	4.7
	<p><i>Comment: Greater Shepparton City Council supports the recommendation.</i></p>	
100	<p>That the following offence provisions be set out in the public health Act:</p> <ul style="list-style-type: none"> (a) conducting an activity for which a licence is required, without the operator being registered/licensed (b) breaching the conditions of the licence (c) making a false or misleading statement in relation to an application for the grant, renewal or variation of a registration/licence (d) failing to prepare a risk management plan (where there is an obligation to have a risk management plan) (e) an offence of failing to notify authorities in the 	4.7

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	Issue	Section reference
	event of certain types of incidents occurring.	
	<i>Comment: Greater Shepparton City Council supports the recommendation.</i>	
101	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 canceling any registration/licence subsequently issued.	4.7
	<i>Comment: Greater Shepparton City Council supports the recommendation.</i>	
102	That (at this stage) there should not be a requirement that solaria be registered with municipal councils (or the Secretary).	4.7
	<i>Comment: Greater Shepparton City Council supports the recommendation.</i>	
103	That there should not be a requirement that public events be registered with municipal councils (or the Secretary).	4.7
	<i>Comment: Greater Shepparton City Council supports the recommendation.</i>	
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
	<i>Comment: Greater Shepparton City Council supports the recommendation but would like further information on what events would be prescribed circumstances.</i>	
105	That the Secretary or municipal council (as appropriate) must issue the authorised officers with identity cards that: (a) contain the authorised officers' name and photo	4.8

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	<ul style="list-style-type: none"> (b) identify the authorised officers as authorised officers under the Act (c) are signed by the authorised officer (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). 	
<p><i>Comment: Greater Shepparton City Council supports the recommendations.</i></p>		
106	<p>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 Secretary or municipal council (as appropriate) may be of a general nature or may relate to a specified matter or specified class of matter.</p>	4.8
<p><i>Comment: Greater Shepparton City Council supports the recommendations.</i></p>		
107	<p>That an authorised officer must produce his or her identity card for inspection:</p> <ul style="list-style-type: none"> (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) (b) if asked to produce his or her card by the occupier of the premises during the exercise of the power. 	4.8
<p><i>Comment: Greater Shepparton City Council supports the recommendations.</i></p>		
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
<p><i>Comment: Greater Shepparton City Council supports the recommendations.</i></p>		
109	<p>That before entering a premises to exercise a general enforcement, incident or emergency power, the authorised officer must (subject to the</p>	4.8

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	<p>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:</p> <ul style="list-style-type: none"> (a) it is not practicable (the premises are vacant) (b) the authorised officer believes on reasonable grounds that immediate entry to the premises is required to ensure: <ul style="list-style-type: none"> (i) the safety of any person; or (ii) the effective exercise of the powers noted below. 	
	<p><i>Comment: Greater Shepparton City Council supports the recommendations.</i></p>	
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"> (a) enter a place (b) stop and search any person, animal, vehicle, vessel or other means of conveyance (c) inspect, examine and make enquiries at the place (d) examine or inspect any thing at the place (e) bring any equipment or materials to the place that may be required (f) seize any thing, including a document, at the place, where: <ul style="list-style-type: none"> (i) the seizure is required to determine whether there has been a contravention of the Act; or (ii) the seized thing may be used as evidence for a possible prosecution; or (iii) the seizure is required to minimise a risk to health (g) seal a place or thing (h) take a sample of any thing at the place (i) take any photographs or measurements or make sketches, impressions or any audio or visual recordings (j) make copies of, or take extracts from, any document kept on the place 	4.8

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	<ul style="list-style-type: none"> (k) use or test any equipment at the place (l) request a person at the place to provide information or produce documents (m) request a person at the place to operate equipment to access information from that equipment (such as from a disk or tape) (n) request a person at the place to provide any document that is needed to investigate or monitor compliance (o) use any assistants the authorised officers considers necessary to exercise the powers conferred on an authorised officer (p) exercise any other power conferred on the authorised officer by the public health Act (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. 	
<p><i>Comment: Greater Shepparton City Council supports the recommendations.</i></p>		
111	That there is no need to have a warrant to perform any of the above powers.	4.8
<p><i>Comment: Greater Shepparton City Council supports the recommendations.</i></p>		
112	<p>That the following provisions apply for seized things:</p> <ul style="list-style-type: none"> (a) the authorised officer must provide a receipt for any seized thing in the prescribed form (b) seized things may be held for up to 60 days, unless: <ul style="list-style-type: none"> (i) the Magistrates' Court extends the period of seizure, on the application of an authorized officer; or (ii) the thing had to be destroyed by the Secretary or council (for example, due to contamination) (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. 	4.8

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	Issue	Section reference
<i>Comment: Greater Shepparton City Council supports the recommendations.</i>		
114	<p>That the public health Act include offences regarding:</p> <ul style="list-style-type: none"> (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
<i>Comment: Greater Shepparton City Council supports the recommendations.</i>		
115	<p>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.</p>	4.9
<i>Comment: Greater Shepparton City Council supports the use of Improvement or Prohibition Notice and the need for clarity and general criteria for issuing such notices. Council DOES NOT support the need for Council ratification before an improvement or prohibition notice is issued as this could cause unnecessary delays in the resolution of the matter and suggest that an improvement or prohibition notice be issued under the CEO or delegated officer.</i>		
116	<p>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.</p>	4.9
<i>Comment: Greater Shepparton City Council supports the recommendations.</i>		
117	<p>That failure to comply with an improvement or</p>	4.9

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	Issue	Section reference
	prohibition notice is an offence under the public health Act.	
<i>Comment: Greater Shepparton City Council supports the recommendations.</i>		
126	That if a person is prosecuted and found guilty of contravening the public health Act, the following provisions apply: (a) 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) (b) 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
<i>Comment: Greater Shepparton City Council supports the recommendations.</i>		
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
<i>Comment: Greater Shepparton City Council supports the recommendations.</i>		
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
<i>Comment: Greater Shepparton City Council supports the recommendations.</i>		
129	That there should also be further consideration regarding whether other cost recovery provisions would be appropriate, having regard to the provisions in the <i>Environment Protection Act 1970</i> (Vic) and the <i>Health Act 1958</i> (Vic).	4.11
<i>Comment: Greater Shepparton City Council supports the recommendations.</i>		
130	That there be the capacity for contraventions of	4.12

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	Issue	Section reference
	some provisions of the public health Act to be enforced through the Penalty Enforcement by Registration of Infringement Notice system.	
	<i>Comment: Greater Shepparton City Council supports the recommendations.</i>	
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
	<i>Comment: Greater Shepparton City Council supports the recommendations.</i>	
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
	<i>Comment: Greater Shepparton City Council supports the recommendations.</i>	
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
	<i>Comment: Greater Shepparton City Council supports the recommendations.</i>	
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
	<i>Comment: Greater Shepparton City Council supports the recommendations.</i>	
136	That the public health Act provide for the following appeal rights in relation to licences and registrations: (a) a right of internal review for applicants for decisions by the municipal council/Secretary to: (i) refuse to grant, extend or vary a	4.14

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	Issue	Section reference
	<p>licence/registration</p> <p>(ii) vary, suspend or cancel a licence/registration</p> <p>(iii) impose certain conditions on a licence/registration.</p> <p>(b) full appeal rights to the Victorian Civil and Administrative Tribunal in relation to any decision made upon internal review</p> <p>(c) a right of direct appeal to the Victorian Civil and Administrative Tribunal in relation to any decision to cancel or suspend a registration or licence (the holder of the cancelled/suspended licence or registration could elect to utilise the internal review or apply directly to the Victorian Civil and Administrative Tribunal for review).</p>	
<p><i>Comment: Greater Shepparton City Council does not support the recommendation as it believes the current system is superior and sees no reason to change.</i></p>		
137	<p>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.</p>	4.14
<p><i>Comment: Greater Shepparton City Council supports a person right of appeal but not to VCAT as VCAT decisions are not consistent and is time consuming.</i></p>		
138	<p>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:</p> <p>(a) the day on which the applicant was notified of the decision</p> <p>(b) the day on which the eligible person is notified by the Secretary/municipal council of the eligible person's right to a review.</p>	4.14
<p><i>Comment: Greater Shepparton City Council supports the recommendation.</i></p>		
144	<p>That the requirement that businesses conducting hairdressing be registered with municipal councils not be re-enacted in the public health Act.</p>	5.1

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	Issue	Section reference
	<i>Comment: Greater Shepparton City Council does not support the recommendation. Hairdressers should continue to be registered with council however the fee and inspection regime should be proportionate to the level of risk. Most hairdressing establishments still use razors or other shaving equipment and most offer beauty treatment services.</i>	
145	That the requirement that a person conducting a business of beauty therapy be registered with municipal councils be re-enacted.	5.1
	<i>Comment: Greater Shepparton City Council supports the recommendation.</i>	
146	That businesses conducting tattooing, skin penetration and colonic irrigation be required to be registered with municipal councils.	5.1
	<i>Comment: Greater Shepparton City Council supports the recommendation.</i>	
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 therapy.	5.1
	<i>Comment: Greater Shepparton City Council supports the recommendation.</i>	
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
	<i>Comment: Greater Shepparton City Council supports the recommendation.</i>	
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	5.1

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	Issue	Section reference
	<p>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.</p>	
	<p><i>Comment: Greater Shepparton City Council supports the recommendation.</i></p>	
150	<p>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.</p>	5.1
	<p><i>Comment: Greater Shepparton City Council agrees that public swimming pool proprietors continue to comply with the regulations; however Council does not support the requirement that they are not required to be registered. Registration of public swimming pools (small fee) will assist in compliance with the regulations and recover costs incurred. The regulations may need reviewing to reflect the associated risk based on usage. Refer to WA Dept of Health Draft Code of Practice for Design, Construction, Operation, Management and Maintenance of Aquatic Facilities. Greater Shepparton City Council has at least 29 public swimming pools, 5 are commercial pools operated and managed by council and 2 are privately operated. The remainders are small, infrequently used pools situated mainly in hotel/motel and caravan parks. All are inspected annually requiring an hour visit, with follow-up visits to non-complying pools. No fees are recovered for inspection and monitoring compliance.</i></p>	
154	<p>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).</p>	5.2
	<p><i>Comment: Greater Shepparton City Council supports the recommendation. Consideration should be given as to whether prescribed accommodation establishments should also be required to develop and display evacuation procedures similar to caravan parks under the Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 1999.</i></p>	
155	<p>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</p>	5.2

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	Issue	Section reference
	regulate accommodation provided to seasonal workers (if appropriate).	
<p><i>Comment: Whilst this is a regulation making power which may require businesses who offer accommodation for seasonal workers to be registered as prescribed accommodation, further review and consultation is required with affected industries (such as Fruit Growers Association and Caravan Parks Association) and at this stage Greater Shepparton City Council does not support this recommendation. There is a conflict between the proposed public health Act and current Residential Tenancies Act 1997, which exempts caravan parks that accommodate seasonal workers from the requirement for registration. Should the public health Act include the registration of accommodation for seasonal workers, then the registration and monitoring of caravan parks should be transferred from the Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 1999 to the public health Act.</i></p>		
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 caravan parks.	5.2
<p><i>Comment: Greater Shepparton City Council supports the recommendation.</i></p>		
157	That the specific regulatory scheme set out in the Regulations be proportionate to the level of risk associated with that activity.	5.2
<p><i>Comment: Greater Shepparton City Council supports the recommendation.</i></p>		
158	That the following principles apply in relation to the investigation and control of infectious diseases: (a) the general principles that apply to the whole	5.3

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	Issue	Section reference
	<p>Act (see 1.7)</p> <p>(b) 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).</p>	
<p><i>Comment: Greater Shepparton City Council supports the recommendation.</i></p>		
159	<p>That the following people be authorised to exercise contact tracing powers for a notifiable condition under the public health Act:</p> <p>(a) authorised officers of the Department of Human Services, subject to directions of the Secretary</p> <p>(b) authorised officers of council, but only if directed to do so by the Secretary and subject to the directions of the Secretary.</p> <p>These powers authorise the collection, use and disclosure of personal information and health information.</p>	5.3
<p><i>Comment: Greater Shepparton City Council supports the recommendation.</i></p>		
180	<p>That the term “notifiable disease” be replaced by the term “notifiable condition” in the public health Act.</p>	5.6
<p><i>Comment: Greater Shepparton City Council supports the recommendation.</i></p>		
181	<p>That notifiable conditions (notifiable diseases) continue to be prescribed in a schedule to the regulations.</p>	5.6
<p><i>Comment: Greater Shepparton City Council supports the recommendation.</i></p>		
191	<p>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.</p>	5.8
<p><i>Comment: Greater Shepparton City Council supports the recommendation.</i></p>		
192	<p>That a parent or guardian be required to provide evidence of immunisation status on enrolment of</p>	5.8

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	Issue	Section reference
	their child in secondary school.	
<p><i>Comment: Greater Shepparton City Council supports the recommendation, however it is concerned about the potential increased workload and subsequent costs incurred as a result.</i></p>		
193	That no obligation be imposed on people enrolling in tertiary facilities to provide evidence of immunisation status.	5.8
<p><i>Comment: Greater Shepparton City Council supports the recommendation.</i></p>		
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
<p><i>Comment: Greater Shepparton City Council supports the recommendation, however it is concerned about the potential increased workload and subsequent costs incurred as a result.</i></p>		
196	That section 144(2) of the Health Act not be re-enacted in the public health Act. (This provision provides that "a person in charge of a primary school must not refuse a child admission to the school only because an immunisation status certificate has not been produced in respect of the child". The provision is unnecessary.)	5.8
<p><i>Comment: Greater Shepparton City Council supports the recommendation.</i></p>		
197	That there be no offence for a parent or guardian failing to produce immunisation records to the school.	5.8
<p><i>Comment: Greater Shepparton City Council supports the recommendation.</i></p>		
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	5.8

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	Issue	Section reference
	<p>(c) a prescribed person who certifies that the person has been presented with the required documentary evidence in relation to each prescribed infectious disease</p> <p>(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).</p>	
<p><i>Comment: Greater Shepparton City Council supports the recommendation, however it is concerned that ACIR maintain a child's immunisation history for seven years and that this is not long enough if a parent were to request ACIR to provide an immunisation status certificate for their child enrolling into secondary school. It is suggested that ACIR extend the period it holds a child's immunisation history until the child is 15 years old.</i></p>		
202	<p>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.</p>	5.8
<p><i>Comment: Greater Shepparton City Council supports the recommendation that all vaccines given as per the NH&MRC National Immunisation Program be included in the immunisation status certificate.</i></p>		
203	<p>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.</p>	5.9
<p><i>Comment: Greater Shepparton City Council supports the recommendation.</i></p>		
204	<p>That exclusion periods from schools and children's services for infectious disease cases and contacts continue to be prescribed.</p>	5.9
<p><i>Comment: Greater Shepparton City Council supports the recommendation.</i></p>		
<p><i>Comment: Greater Shepparton City Council supports the recommendation.</i></p>		
208	<p>That the provisions of the Health Act concerning offensive waterways (ss 68–72) not be included in the public health Act.</p>	6.1

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	Issue	Section reference
<i>Comment: Greater Shepparton City Council supports the recommendation.</i>		
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
<i>Comment: Greater Shepparton City Council supports the recommendation.</i>		
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
<i>Comment: Greater Shepparton City Council supports the recommendation.</i>		
212	That, subject to the amendments noted below, Parts 5A and 5B of the <i>Building Act 1993</i> (Vic) be transferred to the public health Act.	6.2
<i>Comment: Greater Shepparton City Council is concerned that DHS will require Council to maintain a register of cooling tower systems within its municipality. Council is not in a position to undertake any registration or monitoring of cooling tower systems within its municipality and does not have the resources to conduct such activities. Council will provide assistance in the investigation of an outbreak of Legionella.</i>		
220	That the public health Act not re-enact Part 15 of the Health Act.	6.3
<i>Comment: Greater Shepparton City Council supports the recommendation.</i>		
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
<i>Comment: Greater Shepparton City Council supports the recommendation.</i>		

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	Issue	Section reference
227	<p>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:</p> <ul style="list-style-type: none"> (a) That the <i>Food Act 1984</i> (Vic) applies throughout Victoria (including areas that do not form part of a municipal district) (b) 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
<p><i>Comment: Greater Shepparton City Council supports the recommendation.</i></p>		
238	<p>That further consideration be given to the development of a memorandum of understanding between the Department of Human Services and the Department of Primary Industries (and other relevant agencies and departments), clarifying the roles and responsibilities of different agencies and departments involved in the management of spray drifts.</p>	6.4
<p><i>Comment: Greater Shepparton City Council regularly receives a number of spray drift related complaints from more sensitive uses located near a productive agricultural business and experiences valid conflict of interests when attempting to resolve this matter. Greater Shepparton City Council strongly supports and encourages the development of a memorandum of understanding (MOU) clarifying the roles and responsibilities of different agencies and departments involved in the management of spray drift. Consultation with other key stakeholders such the Fruit Growers Association would be beneficial in the development of the MOU.</i></p>		