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Disability Act Review Team
Disability and Communities Branch
Department of Families, Fairness and Housing

Delivered via email: disabilityactreview@dffh.vic.gov.au

Disability Inclusion Bill Exposure Draft – MAV Submission

The Municipal Association of Victoria (MAV) welcomes the opportunity to comment on the Disability Inclusion Bill Exposure Draft. For many years, councils in Victoria have been making ongoing and important progress in reducing barriers to inclusion for people living with a disability. The work of Victorian local government is illustrated in the [Inclusive Communities Strategic Framework](#) which although developed over 10 years ago, captures the breadth of councils' roles in disability access and inclusion.

We commend the Victorian Government for extending the intent of the State Disability Plan to public entities through strengthening accountability for actions aimed at assisting people with disabilities engage and enjoy all facets of community life. We endorse and support the objectives being sought to be delivered. We also support the creation of a Disability Inclusion Commissioner to oversee its introduction and implementation.

We note that all 79 councils, irrespective of their size, will be in scope as defined entities with a new duty to promote disability inclusion and provide reporting to the new Commissioner. Unlike other public entities covered by this legislation, councils have an enormous number of policies, services and programs which will need to be assessed and new systems developed to respond to the new duty and establish suitable reporting mechanisms. Achieving synergies with existing council planning processes will be an important way to embed disability inclusion into council activities and mitigate introductory costs.

Achieving equality of outcomes for people with disabilities across the state is also going to need targeted funding and support programs. This will be particularly important in communities where resourcing and implementation capacity within councils is limited due to staff shortages and other funding constraints.

To fully realise the potential arising from this reform we offer the following comments and recommendations in the sections below.

Adequate resourcing for implementation

We strongly recommend that an adequate budget is provided for the Office of the Disability Inclusion Commissioner. Development of tailored guidance materials and collaborating with



agencies will be vital. Investment in the introduction of this reform will generate significant returns later. Failure to provide resources risks this reform becoming additional red-tape, without the desired changes being achieved.

Definitions

The definition of disabilities is very broad. They are highly subject to individual self-assessment and assertion. We recognise that specifying specific disabilities is also fraught, given it could inadvertently exclude particular groups. An important way to mitigate this problem will be for adequate guidance being developed to assist defined entities better understand the range of issues they will need to consider in undertaking disability inclusion assessments.

Use of words such as “ensuring” need to be used sparingly given the broad definitions being used to describe disabilities and disability inclusion are so broad. ‘Enabling’ could be a more appropriate descriptor. For example, it is not practically possible for any organisation to “ensure” that all people with disabilities have equality of rights, opportunities, responsibilities, and outcomes.

Recommended changes:

- The Commission for Disability Inclusion to develop tailored guidance about the policy and programs deemed priority areas for attention in collaboration with councils.
- Amend (a) of the definition of “disability inclusion” to replace ‘ensuring’ with “enabling equality of rights, opportunities....”

Outcome measures

The effects that a policy, program or service might have for a person with a disability across all policies, programs and services are very difficult to measure. As drafted, Section 11 is so general it risks being impenetrable to interpret. We suggest that sector guidance is developed, with the components of an assessment being outlined via separate instruments (regulations and/or guidance produced by the Department) rather than the Act itself. Given councils’ broad reach and influence on local amenity and services, we suggest that local government specific guidance is developed to assist councils identify priority implementation activities. Involving councils in the design of the guidance will be critical to achievement of the objectives of the proposed Act. This would enable adjustments to be made over time as the system matures.

Recommended changes:

- Revise section 11 for disability impact assessment requirements to use words such as ‘enable’ rather than ‘ensure’.
- Reword section 11(2)(a) to use words such as “consider” rather than “assess”, and for the Department to be required to develop tailored templates and guidance.
- Include development of guidance in the scope of work required to be delivered by the Disability Inclusion Commissioner.

Commencement

Councils are required to deliver a large number of plans under the *Local Government Act 2020*, and various other Acts, such as the *Gender Equality Act* and the *Public Health and Wellbeing Act*. They also currently have in place Disability Action Plans as a requirement under current disability legislation. Aligning the introduction of a new duty for councils with their development of municipal public health and wellbeing plans makes sense. This would enable disability inclusion initiatives to be considered and incorporated into the work of the new councils elected in 2024. This will enable councils to prepare plans in conjunction with their other plans, including budgeting allocations.

Recommended change:

- Consider opportunities for alignment of the obligations under the Disability Inclusion Bill with other statutory reporting obligations councils need to meet, such as their Municipal Public Health and Wellbeing Plans.

Compliance and enforcement

More work is required to understand the extent to which a Commissioner should assess the adequacy of progress in how a council implements a Disability Action Plan, let alone have the capacity to issue compliance notices which later could be subject to VCAT review. Governed by democratically elected representatives, councils have to allocate their resources according to the priorities of their communities. They have a range of statutory and reporting requirements to ensure their accountability to their communities. As drafted, s26(c) is too open to the Commissioner's interpretation without regard for the obligations councils already have in determining their activities and priorities. Development of a sector-specific protocol would be a better way to deal with this issue.

Recommended change:

- Suggest deleting s26(c) and insert elsewhere an obligation for the defined entity to provide written comment to the Commissioner.

Universal design

Universal design elements being implemented wherever possible is supported in principle. More work needs to be done to educate staff expected to conduct Disability Impact Assessments with knowledge of Universal Design principles.

Recommended changes:

- The Commission for Disability Inclusion to support a community of practice for local government about universal design.
- Develop case-studies and information in consultation with councils to assist understanding of universal design principles among a variety of local government work areas.

Insights from the implementation of the *Gender Equality Act*

There are lessons that can be learnt and innovation shared from councils' experiences of implementing the *Gender Equality Act*. This is particularly true in relation to the support the Victorian Government can provide to achieve reasonable levels of consistency across the state.

Implementing gender audits, development of Gender Equality Action Plans, and undertaking Gender Impact Assessments across council policies, programs and services that have a significant and direct impact on the public has been a major challenge for councils. A high number of metropolitan councils have allocated new staff to implement their obligations. Others, especially small rural councils, have needed to absorb the work into existing roles or have not been able to find suitable local expertise. Without additional government support there is a real risk that communities most in need of improvements will fall even more behind those locations where reforms are mature in their development and well advanced in their delivery.

We also note that the focus of the Gender Equality Act was relatively straightforward, unlike the very broad definition and scope of disabilities outlined in the proposed Bill. The challenges arising from implementing disability inclusion action plans are likely to be significantly greater as a consequence. A well-planned program of tailored guidelines and resource development would assist defined entities work through the complexities in an orderly and mature way.

The big impact councils can have from their many public services justifies a discrete local government disability inclusion program. It would be helpful for the Commission to work collaboratively through the issues of data collection with councils in order to understand what will assist its policy development while at the same time being able to be incorporated in council systems. Development of resources and support for a local government community of practice would assist councils consider innovations in how they might undertake a Disability Impact Assessment, particularly for council areas and staff new to this work. A lot of upskilling of staff across council would be desirable to embed the new approaches envisaged by the new Act.

It is important that any guidance provided is done so in a timely way that allows councils the opportunity to understand what is required and incorporate or update their systems and processes appropriately.

Recommended changes:

- The Disability Inclusion Commissioner is tasked with working cooperatively with organisations to progress disability inclusion in cooperation with councils with a co-design approach.
- A review of the legislation is required within five years, to determine if it is delivering outcomes as envisaged in the framing of the Bill.

The Victorian Government is proposing an ambitious program for many organisations across the state in enhanced disability inclusion planning and action. The MAV looks forward to working with the Victorian Government to realise its objectives and assist people with disabilities participate fully within their local communities.

Should you have any queries about this matter, please contact Jan Black (jblack@mav.asn.au).

Yours sincerely



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