

Review of Tasmania's Local Government Legislation

Draft Terms of Reference

I. Context

On 26 June 2018, the Minister for Local Government, the Hon Peter Gutwein MP, announced a major review into Tasmania's local government legislation.

Local government has a crucial – and increasingly demanding – role in serving and representing local Tasmanian communities. The legislative and regulatory framework that governs the Tasmanian local government sector needs to reflect and support what communities expect from their local councils. It also needs to support councils to be able to meet these expectations now, and into the future.

2018 marks the 25th anniversary of the introduction of the *Local Government Act 1993* (the Act). The past quarter of a century has seen unprecedented social, economic and technological change. The role of councils and community expectations have expanded in line with these changes.

The Act has been amended and updated a number of times in recent years in an effort to keep pace in response to a range of emerging issues. A number of provisions have become outmoded or made redundant by more recent advances in telecommunications and digital technologies.

The current legislative framework has reached the point where continuous, reactive amendments are no longer desirable, efficient or sustainable. A fresh, contemporary approach is needed.

2. Purpose

The purpose of the Review is to deliver a contemporary, best-practice legislative framework for the Tasmanian local government sector which:

- I. Supports greater innovation, flexibility and productivity in the sector, to improve the overall efficiency and effectiveness of the services that councils provide to the Tasmanian community;**

2. Minimises the red tape and administrative burden on councils, business and the broader community;
3. Enhances accountability and transparency across the sector; and
4. Increases democratic and community engagement, participation and confidence in local government.

3. Guiding Principles

The new legislative framework for the local government sector will:

1. To the greatest extent that is possible and practical, be outcomes-focused;
2. Be flexible and robust to future structural, technological and social change;
3. Strike an appropriate balance between ensuring councils have sufficient operational and decision-making autonomy on the one hand, and having in place adequate checks and balances on the other;
4. Establish clear accountabilities and provide for efficient and effective risk-based monitoring, compliance and enforcement activities;
5. Be guided by best-practice regulatory, governance and legislative approaches and, where relevant and appropriate, lessons and outcomes from reviews of local government legislation in other jurisdictions; and
6. Be drafted and presented in a way that is logically structured and easily understood by councils, business, and the broader Tasmanian community.

4. Scope

The scope of the Review will be broad, to ensure it is flexible enough to give due consideration to ideas and initiatives that emerge through consultation with the sector, other key stakeholders, and the Tasmanian community at large.

The Review will focus primarily on a new Local Government Act (or Acts) but will also identify any necessary consequential or supporting amendments to other Acts. The Review will seek to streamline and consolidate legislative provisions, as well as deal with anachronistic or legacy provisions that are no longer relevant to the core business of the local government sector.

The Review will not consider:

- Council amalgamations, or consideration of changes to existing municipal boundaries. However, the new legislative framework will need to be flexible enough to deal with potential future structural changes that might occur over the next 20-30 years.

- The roles and functions of mayors, deputy mayors and councillors. These matters were considered in some detail as part of the 2015-2017 Targeted Review process and are considered contemporary for the broad remit and expectations of councils.
- The suite of contemporary council planning and financial management arrangements that were introduced in 2014.
- The local government Code of Conduct framework. The framework was introduced in 2016 and has recently been reviewed to ensure that it is operating as intended.

The Review is to consider the following:

1. Appropriate legislation to support the transparent setting, levying, and collection of council revenue, rates and charges;
2. Local government electoral provisions, including options for enhancing both voter and candidate participation in local government elections;
3. Provisions that support efficient and high-quality council operations and service delivery;
4. Performance monitoring, including financial sustainability, governance and other relevant reporting;
5. Council governance and decision-making practices arrangements, including options for community engagement, representation, and democratic participation;
6. Provisions that support public confidence in the integrity, transparency and accountability of local government; and
7. The roles, functions, powers and operation of statutory bodies that oversee local government compliance and reform.

