



# ASU Submission

## Review of Tasmania's Local Government Legislation Framework

Tasmanian Government  
Department of Premier and Cabinet

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## 1. Introduction

The Australian Services Union (ASU) is one of Australia's largest Unions, representing approximately 135,000 members.

The ASU was created in 1993. It brought together three large unions – the Federated Clerks Union, the Municipal Officers Association and the Municipal Employees Union, as well as a number of smaller organisations representing social welfare workers, information technology workers and transport employees.

Current ASU members work in a wide variety of industries and occupations because the Union's rules traditionally and primarily cover workers in the following industries and occupations:

- Local government
- State government
- Social and community services
- Transport, including passenger air and rail transport, road, rail and air freight transport
- Clerical and administrative employees in commerce and industry generally
- Call centres
- Electricity generation, transmission and distribution
- Water industry
- Higher education (Queensland and SA)

The ASU has members in every State and Territory of Australia, as well as in most regional centres.

We are the largest local government union in Australia with our local government members represented by State based ASU Branches throughout the country. Most of the industrial activities are conducted at the Branch level. All local government awards are state-based and many councils have their own enterprise agreements of which the ASU is a party.

Our members roles are varied and include work in administration, childcare, garbage collection and recycling, garden maintenance, home care and road work and as Engineers, Librarians and Truck Drivers to name but a few.

## 2. The Review

The Australian Services Union (ASU) welcomes the opportunity to provide written comments on the Review of Tasmania's Local Government Legislation Framework.

We do not intend to address all of the consultation questions in the Discussion Paper. We do however wish to focus on the following:

- (a) Financial sustainability.
- (b) Important principles that should underpin the Act
- (c) Labour hire and precarious employment
- (d) Shared Services/Joint Ventures
- (e) Transparency and Accountability
- (f) Indigenous Communities and Local Government

### 3. Financial sustainability

A number of inquiries and research studies have focussed on issues relating to the financial sustainability of local government over recent years. Many of these studies have indicated that local government needs to obtain more reliable streams of funding in order to achieve financial sustainability into the future.

In our experience local governments flagged as being 'financially unsustainable' tended to be municipalities which had a low capacity to increase their own sources of revenue and were typically in rural localities and with large geographic areas to serve.<sup>1</sup> In addition, such councils often have more extensive infrastructure responsibilities (such as lengthier road networks to maintain). By contrast, many of the well-established, high income metropolitan areas were able to generate considerable funds whilst having less demand for infrastructure investment.

Without sufficient funds, local governments and their employees face significant challenges. The following issues have been of particular concern to the Union over recent years.

- Corporate tax avoidance and the depletion of public sector funds. This issue highlights the need to close loopholes, improve regulations and the powers of regulatory authorities.
- Unfair funding arrangements. The vertical fiscal imbalance between the different levels of government requires more attention.
- Imposition of rate pegging. It is the view of the ASU that local government should be given more autonomy in determining municipal rate charges.
- Cost shifting. As more and more responsibilities are pushed on local government from other levels of government funding problems are further exacerbated.
- Imposition of council amalgamations and boundary changes. While often touted by state governments as a means of cutting costs, forced amalgamations will increase some costs and, if the process is not consented to by local residents, will cause considerable discontentment and disillusionment with the political process, particularly if there are subsequent service reductions.
- The expansion of privatisation in its many forms. This covers broad areas of activity that are often touted as a panacea for various financial woes and inefficiencies. However, the Union has had a long history of opposition to public policy shifts which shrink the size and effectiveness of the public sector in our economy. The privatisation strategies have also been found to result in the loss of local jobs and reductions in wages and conditions of workers.

#### Imposition of rate pegging

Rates are a major source of funding for many councils. They are the sole form of local government generated tax revenue and are considered to be an efficient form of generating funds.<sup>2</sup>

The ability of councils to raise sufficient revenue from rates can be suppressed by state government imposed forms of rate pegging (also referred to as 'rate capping'). It is a process which places limits on the total amount that a council could charge its rate payers.<sup>3</sup>

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<sup>1</sup> For example, those conducted by the Financial Sustainability Review Board (FSRB), *Rising to the Challenge*, South Australian Local Government Association (2005) and; *Independent Inquiry into Local Government (LGI) Are Councils Sustainable? Final Report: Findings and Recommendations*, NSW Local Government and Shires Association, 2006. See also commentary by Brian Dollery, *A Critical Evaluation of Revitalising Local Government*, prepared on behalf of New England Education and Research Proprietary Limited for the United Services Union, nd., p19.

<sup>2</sup> Australian Government, *Re: Think; Tax Discussion Paper*, Commonwealth of Australia, March 2015, p 149, <http://bettertax.gov.au/publications/discussion-paper/>

<sup>3</sup> For example see Brian Dollery and Albert Wijeweera, 'An assessment of rate-pegging in New South Wales local government', *Commonwealth Journal of Local Governance*, UTS ePress, issue 6 July, 2010, <https://epress.lib.uts.edu.au/journals/index.php/cjlg/article/view/1619>

The impact of rate pegging can include the following:

- It threatens the viability of services provided to local communities
- Puts at risks local jobs and the spending levels in the local community
- It has an overall detrimental impact on local government finance
- Can cause local business to suffer as a result of reduced local spending power
- Can limit the ability of councils to take responsibility for their own economic affairs
- Can reduce efficiency
- Creates impediments for effective long-term planning, particularly in relation to infrastructure investment
- The practice diminishes local autonomy – as a result of the restrictions imposed at the state level.<sup>4</sup>

Whilst the ASU acknowledges that that rate pegging does not currently occur in Tasmania, we do not wish to see this Review consider rate pegging as part of its scope.

## Cost shifting

Cost shifting from Commonwealth and state governments to local government, can increase both responsibilities and costs to local government. This can contribute significantly to the economic strain faced by councils.<sup>5</sup>

Cost shifting can take many forms. The following are some examples of activities Commonwealth or state governments have handed over to local government without adequate financial compensation:

- Transfer of assets giving local government increased responsibility
- Increased reporting requirements
- Additional regulatory/law enforcement requirements
- Rebates and concessions to be provided to particular community members
- The abandonment of services or benefits previously provided to communities (leaving service gaps the consequences of which are left to local government to deal with)
- Shared financing of particular services where the state or Commonwealth governments later withdraw their share of contributions.<sup>6</sup>

The inequitable nature of relations between the different levels of government increases incentive to cost-shift and has a particularly severe impact on local government.<sup>7</sup>

In the Australian Local Government Association submission to the 2016-17 Federal Budget, it noted that cost shifting was a 'poor outcome for communities' and was estimated to have an annual impact on councils of up to \$1.1 billion.<sup>8</sup>

The ALGA submission explained that cost shifting has magnified over recent years, threatening the financial stability of the sector. It stated:

This is because other levels of government continue, whether indirectly or directly, to assign additional responsibilities to councils. These include increased emergency and disaster management, environmental programs, community education, business development, management of certain land and the transfer of roads. Compulsory amalgamations in some jurisdictions over recent years, coupled

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<sup>4</sup> See Australian Services Union – Victorian and Tasmanian Authorities and Services Branch, 'Rate Capping Campaign', <<http://asuvic.nationbuilder.com/>>; see also the perspective presented in the Australian Local Government Association (ALGA), Submission to the Taxation Issues Paper, 2015. [www.alga.asn.au](http://www.alga.asn.au).

<sup>5</sup> David Hawker (Ed.), Parliament of the Commonwealth of Australia, Rates and Taxes: A Fair Share for Responsible Local Government, Parliament of the Commonwealth of Australia, Canberra, ACT, Australia 2003.

<sup>6</sup> See Australian Local Government Association, 'Examples of cost shifting', ALGA website <http://alga.asn.au/?ID=885&Menu=44,61,78,440>.

<sup>7</sup> For example see discussion in Andrew Worthington and Brian Dollery, The Debate on Australian Federalism: Local Government Financial Interrelationships with State and Commonwealth Governments, Blackwell Publishing 2000, author manuscript version, first published in Australian Journal of Public Administration 59(4): pp12-22; See also Comrie op. cit.

<sup>8</sup> ALGA, Investment in an Innovative Prosperous Future, Op. Cit.

with state-prescribed responsibilities, for example in the Northern Territory, has also increased opportunities to cost shift onto the local government sector.<sup>9</sup>

## Privatisation

Privatisation of assets and service provision has been a significant concern for communities and local government workers across Australia. It has also been an issue which has received the active attention of the Australian Services Union. This submission will briefly refer to some relevant studies.

As was noted in the ASU publication “The Privatisation Betrayal”<sup>10</sup> privatisation can take many forms. A few examples of privatisation measures include the following:

- the transfer of ownership of assets from public ownership to private ownership
- the contracting-out (also known as out-sourcing) of activities traditionally performed by the public sector
- the leasing of public assets to corporations in the private sector
- the introduction of public private partnership (PPP) arrangements for tasks previously provided by the public sector or for new ventures involving PPPs
- systems of individual vouchering or other incentives which result in funding shifts away from the public sector
- the management and or operation (including day to day) by the private sector of a service previously managed and or operated by the public sector
- the operation of shared services or other models of public service provision, now managed and or operated by the private sector<sup>11</sup>

It is often argued by proponents that privatisation strategies will save costs without a reduction in service quality or performance. But the results of extensive studies on privatisation do not provide strong evidence for these claims and a range of international studies have also found very mixed results when analysing purported economic benefits and service quality after privatisation.<sup>12</sup>

Local government has experienced many waves of privatisation over the decades. Sometimes it has been the result of concerted efforts of state governments (such as in Victoria during the time of Premier Jeff Kennett), sometimes the result of national policy implementation (such as Competition Policy and the application of Competitive Neutrality) and at other times it has been the direct result of decisions made by local Councillors for a variety of reasons.

In 1990 the Evatt Research Centre published their research on the privatisation and management of Australian local government.<sup>13</sup> At that time they noted the extent of contracting-out and diversity of arrangements in relation to different service areas and different state jurisdictions. But on a national level, the growing practice of contracting out waste management services appeared to be particularly evident at the time, though it was also occurring in other areas such as welfare and health services to a lesser extent. The report noted:

[O]n a national basis at least, contracting out is prevalent amongst the waste management industries and the provision of a wide range of cleaning services. The rate of contracting out for other specified services appears to be less than 20%.<sup>14</sup>

The report discussed responses from 460 councils from across Australia regarding the contracting out of various services. Respondents were given the opportunity to identify advantages and

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<sup>9</sup> Ibid. p9.

<sup>10</sup> Lyn Fraser, *The Privatisation Betrayal: Losing the Things we value*, ASU, Carlton South, Victoria, 2015, available from ASU Publications <http://www.asu.asn.au/resources/publications>.

<sup>11</sup> Ibid. p9

<sup>12</sup> For example, see discussion in Stuart Holder, National Economic Research Associates (UK), ‘Privatisation and Competition: the Evidence for Utility and Infrastructure Privatisation in the UK’, Twelfth Plenary Session of the OECD Advisory Group on Privatisation (AGP), OECD website <http://www.oecd.org/daf/ca/corporategovernanceofstate-ownedenterprises/1929658.pdf>

<sup>13</sup> Evatt Research Centre, *Breach of Contract: Privatisation and the Management of Australian Local Government*, Evatt Research Centre, Pluto Press, Leichhardt, NSW, Australia, 1990.

<sup>14</sup> Ibid. p45.

disadvantages of contracting out. Among the advantages were included: increased flexibility, expertise not available within council, reduced costs (but some were from reductions in wages and conditions paid to workers), plant and equipment savings and other issues. Among the disadvantages were included such issues as: loss of direct control/ accountability, deterioration of service quality, supervision difficulties, cost increases and other issues.<sup>15</sup>

The Evatt report also noted occurrences of the abandonment of contracting out and the returning to council day-labour by some councils. Reasons for the failure of the privatisation strategies varied but they included: poor service, poor supervision, disputes about contract, safety issues, failure to complete contract, poor performance, uneconomical, poor public relations and other issues.<sup>16</sup>

Since this early research was conducted, privatisation (through various means) has continued within local government and has been broadened more extensively into a range of work areas and occupational groups.

Whilst decisions about contracting out are undertaken on a case by case basis, it is clear from experience in Australian and overseas that the process is not risk-free and decision makers need to ponder a range of concerns and potential impacts.

By way of example, in April 2015 debate came to a head at Darebin City Council (Victoria) about the potential contracting-out of a range of services.<sup>17</sup> A councillor had put forward a motion in favour of contracting-out services. However, other councillors considered a number of issues and past disappointing experiences with contractors. It was also evident that the community was very satisfied with the services currently provided by the council staff. As a consequence, the majority of councillors overwhelmingly voted for a rescission motion to retain Council jobs in-house.

As noted in a Union news item, 'In the past services had been contracted out only to be quickly brought back in-house when residents did not get value for money.'<sup>18</sup>

The Union Organiser, Brendan Parkinson stated that:

Darebin City Council employs a high number of staff that live within the municipality and the implications of outsourcing jobs would have also been a hit to the local economy.<sup>19</sup>

He concluded that the decision to retain service provision by council workers was "a win for the workforce and local jobs".<sup>20</sup>

Internationally, there are various resource centres which aim to assist decision makers to assess risks and potential negative impacts of privatisation. One such centre is based in Washington, called In the Public Interest (IPI), it particularly aims to provide resources to communities which are concerned about impending privatisation measures or have experienced significant losses resulting from privatisation.<sup>21</sup> IPI has revealed many experiences which have caused dismay and anger in communities. They provide ten questions which should be considered by decision makers. The list below is an adaptation of the IPI list (it includes some paraphrasing to more closely reflect the Australian experience):

1. **Does the contract limit our democratic rights?** (Questions should be raised about particular types of clauses in the contracts.)
2. **Will we still have the 'Right to Know'?** (Give attention to confidentiality arrangements, implications for accountability and transparency as well as local democracy.)

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<sup>15</sup> Ibid, p 46-63.

<sup>16</sup> Ibid. p60f.

<sup>17</sup> ASU Victoria and Tasmanian Authorities & Services Branch, Darebin City Council shows 'best practice puts people first', News created 22 April 2015, <<http://www.asuvictas.com.au/headlines/18-local-authorities/625-darebin-city-council-shows-best-practice-puts-people-first.html>

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> See various resources available from the website of In the Public Interest: A Comprehensive Resource Center on Privatisation and Responsible Contracting, <http://www.inthepublicinterest.org/about-us>.

3. **Are there perverse incentives that could work against our public policy goals?** (What are the implications of the shift away from 'public good' to profit making and how can it derail broad social and environmental objectives?)
4. **How will we hold the contractors accountable to the public?** (Contractors need to be watched closely but if public agencies have experienced staffing cuts there will not be enough ability for adequate monitoring. Will contractors be shifting funds off-shore, depleting tax obligations and regulatory requirements?)
5. **Do we have a Plan B?** (When contractors fail to deliver, how do you step back and fill the void after you have already sold off the equipment and downsized frontline workers who knew how to do the work?)
6. **What is the impact on jobs and worker entitlements?** (The related discussion on this point raises a number of issues about how private corporations may cut costs in a way which reduces benefits and protections for workers.)
7. **If a private company thinks they can make money owning our assets, why can't we?** (Why sell-off the asset if other changes would be more beneficial? Selling revenue-generating assets doesn't make economic sense in the long run.)
8. **What are the limits on the private contractor's ability to raise fees, tolls or rates?** (After privatisation, the public often ends up paying higher charges and the money goes to the private corporation, so why not keep the assets in public hands and raise charges to put back into expanding public services?)
9. **What risks are involved in guessing the future?** (A lot can change in the life time of long term contracts; future generations may have to face problems relating to a bailout because politicians thought they knew what was in the future!)
10. **Have you read the contract? (the devil is always in the details)** (Contracts often have provisions which can have an impact on things we care about. Close public scrutiny is needed.)<sup>22</sup>

The ASU is very concerned that privatisation has the potential to have severe consequences for communities and local workers. Such concerns have been previously expressed by the Union in submissions to various government inquiries. For example, the Union made a submission to the Senate Standing Committee on Economics as part of *the Inquiry into the Privatisation of State and Territory Assets and New Infrastructure* in 2015. Some issues of concern include the following:

- Reductions in local employment - this can have a particularly destructive impact on regional and rural economies if local council jobs (and their spending power) go to outside contractors who spend their money elsewhere.
- Increased dominance and influence of multinational corporations and foreign governments in the Australian economy - accelerating market concentration and reducing public control and accountability.
- Reduced ability for governments to implement broad social objectives - particularly when profit-makers cherry pick the most lucrative activities or the most lucrative way of conducting the business with no commitment to broader social implications of their activities.
- Potential detrimental impact on Australian government revenue streams – loss of revenue can be exacerbated if private companies send profits off shore or use other methods to reduce taxes and other obligations to Australia and local communities.
- Reduced investment in traineeships and apprenticeships - apprentices with government employers are more likely to complete their apprenticeship as compared to those in private sector employment.
- Depending on the nature of the contractual arrangements, costs can escalate and reduce the quality of services provided.<sup>159</sup>

The Union is of the view that the future sustainability of local government should be considered as part of this Review.

<sup>22</sup> In the Public Interest, leaflet available from the website titled 'Ask the Right Questions Before Privatization', <http://www.inthepublicinterest.org/about-us>

## 4. Important principles that should underpin the Act

The ASU believes the following four principles should underpin the content of the *Local Government Act 1993*:

### Employers of Choice

- Fair and best practice working conditions, i.e. flexible work arrangements
- Security of employment for employees
- Providing career paths
- Training and development
- Providing protection for staff entitlement during amalgamation
- Recognition and remuneration

### Local Services

- It is important to ensure that local government is well resourced to meet the needs of local communities. This can be achieved by providing in house services for the local community such as garbage collection, child care, road maintenance and libraries.
- Some of the reasons for maintaining in house services include: better quality control, flexibility, efficiency in operations, increased staff capacity, better staff morale, and better support for vulnerable citizens. When services are kept in house local governments maintain community control of public service delivery.

### Support for regional communities

- Retaining local jobs in regional communities
- Local government is often the largest employer in rural areas. Decreasing job opportunities in such communities will increase unemployment.
- Local jobs will also assist in ensuring the viability of rural communities.

### Consultation and Community engagement

- Genuine consultation should have to occur with local communities and employees prior to any significant decisions relating to amalgamation or boundary changes being undertaken.
- Ultimately it is the local community who will suffer if there is reduced access to services and reduced unemployment opportunities as a result of amalgamations.
- Council should represent the community that is services and be relevant to that community.

## 5. Labour hire and precarious employment

An intended outcome of the Discussion Paper is to “support 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”.<sup>23</sup>

However this intended outcome should not give rise to insecure work arrangements such as labour hire arrangements.

Local government provides a disparate range of services. These include ‘face to face’ type human services such as home care; to the less interactive garbage collection services; to the more ‘enforcement’ type services such as environmental health inspections or by-laws officers.

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<sup>23</sup> Review of Tasmania’s Local Government Legislative Framework – Discussion Paper, p. 6

Because of the breadth of service expected from Council, many maintain sizeable workforces reflective of the service levels expected by the population in their respective municipal districts. However not all councils provide services direct to their communities – rather some choose to contract out services to providers, frequently at a cheaper cost due to the lower wages paid to workers at those contractors.

It is this practice of contracting out local government services that is the principle – though by no means only – cause of precarious employment within the local government sector in general. Precarious employment is inherent in contracting arrangements – after all contracts expire, must be re-tendered and the possibility exists for a new contractor to win the work from the previous contractor, leaving the workforce in limbo.

Employment practices at local government contractors are a further source of precarious employment. Pay and conditions are of less value than those prevalent among workers employed direct by Councils. Rates of casualization are greater at a contractor than those commonly seen at a Council. Leave entitlements are also fewer. So too are career opportunities. So for workers employed at contractors undertaking services on behalf of local government, inferior pay, conditions and greatly eroded job security coupled with less career opportunities are the norm when compared to the possibilities open to workers employed directly by a Council.

Local government contractors, like Councils themselves, are users of labour hire agencies. While there may be instances where the legitimate use of labour hire is necessary (such as backfilling positions during a period of staff absences), the ASU has seen examples where labour hire employees have been exploited and used in a way intended to supplant the permanent workforce. Not only is this practice an instance of misuse of labour hire employees, but is another iteration of precarious employment.

At both local government contractors and Councils themselves, it is not unknown for labour hire workers to be undertaking work for extended periods of time – sometimes for years – without being given the opportunity to move formally into permanent employment at the host employer. This situation has obvious consequences for the employee concerned: they lack any employment security leading to knock-on effects, such as income insecurity and subsequent reduction in living standards.

Yet a further factor at play is the angst caused among the permanent workforce by the use of long-term labour hire employees. Permanent staff are concerned that their position may 'be next' for conversion into a role fulfilled by a labour hire worker. In turn this breeds suspicion between the permanent staff and labour hire workers on site. Unnecessary tension and reduced staff morale are the by-products of this outcome.

For local government, casualization tends to cluster around certain roles – leisure services; customer services; home care among others. These typically are areas where union density is lowest; or where the workforce is relatively young; or where the workforce is predominantly female; or a combination of all three factors. And these three factors – low union density, young workers and female workers – in our experience tend to comprise the demographic profile of workers that attract the most precarious forms of employment.

We therefore recommend the Tasmania government amend the Local Government Act to require Councils contracting out their services to seek information from bidders specifying what employment instrument they engage their staff and demonstrate it is sufficient to cover staff costs. We also recommend the ability for the Act to compel Council that have utilised labour hire workers for a job extending for a period up to 3 months to offer that worker the opportunity to apply for that position at Council or else provide written reasons why the worker has not been given the chance to apply for permanency.

## 6. Shared Services/Joint Ventures

The ASU supports the delivery of local government services in the most efficient and effective way possible in the interests of local communities. As a union representing local government employees the ASU knows that services are best delivered by dedicated local government sector employees in an environment where skilled and compassionate service delivery is valued.

The ASU strongly believes that local government services should be delivered by the public sector in the interests of those in receipt of those services and those who provide them. Local Government has a long reputation for the delivery of high quality services to local communities and this is in large part as result of access to a stable pool of qualified, career oriented local government employees.

We do not support the delivery of local services by the private sector; either by contracted out arrangements or by way of public-private partnerships however described. The private sector – operating on a ‘for profit’ basis – simply does not have the commitment to public service which has been demonstrated by the local government sector.

Accordingly, the ASU does not support shared resource joint enterprises or shared services by agreements where this involves the participation of parties who are not local government bodies.

Specifically, the ASU does not support shared resource arrangements which involve contracting out of local government functions or public-private partnerships involving the private sector in local government service provision.

The ASU strongly believes that local service provision must be in the hands of democratically controlled local government bodies responsive to ratepayer interests. The ASU will only support shared service provision if carried out by local government bodies and in accordance with the policy positions that it has consistently put to Government.

The ASU believes that, depending on how they are structured, employment in and by shared service arrangements, especially those to be provided by joint enterprises, are extremely problematic for both local communities and local government sector employees.

There is uncertainty about the form and nature of these organisations which may lead employees and services out of the local government sector proper. The Union strongly believes that all such employment arrangements must be based on the premise that all employees providing local government services remain within the local government sector.

Contracting out of such services on a shared service model inevitably, as has been shown in Victoria and elsewhere, leads to a lowest common denominator approach which results in poor levels of service provision, reductions in pay and conditions for employees and the loss of skilled employees from a sector which is already under pressure from skill shortages and expertise in key areas.

Local communities want local services provided by skilled local government sector workers acting in their interests and not in the interest of private ‘for profit’ employers.

Employees of shared service providers must be and be considered as local government employees for all purposes, including long service leave and other benefits flowing from the Local Government Act [superannuation, etc.] This will facilitate the operation of these bodies if they are desired by local communities.

The ASU will therefore continue to oppose any provision of local services by private interests unresponsive to the needs of local communities and does not support the adoption or proposal for changes to local government which allow or require privatization of local services.

Local government has been the subject of regular re-structuring and, indeed, compulsory contracting out of services in other States and Territories. The ASU strongly believes that on the basis of this experience, local communities strongly value the provision of their services by local public sector

employees and do not support private contractors entering this field at the expense of decent local jobs and services.

On the surface, it often appears that Local Government could offer improved efficiencies by the sharing of resources with neighbouring Councils within the similar same region.

This process has been considered by many Councils over the years and whilst there may be some seasonal opportunities and benefits the concept also raises serious questions about the protection of regional communities throughout Australia. Some of the glaring examples concern the utilisation of plant and equipment, such as road scrapers, draggers, bulldozers, tractors, tip trucks and semi-trailers, which some may think could be easily shared between neighbouring Councils when not in use for specific projects.

There are some fallacies with this consideration but there are also alternatives worthwhile considering. One particular example concerns the use of heavy equipment that may be used by Council for its normal roads program and may be idle during peak heat times over December, January, February, or other seasonal troughs dependent upon climatic locations.

One of the great faults with the use of outside contractors in Local Government is their inability to serve and save communities when they are being threatened. Regional and Country Cities along with some Metropolitan "Shire" Councils have additional responsibilities to protect the community against bushfires, flood control and other threats that face. Restoration of Council's roads and property, river banks, levees and more are also required in the aftermath of a bushfire or flooding.

All of these examples show that a Council needs to be able to manage its own plant and equipment effectively for not only regular maintenance programs, bridge building and road construction, but also needs to be able to manage the bushfires, flood control and other requirements.

For instance a contractor or neighbouring Council could not afford to loan a piece of plant and equipment to a Council to be held in store just in case it was needed for flood litigation or bushfire control. However Local Government Authorities that own plant and equipment can program their maintenance, road place construction and similar, with the added benefit of availability of plant for emergency services and unexpected requirements. Often Local Government is the lender of resources for bushfires to State emergency services and other community service organisations, it is not uncommon for the army, navy, or civil defence organisations to call upon Local Government for Assistance, not to mention the call from State Government and National Governments during time of emergency.

Currently Local Government does share equipment, by undertaking road development Project, or other infrastructure areas using heavy duty construction equipment and items of plant, by way of undertaking projects, often on a cost recovery basis for neighbouring Councils, that may not be able to undertake these projects had they been faced with substantial bills or expenses presented to them by outside contractors, that would not only charge exorbitant but often and usually do move their entire profits out of the community taking spin off jobs with them.

However, there are opportunities for Councils to share resources either in the development of specific pieces of equipment that need to be styled, designed or otherwise for specific geography and/or tasks, that may not be normally considered by the makers and designers of this equipment, that sometimes reside in the Northern hemisphere. This sharing of designer requirements, can often mean companies that were not intent on designing of new equipment may see a Market where more than one or two Councils demand a product.

The sharing of resources in Council areas so as libraries and community services has been well known for sometime, examples of this include interlibrary loan services, regional libraries where populations are so manageable, regional art gallery exchanges of exhibits and similar, the pooling of resources, again with regional art galleries combining together to assemble an exhibition that could be moved from one regional art gallery to another, State Governments and National Governments can have a role in providing the funding for projects where two or more Councils would come together for cultural purposes such as this. This process also allows Councils to share insurance costs as well as other costs.

The Union notes that regional organisations of Council are now commonplace and have allowed Councils to develop their own best responses to how their services can be shared and used for the constructive benefit of the community, balanced out against regional independence, local democratic structures and most importantly the continuation of regional employment. This is appropriate and while the regionalisation of these services has at times been encouraged by government grant and subsidies, each council should be able to manage these services in the best interests of their communities.

As the PwC report for the ALGA notes:

“A sizeable proportion of councils, including the vast majority of the larger ones, have made significant progress in recent years in making themselves more efficient. ..”

Further:

“Thirty years ago there were a much higher number of councils in Australia; more than 100 councils have been consolidated over the past 20 years. The local government sector in Victoria, for instance, undertook a series of amalgamations between 1992 and 1995 which reduced the number of councils from 210 to 78.

Over recent years the local government sector has achieved a range of significant efficiency initiatives.

“While more can be done to achieve greater cost efficiencies, this will not be enough to balance the books of many councils caught in a costs versus revenue squeeze, often not of their own making”.<sup>24</sup>

## 7. Transparency and Accountability

There are a number of statutory provisions in relation to local government which are intended to guide and promote accountability and transparency in local government. Despite the *Local Government Act 1993* prescribing detailed direction on Code of conduct, complaints and complain resolution recent investigations into several councils within Australia, including Tasmania, have identified administrative failures and mismanagement.

There are many forms of mismanagement including; asset mismanagement, financial mismanagement, human resources mismanagement and governance failures.

In many cases investigators identified that council policies and procedures were either not followed, or were ignored or circumvented resulting in the misuse of council funds and assets.<sup>25</sup>

One such council Ipswich City Council in Queensland found mismanagement was due to “poor culture and:

- lack of oversight and accountability for expenditure and public resources
- use of mechanisms which allowed avoidance of scrutiny of actions and requests for information under the Right to Information (RTI) Act 2009
- inappropriate relationships between the council and the private sector, in particular property developers and contractors, and
- improper use of power and influence for personal benefit.

It also identified other contributing factors such as the influence of a very dominating senior figure; a small group of people who had worked together for a number of years; weak and ambiguous policies; little regard for the internal audit function; widespread breaches of policy and procedure; an inability or

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<sup>24</sup> PriceWaterhouseCoopers, Working for a Sustainable Future ,Overview, National Financial Sustainability Study of Local Government [for ALGA], sec 1.1.3

<sup>25</sup> Culture of Corruption Risks in Local Government: Lessons From an Investigation into Ipswich City Council and Another Vic council has lost its right to govern over administrative failures, <https://www.themandarin.com.au/82868-another-vic-local-government-has-lost-its-right-to-govern-over-administrative-failures/>

unwillingness to challenge or report inappropriate conduct; and a fear of reprisal that discouraged reporting.”<sup>26</sup>

The ASU believes a fundamental issue, as highlighted above, was the lack of transparency and accountability in decision making and management practices. In December 2016 the Victorian Ombudsman made a set of Recommendations<sup>27</sup> to the Victorian Government for it to consider as part of its review of the Local Government Act. Accordingly the ASU would be pleased if this Review would consider and implement the Recommendations from this report.

## 8. Indigenous Communities and Local Government

Despite the resilience, wealth of talent, cultural, legal and other contributions to the nation, Aboriginal and Torres Strait Islander communities continue to face significant disadvantage compared to non-Indigenous Australians across a range of social indicators. These include area such as health, life expectancy, education and employment outcomes as well as experiencing high rates of incarceration and contact with the criminal justice system.

Large numbers of ASU Indigenous members work in local government, the social and community services sector, Aboriginal community councils and other organisations.

Many councils across Australia are working toward reducing the gap in social outcomes and contribute toward the building of respectful relationships and progress on this will be needed into the future.

It is important for local government councils to engage Aboriginal people in planning, decision making, employment, programs and services across all areas.

“This may be informed by:

- Developing engagement policies or protocols in partnership with Aboriginal community organisations represented in the council’s area
- Inviting Aboriginal organisations to participate in council forums and other committees and in consultation about the development of council’s plans, policies and strategies
- Employing Aboriginal people
- Encouraging Aboriginal community participation in consultation about the development of councils plans, policies and strategies
- Developing partnerships with the local ACCO around the delivery of services
- Establishing an Aboriginal advisory committee
- Attending Aboriginal community meetings and functions where invited
- Supporting Aboriginal community access to council facilities and programs”.<sup>28</sup>

Finally, the ASU, including local government workers, wishes to appear at any future stakeholder forums so that we can provide additional evidence.

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<sup>26</sup> Culture of Corruption Risks in Local Government: Lessons From an Investigation into Ipswich City Council

<sup>27</sup> Victorian Ombudsman, Investigation into the transparency of local government decision making, <https://www.ombudsman.vic.gov.au/getattachment/195a77c8-ed15-4a1d-9967-404474e1b4a6>

<sup>28</sup> Maggolee, Relationships with Aboriginal organisations [online] Accessed at: <http://www.maggolee.org.au/engagement-and-participation/just-a-page-1/>