

REFORM DIRECTIONS		
PART A: A flexible, innovative and future-focused legislative framework		
Reform	Details	Comments
1. Principles-based legislation	<p>To the greatest extent possible, create legislation that sets principles for the governance and operations of local government. These principles are: good governance, community engagement and financial management.</p> <p>Some prescription will be necessary and appropriate in a new Act to protect the rights of both the community and councils. For example, a council's power to sell public land may require a minimum level of prescription to ensure community views are considered.</p> <p>Greater detail on processes to support the Act will generally be set in Regulations. This allows amendments to be made in a timely manner where processes or technology changes over time and legislation must accommodate this.</p> <p>This structure allows for legislation that can be flexible to move with changes over time without the need for constant changes to the Act.</p>	The identified Reform Directions outline the proposed new local government legislation framework.
2. Accessible, easy-to-read legislation	A new Act will be structured logically, be easy to read and understand, while still being legally effective.	
3. A new Act for electoral provisions	<p>Electoral provisions are typically used every four years or when a by-election is called. Separating out these provisions in a separate Act will make it easier to understand and administer these provisions. It may also help in aligning local government electoral provisions with the <i>State Electoral Act 2004</i> to create greater consistency in election processes in Tasmania.</p>	
4. Consolidating related local government legislation	Related local government legislation will be examined, such as the <i>Local Government (Building and Miscellaneous Provisions) Act 1993</i> , to identify where provisions intersect and overlap with the current Act. Duplication will be removed and provisions consolidated, where necessary. This will be managed throughout the technical drafting stages of the Review in Phase 3.	

REFORM DIRECTIONS			
PART B Representative and Democratic Councils			
1. Elections			
Area	Reform	Details	Comments
Eligibility to vote	5. Reform eligibility for the General Manager's Roll	<p>Currently, a person is entitled to vote in a local government election if they are on the State House of Assembly roll, or if they are on what is known as the 'General Manager's Roll'. The General Manager's Roll generally allows persons to vote that are not on the House of Assembly roll but own or occupy a property (residential or business) in the municipality.</p> <p>No changes are proposed with regard to eligibility to vote based on enrolment on the House of Assembly roll. However, the following criteria are proposed to apply to the General Manager's Roll:</p> <p>Criteria 1: A person must be an Australian citizen to be eligible to vote in local government elections. This is consistent with the voting rights at a State level and with most other jurisdictions' local government voting rights. Non-citizens would no longer be entitled to vote.</p> <p>Criteria 2: Individuals who meet criteria 1 and also own or occupy property in a municipal area where they are not a resident, are eligible for enrolment.</p>	<p>The recommendation is consistent with voting rights at State level and should be supported.</p> <p>A person must be an Australian citizen to vote and stand for election.</p> <p>Supported.</p>

REFORM DIRECTIONS

PART B Representative and Democratic Councils

1. Elections

Area	Reform	Details	Comments
		Criteria 3: A person is eligible for enrolment as the (sole) nominated representative of a corporation operating from a property in the municipal area, ONLY if the representative meets criteria 1 and is not already enrolled under any other entitlement in that municipal area.	Supported.
	6. Reform the voting franchise to reflect 'one person, one vote' principle in any one municipality	No individual owner, occupier or corporation (or their delegate) will get more than one vote per municipality. Owners of corporations will no longer be entitled to a potential second vote within the same municipal area elections.	Supported, on the principle of one person, one vote.
Increasing voter participation	7. Simplify the election process for the positions of mayor and deputy mayor	<p>Currently, mayors and deputy mayors must also be concurrently elected as councillors. This requires voters to complete a ballot paper for all councillor candidates and then a second ballot paper for candidates also standing as mayor or deputy mayor, meaning these candidates must be voted for twice, once as councillor and once as mayor/deputy mayor. This process can be confusing and at times, can result in a candidate being elected as mayor or deputy mayor but not as councillor, meaning they are unable to accept the position of mayor or deputy mayor. The confusion can also increase informal voting.</p> <p>Several options have been identified that seek to assist in simplifying the voting process for the mayor, which are outlined below. It is acknowledged that there is no perfect solution to this challenge and therefore retaining the status quo is also an option.</p> <p>Mayoral Election</p> <p>Mayors have been popularly elected in all councils in Tasmania since 2000. Prior to this, the position of mayor was voted on by council, 'around the table'.</p> <p>7A: Retain the status quo as outlined above. If the status quo option is retained, a higher nomination fee would be charged in accordance with proposed Reform Direction 13.</p> <p>7B: Popularly elected - voters will popularly elect the mayor at the same time as the council elections are held. A successfully elected mayor will automatically be elected as councillor, removing the requirement to be concurrently elected as councillor. Candidates will be able to stand either for mayor or councillor but not both.</p> <p>Unsuccessful mayoral candidates will not be eligible for election as councillor. This process is in place in Queensland and South Australia.</p> <p>7C: Popularly elected - simplify the voting process for the position of mayor by providing that the candidate who is elected first, from the ballot for candidates, would automatically be elected as mayor. This reform retains the concept of a popularly elected mayor, without the necessity of voting twice. The Tasmanian Electoral Commission advises that this form of voting would be simple to administer and would reduce costs as there would only be one ballot.</p> <p>7D: Council votes - all candidates stand and are elected as councillors.</p> <p>Mayors are then elected 'around the table' by the council. This is an option in New South Wales, Western Australia, Victoria and for councils in regional Northern Territory.</p> <p>Deputy Mayor Election</p>	<p>The status quo to remain. Mayors are popularly elected.</p> <p>The status quo to remain.</p> <p>Not supported.</p> <p>Not supported.</p> <p>Not supported.</p>

REFORM DIRECTIONS

PART B Representative and Democratic Councils

1. Elections

Area	Reform	Details	Comments
		The deputy mayor would be voted on by the council 'around the table'. This would simplify the process for voters and allow the council to choose an appropriate person to support the mayor. This is consistent with deputy mayor processes in every other jurisdiction in Australia.	
	8. Make alternative voting methods available	<p>Enabling electronic voting when the technology becomes viable, as well as postal voting. The most appropriate voting method would be chosen by the Minister 12 months prior to the local government elections.</p> <p>This allows flexibility for election methods to adjust to social and technological changes over time, and to choose the most appropriate method as it becomes available. It improves accessibility for all voters, to increase voter participation.</p>	Supported when voting technology becomes viable. Enabling of electronic voting as well as postal voting provides alternatives for the voter.
	9. Simplify the voting process to reduce informal voting rates	<p>The voting process will be amended to require a minimum ballot of 1-5 preferences to constitute a formal vote. This would remove the requirement to mark a preference for every available councillor position and/or candidate. This simplifies the process for voters and aligns formal vote requirements with State elections. Advice from the Tasmanian Electoral Commission is that a minimum of 1-5 preferences would not have a material impact on election results, as in most cases later preferences are not required during counting.</p> <p>The level of legislated prescription for ballot papers will be reduced. As with State elections, the Tasmanian Electoral Commission could then determine the best layout of the ballot paper. This will allow necessary changes to occur over time to ensure voting is as clear, simple and accessible as possible for voters.</p>	Supported, that intent is clear. Simplified voting process, and aligns voting process with State elections.
Electoral Integrity	10. Introduce caretaker provisions to reduce major policy and contractual decisions that may bind an incoming council, and avoid the inappropriate use of ratepayer resources during an election	<p>Caretaker provisions are commonplace in other levels of government and local government in other jurisdictions. Caretaker provisions would apply to all councils from the time candidate nominations open. They would limit councils making major policy or contractual decisions during an election period. The operational business of councils must still continue and caretaker provisions would provide for this, including where councils have to meet statutory timeframes and obligations.</p> <p>Caretaker provisions would also limit the use of council resources from being used to promote or support candidates, including sitting councillors. This is consistent with the notion that public funds should not be used to unfairly support one or more candidates over others.</p>	<p>Supported. Councils should be allowed to continue to operate as normal, if financial decisions are in accord with the approved budget.</p> <p>Supported, Council funds are not to be used to support candidates.</p>
	11. Move administration of the General Manager's Roll from councils to the Tasmanian Electoral Commission	<p>This measure would improve the integrity of the democratic process by removing general managers and council staff from the electoral process.</p> <p>It would also reduce the administrative burden on general managers to maintain the accuracy and integrity of the Roll and achieve greater consistency across Tasmania.</p> <p>There will be resourcing impacts for the Tasmanian Electoral Commission in taking on administration of the Roll from councils. Costs will apply to councils for the transfer of this responsibility but should be cost neutral, or possibly result in a net overall cost reduction (given expected efficiency for the Tasmanian Electoral Commission as a single administering entity, compared with the current 29 separately administered rolls).</p>	Supported. Improve the integrity of the process, so that staff are not part of the process and independently prepared by the Electoral Commission.
Candidate Changes	12. Introduce a pre-nomination training package	A training package must be completed in order to nominate as a candidate. This will help candidates understand the role and responsibilities they will take on should they be successfully elected. These information packages would be completed in a simple online format and will provide information rather than testing a potential candidate's knowledge. This is becoming increasingly common in other jurisdictions for local government candidates.	Not supported.

REFORM DIRECTIONS

PART B Representative and Democratic Councils

1. Elections

Area	Reform	Details	Comments
	13. Introduce a candidate nomination fee	Candidates for the office of councillor would pay a small fee to lodge their nomination, which would be refundable on receiving a percentage of the vote (typically 4%). Candidates standing for the position of mayor would pay a higher nomination fee, depending on the option adopted in Reform Direction 7. This principle is common in other local government jurisdictions and aims to attract serious candidates and reduce nominations by those without real intentions to be elected (having considered fees in other jurisdictions, the likely fee would be around \$100 for councillor nominations and \$250 for mayoral nominations). The Tasmanian Electoral Commission would administer the payment and retain fees not eligible to be refunded as a contribution toward the cost of elections.	Status quo remain, not supported.
	14. Require the disclosure of gifts and donations by all local government candidates received during the electoral period	All candidates would be required to declare gifts and donations received during the electoral period. This will ensure an equitable platform for all candidates and the transparency and accountability expected by the public (published online). The Tasmanian Electoral Commission would administer the receipt of disclosures given the alignment with existing advertising returns. Tasmania is currently the only State not to require gifts and donations declarations by candidates in local government elections.	Supported, ensures transparency, Tasmania is the only State that does not require local government candidates to make a declaration of gifts and donations.
	15. Align eligibility requirements to nominate as a candidate with State eligibility requirements	This direction is intended to bring the eligibility requirements into closer alignment with the current requirements for members of the House of Assembly and Legislative Council, as per the requirements of the Electoral Act 2004 and the Constitution Act 1934, where appropriate. Eligibility to nominate as a candidate for the office of councillor will continue to include key existing provisions, including eligibility to vote and the candidate having their place of residence in Tasmania, as well as those applicable from the above legislation.	Supported, create uniformity with State eligibility requirements to nominate as a candidate. Eligibility to nominate to be subject to a candidate being a resident in Tasmania for 2 years prior to nomination.
Modern councillor titles	16. Remove the title of 'Alderman'	Councillor titles would be modernised and made consistent by removing the title of 'Alderman', which is currently available to city councils, as the term is considered archaic and gender-biased. The local government sector supports this change, as voted on at the sector's Annual General Meeting in 2018. A contemporary Act should align language with community expectations.	Supported, Councillor title would be consistent throughout the State.

REFORM DIRECTIONS

PART C Councils Connected to their Communities

2. Community Engagement

Area	Reform	Details	Comments
Community Engagement	17. All councils will develop and adopt a community engagement strategy	Councils would engage their communities in developing their Community Engagement Strategy after each election. This Community Engagement Strategy will then inform how council will engage, involve, consult and inform their communities on plans, projects and policies. Acknowledging that every council and municipality will have different needs, this allows the community and council to work together on their engagement plan, including how and when they will engage and what methods they will use. Minimum requirements will be set for developing the Community Engagement Strategy and would include: <ul style="list-style-type: none"> a genuine intent to engage the community; 	Not supported.

REFORM DIRECTIONS

PART C Councils Connected to their Communities

2. Community Engagement

Area	Reform	Details	Comments
		<ul style="list-style-type: none"> • a defined reason for consulting; • clearly defined timeframes; • use of plain English; and • clear advice for how the community will be informed of the outcome. <p>The final strategy should include:</p> <ul style="list-style-type: none"> • what matters the councils will engage the community on; • how it will engage with the community; • how it used the input from the community; and • when the community will be advised of outcomes. <p>Councils must then follow their Community Engagement Strategy when engaging the community on their Strategic Plan, determining their service delivery priorities and when setting their budget (including rating decisions).</p>	
Removing prescription and giving councils autonomy and flexibility	18. Removing prescriptive consultation requirements	<p>Broaden the capacity for councils to engage with their communities in accordance with their Community Engagement Strategy, rather than through the current prescriptive consultation methods such as Annual General Meetings, public notices and formal submission processes. Instead, for example, when making financial and rating information available, councils could provide information, across a range of platforms that best suits their community's needs, such as council websites. This would allow them to make decisions at the appropriate time for the information being communicated, rather than through inflexible processes.</p> <p>Some specific consultation requirements will need to be maintained, where necessary, for the protection and rights of the community and councils.</p> <p>Wherever possible, prescriptive requirements to provide reports and information in a specified way, such as by post, will be removed. This will be replaced with a broad transparency principle that information published in the public domain must be accessible and driven by what the community wants to see.</p>	Supported, but not through community engagement strategy.
	19. Remove requirements for public meetings and elector polls	<p>The current requirements related to public meetings and elector polls are highly prescriptive and precede technologies such as the internet. There are now many alternative ways in today's society that people can make their views known to their council.</p> <p>Additionally, as the outcome of an elector poll or public meeting is non-binding, it does not compel a council to do anything. Councils, and subsequently ratepayers, incur a large cost for no clear outcome. It is also increasingly difficult for councils to confirm who the electors are in the local area who signed an online petition. It is therefore proposed that the provisions relating to public meetings and elector polls be removed from the Act.</p> <p>In line with the overarching principle of the Community Engagement Strategy, a council will still be able to initiate and hold an elector poll, if circumstances warrant one. If community members want to hold public meetings and submit petitions (and even have polls), it will be a matter for councils to determine the processes for that manner of engagement, in line with the Community Engagement Strategy.</p> <p>In addition, the capacity will be provided for the State to initiate a state-wide referendum on a particular issue, if required.</p>	Supported, but no community engagement strategy requirement.

REFORM DIRECTIONS

Part D: Responsible and Effective Councils

3. Ethics and Standards

Area	Reform	Details	Comments
Good Governance	20. Legislate the eight good governance principles	<p>The principles from the Local Government <i>Good Governance Guide</i> would be legislated and linked to the behaviours in the Code of Conduct.</p> <p>These principles will also inform the high-level functions and powers of a council, in providing municipal services for their local government area.</p>	Not to be legislated, maintain <i>Good Governance Guide</i> as guideline only.
Financial Governance	21. Set high- level financial management principles that encourage efficiency and value for money in council service delivery	<p>These principles would emphasise that councils make important decisions on the use of community funds, for the betterment of the community. Councils must regularly consider improvements to operational efficiency and assess services for their value to the community, not just their cost. They must also consider the risk they expose ratepayers to, and ensure that their decisions are affordable and fair across different generations of ratepayers.</p> <p>Victoria's Local Government Review has taken this approach. It intends to create a set of high-level financial management principles that focus on transparency, accountability and sound financial management. For example:</p> <ul style="list-style-type: none"> • managing financial risks prudently in light of economic circumstances; • aligning income and expenditure policies with strategic planning documents; • responsible spending and investment; and • ensuring full, accurate and timely disclosure of financial information about the council.¹ <p>Similar principles are proposed for Tasmania and in practice would provide a clear expectation for councils when developing their strategic plans and budgets.</p>	Maintain <i>Good Governance Guide</i> as guidelines only.
Elected Member Development	22. Establish core capability requirements for elected members	<p>Setting core capability requirements would build capacity for all elected members and have positive impacts on standards of behaviour, sound decision-making and better relationships, as councillors would have a better understanding of the framework their role fits within.</p> <p>Core capability requirements may include:</p> <ul style="list-style-type: none"> • the roles and responsibilities of elected members under the Act and regulations, with specific reference to the Model Code of Conduct and the <i>Good Governance Guide</i>; • ethical decision-making; • financial fundamentals, including understanding of financial statements and budget preparation; • decision-making in reference to the <i>Land Use Planning and Approvals Act 1993</i>; and • meeting procedures. <p>The option to introduce mandatory training was considered however it is not proposed to mandate councillor training at this point. The Minister will retain the option to issue a Performance Improvement Direction to specific councils or councillors where it is needed. The exception to not implementing mandatory training for councillors, is that mandatory training for councillors in their role as a Planning Authority will be required.</p>	<p>Training requirements for planning in particular.</p> <p>Ongoing training provision. No mandatory training to be introduced for Councillors, but Councillors encouraged to participate.</p> <p>Mandatory training for councillors in their role</p>

¹ https://www.localgovernment.vic.gov.au/_data/assets/pdf_file/0042/397968/Act_for_the_Future_-_Directions_for_a_new_Local_Government_Act.pdf

REFORM DIRECTIONS

Part D: Responsible and Effective Councils

3. Ethics and Standards

Area	Reform	Details	Comments
			as a Planning Authority.
	23. Require councils to publicly report the core capability training that each elected member has completed annually	This will introduce a greater level of transparency of councillors' professional development activities.	Supported. Council's policy already requires the reporting of professional development activities in the Annual Report.
Council Staff Accountability	24. Establish principles for all council staff that set minimum standards of behaviour	<p>Setting principles on a minimum standard of behaviour for council employees will bring local government in line with other jurisdictions, other levels of government and community expectations for public officer behaviour.</p> <p>For example, under the Tasmanian State Service Act 2000, an employee must adhere to State Service principles including that:</p> <ul style="list-style-type: none"> • the State Service is apolitical, performing its functions in an impartial, ethical and professional manner; • the State Service is accountable for its actions and performance to the Government, the Parliament and the community; • the State Service is responsive to the Government in providing honest, comprehensive, accurate and timely advice and in implementing the Government's policies and programs; and • the State Service delivers services fairly and impartially to the community. <p>These principles inform the Tasmanian State Service Code of Conduct. A breach of the Code can result in real and serious consequences, including termination of employment. In recognition that local government staff operate under individual Enterprise Bargain Agreements, the consequences for a breach of minimum staff standards of behaviour would be a matter for each council to determine.</p>	Not supported.
General Manager Performance	25. Prescribe minimum standards for general manager recruitment, contracts, performance management and termination	<p>This aims to encourage best-practice recruitment practices in line with community expectations and ensure a consistent approach to general manager contracts.</p> <p>The current power to issue a Ministerial Order on the appointment and performance of general managers would remain, allowing the Minister to specify the principles and processes governing the selection of general managers and the monitoring of their performance by the council.</p>	<p>Not supported, LGAT & LG Professionals to provide best practice model/tools.</p> <p>Council does use external support for recruitment and annual reviews.</p>
Complaints Management	26. Include principles on complaints management in legislation	<p>A rigorous process must exist for complaints management, balancing the need to address genuine concerns of the community with processes that enable the dismissal of vexatious or frivolous complaints.</p> <p>Best-practice complaints management is independent, unbiased and removes conflict. Where councils are handling complaints about their own internal processes or staff (for example, the general manager), questions arise as to how independent and unbiased the complaints management process actually is. While it is appropriate that councils respond in the first instance to the majority of complaints, stronger provisions would seek to improve the independence of internal reviews of complaints.</p>	Not supported, provision of model and tools.

REFORM DIRECTIONS

Part D: Responsible and Effective Councils

4. Transparency and Flexibility in Budget Management

Area	Reform	Details	Comments
Rating Policies	27. Ensure council rating policies consider taxation principles and align with their budget and financial planning documents	<p>Councils have flexibility in determining how to distribute the rating burden among ratepayers. Rates are a form of general taxation and, therefore, taxation principles are relevant to how councils make their rating decisions. The taxation principles are: efficiency, simplicity, equity, capacity-to-pay, benefit principle, sustainability, cross-border competitiveness and competitive neutrality.</p> <p>Councils should reflect outcomes of consultation with the community on council budget and financial planning when developing rates and charges policies, as per the overarching Community Engagement Strategy. Communities want to understand the revenue councils are raising through rates and where it will be spent. This is closely linked to the councils' budgeting process. This would also apply where councils change their rating policies significantly or move to a different rating model.</p>	Not supported.
	28. Introduce more flexibility for councils to easily transition from one rating approach to another, to manage rating impacts on ratepayers	<p>Councils can use different valuation methods to determine their rates and this would not change. Historically, councils have generally used the Assessed Annual Value (AAV) method to determine their rates. This method is a proxy for rental returns on a property.</p> <p>Work done a few years ago suggests that using Capital Value (CV) would produce a more equitable and efficient rating outcome for the majority of ratepayers. However, very few councils have transitioned to a CV method because of the significant impacts this would have for some ratepayers.</p> <p>This direction would provide councils with greater ability to manage rating changes on ratepayers through transitional arrangements. For example, if a council wishes to transition from the AAV to CV rating basis, the legislation would give councils improved tools to mitigate shocks to individual ratepayers by smoothing the impacts over time.</p>	Supported, change would allow Councils to mitigate shocks to individual ratepayers by smoothing out the impact over time, where rating changes to property owners are significant.
Transparent and accountable rate setting	29. Establish an independent rates oversight mechanism	<p>This would introduce a role for the Economic Regulator to provide independent expertise on, and oversight of, proposed rates increases that deviate from a council's Long-Term Financial Management Plan and are significantly greater than the Consumer Price Index. The Minister would have the power to refer a council to the Economic Regulator but not to veto the rating policy. The Economic Regulator would provide advice back to a council on proposed rating increases and whether other options to alleviate financial impacts on the community appear available. The Economic Regulator would be required to publish its report.</p> <p>This direction would give a council advice independent of council staff for such a significant decision, and provide the community with comfort that any proposed rate increase has been subject to rigorous testing.</p> <p>The cost of any rating increase investigation by the Economic Regulator would be met by the relevant council.</p>	Not supported.
Transparent and accountable fees and charges	30. Set principles or guidelines for setting fees and charges	<p>In response to issues raised regarding significant differences between councils in the fees and charges applied for similar services, this direction would promote greater consistency in the approach to setting fees and charges, without prescription around the amounts themselves. Fees and charges should be reflective of the cost of the service being delivered. They are not a tax to raise general revenue.</p> <p>The Department of Treasury and Finance has guidelines for State Agencies with regard to setting fees and charges and it is proposed that a similar discipline be introduced for local government.</p>	Do not support legislation, but flexible guidelines for individual councils to provide local incentives, discounts and initiatives.
Budget Management	31. Provide for a more autonomous and less prescriptive budget	This will allow councils more flexibility to allocate resources as required. Councils should be accountable for outputs and outcomes, with transparency through reporting. Councils clearly set the budget and priorities, however general managers should have the flexibility to move resources around within the overall budget allocation to achieve priorities. This direction would relate to the operational budget, not the	Supported with a possible financial limit and reporting mechanism to keep councillors informed; tools and models. Don't legislate,

REFORM DIRECTIONS

Part D: Responsible and Effective Councils

4. Transparency and Flexibility in Budget Management

Area	Reform	Details	Comments
	process	capital budget. It would also provide for a formal half-yearly financial report stating actual expenditure against budget.	council policy dictates.
Significant Business Activities	32. Clarify significant business activities	<p>There is a need to better define 'significant business activities' so that the commercial operations of councils are transparently reported. Councils will be required to publish reports on the operations and performance of significant business activities.</p> <p>Councils may undertake significant business activities for a range of reasons in carrying out their functions. Some support resource sharing arrangements, some are commercial operations and some have elements of both. The Act currently enables councils to undertake these activities under enterprise powers. These powers are not well understood.</p> <p>If significant business activities are competing with the private market, they need to be operating on fair terms. If significant business activities are operating for a profit, they should not enjoy benefits not available to private enterprise, such as tendering exemptions, as is currently the case under the Act.</p>	Supported, needs to be defined (turnover \$ value or percentage of Council expenditure). No unfair advantage.

REFORM DIRECTIONS

Part D: Responsible and Effective Councils

5. Council Decision Making

Area	Reform	Details	Comments
Council Meetings	33. Require electronic recording of council meetings to be made publicly available	<p>This requirement is increasing in other jurisdictions across Australia, where councils are capturing recordings using a range of electronic devices.</p> <p>Council decisions are supported by agenda papers and the minutes of meetings. However, council minutes are often brief and record little more than the motion and voting decision. Unless a member of the community is present at the meeting, there is little public record of any debate that occurred.</p> <p>The current Act allows for audio recording and a number of councils make audio recordings available on their websites. A small number of councils also video record and live stream.</p> <p>Making electronic recording, and its publication, mandatory would improve public confidence in the integrity, transparency and accountability of council decision-making. It would increase the community's access to, and connection with, the council and could improve councillor conduct generally.</p> <p>Councils have raised the issue of not having legal immunity protections for statements they may make, which are available to State and Federal Parliament, such as Parliamentary Privilege. As council meetings are currently available to the public, recording these sessions does not change the status quo on protections. Councils can hold closed meetings where necessary, which is not available to Parliamentary debate. No other jurisdiction has offered councillors immunity protections in this context. Recognising, however, the concern of some councils, live streaming would not be mandated.</p>	<p>Supported.</p> <p>Need to introduce Local Government privilege (immunity protections).</p> <p>Council records its Council Meeting and makes the recording available.</p> <p>It is noted that live streaming will not be mandated.</p>

Area	Reform	Details	Comments
Conflict of Interest Framework	34. Simplify what is a conflict of interest	This will capture both what are currently termed 'pecuniary' and 'non-pecuniary' interests and remove overlap and confusion in declaring conflicts of interest at council meetings. Legislative provisions will be supported by clear, easy-to-read and understand guidelines to assist councillors in determining when it is appropriate to declare a conflict of interest and what further action to take, if any.	Supported, need clarification on what is pecuniary and what is not pecuniary interest; and who is responsible to report pecuniary interest transgressions. Supported, any improvement in clarity in determining when it is appropriate to declare a conflict of interest would be welcomed.
Managing Conflicts in the Exercise of Statutory Functions	35. Enhance the integrity of council decisions made when exercising statutory powers	This will require councils to manage perceived conflicts of interest by councils in exercising their statutory powers. For example, when a council is submitting and assessing its own development applications under the <i>Land Use Planning and Approvals Act 1993</i> , the assessment should be allocated to another council or private planner for assessment to reduce its conflict of interest. This would place the onus on councils to proactively remove themselves from any perceived conflict of interest. A number of councils already engage such practices in the interests of good governance. It is recognised that under the current planning legal framework, a council still needs to make the decision on its own Development Application, even if the assessment has been referred to an independent planner. There is some support to address this issue.	Supported; however, needs a trigger value as may be onerous especially when dealing with minor infrastructure e.g. park bench or bus shelter. Council's development applications need to be assessed externally.

REFORM DIRECTIONS

Part D: Responsible and Effective Councils

6. Oversight & Interventions

Area	Reform	Details	Comments
Independent Oversight	36. Strengthen the information gathering powers of the Director of Local Government	The Director of Local Government already has the power to require information from councils and this would not change. What is currently not clear is the scope of the advice councils' audit panels are providing to councils, including what risks and mitigation actions are being identified and recommended. Similarly, it is not clear how well councils are responding to their audit panels' advice. Consequently, it is proposed that audit panels would be required to provide their reports to the Director of Local Government, upon the Director's request.	Supported.
	37. Create a power for the Director of Local Government to require an undertaking from a council as a measure to address compliance issues	Under the current Act, instances of non-compliance with the Act can occur but with little consequence. For example, the Act may set out requirements to be followed, but there is no express penalty for not doing so. Many of these do not warrant an offence, but there is a gap with regard to powers to remedy non-compliance. This direction would provide the power to the Director to require an undertaking to be given by a council, councillor or general manager to either correct an act of non-compliance, or to ensure there is no recurrence. The failure to observe an undertaking could result in further action, depending on the gravity of the non-compliance. An undertaking could also be used to require councils to address the Auditor-General's recommendations arising from its financial audits, particularly where responses to high risk area recommendations appear not to be acted upon in a timely manner.	Not supported. Ministerial powers provision.
	38. Establish a Monitor/Advisor role	There are circumstances where early intervention can assist a council before issues result in more serious outcomes. This direction would provide a power for a Monitor to enter a council to review its operations, request information from the council administration (and the Audit Panel), provide guidance to elected members and senior staff, and make recommendations to the council.	Not supported. Ministerial powers provision.

REFORM DIRECTIONS

Part D: Responsible and Effective Councils

6. Oversight & Interventions

Area	Reform	Details	Comments
		A council would be able to decide to engage a Monitor, but the Director of Local Government would also have the power to require one if the circumstances clearly require a 'circuit breaker'. A council would pay the cost of a Monitor (where one has been required by the Director, costs would be determined in consultation with the council).	
	39. Establish the power to appoint a Financial Controller	This direction would allow for a Financial Controller to be appointed to a council to manage serious, demonstrated financial challenges, without putting the council into administration. Similar powers exist in New South Wales. The equivalent position to the Director in New South Wales has the power to appoint a Financial Controller to councils in that state, and it is proposed the Director would have similar power in Tasmania. The cost of a Financial Controller would be borne by the council. While it is acknowledged this would be an additional cost, the benefit to ratepayers would be expected to be significantly greater through correcting the council's financial sustainability.	Not supported.
	40. Continue to conduct formal investigations by the Director of Local Government	<p>The Director of Local Government would continue to have the power to investigate breaches of legislation. However, the outcomes of an investigation would be strengthened such that the Director can make a finding and provide recommendations to the Minister that the council or an individual councillor be suspended or dismissed.</p> <p>Natural justice and procedural fairness principles must apply to any investigation.</p> <p>To support the Director's investigatory powers, the Director would be able to appoint appropriately skilled and qualified persons to support them. Depending on the circumstances, this could include persons external to the Director's staff, such as persons with significant legal experience.</p>	<p>Not supported.</p> <p>Natural justice and procedural fairness principles must apply to any investigation and investigation should be undertaken at the direction of the Minister.</p>
Ministerial Intervention	41. Provide for the Minister to dismiss a council or individual councillor	<p>While the Director of Local Government will have significant powers to intervene when serious governance challenges arise, ultimately any action that results in the suspension or dismissal of a council or councillor must be taken by the Minister for Local Government.</p> <p>The Minister already has the power to impose a Performance Improvement Direction on a council or councillor (on a recommendation from the Director), and this will be retained. Suspension is a possible sanction for failure to adhere to a Performance Improvement Direction.</p> <p>In addition, the Minister could dismiss a council or councillor on recommendation of the Director. Alternatively, the Minister can establish a Board of Inquiry, and in response to findings, recommend the Governor dismiss a council or councillor, as is currently available.</p>	Supported, only if natural justice and procedural fairness principles have been applied.
Maladministration	42. Create offences for mismanagement and to address poor governance (maladministration)	<p>This would create a maladministration offence provision that relates to the council as an entity, individual councillors and the general manager, for systemic failures or a major consequence resulting from a single act of impropriety, incompetence or neglect. This is another measure to address the current gap with regard to there being no sanction available for non-compliance with the Act.</p> <p>The responsibility to ensure operational good governance within a council rests with the general manager, as the person responsible for implementing the decisions of the council and the day-to-day operations of the council. A maladministration offence should apply solely to the general manager, rather than other senior executive staff. Council staff come under the employment of the general manager and are therefore the responsibility of the general manager.</p> <p>It is recognised that while the council itself is responsible for the management and performance of the general manager, there is a need to legislate consequences where there is a repeated issue in failing to discharge their duties or the conduct is so grave that it warrants intervention. If early intervention measures are introduced, this would provide many opportunities to improve governance before this</p>	Supported with protection provisions for the General Manager. Council administration must be accountable – with natural justice and procedural fairness principles applied.

REFORM DIRECTIONS

Part D: Responsible and Effective Councils

6. Oversight & Interventions

Area	Reform	Details	Comments
		<p>measure was necessary.</p> <p>South Australia has an offence for 'maladministration', which relates to a public officer or entity failing to meet reasonable standards of performance in discharging their duties, including conduct resulting from incompetence or negligence. This relates to serious systematic failures, not isolated mistakes or errors. The South Australian Ombudsman can investigate any public officer or entity for this conduct. Where councils have been incompetently managed, resulting in maladministration, an administrator can be appointed to manage the council. The South Australian Independent Commissioner Against Corruption Act 20126 defines maladministration in public administration as including conduct that results in the unauthorised use of public money or the substantial mismanagement of public resources; substantial mismanagement in the performance of official functions; and conduct resulting from impropriety, incompetence or negligence.</p>	
Complaints Management	43. Simplify the complaints framework	<p>There is currently overlap between the oversight and regulatory roles of various bodies, which makes it difficult for people to know who to make their complaint to. This direction would provide clarity for complainants, increase efficiency and ensure prompt intervention in serious issues.</p> <p>The main focus of this direction will be to remove the overlap in the complaint process between the current Director of Local Government and the Integrity Commission.</p>	Supported.

REFORM DIRECTIONS

Part D: Responsible and Effective Councils

7. Council Performance Reporting

Area	Reform	Details	Comments
Performance Reporting Framework	44. Introduce a local government performance reporting framework	<p>There is already significant information and reporting on and by councils, but it is sometimes difficult to access and is not well consolidated. This direction would more clearly set a performance reporting framework that seeks to consolidate and make better use of existing data and information. It should reduce the reporting burden for councils, while improving public access to information.</p> <p>The reporting framework would also use existing key performance indicators as a basis for reporting, but have capacity to have additional key performance indicators over time where it is agreed the data required can be captured, and provides meaningful value to councils and the community.</p>	<p>Detail is required.</p> <p>Councils need to be consulted on the establishment of the report framework, and is expected to provide meaningful data to Councils and the community.</p>
	45. Require councils to publish a compliance statement in the Annual Report	<p>Councils have a range of statutory obligations to meet but there is no clear reporting in all instances that they have met these obligations. This direction would require a general manager to sign-off and account for the council's compliance obligations under the Act and some associated legislation, and report to the community a formal attestation that council's compliance obligations have been met. By requiring such an attestation, it will drive a culture in councils of checking that they have indeed met their statutory obligations.</p>	Supported.

Area	Reform	Details	Comments
	46. Remove prescription around Annual Report	A council's Annual Report will still remain a key reporting mechanism, consistent with the requirements for other public entities. However, some of the current provisions for what is required to be reported are outdated. Future requirements for Annual Reports will reflect the directions, particularly what a council determines through its Community Engagement Strategy.	Supported.

REFORM DIRECTIONS

Part E: Adaptable Councils

8. Collaboration

Area	Reform	Details	Comments
Collaboration across councils	47. Introduce provisions that support efficient and high-quality council operations and collaborative shared service opportunities	<p>Councils are already engaging in various formal and informal collaborative service delivery models. The legislation should provide the flexibility for councils to collaborate and work across council boundaries to deliver outcomes for their communities, recognising that different communities want different things. This direction would seek to remove any legal and administrative barriers to collaboration across councils, such as concerns regarding the extent delegations can be given and exercised.</p> <p>Legislation would also provide the power for two or more councils to be serviced by one administrative organisation. Such flexibility is likely to be necessary for the sustainability of small councils. In particular, Latrobe and Kentish Councils have in practice adopted this model, and it is important that the legal framework allows such innovations to occur.</p>	Supported, legislation will support collaborative shared service opportunities.
	48. Introduce the option to create Regional Councils	<p>A 'Regional Council' would be able to be established to incorporate a number of individual 'local councils'. A Regional Council could be established through a Local Government Board review (the current mechanism for structural change), or as a result of the voluntary decision of a minimum of two councils to collaborate in such a manner. A Regional Council would be supported by a general manager and staff, with the individual local councils being serviced by one administrative organisation. The Regional Council would be responsible for region-wide planning and service delivery. Local councils would retain some local decisions and be the primary advocates for their communities to inform decisions made by the Regional Council. The Mayors of the local councils would be members of the Regional Council, with additional members to be determined by the respective local councils.</p> <p>A Regional Council would represent the strongest collaboration model that does not involve amalgamation.</p>	Not supported.

Part E: Adaptable Councils

9. Model By-Laws

Area	Reform	Details	Comments
Consistent By-laws	49. Create model by-laws for common issues, with streamlined administrative processes	<p>A model by-law would be subject to a rigorous assessment process and once approved, any council could adopt the model by-law without the need to go through the assessment process again. Councils would simply need to consult with the community on any municipality-specific issues before adopting the final by-law. For example, there could be a model public places by-law with common features, but a council would need to consult on where the by-law would be applied in its municipality.</p> <p>This would significantly reduce the administrative process councils must go through in developing by-laws and create greater State-wide consistency.</p> <p>Councils would retain the power to create their own bespoke by-laws if they so desire, but would need to go through the full Regulatory</p>	Supported, model by-laws streamline administration processes.

Part E: Adaptable Councils			
9. Model By-Laws			
Area	Reform	Details	Comments
		Impact Statement process, and be able to adequately justify the need for creating such a by-law. Consideration will also be given to aligning by-law processes with those that apply to State legislation.	

REFORM DIRECTIONS

Part F: Strategic Reviews

10. Local Government Board

Area	Reform	Details	Comments
Local Government Board	50. Strategic reviews of councils	<p>The Local Government Board will be retained, to be established and directed by the Minister to undertake strategic reviews of local government. The Local Government Board must contain a member with local government expertise but otherwise will be at the discretion of the Minister, allowing for appropriate persons with relevant skills and expertise to be appointed depending on the subject of the review.</p> <p>The Local Government Board must, at a minimum, undertake a review of councillor numbers and allowances every eight years, or two election cycles; and a review of the 'State of the Sector' every five years.</p> <p>The Local Government Board would no longer be able to review the operation of a council as its focus would be on local government sector strategic issues. Operational reviews would be carried out by the Director of Local Government as appropriate under the oversight and intervention framework.</p>	<p>Supported.</p> <p>Consider every election cycle for allowances: hold 2 years after each election, i.e. mid-cycle.</p> <p>Councillor numbers: 8 year cycle (held 2 years after election)</p> <p>Industrial Commission appoints board to do the review.</p>
	51. Voluntary amalgamation	A voluntary amalgamation will be able to occur, without the need for a Local Government Board review, if it is requested by two or more councils. If councils have undertaken a significant body of work to develop a business case on their own initiative to explore amalgamation options, they should be able to proceed without an additional report from the Local Government Board, which is time and resource intensive.	<p>Supported, provision for voluntary amalgamation and therefore also de-amalgamation.</p> <p>The proposal will allow council to explore and agree on amalgamation if they have developed the business case on their initiative.</p>