

# Out-of-Scope Issues

The following issues received significant comment during Phase I of the Review, even though they were out of scope.



## Council's Role as Planning Authority

Consultation highlighted the inherent conflict in a council's role when acting as a statutory planning authority with a councillor's role in representing their communities. As councillors, elected members represent the community's views on issues and in council decision-making. When sitting as a planning authority, councillors cannot represent community views as they must make decisions strictly in accordance with the planning scheme. The planning authority can only consider community views (via representations) that relate to particular elements of the planning scheme. Where a council exceeds this scope of authority and determines an application on the basis of community feedback or sentiment rather than planning considerations, the decision is usually overturned when appealed to the Resource Management and Planning Appeal Tribunal, which can be costly to the council and ultimately the community.

Some councillors also raised concerns that the limitations on their ability to consider the community's views when making planning decisions was not well understood, making it difficult for them to manage community expectations.

This inherent conflict has arisen in other jurisdictions, resulting in a number of different models to assess planning applications.

There remains strong support for the planning scheme, strategic land use planning and policy development to remain with councils. It is the council's role in making planning decisions on development applications that has arisen as an issue during this Review, where there is some sentiment that this function could be removed from councils.

Further issues that have been raised include:

- A council's capacity to make objective decisions as the planning authority when considering applications where the council is also the developer. Some councils recognise this inherent conflict and attempt to manage it through contracting out these applications for assessment to an outside planning consultant (sometimes in another council). While direction 34 seeks to deal with this, some of the consultation feedback argued that an independent planning authority or arbiter is needed for such cases.

[See over for further issues >](#)

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- The potential lack of quorum that can occur if several councillors declare a conflict of interest when a planning matter is being considered and step out of the meeting. This can have implications on the ability of council to meet its statutory timeframes under the *Land Use Planning and Approvals Act 1993*, to assess and determine a planning application.
- Significant regional developments that can result in cross-council implications, but only one council makes the decision.

## Response

The role of councils sitting as a Planning Authority is administered under separate legislation – the *Land Use Planning and Approvals Act 1993*. The matters raised during the initial consultation phase of this Review need to be considered within the broader context of the planning framework.

The Minister for Planning will consider the matters raised.



## Amalgamations

A number of submissions and stakeholders advocated for fewer councils in Tasmania. The Government's position is no forced amalgamations. Amalgamations were specifically out of scope for this Review.

## Response

Mechanisms for structural reforms outside of forced amalgamations have been considered, and the directions set out new ways that councils can work together to achieve significant benefits for communities across current council boundaries.