

Submission for the new Local Government Act Tasmania

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“This submission is to provide a central aim for the new Act to ensure councils are accountable and focused on delivering what’s important to ratepayers, not what is important to the staff of the Council.”

Tasmania has a local Government Act that spends more time defining the interests of the Local Government Association of Tasmania than the interests of ratepayers.

Tasmania has a local Government Act that allows General Managers to ignore an elected councillor's request for information entirely and legally.

It indeed provides for the General Manager to legally ignore the elected official without any form of redress, or even judicial review of such a decision.

This must change so that the employed staff of the Council are entirely and fully responsible to the elected councillors of that council in all respects.

Tasmania has a local Government Act that provides no real powers to the Local Government Minister to sanction and sack councillors for non performance, misfeasance, malfeasance, or corruption.

The new act needs to provide a provision for the Minister to impose rate caps to ensure financial performance improves and the capacity to continually tax the ratepayers above CPI, with escalating rates, to cover up maladministration and poor budgeting performance by the staff of councils is removed.

This has been a universal success in Victoria where the rates capped for all councils each year. Applause from ratepayers is loud and steady.

Tasmania has a local Government Act that disempowers the ratepayers and allows them no capacity to demand change even if there is malfeasance and corruption. The enquiry into the maladministration of the City of Glenorchy is a classic example of the disempowerment of the ratepayers of that City.

The lack of concern for the ratepayers of the City of Glenorchy was breathtaking.

Tasmania has a local Government Act that has been amended so many times that it has become incoherent and now at the end of its use by date.

A new Act is needed!

But what do we need in the new act?

There are some fundamentals that need to be addressed as the primary requirement is for the Act.

Primary requirement 1: Empowerment of elected officials

Presently the elected councillors for a lot of municipalities simply sit around the council table and except what's given to them by the paid staff of the Council, and are told that you can't ask questions because that's not your role.

The act must specify that any elected councillor or alderman can ask any question of any staff member and the answer shall be provided within a reasonable time not more than 7 days.

If the staff member fails to provide to the counsellor or alderman the answer to their question, then that employed person shall be put on notice that a further failure to provide information to the elected official will result in their termination from their employment.

This is fundamental to the act focusing on democracy rather than administrative institutionalisation.

Equally the act should provide powers for the municipal Council to terminate the General Manager of the Council by simple majority voice vote at any formal council meeting for failure to meet key performance indicators, or undertake actions as instructed by the Council.

The act shall also prohibit contracts being provided for the employment of General Managers that provide for more than 120 days or pay in lieu of notice, and no contract shall have severance clauses greater than 120 days of salary. This provision shall be retrospective for 3 years.

The act shall provide that every General Manager position when due for reappointment, shall be publicly advertised, and that external human resource consultant shall be appointed to manage the selection process and assist the elected councillors make the appointment decision.

No contract for the employment of any officer at any level shall have a reappointment clause, and every contracted position shall be advertised when renewal is required under the agreement.

It is only with these provisions will the ratepayers see value for money and the removal of nepotism from the employment structures of local government.

In some respects local government within Tasmania is seen as a sheltered workshop employment opportunity. It's examined by no one, responsible to no authority or person, and it has no key performance indicators.

Even the present Act provides the Minister for Local Government with no power to generate improvements in operating efficiency the local government and to protect ratepayers from financial malfeasance and misfeasance.

Thus finally for the needs of this section the empowerment of the Minister, and by delegation the Director of Local Government is a fundamental need of the new Act, and this is not properly considered and drafted for the new Act then more Glenorchy City Council disasters await.

Primary requirement 2: the disempowerment of appointed officials

Presently appointed officials under the Local Government Act, live in a sheltered workshop, where they cannot be criticised by the ratepayers who pay their salaries, they cannot be instructed by the elected councillors, who other representative of the ratepayers, and they are led by a General Manager who is empowered to ignore the ratepayers, the elected councillors, and indeed the Minister for Local Government.

For this to continue in its present form will lead to a Royal Commission into local government and indeed hasten structural changes that will not be agreeable.

The ratepayers are not going to put up with paying the bills and having no say via their elected officials being the Councillors or alderman.

The ratepayers are not going to put up with being told that things cannot be done, information provided, or indeed information and administrative disasters suppressed, because it's not in the interest of the ratepayers.

This in fact is a lie, because it's not in the interests of the staff to tell the ratepayers in some cases how inept the administration of the municipality has been, and that losses incurred by the Council at the direction of the staff are a 100% not accountable to anyone.

Ratepayers are not going to put up with councils running deficit budgets because the staff think it's easier to tax the ratepayers than it is to sack their mates whom are not needed and cannot be afforded.

It is this disconnection between the capacity of the inhabitants of the municipality to pay, and the propensity of the staff of the municipality to consider the ratepayers to be a bottomless pit.

Over 35% of ratepayers live on government benefits or are retired, and this will rise over the next 10 years to 45%.

Statutory rises in pensions is not above the CPI, and yet any rate rise above the CPI will simply reduce the living standards of the ratepayer.

This disconnection between the reality of the community capacity and the over empowerment of the appointed officials is really the issue.

The inability of the present Act to provide proper governance and over-sight is the current problem and needs to be fixed.

The act should put in place serious changes so that no appointment of any official at a delegated level above manager or director is able to be done for more than a five-year contract, and the renewal of that contract must be by way of public advertising, arm's-length human resource management assessment directly to the elected councillors without the involvement of the General Manager.

This removes the nepotism opportunity that presently exists.

The act should also remove any capacity for any official paid from the revenues of the municipality, to not provide to the elected official or counsellor any information requested within 7 working days. Penalty – loss of employment if it is repeated within 24 months from the first offence.

The act should also disempower the General Managers to ignore councillors or elected officials.

Right now the present Act empowers the General Manager to tell the elected official that they are not going to supply the information to them and to go away. This is the elected representative of the ratepayer being told that they have no rights.

The Act should also have a formal ratepayer interest test and this can be explicitly expressed by the OPC in a similar fashion to the Corporations Act that states that certain regulated professions, have to act in the best interests of the customer or client.

A simple statement in the act that says:

“Any decision made by any officer of the municipality employed either full-time or part-time or by contract shall be made using a best interest tests for the ratepayers of the municipality each time.

Such a test shall consider the financial best interests of the ratepayers, the legal best interests of the ratepayers and the future outcome best interests for the ratepayers in each and every case”

The act should provide for the termination of any officer employed by any Council or municipality who makes such decisions without a recorded in writing series of statements, which assess that the decision was made in the best interests of the ratepayers.

This provides accountability to the ratepayers, where there is no present accountability at all. If someone disagrees then go and read the Board of Inquiry report into the Glenorchy City Council.

The new act should also:

- 1: Councils should prepare a 4 year strategic planning and reporting mechanism and prepare a 4 year council budget so the ratepayers can see that the 10 Long term financial plan is being adhered to.**
- 2. The Act needs to strengthen the Ministers powers to deal individually with councillors or officers of the council who are contributing or causing serious Governance failures at a council.**
- 3. All councils will have a General Manager employment policy and remuneration policy that is public, and an independent advisory mechanism to guide recruitment , contractual arrangement’s and performance monitoring of the GM.**
- 4. The new Act will provide for a single method of valuing land, and clarify exemptions, and increase transparency so that service charges are not hidden.**
- 5. A formal report each year from the Mayor of each Council has to be sent to each ratepayer showing the financial result of the council led by that Mayor.**
- 6. Ratepayers are to be asked to contribute comments to budgets for all councils and these ratepayer comments and suggestions are to be**

incorporated into the meeting minutes of the next council meeting so everything is transparent.

7. The motions moved at the Annual General Meeting attended by the ratepayers are to now be binding on any council.

In summary, the New Act needs to be focussed on returning power to the Minister and the elected officials.

Yours sincerely,

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