HUON VALLEY COUNCIL

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Our Ref: 12/28
Your Ref:
Enquiries to: Matt Grimsey

Local Government Legislation Review Project Team
Local Government Division
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To the Project Team,

REVIEW OF TASMANIA'S LOCAL GOVERNMENT LEGISLATION FRAMEWORK

Please find enclosed a submission from the Huon Valley Council on the above review.

Should you have any enquiries regarding this matter these can be referred to myself on 62640317 or by email mgrimsey@huonvalley.tas.gov.au.

I trust that this advice is of assistance to you.

Yours faithfully,

MATT GRIMSEY
DIRECTOR LEGAL AND GOVERNANCE SERVICES

Enc.

HUON VALLEY COUNCIL

HUON VALLEY COUNCIL COMMENTS

Review of Tasmania's Local Government Legislation Framework

AREA	REFORM	DETAILS	SUBMISSION AND COMMENT	COUNCIL POSITION
PART A				
	1. Principles-based legislation	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. 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. 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. This structure allows for legislation that can be flexible to move with changes over time without the need for constant changes to the Act.	This is supported. The Council's submission on the Discussion Paper was based upon general competency with limited prescription necessary to support the structure of local government. *"In providing this submission it is also recognised that there are some deficiencies relating to good governance principles which should be considered within the Act with guiding principles to support Councils in the absence of clear direction currently within the Act."* Providing details within Regulations supports the concept of general competency and allows for amendments to be made in an easier and more effective manner than with prescription within the Act.	Council supports this Reform.
	2. Accessible, easy-to-read legislation	A new Act will be structured logically, be easy to read and understand, while still being legally effective.	Plain English legislation is supported. It is noted that the language within the Act has changed as a result of different Parliamentary Counsel for each amendment that has occurred to the Act. It is important that the language of the Act is consistent for certainty for Councils and the community.	Council supports this Reform.
	3. A new Act for electoral provisions	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 State Electoral Act 2004 to create greater consistency in election processes in Tasmania.	Currently provisions relating to elections and candidate eligibility are contained in different parts of the *Local Government Act 1993* and include extensive provisions within the *Local Government (General) Regulations 2015*. There are also differences between State election requirements and Local Government election requirements that, whilst some may be justified, others simply cause confusion and uncertainty for candidates. Codifying Local Government election provisions into one Act and bringing those into greater conformity with the State Electoral Act is considered to be an appropriate outcome.	Council supports this Reform.

	4. Consolidating related local government legislation	Related local government legislation will be examined, such as the Local Government (Building and Miscellaneous Provisions) Act 1993, 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.	The *Local Government (Building and Miscellaneous Provisions) Act 1993* contains a number of matters that were not considered appropriate to be included within the main Act itself but were leftovers from the former prescriptive 1962 Act. In the Second Reading Speech for the Bill the Minister stated its purpose to preserve temporarily provisions of the acts repealed by the Local Government Bill until amendments or new legislation have been prepared. Since that time: • Building provisions moved to a new Act in 2000 (coming into force in 2004, since replaced with a 2016 Act) • The Public Health provisions were included in the *Public Health Act 1997* • The Cemetery provisions were included in the *Burial and Cremation Act 2002* • Water District provisions were moved into the *Water Management Act 1999* Despite the intent of the second reading speech some 26 years later the Act still exists and contains: • Subdivision approval provisions - planning scheme development has somewhat superseded the subdivision approvals process (except to the extent of final plan processes which could easily be within the *Land Titles Act 1980*). The Huon Valley Council position, taken to the LGAT General Meeting of July 2016 in relation to these provisions was: *i) That the Local Government Association of Tasmania request the Minister for Planning to review and repeal Part 3 of the Local Government Building and Miscellaneous Provisions Act in relation to subdivision provisions and make necessary amendments to the Land Use Planning and Approvals Act 1993 and other consequential amendments such as the Land Titles Act 1980 and have all relevant provisions associated with subdivisions contained in the relevant legislation. That this review of the provisions ensure that the new provisions are drafted in plain English.* This motion was supported at the meeting and is understood to be addressed as part of the Tasmanian Planning Scheme process. • Employee Long Service Leave Provisions – These should be included within an employee section of a new Act • Preservation Order provisions – These have been superseded by planning scheme templates • Advertising Hoardings – These have been superseded by planning scheme templates and simple Council landowner permissions • A rating provision for construction charges associated with irrigation undertakings – This should be included within the rating powers within the Act. The Proposed Reform Direction is supported to resolve those matters temporarily continued for 26 years without proper review.	Council supports this Reform.

PART B				
Eligibility to vote	5. Reform eligibility for the General Manger's Roll	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. 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: 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. 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. 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.	The Huon Valley Council has historically held one of the larger General Manager enrolment numbers within the State. This is due to the historic nature of holiday settlements within the Huon Valley particularly in the Verona Sands to Deep Bay areas and Esperance Coast Road, Southport and Recherche Bay areas. Over time the numbers have reduced due to many of the former shacks now being used as permanent residents. For instance at the March 1999 elections, the General Manager's Roll enrolment was 692. At the October 2018 elections the enrolment was 378. There are currently 21 corporate body nominations and 44 non-Australian residents on the General Manager's roll. The General Managers Roll recognises the direct pecuniary interest that a land owner has in the Council's affairs as the taxation method for local government is property based. It is however inconsistent with Federal and State enrolment where residents who pay taxes are not simply entitled to vote on that basis but require Australian citizenship. Further encouraging voting entitlements to absentee owners who leave properties empty may be seen to impact upon housing affordability and, from a policy perspective, this should be discouraged where possible. Council's primary submission therefore is that the General Manager's roll be removed entirely. To the extent that the General Manager's roll remains, the extension of the General Manager's roll beyond Australian citizenship ownership or occupancy (consistent with State and Federal Electoral Rolls) does require some consideration. The first extension is that of a corporate body that owns or occupies property within the municipal area. Simple occupancy aside, it is considered that there is merit in continuing this representation as the corporate body contributes directly to the Council through property based rating taxation. The proposed Reform Direction however seeks to limit the elector nominated for a corporate body to a person that is not otherwise on the electoral roll. This is due to concern as to persons having 2 votes. This is a matter of perception rather than reality as that person has a personal vote and a vote that they are responsible to the corporate body for. It will be a matter for the Council as to which position it supports. As a matter of principle however simple occupancy of a corporate body should not gain rights to nominate a representative as the extent of the occupancy compared to the activities of the corporate body cannot easily be verified and open to abuse simply by mere connection. The second extension is the eligibility of non-Australian citizens. Currently a non-Australian citizen who owns or occupies land within the municipal area is eligible for the General Managers' Roll. This has however resulted in allegations of abuse, particularly in relation to	The Council's primary submission is to remove the General Manager's roll entirely. In the alternative, and with respect to the proposed Criteria: Criteria 1: This is supported to include non-Australian citizens who meet criteria 2. Criteria 2: This is supported to include non-Australian citizens who own property only. Criteria 3: Whilst this is supported in principle it is considered that the proposed Reform Direction is based upon a misconception of the role of the voter to act on behalf of the corporate body. The perception of a 2nd vote is not necessarily that in actuality.

			international students in Hobart. Whilst non-Australian voting is unique to Local Government, it is though considered that if the non-Australian Citizen is an owner of property that is paying property based rates, and is in all likelihood otherwise a full participant of Council and community activities, then at least that category of persons should be eligible to vote. The issue of mere occupancy is therefore addressed. With respect to the proposed Criteria: Criteria 1: This is supported to include non-Australian citizens who meet criteria 2. Criteria 2: This is supported to include non-Australian citizens who own property only. Criteria 3: Whilst this is supported in principle it is considered that the proposed Reform Direction is based upon a misconception of the role of the voter to act on behalf of the corporate body. The perception of a 2nd vote is not necessarily that in actuality.	
	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.	This is based on the discussion regarding eligibility to vote as above. Whilst this is supported in principle it is considered that the proposed Reform Direction is based upon a misconception of the role of the voter to act on behalf of the corporate body. The perception of a 2nd vote is not necessarily that in actuality.	Whilst this is supported in principle it is considered that the proposed Reform Direction is based upon a misconception of the role of the voter to act on behalf of the corporate body. The perception of a 2nd vote is not necessarily that in actuality.
Increasing voter participation	7. Simplify the election process for the positions of mayor and deputy mayor	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. 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. **Mayoral Election** 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'. **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. **7B:** Popularly elected - voters will popularly elect the mayor at the same time as the council elections are held. A successfully elected mayor	Up to and including the 1999 local government elections, the Hobart City, Devonport City Burnie City, Clarence City, Glenorchy City and Southern Midlands Councils elected the Mayor and Deputy Mayor through the electors. In all other Councils (including the Huon Valley), the Mayor and Deputy Mayor were elected by the Councillors around the table at the first Council meeting after the election. This is consistent with the principle that Federal Prime Ministers and State Premiers are appointed with the "confidence of the House". Councils are though different to parliamentary circumstances and do not operate on Westminster principles as the Council is the body corporate and the membership is more akin to a board structure and role such that it is the collective who form the Council, not simply a Government with a majority of members. In 2000 popularly elected Mayor and Deputy Mayor was mandated across all Councils. Informatively the Second Reading Speech detailed the reasoning as follows: *"Therefore, in February of this year, I decided to seek the advice of the Local Government Board knowing the board would conduct a review of the method of election for all mayors and deputy mayors in Tasmania. This review was to thoroughly examine all aspects of the matter and also provide a process for councils, their local communities and individuals to put forward their views. In the course of the review, the board received 71 submissions and representations.* *In deciding to recommend a uniform process of direct election for mayor and deputy mayor, the board was most persuaded by arguments regarding the extension of*	In relation to the election of Mayor the Council supports 7C. In relation to the election of Deputy Mayor, 7C is supported as a matter of principle in that the Deputy Mayor is the 2nd elected Councillor who stood for Mayor however the proposed Reform Direction is supported as a feasible and appropriate option.

		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. Unsuccessful mayoral candidates will not be eligible for election as councillor. This process is in place in Queensland and South Australia. **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. **7D:** Council votes - all candidates stand and are elected as councillors. 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. **Deputy Mayor Election** 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.	*participatory democracy and the fact that many residents still were given no opportunity to vote for their mayor or deputy mayor. The board considered that many of the criticisms or fears of direct elections are unfounded. It pointed to those Tasmanian councils that have direct election and have functioned very successfully for many years.* *The board commissioned a professionally designed and conducted survey of 2 900 persons across all the municipal areas in Tasmania. That survey revealed that 64.7 per cent supported direct election of the mayors by the electors. The survey result provided clear evidence that the Tasmanian people wanted a say in the selection of their mayor and deputy mayor. In areas where mayors were already popularly elected, 73.5 per cent supported direct election while in areas where the councillors elect the mayor, 62.4 per cent supported a change to popular elections for mayor. The level of support in individual municipal areas for the popular election of mayor ranged from a maximum of 81 per cent to the lowest support level of 46 per cent. The board was satisfied that its survey clearly demonstrated that the Tasmanian community desires this change."* The notion of popularly elected Mayors is understood to have been embraced by the community however this has also resulted in a number of circumstances where the Mayor has not had broad support around the Council table leading to conflict and dysfunction. These dysfunctional relationships can be viewed in Boards of Inquiry Reports and Director of Local Government investigations. That said, governance and oversight provisions within the Act should allow these to be addressed at an early stage without the consequences of previous events. Therefore this, from a risk perspective, should be a minor consideration. The proposed Reform Direction provides a number of options in relation to the election of Mayor, discussed below: **7A**: Comments on nomination fee having been made, the status quo has worked for the past 19 years and to put forward a proposition that popularly electing the Mayor should change would need demonstrated support from the Huon Valley Community who has a higher average electoral return rate for comparable Councils. This however may lead to some concern where the elected Mayor has not received sufficient votes to obtain the seat of Councillor and has not been able to take office. This has occurred with Deputy Mayor but has not occurred to date with Mayor. It is therefore considered unlikely. The other issue raised is to creating circumstances of dysfunction however this can be addressed by the governance and oversight provisions. **7B:** This proposes that a candidate must stand for Mayor or Councillor and not both. The rationale behind this has been stated as to relate to unsuccessful Mayoral candidate Councillors being disgruntled and causing difficulty for the Mayor. This may be so in some	

			circumstances, however requiring a person to decide to run for one or the other may result in unintentionally reducing the talent pool for Councillors or for Mayor. It may also ensure incumbency of a Mayor because a candidate may not choose to run against them unless they consider that their prospects of success are high. The issue of Councillor behavior is best dealt with through the governance and oversight provisions and should not be a driving factor in establishing a Council position. **7C**: This is the simplest solution, on the basis of a requirement to vote for the same number of candidates (such as in Huon Valley 1 to 9), of those Councillors nominating for Mayor, the first Councillor elected would be Mayor and the second Deputy Mayor. **7D:** This is the safe option and has previously worked however it may also be open to abuse by way of hidden deals between Councillors for their own benefit. In any event, as discussed in 7A above, to support this view this would require engagement with the community as to their views on this position. Further concerns relating to dysfunction ought be able to be addressed through the governance and oversight provisions. The proposed Reform Direction provides for Deputy Mayor to simply be elected around the table. There is some merit in this proposal as the Deputy Mayor's role is to act as Mayor in limited circumstances. The only time when this would become an issue is the period prior to an election if the office of Mayor was vacant. In the last 6 months the Deputy Mayor would become Mayor otherwise the Mayor would be popularly elected through a by-election. It is therefore considered to be a feasible option that should not impact upon the community. As first principle popularly electing a Deputy Mayor is supported however the proposal may also be supported.	
	8, Make alternative voting methods available	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. 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.	This is consistent with the Council's submission on the Discussion Paper: *"The issue and use of technology though is something that must be embraced as part of the electoral cycle. The TEC have moved to data input and computer tallying of votes. This leads directly to the opportunity for electronic voting and is a clear use of technology meeting the principles of the review. Whilst manual postal voting could always be maintained, the enabling facility for electronic voting should be included within the Act. This will also save on election costs as a result of not requiring as many personnel to manually enter voting details into the system."* There are some concerns in relation to the security of electronic voting as well as the current postal voting methods whereby ballot papers and returned votes can be lost and not counted. To address this, the preference would be to undertake voting at the ballot box the same as State and Federal Elections and making voting in local government elections compulsory to provide the best democratic outcomes. The preference for compulsory voting at the ballot box should be stated.	Council supports this Reform however the Council's preference would be a compulsory election undertaken at the ballot box in the same manner as State and Federal elections.

	9. Simplify the voting process to reduce informal voting rates	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. 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.	Ultimately the principle of increasing access to Council elections must be supported to increase democratic participation. The Tasmanian Electoral Commission conducts Council elections and has the experience and knowledge that should be relied upon for the purpose of this Reform.	Council supports this Reform.
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	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. 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.	The Council supported this principle as an election period provision in its submission on the Discussion Paper *"There is though some merit in the requirement for election period policies and provisions where it is made clear to the public how and when Council will use its decision making powers such that it is for the ongoing benefit of the municipal area and not for the individual benefit for a candidate to be re-elected. Further an election period policy can deal with all matters relevant to an election period to both Councillors and candidates. A Policy is considered to be the best approach as it sets out clearly the relevant matters for the information of the community."*	Council supports this Reform however would prefer the reference to be "Election Period provisions". The importance is that, during an election period, the Council does not make major decisions that may bind a new Council. The Council does not remain in caretaker as such. Local Government is distinct from State or Federal Government where there is a clear distinction between competing political parties. A Council must continue to undertake administrative decision making and normal business at all times.
	11. Move administration of the General Manager's Roll from councils to the Tasmanian Electoral Commission	This measure would improve the integrity of the democratic process by removing general managers and council staff from the electoral process. 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. 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).	As a matter of principle it is considered that the Tasmanian Electoral Commission should be the administrator of all electors eligible to vote at a local government election. Having 2 separate rolls makes maintenance difficult as the General Manager is not aware of the enrolment details in the House of Assembly Role and the rolls should be streamlined. The Reform is not however not without some difficulty. Currently the General Manager's Roll is administered in-house with existing resources. Applications to be on the roll and considered as and when they arise and the roll is fully reviewed prior to an election. Moving the roll to the Commission will result in a further cost to the Council but may reduce some administrative burden at election time.	Council supports this Reform as a matter of principle. However practicalities of the process for updating and maintaining the roll is required as the Council holds ratepayer and ownership details within the municipal area. If the Tasmanian Electoral Commission requires access to this information then an appropriate legislative provision should be considered.

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.	This may be seen to be a barrier for participation within the democratic system of Local Government. The Reform presumes a certain skill set and learning style for a potential Councillor candidate. There are concerns that this may exclude potential candidates. Training packages and provision of information material are already provided by the Local Government Division, the LGAT and Councils. This is not though simply an online based package, information can be obtained at forums, online, or by direct enquiry. Requiring a training package to be completed prior to nominating is also wholly inconsistent with State and Federal nominations. Whilst this Reform can be supported in principle it is considered that, if it is progressed, the training package must be made available in multiple forms so as not to place an obstruction to access to nominating as a candidate and participating in democracy.	This Reform is supported in principle however it is considered that, if it is progressed, the training package must be accessible and made available in multiple forms so as not to place an obstruction to access to nominating as a candidate and participating in democracy.
	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.	At the outset this is considered to be anti-democratic. The 2018 review of Councillors Allowances undertaken by the Tasmanian Industrial Commission considered barriers to people standing for Council thus decreasing participation in democracy. It was acknowledged that Councillor allowances were one of many factors. Placing a financial burden on a candidate does not support participation. The Reform is also based upon the premise regarding *"serious candidates and reduce nominations by those without real intentions to be elected"*. It is though nowhere discussed within the Reform Directions Paper as to how this conclusion is drawn or supported by any evidence whatsoever other than clearly subjective submissions that some candidates are more worthy than others. That is a matter for the electors and ought not be predetermined within the Act. It is considered that this Reform ought be strongly opposed.	The Council strongly opposes this Reform. The Reform is considered to be anti-democratic.
	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.	The issue of full disclosure of candidate gifts and donations is strongly supported and has been the basis of previous submissions made on the current provisions relating to gifts and donations as it provides clear transparency during the election process. Where possible this disclosure should be at the time the gift or donation is received rather than following the election.	Council supports this Reform.

	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.	It is considered appropriate to support this Reform. It is important that there is consistency between who is eligible to run at all levels of Government. The only clarification considered necessary is that eligibility for candidacy does not simply rely upon the person being a resident of Tasmania but being an elector for the municipal area for which they are standing	Council supports this Reform with one clarification that eligibility for candidacy does not simply rely upon the person being a resident of Tasmania but being an elector for the municipal area for which they are standing.
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.	This does not affect the Huon Valley Council who previously abstained on this matter at the July 2018 LGAT General Meeting on that basis. The term "Alderman" is though an archaic British term for Local Government members who were not elected but appointed by Councillors. By its very nature it refers to "Elder Man", wholly irrelevant to modern Local Government and society.	Council supports this Reform.
PART C				
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: - a genuine intent to engage the community; - 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. The final strategy should include: - 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. 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).	This Reform is supported and was a key Council submission in response to the Discussion Paper. • *"Section 20(2) - Council is to consult, involve and be accountable to its community – There is though no specific requirement for a Council to provide for a Policy, Framework or Strategy in relation to how this is undertaken and how this is developed in conjunction with the community. As this was a matter raised out of previous Boards of Inquiry it is considered that some legislative "guidance" may be of further assistance to Councils and making it clear to the community. This may reduce the need for use of anachronistic prescribed activities such as holding of an Annual General Meeting."* Of interest to note is that, prior to 2005, Section 20 required the Council to adopt and maintain policies regarding engagement with communities. This was simplified to the current section 20(2). Engagement is an important Governance Principle that has limited support within the current Act and should be strongly supported within new legislation. This section must also be considered in the context of item 19 removing the requirement for public meetings and elector polls and perhaps petitions. If these were to be removed then it would be appropriate that how the Council will deal with these requests from the community be addressed within the engagement framework.	Council supports this Reform.

Removing prescription and giving councils autonomy and flexibility	18. Removing prescriptive consultation requirements	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. Some specific consultation requirements will need to be maintained, where necessary, for the protection and rights of the community and councils. 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.	This is consistent with the Council's submission on the Discussion Paper, supporting more guidance in relation to the engagement policies and framework and reducing prescriptive notice and advertising requirements. It is acknowledged that there will always be certain matters that require prescription however the majority of matters should be considered within the engagement framework. This also allows Council to use a broad range of communication mediums, not simply required to use expensive newspaper advertising which now has limited reach to the community. The specific detail will only be able to be considered in the Draft Bill however the last suggestion *"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."* does require some clarity so as to not create an expectation of provision of information that is wholly inappropriate to make accessible and that should properly be considered under the *Right to Information Act 2009* or *Personal Information Protection Act 2004.*	Council supports this Reform.
	19. Remove requirements for public meetings and elector polls	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. 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. 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. In addition, the capacity will be provided for the State to initiate a state-wide referendum on a particular issue, if required.	This Reform is supported as a matter of removal of prescriptive requirements. A public meeting may be supported by a petition of at least 5% of electors however the understanding of the signatories to the petition cannot necessarily be verified and the attendance at a public meeting is much less than those who sign a petition and cannot necessarily be said to be reflective of the views of the community. There is also no tangible outcome from a public meeting. A number of motions may be passed but these have no validity as to being representative of the whole community and do not bind the Council. The same may be said regarding the outcome of an elector poll. The cost of public meetings and elector polls cannot be justified in the context of a modern and effective engagement strategy which is a key foundation stone proposed for a new Act. The ability for Council to hold public meetings or electoral polls ought be part of the Council's community engagement framework and this made clear as to the circumstances where these will be considered. For instance, removal of prescriptive requirements to receive petitions, hold public meetings and elector polls may result in disenfranchising the community where a Council may simply not listen to the community and make decisions that may have a substantial impact upon the community The ability for a Council to be required respond to community concern should not be lost entirely.	Council supports this Reform subject to a requirement for Council to address dealing with petitions public meetings and elector polls within the adopted community engagement strategy.

PART D				
Good Governance	20. Legislate the eight good governance principles	The principles from the Local Government Good Governance Guide would be legislated and linked to the behaviours in the Code of Conduct. These principles will also inform the high-level functions and powers of a council, in providing municipal services for their local government area.	This Reform was supported in the Council's submission on the Discussion Paper: *"As a matter of principle, general competency powers supported by basic and relevant prescription to address the 8 characteristics of good governance as set out in the Good Governance Guide is vital for good governance. This work has already been done and should be used to full effect.* *This allows Councils the necessary flexibility to respond to its community whilst ensuring appropriate and considered decision making, engagement and accountability to process and to the community."*	Council supports this Reform.
Financial Governance	21. Set high-level financial management principles that encourage efficiency and value for money in council service delivery	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. 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: – 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. Similar principles are proposed for Tasmania and in practice would provide a clear expectation for councils when developing their strategic plans and budgets.	Arguably this is already in place. Part 7 of the *Local Government Act 1993* requires the Council to have a number of plans and strategies, a long term strategic plan, financial management and asset management plans. The Council's budget links to all these documents however this is not currently explicit within section 82 of the Act. Clarity of principles is supported however this will need to be carefully considered in the detail of the Draft Bill.	Council supports this Reform.
Elected Member Development	22. Establish core capability requirements for elected members	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. Core capability requirements may include: • the roles and responsibilities of elected members under the Act and regulations, with specific reference to the Model Code of Conduct and the Good Governance Guide; • ethical decision-making; • financial fundamentals, including understanding of financial statements and budget preparation;	As a matter of principle core Councillor training is supported given the complexity and extent of the role of Local Government. The identified core capability requirements should be included in the Councillor induction program following an election and on an ongoing basis where required. The areas identified within the proposed direction are appropriate along with audit panel training. The issue of compulsory training has always been a vexed one as a member of State or Federal Parliament need not undertake any training whatsoever so, as a level of Government, the requirement for compulsory training for Councillors is clearly proposed as an exception. Councils do however undertake administrative decision making roles that are not ordinarily undertaken by a State	Council supports this Reform.

		• decision-making in reference to the Land Use Planning and Approvals Act 1993; and • meeting procedures. 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.	or Federal Parliament. In these cases it is important that Councillors understand their roles and take into account the proper factors relevant to the decision. Compulsory planning training is considered appropriate in these circumstances.	
	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.	As a matter of principle the reporting of all Councillor professional development is supported and is consistent with the commitment to undertake ongoing professional development in the declaration of office. The particular focus on core capability training however may be somewhat misleading. If not compulsory as stated above, it does not otherwise recognise existing skills and experience of the Councillor who may not require this training to perform their roles and functions. The issue of a Councillor CPD point system is also raised as an option however how this would operate in the context of the office of Councillor would need to be considered.	Council supports this Reform however the requirement should be on reporting all Councillor professional development, not simply limited to core capabilities as the Councillor may have existing skills and previous experience in these areas.This is consistent with the Councillor declaration of office.
Council Staff Accountability	24. Establish principles for all council staff that set minimum standards of behavior	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. For example, under the Tasmanian State Service Act 2000, an employee must adhere to State Service principles including that: • 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. 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.	Whilst this can be supported as a matter of principle the Reform does raise some issues. As provided within the Directions Paper the Reform appears to be based upon: *"The community expects council staff, as publicly funded employees, to uphold minimum standards for behavior or performance of council employees."* With respect, this is a false premise and does not properly reflect the employment arrangements which are subject to contracts of employment, policies and codes of conduct, culture statements including a whole suite of industrial relations policies. It also pre-supposes an outcome that Council employees cannot be disciplined for inappropriate behavior which is not the case. Council employees are also subject to potential for offences under the Act and other legislation when performing their roles. The Reform is also not without some legal uncertainty. Whilst Council employees are appointed pursuant to the *Local Government Act 1993* they are otherwise employees subject to Commonwealth oversight and approved Enterprise Agreements and subject to contracts of employment. It is therefore unclear as to whether or not these terms can legally be applied to the employment relationship. The Reform detail recognises this issue but does not provide any satisfactory response as to whether or not the principles would have any force. This would create an expectation within the community that simply could not be met. As with any industrial relations policy, the General Manager has a responsibility to consult employees prior to these being enacted. There is no evidence that	Council supports this Reform in principle subject to clarification of the application of the principles to employment contracts under commonwealth approved enterprise agreements and engagement with Council employee groups and direct engagement demonstrated with Council employees.

			Council employees as a whole have been consulted or engaged with by the Steering Committee in relation to this proposal which relates directly to their contract of employment. Whilst the Reform can be supported in principle it is considered appropriate to raise these concerns.	
General Manager Performance	25. Prescribe minimum standards for general manager recruitment, contracts, performance management and termination	This aims to encourage best-practice recruitment practices in line with community expectations and ensure a consistent approach to general manager contracts. 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.	Employment of the General Manager is a key role and function of the Council and, as the only position employed directly by the Council is arguably the most important decision the Council will make. The process requires certainty for both the Council and security for the General Manager. The provision of ministerial orders to continue is supported and is the appropriate mechanism to provide for these matters. Prescription within the Act though is not supported.	Council supports this Reform to the extent that best-practice recruitment practices are contained within Ministerial Orders however specific prescription within the Act is not supported.
Complaints Management	26. Include principles on complaints management in legislation	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. 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.	Inclusion of principles on complaints management in legislation is supported to provide guidance and certainty to both Council and complainants. The extent as to how "…stronger provisions would seek to improve the independence of internal reviews of complaints" will need to be assessed when the Draft Bill is released.	Council supports this Reform
Rating Policies	27. Ensure council rating policies consider taxation principles and align with their budget and financial planning documents	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-topay, benefit principle, sustainability, cross-border competitiveness and competitive neutrality. 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.	This is effectively a continuation of the current process under the requirement to adopt a rates and charges policy under section 86B of the *Local Government Act 1993*. The proposed Reform extends the current arrangement by specifying the taxation principles. These are not currently prescribed.	Council supports this Reform

	28. Introduce more flexibility for councils to easily transition from one rating approach to another, to manage rating impacts on ratepayers	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. 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. 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.	Arguably Councils have sufficient flexibility to change rating approaches under the current legislative regime and continuation of this with further clarity is therefore supported. As an example the categories of, or basis for, variation of rates could be more flexible in line with the adopted financial management strategies and rating policies.	Council supports this Reform
Transparent and accountable rate setting	29. Establish an independent rates oversight mechanism	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 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. The cost of any rating increase investigation by the Economic Regulator would be met by the relevant council.	This proposed reform is wholly contrary to Reform Directions 21, 27 and 28. Under those Reforms the Council would develop a long-term financial management plan taking into account all relevant strategies and engagement. It would simply be a case that if a Council wishes to propose long-term increases that deviate from the plan the Council goes through the same process to amend the plan prior to the increases. The role of the Economic Regulator in such an exercise is also questioned. Taking into account the role of the Regulator as set out in the long title and section 10 of the *Economic Regulator Act 2009* there is no justification for involvement with Council rates when the State Government can make taxes without any reference whatsoever to long term financial plans or with any engagement with the community. The role of the Economic Regulator as proposed becomes a cost to the community without any clear benefit or outcome. Concerns are also raised that this is a step toward rate capping with clear reference to consumer price index within the Reform detail without any justification as to how and why this is a relevant cost factor to local government. As discussed above, rates and charges are to be consistent with financial plans and strategies but to be determined by a third party impacts upon the integrity of the budget estimates. Councils have to prepare rates at the beginning off the financial year to have certainty. The process as proposed simply creates uncertainty and cost for a process that is not required.	Council does not Support this Reform. This proposed reform is wholly contrary to Reform Directions 21, 27 and 28.

Transparent and accountable fees and charges	30. Set principles or guidelines for setting fees and charges	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. 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.	This is supported as a matter of principle to ensure that fees and charges are not simply used as a faux revenue raising exercise for the purposes of offering lower rates. The setting of guiding principles can be of assistance to Councils to ensure fees and charges set reflect the cost of the service being delivered. However to the extent that this is intended to promote greater consistency, this is not supported. Whilst the ideal of consistency is desirable, each Council is different, has different resources and different costs of doing business. Some Councils seek to subsidise fees and charges from the general rate and therefore may appear to be cheaper to a neighbouring Council who may wholly reflect the costs of providing the services in fees and charges alone. Establishing a system that does not allow true comparison is not supported.	This Reform is supported however it should be limited to focus on principles or guidelines and not be for the purpose of promotion of consistency as this does not properly reflect the financial plans, practices and costs of an individual Council in providing the service for which the fees and charges apply.
Budget Management	31. Provide for a more autonomous and less prescriptive budget process	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 capital budget. It would also provide for a formal half-yearly financial report stating actual expenditure against budget.	Under section 82 of the *Local Government Act 1993* the Council is to adopt "…estimates of the Council's revenue and expenditure for each financial year." In adopting these estimates the Council has adopted its budget, it is not thoough an absolute. Unlike the State or Federal context whereby changes in the budget can occur at any time within the context of legislation for appropriation of funds, there are some restrictions in the Act in relation to alteration of budget items which are restrictive and administratively burdensome as those changes go to the Council. The proposed Reform provides sufficient flexibility with the concept of estimates with the necessary protection of reporting and should include all Council expenses (operational, capital and asset management), not simply limited to operational.	This Reform is supported to apply to all expenses of the Council.
Significant Business Activities	32. Clarify significant business activities	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. 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. 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.	This Reform is supported. Defining significant business activities currently has no precision consistent criteria would be useful. Whilst the Council may take a view as to what activities constitute significant business activities, a contrary view may be taken by others such as the Tasmanian Audit Office or the Tasmanian Economic Regulator. Clarification is considered to be important to ensure consistency for all parties.	This Reform is supported

Council Meetings	33. Require electronic recording of council meetings to be made publicly available	This requirement is increasing in other jurisdictions across Australia, where councils are capturing recordings using a range of electronic devices. 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. 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. 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. 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.	Use of technology for making Council meeting accessible is supported and was supported in Council's submission on the Discussion Paper: *"Technology should be able to be used to allow Councillors and members of the public to participate in meetings as well as to communicate to the public by use of live streams. The current regulations only cover audio recordings. Whilst a Council can choose to live stream there is no clear guidance or regulatory support associated with the visual material and how that is dealt with."* An immunity for Councillors is not supported to ensure that the standard and level of debate and discussion focuses directly on the issues and does not over-step the line into defamatory statements. It would however be necessary to ensure regulation allows for defamatory matters to be removed from a publicly available recording otherwise this may make Council liable for publication of defamatory statements. Currently any recordings are to be kept for 6 months. In reality they remain on the Council's website for longer however this does not exceed a year. There is some merit in reviewing the time recordings are retained as they are a form of Council information so should be under the same rules as any other Council document. On the alternative long term storage can be costly due to the file sizes and storage requirements. This will simply be raised for consideration to be considered simply as a matter according to appropriate archive directives.	This Reform is supported with consideration requested for a framework to be provided for live-streaming audio and video for those Councils that wish to do so and clearly defined provisions for dealing with the publication of defamatory and related statements. Consideration is also requested to review the time period for which recordings should be retained. Acknowledging the storage requirements for electronic documents, recordings are still a record of Council and ought be considered consistently with other Council records and kept according to appropriate archive directives.
Conflict of Interest Framework	34. Simplify what is a conflict of interest	This will capture both what are currently termed 'pecuniary' and 'nonpecuniary' 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.	This Reform is supported. The current provisions around pecuniary interest are considered to be generally clear and concise. The provisions around conflict of interest contained within the Code of Conduct are however unclear and uncertain and provide little guidance for Councillors as to the circumstances in which they may declare the interest and remain for a decision or leave a meeting.	This Reform is supported

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 Land Use Planning and Approvals Act 1993, 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.	This Reform is a case of responding to perceived interest. It is not, with respect, proven that there is an actual interest or any issues with the manner in which Council development applications are assessed. Often the issue is that many representations to a planning decision relating to Council developments, raise issues that relate to the proposal itself rather than planning matters. This is, perhaps generated from a feeling that they have not been heard through the engagement processes. To the extent that this is the case the engagement framework that the new Act anticipates ought address these concerns however they will not necessarily satisfy everyone who may still use the planning system to seek to be heard. The Council also undertakes some projects with the engagement of planning consultants to ensure some separation and to reduce the burden on Council's professional staff solely assessing Council developments. From a Councillor perspective, this does raise a potential for conflict between wearing the "Council hat" and progressing Council's works and development agenda, versus the "planning authority hat" which needs to ensure it meets the requirements of the Scheme. The proposed reform can be supported on this basis however it is considered that it is not based upon legitimate concerns and creates unnecessary cost for the community where many of the matters of concern ought be addressed through the engagement framework.	This Reform is supported in principle however the true basis for it should be justified to ensure that the extra costs can be justified in the interests of the entire community.
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.	It is considered that the Director requires sufficient powers to undertake their roles and functions. The provision of information from an Audit Panel may be relevant to investigations and generally undertaking his role. The proposed Reform does not suggest the ability to direct Audit Panels, rather it is limited to provision of information that is otherwise prepared for the Audit Panel. On that basis the Reform is supported.	This Reform is 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.	It is considered important that Councils meet their legislative requirements. Providing this power to the Director assists in the better oversight and administration of Councils and is supported.	This Reform is supported

		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.		
	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. 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).	This Reform is supported in principle however the proposal lacks detail as to the circumstances upon which the Director would require a Monitor. The issue of costs should not simply be borne by a Council if appointed by the Director. Specific details will need to be carefully considered as part of the Draft Bill. Concerns are raised in relation to compliance over-reach with this provision.	This Reform is supported in principle
	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.	The Reform is supported in principle however it is considered that with proper governance and oversight procedures provided under the Act for the Director and Tasmanian Audit Office, circumstances of where a financial controller would be installed ought be rare and would be as a result of either a failure of the oversight system or a one-off event occurring. The reasons for installing a financial controller will need to be clearly stated in the Act including the extent of the controller's powers and functions to undertake their role and the extent that these are succeeded from the General Manager and the elected Council during that period. Specific details will need to be carefully considered as part of the Draft Bill. Concerns are raised in relation to compliance over-reach with this provision.	This Reform is supported in principle
	40. Continue to conduct formal investigations by the Director of Local Government	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. Natural justice and procedural fairness principles must apply to any investigation. 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.	It is considered that this is an important role for the Director and the Director should have sufficient powers to undertake the role.	This Reform is supported

Ministerial Intervention	41. Provide for the Minister to dismiss a council or individual councillor	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. 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. 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.	This is consistent with the outcomes of the 2017 review and amendments to the *Local Government Act 1993* following the Boards of Inquiry into the Huon Valley Council and Glenorchy City Council and is supported. The ultimate outcome would be to address issues as they arise rather than lead to the extreme outcome of an inquiry which was the only option available at the time of the above reviews.	This Reform is supported
Maladministration	42. Create offences for mismanagement and to address poor governance (maladministration)	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. 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. 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 measure was necessary. 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	This Reform is supported in principle and addresses deficiencies within the current Act. However, the offence is proposed as being broad and places a substantial and potentially unreasonable burden upon the General Manager in relation to criticisms of performing their role. To that extent many of the examples provided as possible definitions are more akin to corruption or misconduct in the context given and ought be considered under existing provisions rather than through creation of a very broad offence. Further the General Manager has a number of responsibilities which they are unable to practically fulfil. For instance, the General Manager as the PCBU under the *Work Health and Safety Act 2012*, has a duty to ensure a safe workplace, but does not have any control or authority to deal with Councillor behavior in the Council Chamber even though it is a workplace for the purposes of that Act. The extent of the offence and its nature will need to be carefully considered as part of the Draft Bill.	This Reform is supported in principle on the basis that the offence is specific to circumstances and not broad and undefined.

		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 2016 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.		
Complaints Management	43. Simplify the complaints framework	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. 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.	Under Tasmanian legislation there are a number of avenues to complain regarding the conduct or actions of Councils: • The Director of Local Government oversees the *Local Government Act 1993*; • The Ombudsman deals with complaints regarding administrative action under the *Ombudsman Act 1976*; • The Integrity Commission deals with complaints of misconduct under the *Integrity Commission Act 2009*. • Complaints raised as whistleblowing are dealt with under the *Public Interest Disclosures Act 2002*. As these are all different legislation there is of course some confusion and overlap as to clear responsibility. Clarity should therefore be provided within the new legislation to streamline the process. This would need to be set out in the detail of the Draft Bill.	This Reform is supported
Performing Reporting Framework	44. Introduce a local government performance reporting framework	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. 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	This is not a new concept and has been the subject of a number of iterations over the years, with a key performance indicators project commencing in 2000. Current reporting is under the Consolidated Data Collection Project which is reported annually on the Local Government Division website and used by the State's Grants Commission. The greatest issues with performance reporting have been: • No real defined purpose or outcome for the reporting. Whilst it is seen as a good thing to do, there is no real purpose of undertaking the exercise that benefits local government or the community. • Settling on the reporting criteria and the difference in the way that Councils interpret and report on the criteria, from both a business operation and the extent or difference of services being compared. Simply put it has been a case of comparing apples with oranges. Whilst the Reform can be supported, this should be in principle subject to understanding the detail, reporting criteria and development of a consistent method for addressing the criteria so that there is a true comparison between Councils.	This Reform is supported in principle subject to understanding the detail, reporting criteria and development of a consistent method for addressing the criteria so that there is a true comparison between Councils.

	45. Require councils to publish a compliance statement in the Annual Report	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.	This is supported in principle. The Council currently has a legislative compliance checklist which is overseen by the Council's Audit Panel. This was first prepared in 2009 and is considered to be important to ensure that the Council meets its requirements. The proposal for reporting publicly is an extension of this process. The only concern that this may raise is the extent the requirement creates a focus on a compliance culture within Council deflecting from community outcomes and this would need to be carefully managed.	This Reform is supported in principle
	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	This is supported however it is considered that, given the extensive roles and functions of the Council, some matters should, as a matter of course and prescription, be included within the Annual Report. It should therefore remain a statutory document with specified requirements. To that end though there is nothing that stops a Council reporting anything within the Report which the community wishes as determined through the engagement strategy.	This Reform is supported
PART E				
Collaboration across councils	47. Introduce provisions that support efficient and high-quality council operations and collaborative shared service opportunities	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. 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.	This Reform is supported to allow for greater flexibility and arrangements between Councils.	This Reform is supported

	48. Introduce the option to create Regional Councils	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. A Regional Council would represent the strongest collaboration model that does not involve amalgamation.	This Reform is a logical follow on from collaborative shared service opportunities as a formalised level of Government across 2 or more Councils. This has the potential to deliver administrative and service delivery efficiencies. The ability to create Regional Councils provides a mechanism within the Act for future local government reform that would avoid the focus on amalgamation The proposal as it has been presented however lacks considerable detail as to the process for establishment, clear community support and appropriate governance arrangements, voting rights and training The proposal on its face creates the potential for an impact of community representation and would, on current proposal of being made up of the Mayor and appointed Councillors of participating Councils, not have clear accountability to the community. The extent that the local Council will remain, its roles and functions that remain from that of the regional Council are not yet identified so therefore the detail contained within the Bill would require careful consideration. Consideration of conditions upon which a regional Council is dissolved and local Councils re-established would also require consideration in the Bill. The Reform is supported in principle however specific detail would require careful consideration in the Draft Bill.	This Reform is supported in principle subject to review of the Draft Bill considering establishment processes, appropriate governance arrangements, the accountability of a regional Council to the communities and the circumstances for dissolution of the regional Council.
Consistent By-laws	49. Create model by-laws for common issues, with streamlined administrative processes	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. This would significantly reduce the administrative process councils must go through in developing by-laws and create greater State-wide consistency. 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 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.	This Reform is supported. Currently each Council in making a By-law has to go through an exhaustive process with development of regulatory impact statements, by-law drafting and extensive community engagement. This process requires expertise and, if not available in-house, can be expensive with engagement of external lawyers. Having model by-laws can reduce this cost and resource burden and allow for consistency through Councils across the State. Model By-laws can also ensure that the provisions are clear and tested with supporting regulatory impact statements. The concept is not new and a team of council officers from across the State and representatives from the Local Government Division worked on a model by-law project in the late 2000s. A model Reserves and Recreation By-law was developed however the Division's attention was turned to other matters and the project was not completed. The Model By-law project would require dedicated resources from the Division and can be a separate project to the legislative reform. To the extent that this is proposed, advice provided by the legislative reform Project Team is that the expectation would be that model by-laws would be driven by Councils getting together rather than the Division. This may dilute the attractiveness of undertaking the project.	This Reform is supported

PART F				
Local Government Board	50. Strategic reviews of councils	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. 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. 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.	The Local Government Board was once active, undertaking a review of Councils on an 8 year cycle. The Huon Valley Council was reviewed in 2000 and whilst the review required a dedication of resources, provided a good picture of where the Council then was and made a number of recommendations where the Council was short on best practice. In limiting the role to a sector-wide approach it can be akin to governance audits undertaken by the Auditor-General and specific to key roles and functions from a local government expertise. It is considered that these reviews are valuable and can assist all Councils in ongoing improvement and compliance and achieving best practice.	This Reform is supported
	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.	There is some reservation with this Reform. Whilst it can be supported in principle, the proposed Reform should be considered in conjunction with engagement and clear community support and validation of the business case. Transition provisions must be clear and communities also should know what to expect within the first 5 years of the amalgamated Council to ensure that there are no surprise cost or price shocks or loss of services. The local government board review currently undertakes the validation process and, whilst considered time and resource intensive, has demonstrated its worth with the work recently undertaken in relation to the proposed Sorell and Tasman Council amalgamations. http://www.dpac.tas.gov.au/__data/assets/pdf_file/0008/397934/Local_Government_Board_Final_Report_Review_of_Voluntary_Amalgamation_and_Shared_Services_Options_Sorell_and_Tasman.pdf	This Reform is supported in principle however: • There should be a requirement to demonstrate engagement and clear community support. • There should be a clear method of validating the business case for amalgamation for protection of the communities. • There should be clear and defined transition provisions between Councils. • Communities also should know what to expect within the first 5 years of the amalgamated Council to ensure that there are no surprise cost or price shocks or loss of services.