

Local Government Act Review

Submission by Devonport City Council

Overview of Local Government

Question	Response
What do you think councils will be responsible for in the future?	The functions and powers of a council (S20) already provide reasonably wide-ranging interpretation of what can be provided. Ultimately it should be for a council to determine activities and services that it provides to its community. Being too prescriptive is not supported.
What council activities should be driven or determined by communities?	A council is elected by the community to make decisions on its behalf. There is a risk if there is more legislative prescription on community involvement in decision making that either the council will become paralysed and be unable to make decisions or alternatively decision making will be dictated by just a few. It should be recognised there is a large degree of apathy in the community when it comes to local government and that there is a large silent cohort that do not become involved.
Given the varying sizes of councils, what consideration should be given to costs of services and the councils' capacity not deliver these?	It should make no difference the size of a council – if it is deemed appropriate for there to be a council then that council should be expected to meet the full gamut of legislative responsibilities, irrespective of size. If a council cannot meet an acceptable level of services, or meet expected legislative requirements, then it should probably not exist.

Council Governance and Powers

Question	Response
What is vital to good governance in local government?	Strong clear decision making. Elected representatives working together for the betterment of their communities.
What aspects of good governance should be prescribed in a legislative framework?	The Code of Conduct provisions are a good starting point. Ensuring that there are avenues to address issues of a governance when required, either with individuals or councils as a whole is imperative. Strengthening the provisions around compliance with Code of Conduct outcomes and the ability for sanctions to be enforceable would be a good start.
What statutory powers do councils need to deliver the services that communities require, or expect to receive, from councils now and into the future?	The current Local Government Act provides wide ranging powers with a reasonable degree of flexibility. Trying to encapsulate statutory powers which are prescriptive and onerous is likely to lead to poorer decision making in the longer term. The old adage 'if it ain't broke – why fix it' should be applied.
How are the strategic decisions of council best made?	At the council table. Councillors are elected to make decisions on behalf of the community. Each four years the community have an opportunity to formally assess the performance of its council through the ballot box. There are already provisions within the local government act relating to strategic plans which ensures that the community can become involved in the process. Ultimately though the decisions relating to the strategic direction of a council needs to rest with the elected body.

What mechanisms best support strategic, operational and technical decisions and actions?	Councils employ professional staff to assist them in meeting their obligations.
--	---

Democracy and Engagement

Question	Response
What is the best way to engage Tasmanians in voting for local government?	Continual promotion of the local government election cycle and how electors can participate. The current non-compulsory postal ballot system is supported.
Who should be allowed to participate in local government elections?	Individuals who are over the age of 18 who appear on the electoral roll applicable to the municipal area. Ratepayers who own property in a council area, but are not residents, should be given the opportunity to be included on the roll for the purpose of voting in the election process. No individual should have the ability to vote more than once in a council election (ie they should not be allowed to be on the Electoral Roll and also the General Managers Roll. The current requirement for a General Managers Roll should be removed with the responsibility for maintaining all Rolls transferred to the Electoral Commission.
How can local government attract skilled, diverse and representative electoral candidates?	To suggest that local government doesn't already attract skilled and diverse candidates is incorrect. There are numerous opportunities for promoting local government to prospective candidates already.
What should be required of candidates in local government elections before, during and after elections?	Incumbency is a potential advantage for those seeking election. Equally there are requirements for sitting councillors to be held accountable through their actions and disclosure which does not apply to those candidates not already elected. An opportunity may exist to 'level the playing field'.
What decisions should councils continue to be able to make during an election period?	The role of local government does not stop just because there is an election period underway. It could be legislated that decisions which may commit future councils to certain actions should not be made during the period of election. If this was the case it is likely that councils would just ensure any of these types of decisions are made prior to the commencement of the election period. An option may be to legislate that a council ceases to be required to meet during the period of election. If this was to occur there would need to be the ability for decisions (particularly those around Planning Authority responsibilities) to be delegated to the General Manager where necessary.
In what ways should councillors engage with, and represent, communities in the digital age?	Councils are continuing to adapt to the digital age. Legislating to make certain aspect of a council's role a requirement is not necessary. Councils need to adapt to changing times and be flexible in their approach to engaging with their communities.
On what matters should councils engage with communities?	Councils should have the autonomy to determine for themselves what matters they believe they need to consult and engage with communities on. Steer clear of any legislative requirements as far as possible.
How can community engagement be strengthened and measured?	Councils work in their communities daily. Most councils are aware of the need to ensure they engage with the community. Mandating engagement runs the risk of making it an onerous task which may not deliver tangible benefits for the community.

Council Revenue and Expenditure

Question	Response
How can councils ensure transparency in funding decisions; both how it is raised and spent?	There are already mechanism in place relating to financial management of councils. The introduction of audit panels for all councils provides an oversight role relating to funding decisions. Councils are required to produce an Annual Report which includes Financial Statements, which are available to the community for review.
How can councils determine how best to raise revenue for specific purposes?	This is a matter for councils. The current Local Government Act prescribes significant requirements in relation to rating of properties, which is the by far the largest component of revenue raising powers.
How should councils engage communities when raising revenue?	Most councils undertake some form of budget consultation. This should however be a decision for the council to make and not be a legislated requirement.
How should councils determine the services they deliver to their communities in exchange for rates and charges?	At the council table.
How should councils decide where to make trade-offs (more or less rates vs more or less services)?	At the council table.

Performance Transparency and Accountability

Question	Response
How can the right balance between autonomy and accountability be delivered?	This question would suggest that there is currently some problem in this area. Councils are essentially organisations with large budgets that need to have flexibility and autonomy in the way in which they deliver their services. The Annual Planning and Annual Reporting process provide a level of accountability already. Burdening councils with further statutory reporting requirements in the guise of 'accountability' will further diminish the autonomy of the elected body.
Who should have oversight and regulation of councils' performance and how should it occur?	There is already significant oversight of a council's performance. No further regulation is supported.
What mechanisms should there be to respond or intervene when a council is not performing as required?	The current Local Government Act provides powers to the Minister to intervene if necessary. Recent amendments also provided some mechanism for the Director of Local Government to become involved at an earlier time if deemed necessary. Ensuring there is a clear understanding of what "not performing" means would be a good start.
What information should councils make available to the public and how should they be able to access it?	Council meeting agendas are already made available. There is a wide variation in the extent of information that is provided council to council though. Perhaps some further clarity of the form that reporting should take could be considered. Perhaps a 'good practice' guide to reporting in a Tasmanian context could be developed.

<p>What information would be useful to councils to drive performance improvements?</p>	<p>Each person's view of performance improvements would be different. As previously suggested perhaps the development of a suite of 'good practice' guides could be developed. Unfortunately, as we have seen with the issue of the Credit Card Policy developed by the Auditor General, Local Government Division and the Local Government Association of Tasmania is verbose and not practical in a modern council environment – however we have been forced to implement it. Making sure that any performance improvements are practical and easily transferable is paramount – practitioners in local government need to be involved, not left to bureaucrats who don't actually work in the sector on a day to day basis.</p>
--	--

Other Matters

Question	Response
<p>What is one thing you would change about the current local government legislative framework and why?</p>	<p>Less prescription – more flexibility. Don't legislate based on the poor performance of individual councils.</p>