



Submission | Review of Tasmania's Local Government Legislation Framework
Local Government Act 1993

GENERAL

There is a mix of the use of the words 'must' and 'is to' generally throughout the Act. This occurs too often and specifically in the lodging of complaints or objections and should be addressed. When making any complaint or objection, the word must should always be used to take away the inference that requirements of a complaint or objection are directory only and failure to abide by the requirements is not fatal to the complaint or objection. For example, a complaint made under *Section 339E* is a 'must' while a complaint made under *Sections 28V(3)* or an objection made under *Section 123* is an 'is to' and therefore not compulsory.

SPECIFIC

Functions and powers - Section 20(1) (a) and (c)

Delete *health, peace and order* as Councils have little control over these issues.

Constitution of council - Section 25(2)

Delete *alderman* agreed to by LGAT membership.

Term of office relating to elections in 2011 - Section 46A

Delete whole Section.

Part 5 - Interests

Should be titled *Pecuniary Interests* so as not to be confused with *Conflicts of Interest*.

Close associate - Section 51(i)

Delete *son, daughter* as already covered in *Section 51(h)*.



Non-application of Part - Section 52(1)

Needs to include the *General Manager and staff*.

Non-application of Part - Section 52(1)(a)

Delete '*in common*'. It has been argued by both the Integrity Commission and the DPP that the benefit has to be the exact same benefit which is unrealistic and unfair on councillors. Any benefit received by any person from a proposal should count towards '*substantial portion*'.

Councillor to notify of gifts and donations - Section 56A(1)

Add words '*in their capacity as a councillor*'. This addition is to isolate gifts or donations made to councillors, not because they are councillors but because of their personal or commercial relationships with a person or company.

Petitions - Section 57

Add (f) *the address of all signatories so councils can determine whether those signatories are in fact electors*.

Relevant percentages for purposes of minimum amounts – Section 89B

Delete 89B(1).

General rate – Section 90(5)

Delete 90(5)(a).

Service rate – Section 93(1)

Delete 93(1)(a),(b) & (c).

Variation in rates – Section 107(2B)(a)

Delete



Land reinstated – Section 183

Add after the word extracted '*for commercial purposes*'. Landowners should be able to move material around their own land without interference from councils except where a planning application would have been required for the extraction.

Closure of local highways – Section 189

Add after the word market '*or event*'.

Procedures of Board of Inquiry – Section 218 (1)(b)

Surely such enquiries must be bound by the rules of evidence otherwise the enquiry represents a mock court.

Representation – Section 220

A person required to attend a hearing must have the option of legal representation and that legal practitioner, regardless of the view of the Board, must be able to cross examine any witness who has given evidence against the person.

Misuse of Office – Section 339A (1)(c)

'*family*' has no definition and therefore could extend to unlimited possibilities.



FEEDBACK ON ITEMS LISTED IN THE DISCUSSION PAPER

Overview of Local Government

Community expectations are raised when responsibilities are passed on from other sources (i.e. State Government) with limited continued funding and when that funding ceases, programs either have to be funded out of Councils budget, or they cease – which causes angst within the community. Any additional responsibilities that Councils take on need to be funded from a source other than traditional sources of funding (i.e. rates, grants, etc.).

Democracy and Engagement

Elections

Consensus from Dorset Councillors that the current process for Council elections is the best available option with no changes suggested.

Attraction of Electoral Candidates

The electoral allowances for small Councils in particular, are way too low to attract candidates who have other substantial financial and time commitments. This specifically refers to younger candidates who have large financial responsibilities (i.e. mortgages, young families, school fees, etc.). There is also the issue of large rural electorates such as Dorset and allowances provided to elected members, Deputy Mayor and Mayor. With such large areas to cover, it could take up to 3 ½ hours to drive from one side of Dorset to the other for a meeting. Comparing this to those in city areas, when their municipal area may only take ½ hour to cross, elected members aren't paid enough for both the physical travel and time it takes to ensure all ratepayers and residents are engaged with.

Council Auditing Processes (internal/externally)

Councils have internal audit processes, audit panels and external audits conducted by the Auditor-General, further audits are not necessary.



Council Revenue and Expenditure

Smaller Council vs Large Council Expectations

Smaller population Councils are usually larger in area, therefore have more infrastructure to maintain and/or construct. The funding model needs reviewing to reflect this issue and other options for fundraising (other than traditional methods). Additional clause may need to be included in the Act to allow this.

Other Matters

Confidentiality Requirements for Elected Members

Currently when an elected member either resigns, retires or is not re-elected, confidentiality regarding any Council matter ceases. Dorset believes that this confidentiality should be maintained for a period of time after their term has ended (for whatever reason) to ensure the integrity of Councils remains intact.

Briefing Workshops

Many Councils, including Dorset hold monthly briefing workshops – these are currently not specifically mentioned in the Act. Even though confidentiality is inferred in the Act in various other clauses, Dorset would like to see workshops specifically mentioned to ensure there are no misunderstandings with elected members and indeed the public who ask questions regarding why workshops aren't open to the public.