



**NORTHERN
MIDLANDS
COUNCIL**

28 February 2019

Local Government Legislation Review
Local Government Division
GPO Box 123
HOBART TAS 7001

LGReview@dpac.tas.gov.au

Attention: Project Team

Dear Sir/Madam

Review of the Local Government Act

Thank you for the opportunity to provide a submission on the Review of the Local Government Act.

At its ordinary meeting of 18 February 2019 (min. ref. 035/19) Council considered the Review of the Local Government Act (the Review), Council's discussions related to the following parameters to be considered by the review:

- Appropriate legislation to support the transparent setting, levying, and collection of council revenue, rates and charges;
- Local government electoral provisions, including options for enhancing both voter and candidate participation in local government elections;
- Provisions that support efficient and high-quality council operations and service delivery;
- Performance monitoring, including financial sustainability, governance and other relevant reporting;
- Council governance and decision-making practices, including options for community engagement, representation, and democratic participation;
- Provisions that support public confidence in the integrity, transparency and accountability of local government; and
- The roles, functions, powers and operation of statutory bodies that oversee local government compliance and reform.

The following information forms the basis for Council's decision in regard to the submission to the Review. Council asks that these matters be considered as part of the review with further advice back to the community and local government for consideration.

1. Appropriate legislation to support the transparent setting, levying, and collection of council revenue, rates and charges

1.1 Rate Exemptions – Charitable Purposes

Section 87 Exemption from rates: "land or part of land owned and occupied exclusively for charitable purposes" - clarify this wording to ensure that land owned but not occupied by the charity is not provided with an exemption from rates.

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2. Local government electoral provisions, including options for enhancing both voter and candidate participation in local government elections

2.1 Council Elections - Compulsory Voting

Council received a letter from the General Manager of Hobart City Council, dated 13 September 2018, advising that at their Council meeting held on 23 July 2018, the Hobart City Council had considered a notice of motion requesting *that the low rate of voter participation and the high number of informal votes cast at the 2014 election be addressed*. The motion included a request that consultation be undertaken with other Tasmanian Councils and the State Government with a view to introducing compulsory voting for Local Government elections.

It is noted that during the 2014 elections the average return rate of postal ballots across the State was 54.58%. By comparison, and to demonstrate a clear pattern of decline the return rate for the past four elections (spanning 11 years) was:

- 2014 - 54.58%
- 2011 - 54.28%
- 2009 - 55.54%
- 2007 - 57.43%

In February 2012 LGAT released a paper titled *Inquiry into Local Government Elections* based on the formal policy position of LGAT as determined through a vote at a General Meeting. The following information has been extracted from the document (attached):

Motions in support of compulsory voting have been considered by LGAT members on a number of occasions, particularly during the review of the Local Government Act 1993 and at the 2008, 2010 and 2011 General Meetings associated with the LGAT AGM and Annual Conference.

At the Annual Local Government Conference in 2008, the then Premier, David Bartlett announced that his Government would be introducing compulsory voting for Local Government. A working group was formed, with LGAT represented, and a discussion paper released to councils for comment.

Although LGAT was represented on the Working Group, compulsory voting was not supported by LGAT on the basis of its present policy position. However, a recommendation by others on the Working Group was submitted to the Premier favouring compulsory voting.

The State Government has argued that compulsory voting at Local Government elections would result in:

- *Significantly increased voter turnout.*
- *Greater involvement in local government issues.*
- *Enhanced status of local government.*
- *Councils that are more representative of the broader community.*

However, evidence to support those arguments is scarce for all but the issue of voter turnout and even that must be treated with some caution given that some Tasmanian councils are already attaining turn-out rates equivalent to those experienced where compulsory voting is in place.

...

The 2011 vote on the matter reflected a shift away from support for compulsory voting compared to 2010 (i.e. less councils voted in support of the motion).

LGAT Position

The Local Government Association of Tasmania does not support compulsory voting in Local Government Elections as determined through a vote of members.

Reservations around the introduction of compulsory voting are linked to the following:

- *The introduction of postal voting resulted in a significant increase in the number of people voting in Local Government elections. This is done on a voluntary basis because people want to vote and to be involved. The introduction of compulsory voting might marginally increase the number of people voting but it would*

also bring with it the responsibility to pursue those who do not vote and the consequent enforcement costs.

- *Compulsory voting has the potential to result in increased informal voting as people are being forced to vote rather than exercising their democratic right by choice.*
- *Compulsory voting may lead to an increase of party politics in Local Government with detrimental effect on community representation.*

The 2011 motion was lost 22/31.

The following motion was put forward by the Hobart City Council to the July 2016 LGAT General Meeting:

The Local Government Association of Tasmania urge the State Government to consider making voting at Local Government elections compulsory.

The motion was lost 26/29.

In October 2018, the following was the decision in relation to the request from Hobart City Council for support to lobby the State Government through LGAT to review compulsory voting at a local government level:

That Council advise Hobart City Council of the Northern Midlands Council decision to support a request to LGAT to lobby the State Government to review compulsory voting at a local government level.

2.2 Council Elections - Mayor and Deputy Mayor

Section 41 (3): "A person may not be a candidate for both the offices of mayor and deputy mayor concurrently." Consider advocating for the ability to nominate for both positions.

Section 41 (4): "A person may not accept the office of mayor or deputy mayor unless the person is a councillor." Consider advocating for removal of this Section. There have been examples where a person was elected to Mayor or Deputy Mayor but not as a councillor and deemed not elected. If a person is elected as Mayor or Deputy Mayor, they could be automatically elected as councillor.

2.3 Council Elections - Citizenship

Voting of non-Australian citizens. Council seeks a review of the entitlement of non-Australian citizens to vote at local government elections. Clarity is sought on the communities support for this practice.

3. Provisions that support efficient and high-quality council operations and service delivery

A general point was made by a Councillor with regard to the requirement to adopt model policies, procedures, and proforma's, in support of administering the Act and Regulations. This will assist with consistency throughout local government.

4. Performance monitoring, including financial sustainability, governance and other relevant reporting

4.1 Other states have legislated prudential requirements for certain activities, for example:

- A Council must develop and maintain prudential management policies, practices and procedures for the assessment of projects to ensure that the Council:
 - acts with due care, diligence and foresight
 - identifies and manages risks associated with a project
 - makes informed decisions
 - is accountable for the use of Council and other public resources.

Examples of prudential issues:

- the relationship between the project and relevant strategic management plans
- expected contribution of the project to the economic development of the area
- level of community consultation
- revenue projections and potential financial risk
- recurrent and whole of life costs
- any risks associated with the project.

5. Council governance and decision-making practices, including options for community engagement, representation, and democratic participation

5.1 Council Meetings - Special Meetings

In Tasmania, special meetings are called in accordance with the *Local Government (Meeting Procedures) Regulations 2015, Part 2, 4. Convening council meetings:*

- (1) *The mayor of a council may convene –*
 - (a) *an ordinary meeting of the council; and*
 - (b) *a special meeting of the council.*
- ...
- (6) *The mayor of a council, or the general manager if the mayor has not done so, must convene a special meeting of the council at the request of a majority of councillors or if the council so determines.*
- (7) *A request for a special meeting of a council must –*
 - (a) *be in writing and signed by the councillors making the request; and*
 - (b) *include details of the subject matter and any motion to be dealt with by the meeting; and*
 - (c) *be lodged with the mayor.*

Other states, for example, due to the urgency of a matter allow the following:

- Special meetings may be held at any time.
- A meeting may only be convened if called by the Mayor or at least three Councillors.
- In the case of a special meeting the General Manager must give each member of the council notice of the meeting at least four hours before the commencement of the meeting.
- Ensure the items on an agenda given to members of the council under this section are described with reasonable particularity and accuracy.

Supply to each member of the council at the time that notice of a meeting is given a copy of any documents or reports that are to be considered at the meeting (so far as this is practicable).

5.2 Council Meetings - Annual General Meeting

Section 72B (1)(a): “A council must hold an Annual General Meeting on a date that is not later than 15 December in each year.” Consider advocating for removal of the requirement to hold an AGM and make this optional.

5.3 Annual business plans, budgets, annual report

The Council have the ability to:

- Arrange a public meeting to consider the annual business plan and the annual report as they fall due, or
- Provide adequate time at a Council meeting at which members of the public may ask questions or make submissions, or
- To make written submissions in relation to the matter within a period stated in the notice, which must be at least 21 days.

5.4 Advertising in print media

Council has asked that the removal of this requirement for Council to advertise in “in a daily newspaper circulating in the municipal area” which is included in the following Sections in the LGA be reviewed. Council asks that actual community awareness of the advertising be assessed:

- 60A: Public meetings and submissions
- 61: Appointment of general manager
- 72: Annual report
- 72B: Annual General Meeting
- 101: Intention to make separate rate or charge

- 103: Petitions
- 118: Notification of making rates
- 139A: Register of money
- 157: Notice of proposed by-law
- 178: Sale, exchange and disposal of public land
- 189: Closure of local highways
- 195: Notice of impounding

6. Provisions that support public confidence in the integrity, transparency and accountability of local government

6.1 Election Caretaker Period

Council to have the ability to establish an Election Caretaker Policy in accordance with the provisions established in legislation.

For example: during the Local Government election period, Council will assume a 'Caretaker Mode' avoiding actions and decisions which could, or could be perceived, as intended to influence voters or otherwise to have a significant impact on the incoming Council.

The policy may apply to Elected Members, employees and delegates of the Council, including a Committee of Council but not the Planning Authority.

Identified prohibited decisions may be listed along with those that are authorised by regulation and acts.

Section 46: Term of office of councillors. There has been suggestion in the media that a caretaker period in the lead up to LG election of say the two months prior to end of 4-year term would be beneficial with Council to make decisions on matters required by legislation only. 2 months was suggested as an appropriate period.

6.2 Code of Conduct

Section 28T (7): "A council is to review its code of conduct within 3 months after each ordinary election." Suggested removal of this Section as the first three months could be seen as too early in the electoral term to review this important document.

6.3 Pecuniary Interest

Section 49: Having an interest. Consider advocating for the inclusion of declaration of non-pecuniary interests to be declared in addition to the existing provisions for pecuniary interests.

6.4 Clarity of roles

Increase clarity around the role of the Mayor, Councillors and General Manager.

In regard to the administration of Council elections by the Tasmanian Electoral Commission (TEC) is not relevant to this process; however, the following should be noted:

Following the October Local Government elections concerns were raised in regard to the frustration caused by the administrative delay in posting the Local Government election results, presented by the Tasmanian Electoral Commission.

The Tasmanian Electoral Commission (TEC) is responsible for the local government election process.

The TEC website was the official site for accessing results, and with what was believed to be a large volume of users seeking access, the TEC site crashed.

The site was subsequently not available for hours and the subsequently slow upload of results on-line over the period, those who relied on the website for information were left waiting a long period of time.

It is understood that candidates and community members were frustrated by the slow delivery of the results on the evening of the first day of the count and the days following on the TEC website.

A report was tabled at the November 2018 Council meeting at which time the following was the decision of Council:

That

- a) Council express its dissatisfaction at the process and the unavailability of official information; and improved resources for the state electoral office be sought; and*
- b) a report be commissioned on the failure of the Tasmanian Electoral Commission to make information available in a timely manner; and*
- c) this matter be considered by the Local Government Association of Tasmania (LGAT)*

Yours sincerely



Des Jennings
GENERAL MANAGER