

26 February 2025

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Reference Number: ECM 5509229

Mr Michael Mogridge
Acting Executive Director
Office of Local Government
Department of Premier and Cabinet
Sent via email: lg.consultation@dpac.tas.gov.au

Dear Michael,

Local Government Priority Reform Program 2024-26

Thank you for the opportunity to provide feedback on the Local Government Priority Reform Program 2024-26.

Please find enclosed council's submission as endorsed at its council meeting on 24 February 2025.

If you have any queries in relation to council's submission, please contact council's Head of Governance, Ms Clare Shea on 62179526 or governance@ccc.tas.gov.au.

Yours sincerely,



Ross Graham
Acting Chief Executive Officer



Targeted amendments to the *Local Government Act 1993*
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Proposed Reform	Council submission
<i>Strategic Priority 1: Lifting standards of professionalism, conduct, and integrity</i> 1. Legislating the good governance principles <i>Reform snapshot</i> • Good governance principles will be embedded in the Local Government Act 1993 to set clear standards and expectations for how Tasmanian councils should make decisions as a collective on behalf of their communities. • The principles will mirror those currently captured in the local government Good Governance Guide, which are themselves based on well-accepted standards drawn from national and international best practice. • The change will mean all councils will have a general duty under the Act to uphold and act in accordance with the principles when performing their statutory roles and functions. • The Minister for Local Government will be empowered to issue guidelines to support councils to interpret and apply the principles in different circumstances and contexts. New mandatory learning and development modules for councillors will also include a focus on the practical application of the principles to the everyday business of councils. • Legislating the principles will provide a further avenue for early regulatory intervention where a council is clearly acting contrary to the standards established under those principles.	
	Council is broadly supportive of this proposed reform. It will be crucial for the Minister for Local Government to issue guidelines to give councils further information on the broad standards and provide further guidance on compliance noting that a council's failure to act consistently with the Good Governance principles may result in the Minister issuing a performance improvement direction or appointing a temporary advisor. In addition to reliance on the Good Governance Guide terms, consideration should be given to the director duties contained in the <i>Corporations Act 2001</i> (Cth.). While not all duties will be applicable, some will with or without modification. If the Good Governance Guide requirements are to be legislated, they need to be drafted in a way that makes them certain and enforceable. The drafting of guidelines is generally not as precise as legislative drafting.

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2. Introducing serious councillor misconduct provisions <i>Reform snapshot</i> • New provisions will be included in the Act which allow for stronger sanctions (including removal and barring from office for up to seven years) where councillors are found to have engaged in serious councillor misconduct under the councillor Code of Conduct. • Serious councillor misconduct will be defined as a serious and severe breach of the code, determined by reference to clear criteria which go to the impact of the conduct in question, and its reflection on a person's fitness (or otherwise) to hold public office. • Serious councillor misconduct complaints will be heard and determined by the Tasmanian Civil and Administrative Appeals Tribunal (TASCAT), and not the existing Code of Conduct Panel. The Code of Conduct Panel will be retained in its current form and will continue to consider all other complaints. • Serious councillor misconduct complaints will only be able to be referred to TASCAT by the Director of Local Government. • In response to a finding of serious councillor misconduct, TASCAT will be able to issue an expanded set of sanctions (in addition to those already available to the Code of Conduct Panel) including dismissal and disqualification from office for a period of up to seven years.	Council is broadly supportive of this proposed reform. The current provisions which require suspension on at least 3 separate occasions are inadequate particularly given one, single occasion may warrant suspension or removal. There is insufficient detail at this stage to fully understand the procedure behind a serious councillor misconduct matter eg if the Director of Local Government is the applicant, can the original complainant withdraw their complaint?

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Proposed Reform	Council submission
3. Broadening performance improvement direction provisions <i>Reform snapshot</i> • Changes will be made to performance improvement direction (PID) provisions under the Act, which will provide that the Minister for Local Government may issue a PID to a council or councillor in response to a broad range of performance and governance concerns, including: • breaches of or non-compliance with a council policy made under the • Local Government Act 1993 that are not of a minor nature; and • a serious and material failure by a council to act in a way that is consistent with the good governance principles. • This change will make clear that PIDs can be issued in response to circumstances beyond clear-cut statutory breaches, which is consistent with their original regulatory intent as an early intervention tool to flexibly and promptly address issues with council performance and compliance. • In addition, a failure to comply with a PID may also trigger the appointment of a temporary advisor (see reform 4 below).	Council is broadly supportive of this proposed reform but notes that the proposed introduction of a PID for breach of council policy may be problematic. Council policies vary from one council to another, and this proposed reform would introduce inconsistency in conduct between councils. A ‘breach of a council policy made under the LG Act’ needs clarification The Act currently refers to the dispute resolution policy, asset management policies and rates and charges policy - A breach of one of these policies would presumably not lead to a PID.

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4. Introducing temporary advisors for councils <i>Reform snapshot</i> • New provisions will allow for the Minister for Local Government to appoint – in response to evidence of existing or emerging governance issues at a council – a temporary advisor to a council to provide advice and recommend governance improvements to the council, the Director of Local Government and the Minister for Local Government. • Advisors would be given all necessary and appropriate powers to undertake these functions. Specifically, advisors would have the authority to enter council premises, review its operations, request information from the council administration and its audit panel, provide guidance to elected members and senior staff, and make recommendations to the council on governance improvements. • At the end of their period of appointment, advisors would provide a final report to the Minister for Local Government and recommend any further action (including regulatory intervention) as they saw fit. • Temporary advisors would be able to be appointed separately to, or in conjunction with, a performance improvement direction (PID). • Temporary advisors would complement and reinforce existing and proposed regulatory tools (including broadened PID provisions) and provide a means of understanding whether there are serious issues present at a council which may justify further action, including a Board of Inquiry.	It is council’s view that the advisor should have appropriate qualifications and experience in respect to the ‘evidence of existing or emerging governance issues’. The advisor should be a subject matter expert and not a generalist. The Act also needs to give the temporary advisor an indemnity from the time of appointment until that appointment is revoked in respect to all acts and actions taken in accordance with the appointment.

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Proposed Reform	Council submission
5. Clarifying work health and safety obligations Reform snapshot • Doubts removal provisions will be included in the Local Government Act, removing any ambiguity elected members are bound by, and have obligations under, work health and safety (WHS) legislation. • The changes will further clarify that councils – and specifically elected members – have legislative obligations to prudently and actively manage WHS hazards. They will not conflict with, replace, or duplicate any existing obligation under the WHS framework, nor in any way insert the Director of Local Government as a workplace safety regulator for councils.	The Act should include a clear delineation in terms of the duty owed by the Mayor and Councillors acting on behalf of the PCBU. • Mayor should have the same obligations as the CEO in respect to the PCBU – but limited to the Council and its activities. • CEO should have the obligations to act as the PCBU in terms of the operational side of the council Councillors should have the same obligations under the Act as employees (deemed employees) with possibly some obligation (per directors) to ensure the council has appropriate WHS systems and governance in place.

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Proposed Reform	Council submission
6. Mandating council learning and development obligations <i>Reform snapshot</i> • New legislative provisions will require all councillors (both new and returning) to undertake minimum learning and development activities within the first 12 months of being elected. • The requirements will focus on councillors' core roles and responsibilities (including their various statutory obligations) will be set out in a Ministerial Order, allowing for flexibility and adjustment over time, as necessary. • The provisions would ensure that mandatory requirements must be relevant to the performance of a councillor's functions and duties, and the Minister for Local Government would be required to consult with councils on the contents of any order before it is issued. • General managers would also be required to develop an elected member learning and development plan for the council at the beginning of each term, and councils would need to make reasonable provision in their budgets to support participation of councillors in learning and development opportunities consistent with those plans. • Councils would need to publicly report on each councillor's completion of mandated learning and development activities. Non-compliance with the new requirements would be a breach of the Local Government Act, and therefore could result in the potential issuing of a performance improvement direction on a council or councillor. • Mandatory pre-election education (completion of an information session) would	The development of an EM Learning and development plan should read 'for approval by council within the first X months of its term'. As it stands the suggested change looks like General Managers will be directing councillors as to their L&D plans. The L&D plan should be developed by the General Manager for review, approval and resourcing by Council. There will also need to be some statutory guidance as to what, as a minimum, the L&D plan must contain. Without this, the suggested change places General Managers in an invidious and impractical position of directing councillors.

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also be introduced, but this will be implemented via the new Local Government Elections Bill.

- The reform implements key recommendations from the Future of Local Government Review and will ensure councillors are better supported and equipped with the skills and knowledge they need to perform their important functions and duties.

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Proposed Reform	Council submission
Strategic Priority 2: Driving a high-performing, transparent, and accountable sector	
7. Introducing a contemporary role statement and a charter for local government <i>Reform snapshot</i> • The local government role statement developed by the Future of Local Government Review will be included in the Local Government Act, setting a clear, contemporary vision for councils, focused on the wellbeing of local communities. • A head of power will also be included in the Act for the Minister for Local Government to issue via Ministerial Order a Local Government Charter to support the delivery of the new role, subject to first consulting with the local government sector. • The charter will clarify and consolidate councils' core functions and duties, offer principles for financial management and engagement, and facilitate strategic state and local government collaboration on issues like regional land use planning and emergency preparedness. • The charter will provide a more flexible mechanism for capturing core functional responsibilities of councils which, in turn, will improve sector and community understanding of local government responsibilities. • The new role statement and charter will be complemented and put into practice via changes over time to the strategic planning and reporting framework, aligning council actions with community priorities, particularly in respect to wellbeing (see reform 8).	This could be a useful expansion of section 20 of the Act. While the role statement and charter looks to focus on the core functions of councils, there needs to be latitude built in the statement and charter to allow councils to prioritise other non-core initiatives - things that the council and its community want to pursue. It should be the case that provided the core functions are being met, a council and its community are free to prioritise and undertake other non-core initiatives they collectively wish to do, provided it is lawful. This is the opportunity to clearly articulate councils' legislated role in supporting and improving the wellbeing of the community and to expand on the Act section 20(1)(a) to provide for the health, safety and welfare of the community. As the discussion document outlines: <i>"At its core, the role statement emphasises councils will have a unique and essential role in promoting these areas of community development, supported by legislative mandate. The</i>

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role statement will not radically change or alter the functions of Tasmanian councils. Instead, it reflects a shift in the role of local government, underway for some time, towards performing and prioritising their functions and services to improve community wellbeing.”

It also provides the ability to dispense with “core” language and quote the charter.

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8. Improving the strategic planning and reporting frameworks <i>Reform snapshot</i> • Changes to the Local Government Act will provide the statutory underpinning to improve (flexibly and over time) the way councils plan for the future and report to the community on their progress and achievements. • The current 10-year strategic planning period will be retained, but councils will now be required to link their strategic plans to identified community wellbeing priorities. • New statutory requirements will be introduced for councils to develop and adopt community engagement plans and workforce development plans, consistent with FoLGR recommendations. • Beyond these broad parameters, councils will retain significant flexibility to set strategic priorities that are relevant and important to each of their communities. • The Government is not proposing changes to the existing suite of council financial and asset management plans at this time, but other changes being introduced mean these will need to align with and support implementation of their strategic plans, based on community wellbeing priorities.	Council's current Strategic Plan clearly identifies community wellbeing in the strategic goal area of <i>"A people friendly city"</i>. This reform will add strength to wellbeing priorities for community services and art and culture activities. The Tasmanian Government Wellbeing Domains could be considered here and fed into Council's Strategic Planning processes.

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9. Improving consistency in data collection and reporting methodologies <i>Reform snapshot</i> • New provisions will give the Minister for Local Government the ability to issue clear and binding instructions to councils in relation to a broader range of performance indicators and their associated data collection and reporting requirements. • More consistent collection and reporting of key council performance data is essential to, and will support the development of, a new performance monitoring framework for the local government sector. • Better data and improved confidence in performance monitoring will empower communities to understand how well their council is performing and support better and more proactive monitoring and regulatory intervention.	Councils should have input to any performance indicators for two reasons: firstly, to ensure councils have the required data and information and secondly, to make sure they are useful to drive improvement. There needs to be recognition that no two councils are the same. Some performance measures may lend themselves to a comparison across councils, but most do not. The key issues will be consistency of data collection and the cost of that process. Currently, different interpretations are put on data sets by different councils, resulting in unreliable reporting which in turn leads to a lack of confidence in the reporting system. The focus on improved confidence is welcomed, but that will require investment by the State in the system and its architecture, and a commitment by councils to contribute fully.

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10. Enhancing transparency of information in council rates notices <i>Reform snapshot</i> The Act will empower the Minister for Local Government to prescribe additional information requirements for council rates notices so ratepayers will have a clearer picture of how and why their rates change over time, and how rating revenue is supporting different council services and functions.	This will require discussion with Council Chief Finance Officers to ensure what is required to be included can be addressed via current systems. The State will need to commit to working with councils to ensure that this reform is effective rather than retrograde. Consistency of data collection and recognition of differences in how rates are calculated will vary across councils so any additional information requirements must account for the alternate rating methodologies employed by councils. Additionally, properties are not static entities with the same rates and charges each year. There can be considerable variability in terms of where the property is located, what services are used and whether concessions or rebates are applied. Charges and rebates can change from owner to owner so historic comparison reporting and trend reporting of a property's rates across notices may be meaningless or more confusing to the ratepayer.

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11. Mandating internal audit for councils <i>Reform snapshot</i> • New provisions will require all councils to establish and maintain an internal audit function, bringing them into line with Tasmanian Government agencies. • This reform responds directly to a Future of Local Government Review recommendation and recognises councils are responsible for managing significant public assets and resources. • General managers, through audit panels, will be responsible for delivering their council's internal audit function. • An amendment to the <i>Local Government Act 1993</i> will provide for the application to councils of Treasurer's Instructions for internal audit issued under the <i>Financial Management Act 2016</i> (subject to adjustments as and where necessary and appropriate). • The Director of Local Government will also be given explicit authority to request targeted internal audits, promoting stronger compliance and proactive regulatory intervention.	The term 'internal audit function' needs clarification as it will mean different things to different people. The legislation will need to be clear. Clarification on whether the internal audit function must be maintained as an in-house function or whether it can be outsourced would be needed. Internal audit functions can provide valuable compliance and risk management insights, however, employing specialist audit professionals could prove difficult and costly for many councils, especially smaller ones.