

Submission by Paul Terrett
Exposure Draft Consultation
Local Government (Targeted Reform) Amendment Bill 2025

Thank you for the opportunity to make a submission to the Exposure Draft. I am in general I agree and support all aspects of this Bill as I believe that it will move local government in the right direction to reform. There are some comments that I would like to submit to the process.

1. Introducing serious councillor misconduct provisions

Dismissal and disqualification from office

I raise concerns that the removal or disqualification of candidate from standing for elected office could be seen as a breach of International Covenant on Civil and Political Rights (ICCPR) which Australia is a signatory. The Australian Human Rights Commission, under Article 25 of the ICCPR, advocates for the rights of all peoples to elect and stand for election all citizens. Limiting a person's right to stand for office at local government level could be deemed a breach of a persons right to contribute to political freedom and debate.

Clause 6 of the ICCPR states, "citizens may participate directly by taking part in popular assemblies which have the power to make decisions about local issues or about the affairs of a particular community and in bodies established to represent citizens in consultation with government."

This principle is supported in Clause 16 that states the grounds for the removal of elected office holders should be established by laws based on objective and reasonable criteria and incorporating fair procedures. This does not override a person's ability to stand for office at subsequent elections, which could be seen as discriminatory.

Section 41 of the Australian Constitution which deal with the right to vote, provides only that persons having the right to vote in State elections have the right to vote in Federal elections. This right is also extended further into local government elections.

Although the Constitution does not contain an express statement equivalent to the full extent of rights recognised in ICCPR Article 25, the High Court has found a degree of implied Constitutional protection. Similarly to the Human Rights Committee, the High Court has emphasised the connection between the rights recognised in Article 25 and the rights to freedom of association and expression.

In *Australian Capital Television Pty Ltd v The Commonwealth*, it was said that the concept of representative government in a democracy signifies government by the people through their representatives: in constitutional terms, a sovereign power residing in the people, exercised by the representatives.

2. Broadening performance improvement direction provisions

The proposed changes encourage a wider use of performance improvement directions (PID) to a council or councillor, however it needs to be extended to include General Managers who are responsible for the day-to-day functions of council and in operational areas outside of direction by Councillors who are limited in their ability to direct a General Manager.

For example: a Council may set strategies but unless council can direct the general manager to resource the strategy it will not occur.

The need to issue a PID on a General Manager will force them to do actions which are operational in nature.

The use of Temporary Advisor enhances the need for General Managers to be covered by PIDs. Recommendations of the Advisor may be deemed “best practice” and not required by statute. It would be simple for the General Manager to state that he/she would not action the Temporary Advisors recommendations as council is not legally bound to do the action as recommended.

3. Introducing temporary advisors

As a Councillor on Northern Midlands Council, I have seen firsthand the benefit of having temporary advisors who are skilled in local government. Advisors must be given the power to make binding recommendations that benefit the council and their reports tabled in Parliament to protect the Advisor from personal defamation.

The advice by the Advisor, in my experience, was a circuit-breaker and highlighted the need for actions and an avenue to vent concerns.

The Advisor must have access to all documents, and the General Manager must give access to confidential information and closed council meeting minutes.

With the introduction of integrated strategic planning the Advisors remit at times may extend beyond just governance. Community consultation, planning, financial management, workforce planning etc could all be areas for the Advisors focus depending on specific areas of concern.

The recommendations of the temporary advisor must be reviewed regularly and reasons for the non-implementation of recommendations fully explained to the Director of Local Government.

4. Mandating Council learning and development

As a Councillor, I am obligated to take an Oath of office to engage in on-going professional development. Other than induction and training by OLG/LGAT this has been difficult to quantify.

I support mandating training, both pre-election and training within 12 months of being elected. Mandated learning and development should not be limited to the first 12 months but undertaken throughout the term of council. The implementation of a statewide professional development program like many professionals, who do continuous learning, it would allow Councillors to remain up to date with an ever-changing local government environment.

Failure to do mandated training should be enforced by a PID and failure to complete mandatory to be a breach of the oath and the offending Councillor given a suspension up to 3 months or the withholding of the councillor allowance for failing to undergo mandated learning and development. I do not support removal from office.

5. A Charter for Local Government

A charter is essential in defining the role of local government and compliments the new strategic planning and reporting frameworks

6. Improved Strategic Planning and reporting Framework

Tasmania is one of the last jurisdictions in Australia to have integrated strategic planning and reporting and its implementation will change local government to be more community focussed.

Tasmania will benefit from the learnings of other states, and it will assist in having support documents to implement the new processes.

The focus on community consultation must be embedded in the process and councils must use the resources of the IAP2 to look beyond the existing community consultation methods.

The OLG should ensure that relevant community consultation is conducted, and a variety of methods used. While the new strategic planning process will impose additional costs on smaller councils, it is that these council are supported in implementing this change to strategic planning.

In NSW, councils are required to release an End of Term report to show what the council has achieved and what areas need improvement. This is an approach worth consideration.

7. Improving consistency in data collection

Councils should be able to compare themselves. In line with the new Strategic planning framework one of the on-going indicators must be community satisfaction with its council.

I recommend that the Minister releases a comparative report each year in a state of local government report.

8. Transparency of information in council rates notices

Rates notices should be clear and consistent. I support the change.

9. Mandating internal audit

Mandatory internal audits is a sound practice that helps identifies any opportunities for improvement. This will increase financial burdens on small councils, so therefore consideration should be given to resource sharing internal audit panels and allowing suitably qualified employees on another councils to serve as an internal audit member on another council's panel.

10. Miscellaneous amendments

The Code of Conduct Panel should be given the power to refer matters relating to the Office of Local Government, if the Panel believes that the matter is a pecuniary interest or warrants that the matter to be investigated for a breach of other sections of the Local Government Act or other Acts.