Targeted amendments to the *Local Government Act 1993*

Local Government Priority Reform Program 2024-26

Discussion paper

Office of Local Government
Department of Premier and Cabinet

Tasmanian Government

Contents

Introduction

The Local Government Priority Reform Program 2024-26

The Tasmanian Government is committed to ensuring our local councils are equipped to serve their communities effectively, both now and into the future. For Tasmanian communities to thrive, with infrastructure and services to meet community needs and expectations, it is crucial that our councils are financially and culturally strong and sustainable.

On 27 November 2024, the Tasmanian Government released its Local Government Priority Reform Program 2024-26 (the Priority Reform Program).

The Priority Reform Program brings together key recommendations from the Future of Local Government Review and the earlier Local Government Legislation Review, alongside several additional reforms which have been included in response to strong feedback from the sector on the need to respond to persistent concerns with elected member conduct and aspects of council governance.

The Priority Reform Program is built around **five strategic priorities**:

1. **Lifting standards of professionalism, conduct, and integrity**: Enhancing governance frameworks and promoting ethical conduct within councils to build public trust and confidence.
2. **Driving a high-performing, transparent, and accountable sector**: Improving transparency, accountability, and performance across the local government sector through better oversight and reporting mechanisms.
3. **Improving local democracy and representation**: Strengthening democratic processes and ensuring fair representation within councils to reflect the diverse interests of communities.
4. **Supporting council financial sustainability**: Ensuring councils are financially viable and can sustainably manage resources to meet current and future community needs.
5. **Supporting council and community-led structural reform**: Facilitating structural reforms driven by councils and communities to improve service delivery and operational efficiency.

For more information about the Priority Reform Program, see the Office of Local Government, Department of Premier and Cabinet website at www.dpac.tas.gov.au.

A multi-stage legislative program

Legislative changes are needed to implement many of these reforms, particularly those under the first three strategic priorities.

To support implementation, the Government is undertaking **three main legislative projects**:

1. **Targeted amendments to the Local Government Act 1993.**
2. **The re-making of the Local Government General Regulations 2015 and Local Government (Meeting Procedures) Regulations 2015**.
   These first two projects target Strategic Priorities 1 and 2.
3. **The development of a new Local Government Elections Bill.**
   This Bill targets Strategic Priority 3.

The Government will be consulting on each of the three main legislative projects. It will be doing so in stages to help the local government sector and communities engage and respond in a manageable and focused way. This will also allow the Government to prioritise and proceed with the roll-out of reforms addressing the most acute needs of the sector.

Legislative reform is only one part of what is a complex reform picture, and the Government will also be working on a number of other significant projects that deliver against Strategic Priorities 4 and 5 over the next two years including:

- a process to support councils pursue council-led voluntary amalgamations;
- exploring targeted developer infrastructure charging where supported and required to facilitate development;
- considering alternative revenue models to council rates for certain major operations; and
- reviewing heavy vehicle motor tax allocations to local councils.

Purpose of the discussion paper

This discussion paper outlines proposed targeted amendments to *the Local Government Act 1993* that target Strategic Priorities 1 and 2.

Broadly, the proposed amendments are focused on delivering two key outcomes:

- Firstly, they respond to ongoing community and sector concerns around **elected member conduct and council governance**. They do this by providing more effective and targeted ways of responding to identified problems in a timely and proportionate way. Reforms include several important changes to broaden the suite of tools available to councils and regulators for dealing with governance and conduct challenges, with a focus on early

intervention. The intention is to help restore community confidence in the overall governance, integrity, and reputation of the sector, which is currently being damaged by the poor conduct of a minority.

- Secondly, they implement crucial reforms from the Future of Local Government Review which will **streamline and enhance council strategic direction-setting and planning processes, improve engagement in council decision-making, and provide increased levels of transparency and accountability around how councils are performing**. The goal is to make some early initial improvements, while also putting in place the architecture that will support the longer-term implementation of an improved integrated strategic planning and performance framework for the sector with community wellbeing at its core.

The full list of proposed reforms for inclusion in the amendment Bill and the strategic priority they support are in tables 1 and 2.

Table 1: Strategic Priority 1: Lifting standards of professionalism, conduct, and integrity

Number	Strategic priority
1	Legislating the good governance principles
2	Introducing serious councillor misconduct provisions for councillors
3	Broadening performance improvement direction provisions
4	Introducing temporary advisors for councils
5	Clarifying work health and safety obligations
6	Mandating council learning and development obligations

Table 2: Strategic Priority 2: Driving a high-performing, transparent, and accountable sector

Number	Strategic priority
7	Introducing a contemporary role statement and a Charter for local government
8	Improving the strategic planning and reporting frameworks
9	Improving consistency in data collection and reporting methodologies
10	Enhancing transparency of information in council rates notices

Number	Strategic priority
11	Mandating internal audit for councils

The Government has committed to the Priority Reform Program following extensive, multi-year review processes which have involved broad-based consultation. The purpose of consultation is **not** to test the merits of the proposed reforms. We believe this has already been done and the evidence base supporting their introduction is well established.

What we want to do now is to ensure the design of the amendments we are developing to implement the reforms are practical, effective, and aligned with the needs of councils and the community.

When providing comments and submissions in response to the proposed reforms, we would encourage councils, other stakeholders, and the broader community to consider potential technical concerns and implementation challenges for the proposed amendments to ensure we can develop robust legislative proposals that are fit for purpose and will have a real impact.

Consultation process and timeframes

Consultation on the discussion paper will be open until **21 March 2025**.

Submissions and feedback will inform the development of the draft amendment bill for public release and further consultation in 2025. The Bill will then be finalised with the goal of bringing legislation into the Tasmanian Parliament in August 2025. The key dates for proposed amendments are in table 3.

Table 3: Targeted key dates, legislative development and consultation

Date	Activity
December 2024	Discussion paper released for public consultation
21 March 2025	Discussion paper consultation closes
May 2025	Exposure Draft Bill released for community consultation
July 2025	Exposure Draft Bill community consultation closes
August 2025	Final Bill introduced to the Tasmanian Parliament

You can make a submission by email or post to:

Email: LG.consultation@dpac.tas.gov.au

Post:

Office of Local Government
Department of Premier and Cabinet
PO Box 123
Tasmania 7001

Other than indicated below, submissions will be treated as public information and will be published on our website at www.dpac.tas.gov.au in March 2025. No personal information other than an individual's name or the organisation making a submission will be published.

For further information, please contact localgovernment@dpac.tas.gov.au.

Tasmanian Government Submission Policy

In the absence of a clear indication a submission is intended to be treated as confidential (or parts of the submission), the Department of Premier and Cabinet will treat the submission as public.

If you would like your submission treated as confidential, whether in whole or in part, please indicate this in writing at the time of making your submission. Clearly identify the parts of your submission you want to remain confidential and the reasons why. In this case, your submission will not be published to the extent of that request.

Copyright in submissions remains with the author(s), not with the Tasmanian Government.

The Department of Premier and Cabinet will not publish, in whole or in part, submissions containing defamatory or offensive material. If your submission includes information that could enable the identification of other individuals then either all or parts of the submission will not be published.

The *Right to Information Act 2009* and confidentiality

Information provided to the Tasmanian Government may be provided to an applicant under the provisions of the *Right to Information Act 2009* (RTI). If you have indicated you wish all or part of your submission to be treated as confidential, your statement detailing the reasons may be taken into account in determining to release the information in the event of an RTI application for assessed disclosure. You may also be contacted to provide further comment.

Proposed legislative reforms

This section of the discussion paper explains the 11 legislative reforms the Government is seeking to progress through targeted amendments to the *Local Government Act 1993*.

As noted above, the amendments support strategic priorities 1 and 2 of the Local Government Priority Reform Program 2024-26.

For each of the proposed reforms, we give a brief reform snapshot, explain the context for the change, and then provide some further detail about what we think the change will look like in practice.

Please note reform details are still being developed and refined, and the purpose of this discussion paper is to help support this process. your feedback is important to help settle the design of the proposals to be included in the draft amendment Bill.

Strategic Priority 1: Lifting standards of professionalism, conduct, and integrity

Legislative reforms under this priority will improve the standard of elected member conduct and professionalism across the Tasmanian local government sector. They aim to strengthen public trust and increase community engagement in council decision-making.

The reforms have a particular focus on augmenting existing tools to address governance and conduct challenges more effectively and promptly, and before they escalate.

1. Legislating the good governance principles

Reform snapshot

- 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.

Context

Good governance is essential for effective, efficient, and well-run councils. It underpins and provides for sound decision-making, accountability, and transparency.

Legislating the good governance principles is an agreed reform from the Local Government Legislation Review. The reform is also broadly consistent with the findings and recommendations of the Future of Local Government Review – and practice in other jurisdictions – which supports the general move to a less prescriptive, principles-based statutory and regulatory framework for local government.

This change will have both important symbolic and practical effects. Elevating the principles to primary legislation sends a clear message to councils and communities about expected standards, while also allowing for the principles to be embedded on key aspects of the legislative framework, including strategic planning and reporting, education, and compliance monitoring and enforcement.

Reform detail

Under the reform, a general, positive onus would be placed on local councils to undertake their functions and exercise their powers such that they are:

- **Accountable**
- **Transparent**
- **Law-abiding**
- **Responsive**
- **Equitable and inclusive**
- **Participatory**
- **Effective and efficient**
- **Consensus orientated**

These principles underpin the current Good Governance Guide, which were themselves adapted from best practice resources used in Victoria, and draw on principles used by the United Nations Development Corporation.

This 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.

It is recognised the principles are very high-level and open to significant interpretation. Therefore, the Minister for Local Government will also be empowered to issue guidelines of expected standards under the principles, which will support councils to interpret and apply the principles in different circumstances and contexts.

The new mandatory learning and development modules for councillors (see reform 6 for further details) will include a focus on the practical application of the principles to the everyday business of councils.

Legislating the principles will also provide a further avenue for early regulatory intervention where a council is acting contrary to the standard established under those principles.

Specifically, the Director for Local Government will be able to recommend to the Minister for Local Government the issuing of a performance improvement direction or the appointment of a temporary advisor where they are satisfised that there has been a serious and material failure by a council to act in a way that is consistent with the good governance principles (see reforms 3 and 4).

2. Introducing serious councillor misconduct provisions

Reform snapshot

- 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.

Context

Councillors perform an important leadership role within their local communities and have a responsibility to act in a way that reflects community values and expectations.

While elected representatives generally conduct themselves with professionalism, integrity, and dedication to their community we have unfortunately seen in recent years a small number of instances in which councillor conduct has fallen well short of these expectations.

These instances have also highlighted limitations in the existing legislative framework for holding elected members accountable to a standard that the community expects of its public officials.

Currently, a councillor may only be removed from office in response to Code of Conduct matter where they have been suspended by an investigating panel on three

separate occasions. No councillor has ever been removed from office under the existing provision.

The Future of Local Government Review recommended the Government expedite reforms for dealing with serious councillor misconduct more effectively and promptly, which would also bring Tasmania more in line with other jurisdictions[1] in its ability to remove councillors from office where the circumstances and conduct are serious enough to warrant it.

Reform detail

The proposed serious councillor misconduct provisions would empower the Director of Local Government (and only the Director) to refer to TASCAT a complaint of serious councillor misconduct.

Serious councillor misconduct would be defined as conduct representing a serious or severe breach of the local government Code of Conduct, which:

- if proven, would constitute a serious offence; or
- materially and negatively impact the operations of a council; or
- presents a material risk to the health and safety of another person or persons; or
- otherwise demonstrates the councillor is not a fit and proper person to hold the office of councillor.

The broad intent of the above definition is that it aligns with the core aspects of the concept of serious misconduct under the *Integrity Commission Act 2009* but seeks to create some greater specificity around the type of councillor conduct that may reasonably warrant their removal from office under these new provisions.

Please note the Office of Local Government is actively considering whether further, specific detail should be provided to support the above definition and invites community and sector feedback on this question.

The Director of Local Government would have sole discretion to make referrals and would be empowered to do so on their own initiative, or in response to a referral from a Code of Conduct initial assessor or investigating panel, a temporary advisor (see reform 4), or another authority.

All the usual procedural aspects of TASCAT would apply once a matter is brought into that jurisdiction (including legal representation and appeal rights). In this context,

[1] Across Australian jurisdictions, different thresholds and mechanisms are adopted to deal with serious councillor misconduct. While approaches vary, Tasmania is comparatively limited in the mechanisms for the suspension or removal of a councillor from office. Each jurisdiction, aside from Tasmania, provides its relevant administrative or conduct tribunal power to dismiss and/or disqualify a councillor for serious or gross misconduct.

the Director of Local Government would adopt the role of applicant in the matter and would present TASCAT with relevant evidence to support a serious councillor misconduct complaint.

In addition to all other existing sanctions currently available to the Code of Conduct Panel, TASCAT would be empowered, in making a finding of serious councillor misconduct, to dismiss the councillor and disqualify the councillor from being eligible to stand for election as a councillor for a period of up to seven years.

The model outlined above largely adopts one of the proposed options for serious misconduct reform the Tasmanian Government consulted on in 2023[2], and which received broad support from the sector. It is also similar to, and adapts for the Tasmanian context, aspects of models adopted in other jurisdictions including South Australia, Victoria and New South Wales.

It represents a targeted and measured approach to better dealing with what should be rare instances of serious councillor misconduct. By utilising TASCAT, it is also independent of Government, and provides appropriate natural justice and procedural fairness for respondents.

[2] See https://www.dpac.tas.gov.au/__data/assets/pdf_file/0021/285204/Discussion-paper-Addressing-councillor-misconduct.pdf.

3. Broadening performance improvement direction provisions

Reform snapshot

- 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).

Context

Performance improvement directions (PIDs) were introduced in 2017 as an early regulatory intervention tool to support councils in addressing a range of performance and compliance issues, before they escalate and impact more seriously upon the operations or governance of a council. Early intervention of this kind can reduce negative impacts and costs upon the Tasmanian community, for instance by avoiding the need for a Board of Inquiry.

A PID may require a council or councillor to take, cease, or refrain from an action within a specified period and notify the Minister for Local Government of the steps taken or planned to comply within that period.

Where a council or councillor fails to comply with a PID, the Minister for Local Government may suspend councillors for up to six months (and appoint a commissioner where all councillors are suspended), establish a Board of Inquiry, or require a Local Government Board Review be undertaken into the council. It is proposed that a failure to comply will now also trigger an option to appoint a temporary advisor.

Currently, a narrow statutory interpretation of the current provisions would suggest the Director of Local Government can only recommend the Minister for Local

Government issues a PID in response to clear statutory breaches (either a significant single breach, or repeated minor breaches).

This means, for instance, breaches of council policies made under the auspices of the Act are not clearly captured, even though there is evidence non-compliance of this kind can and does impact on the effective governance and operation of councils.

Reform detail

The proposed changes would adjust the existing PID provisions and broaden the circumstances and conditions in which a PID may be recommended to include – for both an individual councillor, or a council as a whole – instances of material non-compliance with a council's own policies made under the auspices of the Local Government Act.

It is also proposed to make clear a PID may be issued in response to a material failure by a council to act in a way that is consistent with the good governance principles.

Finally, consideration will be given to the current statutory language that determines when a PID can be recommended to the Minister for Local Government, to ensure it does not unreasonably constrain the ability to use PIDs as an early intervention or mitigation tool.

The PID framework will otherwise remain the same. This means that councils will still be given notice and the opportunity to show cause, and PIDs will still need to be issued by the Minister for Local Government on the recommendation of the Director of Local Government.

4. Introducing temporary advisors for councils

Reform snapshot

- 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.

Context

This reform is adapted from an agreed reform which responded to the Local Government Legislation Review, which recommended a monitor/advisor role be instituted in Tasmania.

The intention is to provide an additional early intervention option to provide councils structured support and expert advice, allowing them to address governance challenges before they escalate (and avoiding the expense and disruption of a Board of Inquiry process, for example).

Similar models exist in other jurisdictions, including NSW and Victoria, and the reform proposed here adopts and adapts substantial elements of the Victorian approach.

Reform detail

The Minister for Local Government would have broad discretion in appointing a temporary advisor in response to a reasonable belief that a council was not meeting appropriate standards of governance, and the appointment of an advisor would assist in getting the council back on track.

It is anticipated that advisors could also be utilised to support new councils in instances such as where a previous council has been dismissed following a Board of Inquiry process.

The Minister for Local Government would be able to appoint an advisor in response to a recommendation from the Director of Local Government, or on the request of the council itself.

It should be noted the model proposed here differs slightly from the previously agreed reform, in that temporary advisors would be appointed to councils by the Minister for Local Government, not the Director of Local Government.

In most instances it is expected the Director of Local Government would have a central role providing advice and recommendations to the Minister for Local Government around the appointment of an advisor. However, the need for ministerial approval is considered appropriate given the implications (including the associated costs) of issuing a direction of this kind on a democratically elected council. It is also consistent with the approach taken in other jurisdictions with similar provisions in their local government legislation, including Victoria and New South Wales.

As the name suggests, the role of a temporary advisor would be advisory only. Their key functions would be to monitor and observe council governance and operations and provide advice and recommendations to the relevant council, the Director of Local Government, and the Minister for Local Government. Unlike a commissioner or administrator, advisors would not have any administrative, contractual, or financial control over the operations of council.

Temporary advisors would be able to be appointed separately to, or in conjunction with, a performance improvement direction. The Minister for Local Government would also be able to request an advisor to investigate and report on specific matters.

Advisors would be given all necessary and appropriate powers to undertake these functions. Specially, advisors would have the authority to enter a council, 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.

It is proposed that, where an advisor identified evidence of what they believed may constitute serious councillor misconduct, they would be empowered (and obliged) to formally refer that evidence to the Director of Local Government (see reform 2).

Elected members and staff would be obliged to cooperate with an advisor's information requests and it would be an offence for a person to wilfully obstruct or hinder an advisor performing their function in accordance with the Act.

Advisors would be bound by appropriate confidentiality requirements (including in respect of legally privileged information) but also legally indemnified for undertaking their roles and functions in good faith.

They would be appointed on terms and conditions under an instrument of appointment, and the cost of their appointment would be borne by the relevant council.

At the end of their appointment, advisors would provide a final report the Minister for Local Government and recommend any further action as they see fit, which may include some form of reporting and continued oversight, the potential issuing of performance improvement directions, a Board of Inquiry, or a Local Government Board Review.

To ensure natural justice and procedural fairness, before providing any report containing an adverse finding, the advisor would be required to give anyone implicated in that finding a reasonable opportunity to respond.

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.

Context

WHS is a critical issue for local councils, affecting both staff and elected representatives.

Elected members, general managers, and council staff all have responsibilities under the *Work Health and Safety Act 2012* (WHS Act) and supporting regulations to ensure health and safety is prioritised in the workplace, and individual behaviour is reasonable and does not adversely affect the health and safety of others in the workplace.

Councils (as a person conducting a business or undertaking – or PCBU) have the primary duty to ensure a safe work environment. General managers and senior executives (as officers) must act with due diligence to comply with WHS obligations.

While councillors are defined as other persons under WHS Act, there is an observed lack of understanding as to what this means in practice.

This lack of clarity, which has been noted in a sectoral WHS review, creates confusion and inconsistent interpretation of, and adherence to, the requirements of the legislation, especially when addressing issues like bullying and harassment, which are considered psychosocial risks.

The Government has recently provided additional clarity and direction to the sector on this issue through comprehensive new model guidelines developed in consultation with councils and legal experts. However, targeted legislative reforms may assist to further clarify existing statutory obligations as they apply to the sector, and provide a clear expectation that councils are prudently managing WHS hazards as a key element of good governance.

It is expected that this clarifying reform, alongside the model guidelines and model policies being separately developed by LGAT, will provide councils with the tools they need to clearly understand and manage both PCBU functions and individual councillor behaviours that may create workplace hazards. In turn, this framework will support regulators such as WorkSafe Tasmania to more effectively support the local government sector.

Reform detail

New doubts removal provisions will be included in the Local Government Act, removing any ambiguity that elected members are bound by, and have obligations under, existing WHS legislation.

It is important to note the changes will in **no way transfer the WHS regulatory jurisdiction away from WorkSafe**. They will simply reinforce that councils' adherence to WHS statutory requirements is an integral (and essential) component of good governance and clarify the specific status of elected members – including their attendant obligations under the WHS framework – within the Local Government Act.

The Local Government Act is primarily concerned with the sound governance of councils. Proposed reforms for improving available regulatory responses to instances of governance failure, serious poor performance, and elected member conduct (particularly expanded PID provisions, temporary advisors, and serious councillor misconduct provisions) will ensure the Director of Local Government and the Minister for Local Government are well placed in respect of those matters, while maintaining a clear and appropriate separation from the statutory responsibilities of WorkSafe Tasmania as the WHS regulator.

As previously noted, the proposed provisions will support non-legislative work supporting councils to develop consistent and effective policies and procedures for managing WHS risks and addressing inappropriate behaviours, including bullying and harassment. Policies and procedures need to include clear, effective, and timely intervention and response strategies for managing elected member conduct deemed to represent a workplace hazard. This should also ensure councils are well placed to confidently and effectively escalate matters to regulators, as and where this is appropriate and necessary.

LGAT is currently developing a model policy to support councils better and more confidently comply with their WHS obligations within the current statutory framework, especially as they relate to elected member conduct and psychosocial hazards.

6. Mandating council learning and development obligations

Reform snapshot

- 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 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.

Context

Building elected member capability was a key focus of both the Local Government Legislation Review and the Future of Local Government Review, and this reform responds directly to the recommendations of the latter, which noted that "…prompt action is needed to lift standards overall and promote a stronger ongoing professional development culture in the sector".

The Local Government Act is currently silent on the professional capability and competency of elected members and requires no specific learning and development support be provided to councillors, either prior to or following their election to office.

Several Australian jurisdictions – including South Australia and Western Australia – have introduced compulsory minimum training and education requirements for elected members in recognition of the unique, diverse, and challenging roles councillors are expected to undertake, and the different and varying backgrounds of the people who stand for office.

The overriding objective of introducing similar reforms in Tasmania is not to undermine or limit this diversity, but to ensure elected officials share a common, set of core knowledge which enables them to represent their communities competently and confidently.

It should also improve the overall standard of governance and reduce risks for councils in a number of areas.

Reform detail

New provisions would be included in the Local Government Act which require all councillors to undertake a set of core learning and development activities (specified by Ministerial Order) within 12 months of their election to office.

The requirement would apply to both new and returning councillors, in recognition of the constantly evolving statutory and regulatory operating environments for councils.

The specific scope and content of the specified core learning and development program would be developed in consultation with the sector, and the Bill would explicitly require consultation by the Minister for Local Government with councils before the issuing of an order.

The use of Ministerial Order allows for flexibility and adjustment over time, as necessary. However, the Bill would also limit the scope and content of the order to matters that relate to the performance of a councillor's functions and duties.

At this stage – and at least initially – it is expected the core program would closely reflect the elected member learning and development framework and core modules that have been developed by the Office of Local Government and the Local Government Association of Tasmania.

Likely topics/modules for inclusion as part of the core program are:

- **good governance and professional conduct;**
- **legal responsibilities (including work heath and safety);**
- **council and committee meeting procedures;**
- **council as a planning authority;**

- **financial management and reporting;**
- **strategic asset management; and**
- **community engagement, representation, and advocacy.**

The content of the order would be open to review to ensure it remains relevant and contemporary. Any remaking of the order as consequence of a review would also need to be subject to council consultation.

Councils would need to publicly report on each councillor's completion of mandated learning and development activities. Non-compliance with the new requirements could result in the issuing of a performance improvement direction on a council or councillor.

In addition to the mandated core program, amendments will provide that general managers will be required to develop an elected member learning and development plan for the council at the beginning of each term.

Councils would need to make reasonable provision in their budgets to support participation of their councillors in learning and development opportunities consistent with those plans, as well as their completion of the mandatory core program.

Finally, it should be noted these initiatives will be complemented by mandatory pre-nomination training package for all prospective candidates within six months of nominating for election. This training will cover the roles and responsibilities of councillors, providing potential candidates with a clear understanding of what the role entails.

Note this requirement will not be included in the Local Government Act but will instead be provided for under the new Local Government Elections Bill, which is currently under development.

Strategic Priority 2: Driving a high-performing, transparent, and accountable sector

Legislative reforms under this priority are designed to clarify, streamline, and enhance council strategic direction-setting and planning processes, improve engagement in council decision-making, and provide increased levels of transparency and accountability around how councils are performing.

They include several priority changes to improve data quality and transparency in the short term, as well as the key legislative elements recommended by the Future of Local Government Review for the longer-term implementation of an improved, integrated strategic planning and performance framework for the sector.

7. Introducing a contemporary role statement and a charter for local government

Reform snapshot

- 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 vison 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).

Context

The Future of Local Government Review Final Report outlined a vision for Tasmania's local government with the goal of supporting the wellbeing, sustainability, and prosperity of local communities over the next 20-30 years.

Embedding this vision (the role statement) in legislation will clarify council responsibilities, addressing community and sectoral confusion about the role of local government – particularly as it relates to and differs from State and Federal Governments – and set a clear, strategic direction for our system of local government.

The below role statement was the subject of extensive consultation with councils, community, and local government stakeholders throughout the review.

The role of local government is to support and improve the wellbeing of Tasmanian communities by:

- **harnessing and building on the unique strengths and capabilities of local communities;**
- **providing infrastructure and services that, to be effective, require local approaches;**
- **representing and advocating for the specific needs and interests of local communities in regional, state-wide, and national decision-making; and**
- **promoting the social, economic, and environmental sustainability of local communities, including by mitigating and planning for climate change impacts.**

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 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.

To underpin the role statement, the review highlighted a need for more formal structures to support the expanding roles of councils, reflecting community expectations that go beyond traditional functions of councils and the sector's role in delivering services on behalf of the State.

To achieve this, the Future of Local Government Review recommended the development of a Local Government Charter that would be contained in subordinate legislation.

The charter will be designed to allow councils to respond effectively to local needs and develop creative solutions to community challenges. It will include guiding principles for sound financial management and community engagement, supporting the good governance principles, which will be embedded in the Local Government Act (see reform 1).

Reform detail

The local government role statement developed by the review will be included in the Local Government Act, replacing the current high-level function statements in sections 20(1) and 20(2).

New provisions will also be included to establish broad parameters of the charter and empower the Minister for Local Government to make a Ministerial Order consistent with those parameters.

The Act would establish the high-level purpose, scope, and effect of the charter (noting it would be non-binding) and establish the process for developing the charter in consultation with the sector.

Consistent with the Future of Local Government Review Final Report, it is proposed the Act would establish the purpose and scope of the Charter being a document which:

- provides clarity and specific guidance to support councils in implementing their statutory role;
- establishes the core functions of councils (as provided for in legislation), and the principles and practices to guide when and how councils should move into areas outside of these;
- includes principles in relation to good financial management, community engagement, and for collaboration and coordination with other councils to address regional issues; and
- sets clear principles and processes for how the Tasmanian Government will support local government to deliver on their role, including in connection with consultation and engagement between the state and local government.

The provisions to be included in the Act would require the Minister for Local Government to consult publicly and with councils before issuing the order, including any time it is reviewed and amended.

In parallel to introducing the necessary legislative changes, the Government will work closely with local government, the community, and other local government partners on the substantive process of developing the content of the charter.

It is anticipated this will be a collaborative process undertaken following the implementation of these legislative reforms, with a charter coming into effect in 2026.

8. Improving the strategic planning and reporting frameworks

Reform snapshot

- 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.

Context

This reform represents the first step in implementing the Future of Local Government Review recommendations for a renewed strategic planning and reporting framework for local government that puts community wellbeing at the centre of how councils deliver services and plan for the future, linked to and supporting the new role statement and charter[3].

The current planning and reporting model in the Local Government Act requires councils to prepare a strategic plan, a series of documents for financial and asset management, and an annual plan and report.

The requirements have a strong focus on compliance, with a Ministerial Order mandating the technical inclusions for plans and strategies to enable sustainable financial and asset management.

[3] The changes the Government is proposing to council planning and reporting will implement recommendations 3, 14, 32 and 33 of the Future of Local Government Review.

In recommending a renewed Strategic Planning and Reporting Framework, the Future of Local Government Review suggested there should be a clear line of sight as to how community wellbeing and sustainability are embedded in everything councils do, from the high-level strategic vision for the sector (via the new role statement and charter), through to the capabilities that councils need (via council strategic plans), and down to the range of supporting operational plans and policies that councils use to manage their services and infrastructure.

The Future of Local Government Review recommended specific parameters for how the revised planning and reporting framework would be established, which included a proposal for four-year strategic plans comprising:

- a community engagement plan;
- a workforce development plan;
- a financial and asset sustainability plan; and
- an elected member capability and professional development plan.

It should be noted many councils have been proactive in improving their capability for strategic planning and how this filters down to supporting plans and strategies, decision-making and service delivery.

For example, it has become common practice for councils to develop, as part of their strategic planning, a community vision in partnership with their community that then underpins the strategies and priorities for the next 10 years. Select councils are also specifically integrating the Tasmanian Government's community wellbeing domains and outcomes into their strategic planning processes.

Reform detail

Proposed amendments to the Local Government Act would introduce the necessary high-level architecture to enable the introduction (over time) of an improved Strategic Planning and Reporting Framework, consistent with the intent of the Future of Local Government Review recommendations.

In summary, the amendments to statutory planning requirements would:

- **Retain the existing 10-year horizon for strategic plans but require councils when developing those plans to specifically consult with local communities to identify and include agreed wellbeing priorities, objectives, and outcomes**. It is envisaged public engagement to determine community wellbeing priorities could be incorporated into the existing consultation requirements for strategic plans. Councils would then be required to report publicly on progress against these priorities in their annual reports.
- **Retain councils' existing financial and asset management obligations in the Local Government Act (including the existing suite of documents**

and their content requirements), noting that under the Act these plans already need to link to and support councils' strategic plans, which will now include explicit community wellbeing requirements.

- **Introduce a requirement for councils to develop and adopt community engagement plans and workforce development plans**. The Act will set only the high-level parameters for these plans, with the Minister for Local Government empowered to issue guidelines under the Act to support councils as and where this is considered necessary. Councils would be required to review these plans every four years, consistent with the current four-yearly review cycle for the existing suite of council statutory plans.

In addition to the above it should also be noted that councils (under reform 6) will be required to develop an elected member capability and professional development plan. This would be done at the beginning of each council term (within the first 12 months following an election).

It is important to note the introduction of the new strategic planning requirements would be managed in a way that supports a smooth transition for the sector and for communities. The new legislative provisions would not be enacted until after the 2026 council elections to provide sufficient lead time for the sector to prepare for the change.

It is anticipated the new framework will also be supported over time by the development of an improved performance reporting framework, including new metrics and better data (see reform 9).

9. Improving consistency in data collection and reporting methodologies

Reform snapshot

- New provisions will give the Minister for Local Government the ability to issue clear and binding instructions to councils in 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.

Context

Meaningful metrics underpinned by reliable data are essential to any robust performance monitoring framework. For councils, consistent recording and reporting of data is important because it allows for:

- meaningful comparison and benchmarking of relative councils' performance;
- communities to understand, in clear terms, how well their councils are performing;
- more informed performance review, benchmarking, and strategic planning processes by councils themselves; and
- more effective and proactive regulatory oversight and intervention.

Currently, inconsistency in data collected and reported by councils makes it difficult to make reliable comparisons about their absolute and relative performance. This is particularly the case when it comes to understanding councils' relative service cost and quality, and strategic asset management and financial planning practices and outcomes.[4]

This inconsistency is partly due to the inevitable diversity in service offerings across 29 councils. However, better and more consistent data that allows for apples and apples comparisons between councils' service performance is clearly needed.

[4] See Future of Local Government Review Final Report (2023): https://www.futurelocal.tas.gov.au/wp-content/uploads/2023/11/The-Future-of-Local-Government-Review-Final-Report.pdf.

In response to this issue, the Future of Local Government Review recommended the development of a new, best practice performance monitoring framework for the Tasmanian local government sector.

The Future of Local Government Review noted a central underpinning of this framework would be the development of a broader range of revised metrics covering councils' financial (including rating), regulatory, statutory compliance, and service level, cost, and quality performance. It also recommended the Minister for Local Government be given the power to prescribe by Ministerial Order the nature and details of those metrics, as well as specific methodological guidance for their collection and presentation.

The key objective here being to ensure there is greater clarity, consistency, and confidence in relation to how councils are collecting and reporting important performance data.

The development of a new performance monitoring framework for the Tasmanian local government will take significant time and dedicated resources and will require broad consultation and engagement with the sector and other key stakeholders.

As a critical first step, it is considered appropriate that the Act be amended so that it can provide the necessary supporting architecture for implementing that future framework.

Reform detail

Currently, section 84 of the Local Government Act provides that the Minister for Local Government can specify financial management indicators and asset management indicators to be included in the financial statements of councils. The Local Government (Management Indicators) Order 2014 specifies a number of indicators (for example, asset sustainability and financial position ratios) and provides guidance on how they are to be calculated.

In an expanded version of these provisions, the Minister for Local Government would be given a statutory head of power to specify, by Ministerial Order, a broader range of performance metrics or indicators of councils' financial (including rating), regulatory, statutory compliance, and service level, cost, and quality performance.

The Minister for Local Government would also be empowered to specify in that order the data methodologies and protocols for reporting and presenting data against the metrics.

As is the case currently, the Minister for Local Government would be required under the Act to consult with councils on the content of the order.

10. Enhancing transparency of information in council rates notices

Reform snapshot

- 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.

Context

Currently, the Local Government Act requires councils to provide a narrow scope of technical administrative information in their rates notices – largely to support the appropriate payment of rates. As a result, councils adopt a variety of approaches for communicating information about rates to their communities, including year-on-year rating changes.

The Future of Local Government Review identified that providing, additional, standardised, easy to understand information in rates notices will help communities understand their council's rating practices and their financial management and budget decisions.

Reform detail

Amendments to the Act would provide that the Minister for Local Government may, by order, specify minimum information to be included in council rates notices for the purposes of informing ratepayers about:

- the drivers for the year-on-year changes to their rates liability (including rating policy changes, changes to property valuation, and changes to the general rate component);
- the total amount of rates payable on the property for each year over the preceding five years;
- the average year-on-year general rate change for a property, expressed in relative terms; and
- how rates have been applied by councils across service categories and functions.

As with other proposed reforms utilising Ministerial Orders, the Minister for Local Government would be required to consult with councils before finalising and issuing the rates notice requirements.

These provisions will likely link to and align with the proposed amendments under reform 9 in relation to the issuing of standardised performance metrics and data collection and reporting methodologies in respect of rating data.

11. Mandating internal audit for councils

Reform snapshot

- 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 *Local Government Act 1993* will provide for the application to councils of Treasurer's Instructions for internal audit issued under the *Financial Management Act 2016* (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.

Context

The Future of Local Government Review observed council audit panels are currently under-resourced, and do not meet frequently enough to provide effective assurance consistent with their broad-ranging responsibilities under the Local Government Act.

Non-compliance by some councils with core statutory requirements for statutory plans in particular shows audit panels are not always able to pick up key risks and issues, or where they do there is insufficient accountability on councils for addressing compliance failures that are identified.

The Future of Local Government Review noted the challenges facing audit panels are partly attributable to a lack of support at many councils from dedicated and appropriately resourced internal audit capability.

Tasmanian Government agencies are required under Treasurer's Instructions to have an internal audit function, which plays an important role in providing objective assurance and advice on a range of risk and compliance matters.

The Future of Local Government Review recommended consideration be given to similarly mandating an internal audit function for councils, given their responsibilities for managing significant public assets and resources. Mandatory internal audit is a feature of the local government legislative frameworks in other jurisdictions, including New South Wales and Queensland.

The earlier Local Government Legislation Review also noted potential limitations in the Director of Local Government's ability to obtain audit panel reports, and recommended the Director of Local Government be given this explicit power. The Future of Local Government Review went further and proposed the Director of Local Government should also be empowered to initiate an internal audit of a council in certain circumstances (such as in response to emerging evidence of governance issues).

Reform detail

The Local Government Act would be amended so that the Treasurer's Instruction issued under the *Financial Management Act 2016* relating to internal audit applies to councils.

The amendments would enable the Treasurer to modify the application of the Instructions as and where this is necessary and appropriate for the local government context. A similar approach is used for other entities which are not Tasmanian Government departments, including the Macquarie Point Development Cooperation.

Utilising the relevant Treasurer's Instruction has the advantages of adopting an existing best practice, principles-based framework for councils, which is consistent with that which applies to state government agencies without having to create a separate, parallel framework under the Local Government Act.

The Department of Treasury and Finance also maintains best practice guidelines which include information on internal audit to support councils in adopting and operating under the Treasurer's Instruction.

As applied to councils, the Treasurer's Instruction would provide broad discretion around establishing internal audit, within a framework of high-level principles and minimum procedural and governance requirements.

It would mean, among other things, the general manager must ensure:

- that effective and appropriate internal audit arrangements are established and sufficiently resourced;
- the internal audit function must provide for the ongoing review of the effectiveness of internal governance, risk management and control processes;
- those undertaking the internal audit function have unrestricted access to all records, data, assets, personnel, premises and information that is relevant and necessary to perform the internal audit function;
- those undertaking the internal audit function have the necessary authority to perform reviews, evaluations, appraisals, assessments and investigations of functions, processes, controls and governance frameworks of the council;

- the council has an internal audit charter that specifies the function, purpose, authority and responsibility of those undertaking the internal audit function; and
- the council has an internal audit plan covering a minimum period of three financial years, and which is reviewed and updated on an annual basis.

Councils would have flexibility to resource their internal audit function independently or engage an independent external firm as part of a resource sharing arrangement among participating councils.

Building on this reform, and as recommended by the legislation review in 2020, the Director of Local Government will also be given the explicit power to request internal audits be undertaken, where they reasonably believe a council is failing to perform a function that is impacting on the operations of the council.