Future of Local Government Review 2022

For simplicity and clarity the following overview of Local Government in Tasmania is provided in dot point format :

Local Government is the most important level of government that members of the community are likely to deal with. It applies to their workplaces, living spaces, health and well being.

There are no clearly defined, legislated boundaries between Local Government and State Government, nor a clear definition of the functions and powers of Local Government.

The Local Government Act 1993 is in urgent need of review and needs to be rewritten to rectify deficiencies and to meet the needs and expectations of 2022 and beyond. For example – the definition of a property value as an indicator of a persons wealth and thus ability to pay a higher tax instalment is a left over from the feudal tax system of the middle ages where the Lords lived in a mansion so they could afford a higher tax.

To expand on that outdated thinking : Municipal or City rates are a tax, not a fee for service. This is clearly not understood by the vast majority of community members and I am hard pressed to provide other examples where a tax is levied just because it can be.... Income tax depends on income, energy bills are a fee for service as is your internet, insurances etc. Even car registration is a fee for service (be it access to the road network). Fuel has an excise component (a tax) but it is on a "user pays" basis. Is there a direct link between my municipal rates and the services a council provides – based upon my usage of those services ? No just a rate based on councils perception of my supposed wealth . All council ratepayers should share the cost burden of the council equally as they all share in the amenities provided. We in GSBC democratically selected that model of municipal rating (AAR) in accordance with the Local Government Act 1993 only to have it taken away without a mandate (or even consultation) yet the Act 1993 allowed for this to occur by default.

If the Local Government Act is intended as the "rule book" for Local Government it must be clear, concise, accurate and there must be an empowered body willing and legally able to enforce the legislation within the Act.

There must be an end to State Government claiming "Local Government is a separate sphere of Government so we can't intervene". If State Government will not intervene it leaves community members unprotected and unsupported should a council, or council management team, not follow the legislated requirements of the Act.

Many councillors are easily intimidated by Council General Managers who , with the backing of LGAT, can easily fall into the role of policy makers and become the unelected source of power within a municipality despite them only being employees of the said council.

If the Department of Local Government is just a training organization for Councillors and staff then disband it or empower it to be the governing body for a new Local Government Act .

Remove all influence from LGAT within Local Government and allow councillors and council staff to be answerable for breaches to the new legislation directly to the appropriate policing body without the interference or protection from LGAT.

LGAT , similar to other Australian state groups (LGAV etc.) have migrated from their century old purpose (of providing a sharing of expertise and resources between neighbouring councils) into a major bureaucracy that protects their members from criticism etc. whilst forming a bridge directly to State Government. They have empowered themselves at the expense of community – the very people Local Government is supposed to represent and we as community members are forced to pay for their organization.

This very review has three members on the Board either with current or past LGAT involvement yet there are NO community advocate groups (i.e Ratepayer association members etc.) included. Surely community members should have an equal number of positions on a Board deciding their future and the rules under which they will live and work into the future..

I note Councillors and council staff are having their review input opportunity placed under the direct control of LGAT ..... I rest my case - with regards to undue power and influence from that organization and hope this review will take a serious look at their influence and effects on both the review and State Government decisions.

What is needed , moving forward, is a clear definition of the roles and functions of Local Government. A clear set of concise and accurate legislated rules and an empowered and independent arbitrator able to act upon breaches of the new legislation – a Local Government Ombudsman - with the power to intervene, rectify issues and take punitive actions where breaches have occurred.

Tasmania is over governed at a Local Council level. There are too many Councils for a population of this size and the costs of an ever growing bureaucracy is being borne by the community whilst their services are shrinking. Who is blocking amalgamations and efficiency implementation ? - LGAT – to protect their members and empire ....

Amalgamations and cost savings are good steps forward but if you do not deal with the power of LGAT those positive steps will be quickly eroded as LGAT rebuilds their empire. That has been the experience in Victoria where, within a few short years following amalgamations, the LGAV bureaucracy rebuilt itself and efficiencies etc. were again eroded.

It should be noted that Victorian amalgamations resulted In a 25% reduction in the annual community rate take . There is no reason that this can not occur in Tasmania.

One must ask : is this whole level of Local Government actually needed ? or could a new and improved service be provided through State Government whilst retaining the Councillor input and community liaison functions. i.e let State Government provide the overall management whilst local community still has input and control via their councillors.

Greg Luck, Swansea

Review of the Tasmanian Local Government Act 1993 – The Review 2022

To whom it may concern

I have been prompted to have my say, regarding the above review, after 12 months of witnessing first-hand the abject failure of both the Local Government Act 1993 and its implementation within our home state of Tasmania. To say the above Act is still relevant in 2022 would be an ill-informed statement, as sections are no longer relevant and offer very little protection for the ratepayers of our 29 municipal councils.

To help explain the above I will use the previous 12 months history, in Glamorgan Spring Bay (GSBC) as an example of a council trampling over the legislated rights of its rate payers (the very people whom the council exists to serve) and the failings of an antiquated piece of Legislation (the Act 1993).

As you would be aware Tasmania has been subjected to a pandemic (Covid 19) for more than two years. The management of GSBC decided to implement a major rating methodology change during that pandemic with no community consultation and with a high degree of stealth.

This methodology change had a vast effect on the predominantly elderly population of GSBC. No longer were they paying a "flat rate" (AAR) where every ratepayer paid an equal amount, now they were paying a much higher rate based on the value of their property (AAV). Whilst happy their asset values have increased their actual income has been eroded by Covid 19 and cost of living rises.

GSBC opted to change the rating system to increase their rates return by "linking" rates to the new re-valuations of properties due this year. As you would be aware there will be huge rises in the AAVs due to the surge in property sale prices. How does a retiree or pensioner suddenly come up with the extra rates just because a greedy council sees them as "rich" ? do they sell their house or rent out a spare room to a backpacker ?

This is a failure in the Act 1993. Where a persons ability to pay a higher property rate is defined by the AAV of their property. No allowance is made for how much equity that person has in that property or even whether it is their sole property or their tenth investment. Many retirees are resorting to "Reverse Mortgages" to survive and, indeed, that is encouraged by the Federal Government so should not the AAV of a property and its subsequent rates payment be adjusted by the equity investment percentage of the owner ?

In the case of GSBC, the management team knew the effects of their actions on retirees but failed to do any appropriate modelling. Instead they placed a "safety cap" on the maximum rise an individual could expect – the safety cap was set at 99% Per annum - a ludicrous amount unheard of in Australia yet apparently legal under the Act 1993.

The elected councillors were misinformed and mislead (I believe deliberately) and voted on the rating methodology change based on faulty advice. They failed to carry out their own due diligence and blindly accepted the advice presented to them . Again there was no recourse under the Act 1993. Letters to the Director of Local Government confirmed the advice acted upon was faulty yet he was unable/unwilling to get involved in a democratically made decision (the councillors decision). Petitions to the House of Assembly were ignored as "Local Government is a separate sphere of Government and they could not get involved". Another failure of the Act 1993 where the elected council and the council management team are not held responsible for their decisions.

The Ombudsman rejected the case on the basis that a democratically elected group of councillors had made a decision and that should not be overturned. As said before that councillor decision was made on faulty advice yet it must stand ? another failure of the Act 1993. The Ombudsman referred us to the Integrity Commission as the advice upon which the councillors acted was "suspect" and the General Manager had both provided and certified that "suspect" advice. No action was taken , by the Integrity Commission, as it could not be proven the General Manager had gained personally (i.e could be charged under the law – despite the deliberate misleading of a public officer – the councillors – being an offence) . Again a failure of the Act 1993

It should be noted that the ratepayers of GSBC followed the Act 1993 to the letter of the law when they exercised their democratic rights and selected AAR as their rating methodology some 13 years ago yet they are expected to accept that democratic decision being taken from them by a council and management team with absolutely no input,mandate or prior warning and during a pandemic when council barred all community members from participation in any form of government. How can 12 months of community consultation, rates comparisons and calculations, required under the Act 1993, for GSBC to instigate AAR be overturned yet no processes, for that overturning, be defined under the ACT 1993 for a change to AAV? Another failure of the Act 1993.

Investigations into the councillors voting, on the rating methodology change, revealed some interesting facts. The General Manager arranged a phone consultation prior to the deciding vote in order to crunch the supporting numbers. Fearing a close outcome he then arranged for a councillor holidaying in West Australia to vote upon the rating change. Influencing a councillor is not the role of a General Manager, voting whilst absent from the state is possibly illegal and crunching the votes is the role of the mayor. Yet is this covered by the Act 1993 .....

Further investigations, into the supporting voters, prompted us to look back and see how they were elected – where did their votes come from. That is still ongoing however it raises a huge failure in the ACT 1993 being "The General Managers Electoral Roll". Persons who reside in GSBC are automatically enrolled on the State Electoral Roll and therefore on the GSBC Electoral roll. However if you are a ratepayer in GSBC and reside outside the municipality you can apply to be on the GMs Roll. Fair enough- you contribute rates so you should have a say in how they are spent.

Here is where it gets murky : an "occupier" is also allowed to be on the GM Roll yet the Act 1993 does not define a minimum period a person must reside before being identified as an "occupier" . There is no requirement under the Act 1993 to pay rent in order to be an "occupier" so as long as you are over 18 years of age and stay in the property one night you could enrol to have a vote in municipal elections.

Should a group wish to take control of a council, by installing several councillors of their choosing, it would not be difficult to get 5-10 extra votes per household. There is no defined period for a General Manager to review the GM Roll other than a requirement that it must be certified as accurate prior to an election.

A major failure in the Act 1993 - and I suggest the Government should urgently instruct all councils to send letters to all General Manager Roll enrolees cancelling their enrolment until such time as they submit a new application legally signed and witnessed by a JP or CD. Only then can we be certain the elections, upcoming, are free from interference. It should be noted GSBC has an unusually high percentage of General Manager Roll enrolees when compared with other similar councils.

Whilst the Act 1993 is the legislation intended to protect and govern the ratepayers and residents of all Tasmania it is no longer relevant and does very little to that end. What is needed is an up to date Act that is current, relevant and does what it is intended to do.

The Department of Local Government is a toothless tiger. It can not protect ratepayers from mismanagement if it does not wish to be involved. If it is just a "training" provider for local government one must ask why it exists ? empower it, get it involved or disband it.

The last issue exposed during this last 12 months has been uncovering the vast influence, over local government, of the Local Government association of Tasmania (LGAT). Everywhere I went, in my search for the truth about GSBC and their rates decision, I hit the hurdles placed by LGAT . Communications to many varied areas of Local and State Government would start off in a helpful and conciliatory fashion only to suddenly stop or be censored. It soon became apparent that LGAT has members in most areas of government and they are protecting both their own interests and particularly those of the council general managers.

Interference of the kinds mentioned above occurred when I attempted to correspond with the GM of George Town and Brighton, the State Grants Commission and Treasury etc. When one looks into the various committees etc. set up by State Government (including this very Review) there are invariably LGAT members either directly involved or on the fringe.

LGAT was set up nearly a century ago with the aim of sharing resources and expertise amongst neighbouring councils. It would appear that its role has changed to providing solidarity and support for fellow managers whether they act correctly or not. As a ratepayer I am not happy contributing to such a "club" nor allowing them to collectively influence the direction and performance of Local Government in Tasmania. If the Act 1993 was current and the Director of Local Government (and his department) properly empowered there would be no need for LGAT and their interference would/should cease.

There are many problems apparent within the current Local Government system and here are just a few :

Councillors seem to misunderstand their role : they are elected to "represent" the ratepayers and not "rule" the ratepayers. There needs to be a legislated process of councillors collecting true community representation and voting on those representations and not their personal opinions. The size and source of councillor data collected must be accessible to the public for clarity.

There seems to be a misunderstanding that needs rectifying : The General Manager, of a council, is an employee only, he/she is not the policy maker in a municipality and is answerable to the community directly.

The current electoral period is four years which is too long for most councillors to fully commit to. 50% of councillors should be replaced/or re-instated every two years so that a Council has continuity for stability. Eight new councillors, In one election, would leave no experience and further a General Managers potential "bullying" if they were that way inclined. Councillors come and go but the General Managers entrench themselves and with LGAT support they are "untouchable" , a situation that needs redress.

There is a saying "if you pay peanuts you get monkeys", this applies to councillors. If a better remuneration was applied then better candidates may appear. Why would working people give up days of their time and have their principle job suffer for "peanuts" ?

In GSBC distance between population centres is a tyranny. Coles Bay to Triabunna (council HQ) is a 220 klm return trip, Bicheno to Triabunna is 185 klm return. How can ratepayers be expected to attend a council meeting or workshop with that distance and expense ? We need to ensure the council management workshops and meetings are held in the four towns on a rotating basis to ensure equality and fairness.

To overcome the distance issue, Council was instructed to "live stream" its meetings so community members could understand decisions being made and council transparency would be enhanced. In GSBC all councillor discussions etc. are carried out in "workshops" thus avoiding the community consultation and avoiding transparency. Only the actual monthly meetings are "live streamed" and there is basically no discussion at that stage – all we get to see is a "show of hands" defeating the intended legislated requirements of the Act 1993 ..... another failure.

The following extract is published with the full permission of Mr. John Gault :

Greg, I read your letter with deep interest. Congratulations! A very well documented record of your experience over the past 12 months, and it's as good a contemporary critique of the failings of the Act vis-à-vis GSBC, and undoubtedly other Councils.

I particularly noted, and agree with your comments about the LGAT - if ever I saw an "old boys club" this is one of them! And very dangerous in the contemporary setting of entrenching the bad practices of LG which have embedded themselves over the 100 years the LGAT has existed. So well done.

I also welcomed your comments on the future reform of LG in Tasmania. I think you are aware that I was involved in the reform of LG in Victoria in the mid-1990's. Despite intense political opposition (and incidentally but perhaps not surprisingly strongly opposed by the LGAV!), the then Kennett Government boldly amalgamated the 217 LG's prior to 1994, into 78, and achieved that amalgamation over the two or three years which ended in 1998. In my own case, I was the Government appointed Chairman for two and a half years of an amalgamated Council in Central Victoria. The Government appointed three Commissioners for just under 30 months in the amalgamated Council, and entrusted us with the management and financial tasks involved in the process. You may be interested to know that, apart from the mechanisms of amalgamation to do with management, restructure, asset management, etc., we (Commissioners) REDUCED the annual rate collect by 24%, and I'd be happy to let you know how that was achieved. . . . . I really think the plethora of LG's in Tasmania is dreadfully wasteful - 28 or 29 LG's in a population of only 650,000 is ipso facto way, way too many. There is a very good case to be made to examine feasible amalgamations right across the State, as well as a "root and branch" review and clean out of the 1993 Act. As part of the Review, there needs to be a sweeping redefinition of the role, function, powers, duties, responsibilities and authorities of Councillors, and a very clear definition of the distinction in all of those aspects between elected Councillors and appointed staff (especially CEO's or GMs'). There also needs to be a very thorough tightening of the circumstances under which the Minister for LG should be empowered to intervene where Councils are not performing to the satisfaction of their ratepayers. Of course, that requires the political determination and courage to actually ACT!!!!

A most interesting and informed addendum for those contemplating change in Tasmania.