The Future of Local Government Review, Options Paper

Homes Tasmania Submission

Homes Tasmania

Building homes, creating communities.

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Executive Summary

Homes Tasmania welcomes the opportunity to provide a submission on *The Future of Local Government Review, Options Paper* (Options Paper). We support the important work of the Local Government Board (Board) to review how our local councils work and make recommendations about the changes needed to ensure our local government system can effectively respond to the growing demands and changing needs of our communities.

As the Options Paper highlights, some key challenges our communities face include tackling entrenched intergenerational disadvantage and managing the impacts of climate change. We note that the delivery of well-located, resilient and affordable housing (including social housing), together with appropriate infrastructure, is central to addressing these issues.

These interdependencies are highlighted in the *Tasmanian Housing Strategy Discussion Paper*, which notes that 'the provision of safe, secure and affordable housing is the basis of many health, social and economic outcomes for individuals and families.' As Homes Tasmania works to finalise the *Tasmanian Housing Strategy*, the central theme emerging is that housing is the foundation for Tasmania's future. Indeed, housing is fundamental to:

- a safe, just and fair society and is inextricably linked to education and health outcomes
- environmental sustainability, energy consumption and climate change resilience; and
- the economic prosperity of our State – both directly in providing accommodation for workers and indirectly through its connection with the six largest sectors of our State's income (advanced manufacturing, food and agribusiness, international education, resources and energy, science and technology, and tourism).

This submission chiefly focuses on the proposals in the Options Paper relevant to the work of Homes Tasmania. These include proposals under Reform Outcomes 1, 3, 5 and 6 which relate to:

- the role of councils and their focus on community wellbeing
- community engagement on local issues that affect them
- regulatory frameworks, systems and processes; and
- collaboration with other councils and State Government.

In addition, we provide comment on the structural reforms proposed by the Board.

Homes Tasmania's chief concern is to ensure that the regulatory environment relevant to local government and planning in Tasmania supports the efficient and effective delivery of social and affordable homes across the State, noting the widely held view that social housing is a form of essential infrastructure. We strongly support the development of legislation or other regulatory reform to expedite the delivery of social and affordable housing and to prevent the use of legal mechanisms, such as restrictive covenants, to prohibit the construction of social or affordable homes in new development areas. These reforms would include modifying councils' involvement in development application decisions, as proposed in Reform Option 5.1.

Notably, the need to implement reform measures to facilitate the efficient and effective delivery of the Tasmanian Government's $1.5 billion housing package was highlighted by Cabinet when it committed to establishing Homes Tasmania as an independent statutory authority tasked with delivering 10 000 additional social and affordable homes by 2032.

In addition to the above, Homes Tasmania is keen to ensure that mechanisms are put in place to support greater collaboration between State Government and local councils to provide more land for social and affordable housing developments. As such, we strongly support Reform Option 5.4 to improve collaboration between State and local governments in relation to strategic land-use planning. We consider a coordinated and collaborative approach between Federal, State and local governments in this space to be crucial given, among other things, the likely improvements that would result in relation to delivery of social and affordable housing in well-serviced areas and the climate resilience of local communities.

In summary, Homes Tasmania supports, or supports in part, the following proposals:

- establish a Local Government Charter (Option 1.1) – support
- embed community wellbeing considerations into key council strategic planning and service delivery processes (Option 1.2) – support
- require councils to undertake Community Impact Assessments for significant new services or infrastructure (Option 1.3) – support in part
- require councils to develop consistent, contemporary community engagement strategies (Option 3.1) – support
- establish a public-facing performance reporting, monitoring and management framework (Option 3.2) – support
- de-conflict the role of councillors and planning authorities (Option 5.1) – support in part
- ensure greater transparency and consistency of councils' resourcing and implementation of regulatory functions (Option 5.2) – support
- increase support for the implementation of regulatory processes, including support provided by the State Government (Option 5.3) – support
- strengthen connections between councils' strategic planning and strategic land-use planning by working with State and Federal Governments (Option 5.4) – support
- establish stronger, formalised partnerships between State and local governments on long-term regional, place-based wellbeing and economic development programs (Option 6.2) – support
- implement Pathway 3 to deliver targeted local government service and boundary consolidation measures – support.

Homes Tasmania welcomes further discussion in relation to the Options Paper and looks forward to the Board's Final Report and recommendations. Where Homes Tasmania is silent on a particular Reform Option, this should not necessarily be interpreted as opposition to the proposal.

Homes Tasmania Context

In February 2022, the Tasmanian Government announced that a new housing authority, Homes Tasmania, would be established to deliver Government's 10-year, $1.5 billion housing package – building on existing initiatives and taking further action to improve access to safe, secure and affordable housing.

Homes Tasmania commenced operations on 1 December 2022, following passage of the *Homes Tasmania Act 2022*. Homes Tasmania is governed by a skills-based Board, which reports directly to the Minister for State Development, Construction and Housing. Homes Tasmania's work addresses the whole continuum of housing and homelessness services, including social housing, homelessness accommodation, supported accommodation, affordable private rentals and affordable home ownership. We are committed to collaborating with key stakeholders in the private and community services sectors and with all tiers of government to elevate strategic planning, contribute to urban renewal and help create more inclusive communities.

Our strategic directions will be supported by a new *Tasmanian Housing Strategy*, which will set a 20-year vision for housing in Tasmania and address issues such as future growth, affordability, accessibility, ageing, planning and construction, and sustainability. It will help ensure that housing can meet the needs of all Tasmanians, including the most disadvantaged, those in the workforce and people as they age.

The Reform Options proposed in the Options Paper hold implications for Homes Tasmania, which is committed to working with all levels of government and key sector stakeholders to deliver appropriate and sustainable housing solutions across our State.

Comment on The Future of Local Government Review, Options Paper

Reform Outcome 1 – The role of councils and their focus on community wellbeing

Reform Option 1.1 – Support

Homes Tasmania supports Reform Option 1.1, to establish a Tasmanian Local Government Charter, including a practical set of decision-making principles for councils.

The Options Paper highlights the lack of clarity that exists around the role of local government in Tasmania, which has created uncertainty about what councils can or should be doing. As the Board notes, this lack of clarity results in 'unrealistic or confused expectations from communities' as well as gradual 'scope creep' in the range of functions performed by some councils. In working across multiple local government areas state-wide, Homes Tasmania has found that the role of council as statutory authority often merges into their role as advocate and facilitator. This can result in overreach of a council's statutory responsibility and decision-making. Homes Tasmania suggests that these roles need to be more clearly articulated and better understood.

In supporting Reform Option 1.1, Homes Tasmania agrees with the Board that the Charter should provide councils with the flexibility they need to respond to changing circumstances and community needs. In particular, we support providing greater clarity through the Charter as to how local councils work together in collaboration with other spheres of government (including utilities entities, such as TasNetworks and TasWater).

Reform Option 1.2 – Support

Homes Tasmania supports Reform Option 1.2, to embed community wellbeing considerations into key council strategic planning and service delivery processes.

Homes Tasmania agrees with the Board that local governments play a central role in promoting the wellbeing of their communities, and would highlight the crucial role that safe, secure and affordable housing plays in community wellbeing. As mentioned in the *Tasmanian Housing Strategy Discussion Paper*, the provision of safe, secure and affordable housing is the basis of many health, social and economic outcomes for individuals and families. The inter-relationship between housing and good health is well researched and shows that maintaining appropriate housing leads to reduced costs on the health and human services system. This view is also supported in Tasmania's whole-of-Government, Child and Youth Wellbeing Strategy – *It Takes a Tasmanian Village*. As such, Homes Tasmania would emphasise the importance of local councils continuing to facilitate delivery of social and affordable housing and crisis accommodation which promotes community wellbeing. We also note the Board's reference to the pending whole-of-state Wellbeing Framework announced in May 2022 and agree that local government efforts to support wellbeing should align with the strategic directions to be provided in the Wellbeing Framework.

Further, Homes Tasmania supports the strategic involvement of local councils in 'place-shaping', through community engagement, advocacy and facilitating programs and projects at the community level, as highlighted in the Options Paper. We note that place-shaping involves strategic land-use planning and would highlight the importance of local councils working together with the Tasmanian Government to identify new land for social and affordable housing developments. Homes Tasmania is committed to working with local councils to deliver affordable land to contribute to the development of thriving, diverse and inclusive Tasmanian communities.

Reform Option 1.3 – Support in part

Homes Tasmania supports in part Reform Option 1.3, which would require councils to undertake Community Impact Assessments (CIAs) for significant new services or infrastructure. Our support is only partial since, as noted below, a broader strategic approach may be preferable to undertaking impact analysis on an issue-by-issue basis.

As the Options Paper notes, CIAs would require councils to undergo a transparent, thorough and consultative process which considers the social and cultural impacts and whole-of-life costs for significant projects. Homes Tasmania would highlight the importance of limiting this requirement to 'significant new services or infrastructure' as specified in the wording of Reform Option 1.3, since developing CIAs can be resource intensive and, as the Board has highlighted, issues exist with respect to councils' capacity and capability. Community infrastructure planning is necessarily a multi-disciplinary process. For smaller councils with limited resources, if CIAs were required for non-significant new services and infrastructure, this could be setting them up to fail. However, even if CIAs are only required for significant projects, capacity and capability limitations may still require councils to engage expensive consultants to undertake the CIAs or, alternatively, may lead to rudimentary consideration of the issues. With this in mind and considering the risk of consultation fatigue for local communities in high-growth areas, which may require several significant new services or infrastructure projects, we note the feedback received by the Board which suggested that 'it may be more efficient for councils to consider service costs on a larger-scale, strategic basis rather than on an issue-by-issue basis.' This larger-scale approach may also help stakeholders to understand the interdependencies that exist between, for instance, delivering a new public transport project and delivering new sporting and recreational facilities.

Reform Outcome 3 – The community is engaged in local decisions that affect them

Homes Tasmania recognises the need for, and benefits associated with, councils undertaking genuine community consultation on local issues, and highlights the important role that councils play in providing objectivity with respect to perceived versus real impacts of local decisions. We note, for instance, that there may be fears and misconceptions about a project's impacts, and concerns may be raised that are not evidence-based. Community engagement not only provides councils with a forum to hear community views and concerns but also provides a platform to address any misconceptions and false information.

For example, we note that there may be misconceptions and outdated community attitudes regarding the types of tenants who may live in a proposed social and affordable housing development and the behaviours they may engage in. These attitudes can be reflected in a Not-In-My-Backyard or 'NIMBY' response, which strongly resists such projects going ahead. Homes Tasmania considers it vital that council engagement with local communities in relation to social and affordable housing projects provide a balanced and evidence-based view about the associated risks and benefits of proposed community projects.

Reform Option 3.1 – Support

Homes Tasmania supports Reform Option 3.1, which would require councils to develop consistent and contemporary community engagement strategies.

Homes Tasmania agrees with the Board that developing appropriate and contemporary community engagement guidelines would facilitate engagement approaches across Tasmanian local government areas that are more consistent and informed by best practice. We note, however, an important distinction between general community consultation in the lead up to a project and the formal exhibition of a planning application under section 57 of the *Land Use Planning and Approvals Act 1993* (LUPA Act). Our comments on Reform Option 3.1 relate to the former, where any issue may be discussed, rather than the latter which must relate directly to discretion under the Planning Scheme, where a local council sits as Planning Authority.

Regarding general community consultation, we support contemporary approaches to community engagement that enable the voices of all community members to be heard, including the elderly, people with a disability, people with English as a second language, people from Aboriginal communities, young people, victim-survivors of family violence and social housing tenants. We consider it vital that voices of marginalised groups have as much opportunity to be heard as the voices of those in the majority. For example, when it comes to proposals related to crisis accommodation for people escaping family violence, face-to-face engagement forums may pose a risk to victim-survivors. While the Board has noted the challenges associated with using social media platforms for community engagement, other forms of online engagement are essential. Conversely, engagement approaches that are solely text-based will affect the extent to which Tasmanians with literacy challenges can engage on local issues.

Reform Option 3.2 – Support

Homes Tasmania supports Reform Option 3.2, to establish a public-facing performance reporting, monitoring and management framework.

Homes Tasmania would support a performance framework that provides a consistent and transparent process for council reporting, and we note that this would be consistent with the recommendation of the Local Government Legislation Review. We also note that other jurisdictions appear to be more advanced in this space and this measure would bring Tasmania into alignment.

Any performance framework relied on would need to be developed and agreed in consultation with councils and should not be resource intensive. With this in mind, we would support the development and rollout of a central online reporting platform. Home Tasmania's interest in improved data collection and reporting would be chiefly associated with planning approvals, approval timeframes, infrastructure and services, and information on land and dwellings.

We consider that the interactive dashboards released earlier in the Review of Local Government process provide good examples of data reporting. However, there may also be other good examples of data released by councils in Tasmania, such as Devonport City Council's interactive Data Dashboards.

Reform Outcome 5 – Regulatory frameworks, systems and processes

Reform Option 5.1 – Support in part

Homes Tasmania supports in part the general proposal in Reform Option 5.1 to de-conflict the role of councillors and the role of planning authorities, to the extent that this relates to the delivery of social and affordable housing. Our comments below highlight the challenges Homes Tasmania faces in this area but does not indicate support for a specific method of de-conflicting the role of councillors and planning authorities as proposed through Reform Options 5.1a, 5.1b and 5.1c.

Homes Tasmania's primary concern is to de-conflict the role of local councillors and planning authorities with respect to development applications for social and affordable housing projects. We note that the Board received feedback suggesting that the role councillors play in representing the community can often conflict with the role of planning authorities to objectively apply the provisions of a planning scheme.

Homes Tasmania commends the significant planning reforms that the Tasmanian Government has undertaken in recent years, including through efforts to provide 'No Permit Required' and 'Permitted' pathways for multiple dwellings in the residential zone. However, while many simple housing projects in Tasmania will meet the 'No Permit Required' and 'Permitted' criteria, social and affordable housing developments are generally larger-scale undertakings and often trigger a discretionary assessment due to lot size, parking, or other factors that do not meet the Acceptable Solutions. We note that the planning system triggers discretion for even minor deviations from the permitted Acceptable Solutions and the process then requires 14 days of public notification and invitation for representations (objections or support) to be made, professional planning assessment against the performance criteria and the opportunity for an elected council to reach a different conclusion to its planners.

As part of this process, the 'discretionary permit' provision in section 57 of the LUPA Act allows a permit application that does not meet the Acceptable Solutions to be subject to a

planning assessment against Performance Criteria. The local council has discretion to approve (subject to any conditions) or refuse a discretionary application based on an assessment against the Performance Criteria. While councils are obliged to consider stakeholder representations regarding the issue, their decision must be based on the Performance Criteria.

The timeframe for issuing or refusing a discretionary permit under the LUPA Act is 42 calendar days. However, section 54 allows councils to stop the clock on the 42-day processing period by issuing, within 21 days of receiving a discretionary permit application, a notice requesting further information (RFI request). Until the information is received, the 42-day processing period is on hold. This can lead to significant delays in receiving approval for and ultimately delivering social and affordable housing projects in Tasmania. We note that RFIs must relate to matters that need to be assessed against the planning requirements, however 'NIMBY' resistance to projects can be outworked through ostensibly legitimate RFI requests, particularly multiple and successive requests. Where this occurs, it can have a significant impact on development approval timeframes and the overall costs associated with delivering this essential community infrastructure, potentially rendering a project financially unviable.

In addition to the impact of approval timeframes on the efficient delivery of social and affordable housing projects, Homes Tasmania notes the practice whereby some developers include in their development proposal a restrictive covenant which prohibits the construction of social and affordable dwellings within the development area. This practice, motivated by the goal of maximising investment returns, may be permitting a form of systemic bias to operate within our planning system. It is at odds with the widely held, contemporary view that a diverse range of housing within a development area, which caters for a range of household types, provides greater opportunity for low-income earners to live in well-serviced areas close to employment opportunities, promotes more diverse and inclusive communities, and can potentially lead to improved education and health outcomes.

Homes Tasmania suggests that reform is required to ensure social and affordable housing projects are not unreasonably delayed and to support the delivery of much-needed social and affordable housing stock in our State by scrutinising practices that may indirectly discriminate against low-income households. Homes Tasmania considers that there are several potential options to de-conflict the role of councillors and planning authorities and to facilitate the delivery of more social and affordable housing, based on approaches that have been effective in Tasmania and elsewhere. The preferred options would depend on consideration of stakeholder feedback and contextual factors. Three potential options include:

- broadening the scope of development approvals currently allowed under the No Permit Required process to include small-scale social and affordable housing developments of 12-15 units (with a two storey height restriction)
- re-establishing the approval process for social and affordable housing that existed under the successful National Social Housing Initiative 2009-2012 where, pursuant to legislation developed under the National Partnership Agreement on the Nation Building

and Jobs Plan (NPA), the LUPA Act did not apply to development projects that the Tasmanian Treasurer declared to be NPA projects; and
- prohibiting the use of restrictive covenants in development proposals which do not permit social or affordable premises to be constructed in the new development area.

Further, while unrelated to the issue of de-conflicting the role of councillors, Homes Tasmania considers that more efficient delivery of social and affordable housing may be achieved by allowing a local council, following a determination to sell, lease or exchange their land or buildings, to complete transactions for social and affordable housing projects without the need for additional approval from the Tasmanian Planning Commission as is currently required under section 178 of the *Local Government Act 1993*.

Reform Options 5.2 and 5.3 – Support

Homes Tasmania supports Reform Options 5.2 and 5.3 which would, firstly, ensure greater transparency and consistency of councils' resourcing and implementation of regulatory functions and, secondly, increase support for the implementation of regulatory processes. We consider that Reform Options 5.2 and 5.3 go hand in hand and, as such, provide a single response to the two proposals. These options are also closely linked to the council consolidation proposals in the Structural Reform section of the Options Paper.

Firstly, we reiterate our comments on Reform Option 3.2 regarding public facing reporting and monitoring. We agree with the Board that improved performance reporting and monitoring would likely help communities to understand how well their councils are exercising their regulatory responsibilities, and would help councils to 'level up' to the standard of similar councils. However, we highlight that one of the underlying causes of inadequate performance of regulatory responsibilities, as noted in the Options Paper, is that over 85 per cent of Tasmanian councils in 2022 were experiencing skills shortages, particularly in the areas of engineering, town planning, environmental health monitoring, and surveying. Homes Tasmania's main concerns regarding inadequate regulatory performance relate to proper infrastructure maintenance, capacity to assess applications within the statutory timeframes provided, enforcement of building and plumbing regulations, and council provision of housing services.

We also note, as mentioned in the Options Paper, that skills shortages and workforce capacity issues are more acutely felt in regional areas and agree with the Board that the 'only appropriate response to structural constraints is structural reform'. As such, if one of the council consolidation measures proposed in Section 6 of the Options Paper were implemented, it would likely address many of the capacity and capability issues that underlie the problems associated with implementing regulatory functions. Consolidation of council services and/or boundaries is likely to improve operational efficiencies and regulatory service provision as well as councils' resilience and sustainability over the long-term. Larger and more well-resourced councils may also have improved strategic capacity and greater ability to advocate to State and Federal Governments to address important issues, including land use, housing, transport and infrastructure.

Reform Option 5.4 – Support

Homes Tasmania supports Reform Option 5.4, to strengthen connections between councils' strategic planning and strategic land-use planning by working with State and Federal Governments.

Homes Tasmania is keen to ensure that mechanisms are put in place to support greater collaboration between State Government and local councils to provide more land for social and affordable housing developments. We note that the processes by which we partner with councils for developments on council-owned land can be improved to achieve delivery efficiencies, set realistic expectations for infrastructure contributions and shared funding responsibility for improved infrastructure and amenity for local communities. Further, we consider a coordinated and collaborative approach between Federal, State and local governments regarding strategic land-use planning to be crucial given, among other things, the likely improvements that would result in relation to delivery of social and affordable housing in well-serviced areas and climate resilience of local communities. Together with service and/or boundary consolidation measures, a collaborative approach to strategic planning may help overcome capacity issues at the local level. It would also assist in prioritising and legitimising housing projects that will contribute to addressing specific housing needs of a community.

We note, for example, the benefits that resulted from a collaborative approach between Federal, State and local governments in the Launceston Flood Risk Management Project. Two years after the Launceston Flood Authority was established in 2008, a $58 million project to reconstruct Launceston's flood levee was commenced. A review by the Bushfire and Natural Hazards CRC following the 2016 Tasmanian floods, regarding the costs and benefits of the mitigation work, found that the new system avoided losses of about $216 million – approximately four times the total investment in the new flood levee system. Had the previous levees still been in place and failed during the 2016 floods, much damage would have been caused to residential homes and local businesses, leading to loss of income, homelessness and other issues.

Reform Outcome 6 – Collaboration with other councils and State Government

Reform Option 6.2 – Support

Homes Tasmania supports Reform Option 6.2, to establish stronger, formalised partnerships between State and local governments on long-term regional, place-based wellbeing and economic development programs.

Homes Tasmania considers there to be a strong connection between Reform Option 5.4 to strengthen collaboration between State and local governments on strategic planning and strategic land-use planning and Reform Option 6.2 regarding collaboration on wellbeing and economic development planning, noting the inherent connections between land-use, economic development and community wellbeing. With this in mind, we reiterate our chief

concern, which is to facilitate greater collaboration between State and local governments to support the delivery of more social and affordable housing across Tasmania.

Homes Tasmania notes that the Greater Hobart Homelessness Alliance (GHHA) is an example of how State and local governments can work together to tackle issues, such as homelessness, more effectively. Established by the City of Hobart following the Homelessness Crisis Roundtable in June 2019, the GHHA comprises Greater Hobart Councils, State Government, specialist homelessness service providers, advocacy groups and people with a lived experience of homelessness. The GHHA meets four times a year and works to progress a range of short, medium and long-term collaborative projects to provide sustainable housing for everyone in the community, especially the most disadvantaged.

Homes Tasmania considers that this type of collaboration and coordination is needed across the State as we move forward.

Structural reform and building local government capacity and capability

Pathway 3 – Support

Homes Tasmania supports targeted local government service and boundary consolidations. We agree that targeted boundary consolidation for some local councils, particularly in rural areas, is necessary to achieve greater economies of scale, particularly since having 29 organisational boundaries is affecting councils' ability to attract and retain staff with key skills and perform important regulatory functions. Homes Tasmania supports Pathway 3 as we consider it important to avoid a one-size-fits-all approach and presumptions about the effectiveness of councils solely based on size. We agree with the Board's view that Pathway 3 recognises that 'neither wholesale boundary change nor substantial service consolidation will be equally appropriate in all areas of the State'.

Homes Tasmania also supports capacity and capability building across local governments in Tasmania. In redrawing council boundaries, Homes Tasmania notes that it is important to consider issues such as:

- demographic trends and population growth
- location of growth corridors and economic centres
- improved financial sustainability, economies of scale
- improved capacity, capability and service delivery; and
- access to local voices – democratic representation.

We note that the next 10 years will be a significant delivery period for Homes Tasmania, with heightened activity in the building and construction industry that will require approvals processes to be streamlined, as mentioned in our feedback on Reform Option 5.1. With this in mind, it will be important for any consolidation or streamlining measures to be managed effectively, with a strong focus on implementation and consideration of how entities intersecting with councils, like Homes Tasmania, will be affected. We note, again, that there have been significant planning reforms in Tasmania in recent years and highlight the risk of

change fatigue that could result from implementing consolidation measures. As such, we would highlight the need to ensure there is strong evidence of the likely benefits where targeted consolidation and/or streamlining measures are proposed, and that comprehensive change management strategies are developed and implemented to support any required transitions.

Homes Tasmania

Building homes,
creating communities.

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