

Submission responding to the Future of Local Government Review Stage 2 Options Paper and Appendix:

Dear Local Government Review Board,

Thank you for the opportunity to comment on this paper. I should say from the outset that I believe there are a number of reasons to extend the public comment period,

1. Some of the more significant “options” proposed would not have been visible to those citizens who do not already have a keen interest in these matters, hidden as they are in the body of these documents. I refer in particular to proposals to remove Councillors from the role of Planning Authority and proposals to change Local Government Area boundaries (amalgamation).

2. The community meetings convened to get responses to this paper were held at times and places that made it remarkably inconvenient if not impossible for most full time workers to attend. You made a point of commenting on the views of 16-44 year olds, but made little attempt to help them have input at this stage.

3. The paper I refer to below with respect to Council amalgamations (Joseph Drew et al [4/2/23]), presents a remarkably strong reason for being wary of compulsory amalgamations. As it was only recently published it has not been available either to yourselves nor many of those who would seek to make submissions. It deserves consideration.

So, to the Stage 2 Options Paper:

Of the eight “reform outcomes” identified I would agree that seven are clearly desirable and that these outcomes have been achieved by my own Local Government the City of Hobart. The options given however are a mixed bag as to their desirability, in most cases lacking sufficient detail to determine whether their prosecution would represent a net benefit.

There is significant danger that their imposition from above would result in an additional layer of administrative red tape.

High performing councils would likely face additional costs in adapting their systems to the new mandated standard for no benefit, whilst it is questionable whether the smaller or poorer performing councils would see a benefit commensurable with the cost.

One of the “reform outcomes” however is highly questionable and contains “options” which have the potential to destroy local government as we know it.

“Reform outcome” 5 states

“Regulatory frameworks, systems and processes are streamlined, simplified and standardised”

There really is no justification for having this as an objective. The need for regulation is a feature of living in communities. There will always be a tension between those who want more and those who want less regulation as well as between those who want more detail and those who want simpler regulations. I would remind the Board that complexities are mostly put into regulations for legitimate reasons. Systems and processes likewise must of necessity contain complexities.

A more appropriate “reform outcome would be:

“Regulatory frameworks, systems and processes are effective and efficient”

As to whether they should be standardised this should be decided by whether this will result in them being more effective and efficient.

I will come now to what I consider the most objectionable suggestions in the “Options Paper”.

Option 5.1 states:

“Deconflict the role of Councillors and Planning Authorities”

It is true that there has been some propaganda put about that there is a conflict here, but it would appear this has no substance. Indeed it is right and proper that Councillors and candidates for Councillor should make their views known. This is perhaps best illustrated by the determination made (30th of November 2018) on the ‘Code of Conduct’ complaint made by Mr Graham Murray against Alderman Geoff Brisco. The full determination is in the public domain, but I quote below from the Judgement by Justice Zeeman in R v West Coast Council ex parte Strahan Motor Inn (1995), which was cited by the Code of Conduct Panel in explaining why they could not find Alderman Brisco in breach of the Code of Conduct for expressing his opinion about a Cable Car on kunanyi and also being a member of the Planning Authority assessing it.

Of particular relevance to the current case is a decision of Zeeman J in R v. West Coast Council; ex parte Strahan Motor Inn (1995) 4 TasR 411 where his Honour said at 421: Of relevance is the way in which local government councils are elected. Councillors are representatives of their community and elected by and from that community. It may be expected that they will support particular views as to what is in the best interests of the community and that often they will have strong personal views as to what ought to occur in the community. In one sense they may be expected to hold views which may be described as being biased. Councillors may be expected to hold particular views as to how they would wish their community to develop and to discharge their duties as councillors by reference to those views...Mere fixed views as to particular matters which are relevant to the exercise of the discretion conferred by s51, even if strongly expressed, ought not of themselves to be seen as a disqualifying factor. By conferring the role of a planning authority on a municipal council, the legislature may be assumed to have been aware of the nature of such a council and in particular that it is constituted by elected councillors. His Honour went on at p425: Expressions of opinion on the part of a member of a municipal council of a nature which would be sufficient to disqualify a member of a judicial tribunal from sitting on a particular matter may not be sufficient to disqualify a member of a municipal council. Councillors may be assumed to hold and to express views on a variety of matters relevant to the exercise of the functions of the council. Expressing such views is part of the electoral process. Provided that expressions of opinion do not go so far as to evince an intention to exercise a discretion conferred by statute without regard to the terms in which it is conferred or without being prepared to listen to any contrary argument, it ought not be taken to disqualify the councillor from participating in a relevant decision-making process.

It would seem that the problem, if indeed there is a problem is that it is not sufficiently understood that Councillors have a right (even a moral obligation) to make their views known. Hence the solution is better education of Councillors and their constituents.

You give three “options” to achieve this “deconfliction”, of which the first two would remove an important feature of self determination from the local community and the third is uncertain of outcome. The establishment of “independent assessment

panels” is a disturbing prospect. They would fail the community in two ways:

Firstly they would not be independent, but appointed by the State Government. This is a government elected with largely opaque funding (but widely believed to be gambling/hospitality and other business interests), a culture a secrecy and one that pays lip service to community consultation (the 20 year salmon plan is a fine example). We know their attitude to independent judicial bodies from their recent over-ruling of recommendations for new members of TASCAT.

Secondly they would not represent the community in which the proposal is to be situated.

“Reform outcome” 4

“Councils have a sustainable and skilled future workforce”

Without doubt this is an important goal, but you appear to have missed the more effective means of achieving this.

There has been much talk of reconfiguring Local Government and/or the services it delivers, but at the end of the day the same amount of work needs to be done and by and large the same overall staffing requirements exist. “Skills shortages” exist in many sectors in Tasmania and Australia in general. The reasons are not hard to find. Governments have dropped the ball on occupational training. It’s not that there are no Tasmanians with the potential to do the work, but they do need a career path and an opportunity to train and gain the relevant qualifications.

State Government needs to ensure that there are sufficient TAFE and university places so that we have a sufficiently qualified and skilled workforce into the future. Government needs to work with all employers (Local Government included) to ensure there are sufficient training places available.

I note that in your commentary on this you state that the strategy should minimise unintended competition for employees so as not to drive up costs. I think we have to accept competition and its implications on costs as a feature of a market economy. We should also bear in mind that if training opportunities are adequate and there is still a shortage of workers, then the solution is to increase wages. As things stand when I speak to young people looking for work they generally complain about the lack of entry level employment and shortage of full time positions.

“Reform outcome” 8

You list option 8.1 as:

“Standardise asset life ranges for major asset classes and increase transparency and oversight of changes to asset lives”

This seems to me to be back to front. I agree that it is important to keep track of how long we can expect assets to last, but this is hindered rather than helped by standardisation. Let us take the example of a bridge. The asset life would depend on the siting and engineering of the bridge (which would vary from one bridge to another). It would also depend on the amount and type of traffic and the environmental conditions (all factors which could change over time and may not have been anticipated at the time of build) It would therefore make sense to review asset life on a regular basis, probably aligned with major safety inspections. It is to be expected that many asset lives will be shorted by the affects of climate change, but it is certainly not one size fits all.

In section 6 of your options paper you discuss “structural reform” and suggest the status quo is not sustainable and further that there are only three options.

I would contend that the reality is not nearly as dire as you paint it. Whilst I would accept that some councils underperform in some of their areas of responsibility, most do very well at most things. Whilst you have made some statements about widespread failures in a few areas, I could not find a gap analysis anywhere in your information package. Whether you have this already or not, it would not be hard to do. The question then becomes how can we best fill the gaps (always assuming that we agree they should be filled).

I would propose a fourth option:

The Office of Local Government establishes a team to assist Local Councils to fill those identified gaps. It may mean providing the personnel to do the work or by mentoring Council to do it themselves. The pathway taken in each instance would be decided by negotiation between the Office of Local Government and the relevant Council. This would appear to be the most efficient way to fill the gaps and shares few of the negative consequences of the other three options.

As to forced amalgamation of Local Government Areas you should take cognisance of a paper on this subject by Joseph Drew et al published in the Public Management review on the 4th of February this year. The link is here

<https://www.tandfonline.com/doi/full/10.1080/14719037.2023.2174586>

To summarise, these researchers followed a group of Councils in NSW that were forced to amalgamate and compared them with a group that had been selected by the same process, but who escaped amalgamation by recourse to the courts. The supposed purpose of forced amalgamation was to save ratepayers money. The conclusion was that it increased costs by 11% They also explain why amalgamations do not necessarily save money and many of those reasons would also apply to shared services. This is not to say that amalgamations or sharing of services are always going to be bad, but the evidence is that doing so compulsorily is unlikely to have a good result.

Other researchers have studied the same event. A summary of their findings is here; https://mcusercontent.com/de16af086bf9dd3259607f008/files/90ae0b9d-2f90-55ba-d790-a9d57979fd55/Dollery_2023_Empirical_Evidence_on_the_Impact_of_the_2016_NSW_Forced_Amalgamation_Program_1_.pdf

It should be abundantly clear that this is not a pathway we should be following in Tasmania.

I note that the research you commissioned with respect to shared services, although acknowledging that this can be an effective and cost effective way of delivering services, notes that there are many potential pitfalls especially if it is imposed compulsorily. It notes that we already have a lot of shared services in Tasmania and there is a trend for this to increase voluntarily. I think that to do more than this would require very compelling reasons, which have not been articulated in any of your documentation.

In summary, doing nothing would be better than any of your three proposed alternatives. My option four may be better than that and I expect there are a few other option fours that are worthy of consideration.

Yours faithfully
Phil Stigant