



#PlanningMatters

2 August 2023

Local Government Board

GPO Box 123

HOBART TAS 7001

By email: Submissions.LGBoard@dpac.tas.gov.au

Dear Local Government Board,

RE: The Future of Local Government Review Stage 3

The [Planning Matters Alliance Tasmania](#) (PMAT) thanks you for the opportunity to comment on the *Stage 2 Interim Report* and the *Community Catchment Information Packs*, feedback for which closes on 2 August 2023.

As PMAT has a statewide policy focus, we will not be commenting on the nine individual *Community Catchment Information Packs* and will instead provide some overall comment about the future of Local Government.

Rather than undermining local Councils with the effective State Government takeover of Planning and Local Government, via the *Tasmanian Planning Scheme*, removing Councils as a Planning Authority and forcing amalgamations, we should be strengthening the role of local Councils and ensure that they are in good health.

Local councils make decisions about many things that affect our everyday lives. As the Local Government Association of Tasmania states, [Better Councils means Better Communities](#).

The principal legislation establishing the powers and functions of councils is the [Local Government Act 1993](#). Section 20 highlights the critical role of Councils:

- to provide for the health, safety and welfare of the community
- to represent the interests of the community
- to provide for the peace, order and good government of the municipal area

It is important to note that some Councils, such as the Central Highlands Council, are already in good health. As reported by the ABC on 14 June 2023, the Central Highlands Council is '*financially stable, they have an excellent relationship with their local communities and despite being enormous in terms of geographic area and a very small population they offer excellent services and have some of the lowest rates in Tasmania*'.

The future of Local Government should focus on the health of local Councils so they can better support local decision making, communities and the environment. We need to ensure the institution is truly closest to the people and serves the people best.



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Experience from interstate demonstrates Local Government reform can create poor outcomes for local communities including declining municipal services, infrastructure not maintained or renewed, and savings promised via reduced rates and economies of scale not eventuating. Communication between Councils and their communities can be diminished, significant job losses can occur with pressure on Council staff and flow on impacts on the local economy. Social services can be cut and Councils could see the sale of their assets of land, building, equipment and machinery.

Forced amalgamations on mainland Australia failed to the extent that we are now seeing, for example, the [first demerger in NSW](#).

We do not want poor outcomes for local Tasmanian communities and democracy. We do not want to see the loss of local representation, identity and decision making. We do not want to repeat the mistakes of forced amalgamations as seen across mainland Australia.

PMAT's submission covers: 1) What is PMAT; 2) the Local Government Review details and timelines; and 3) PMAT's position on the future of Local Government.

In summary, PMAT's believes that:

1. **There should be no forced amalgamations.** Given that the Local Government Review is supposed to be an independent process, can you please explain why the State Government is giving directions on amalgamations? Will the Local Government Board be giving further advice on or make forced amalgamations or mandated boundary adjustments?
2. **Adopt the major elements required for successful amalgamations as identified by Drew (2022 and 2020).**
3. **Retain Councils as a Planning Authority for all development applications.** Given that the Local Government Review is supposed to be an independent process, can you please explain why the State Government removed this issue from the Review? Will the Local Government Board be giving further advice on removing Councils as a Planning Authority? And,
4. We should **improve the *Tasmanian Planning Scheme*** to ensure Communities and Councils have a meaningful right of say.

PMAT looks forward to participating in the Local Government Review Board hearing for peak bodies on 9 August 2023.

Yours sincerely,

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1. What is PMAT

The [Planning Matters Alliance Tasmania](#) (PMAT) is a growing network of [almost 70 community groups](#) from across *lutruwita* /Tasmania which is committed to a vision for Tasmania to be a global leader in planning excellence. Our Alliance is united in common concern over the new Tasmanian state planning laws and what they mean for Tasmania's future. The level of collaboration and solidarity emerging within the advocacy campaign of PMAT, as well as the number of groups involved is unprecedented in Tasmania and crosses community group genres: recreation, environment, urban/local community associations, European built heritage, ratepayers and 'Friends of ' groups.

Land use planning impacts every inch of Tasmania. We hold that good planning is fundamental to our way of life and democracy. PMAT works to raise community awareness about planning and encourages community engagement in the planning process.

PMAT is an independent, apolitical, not-for-profit [incorporated association](#), governed by a [skills-based Board](#). PMAT is funded entirely [by donations](#).

In 2020 PMAT was named Australia's Planning Champion, a prestigious honour awarded by the Planning Institute of Australia that recognises non-planners for their advocacy and for making a significant contribution and lasting presence to the urban and regional environment. PMAT was awarded the Tasmanian Planning Champion title in 2019.

PMAT's purpose is to achieve a values-based, fair and equitable planning scheme implemented across Tasmania, informed by [PMAT's Platform Principles](#) and delivering the objectives of the *Land Use Planning and Approvals Act 1993*.

As outlined in [PMAT's Strategic Plan 2021–2023](#), *'PMAT's vision is for Tasmania to be a global leader in planning excellence. We believe best practice planning must embrace and respect all Tasmanians, enhance community well-being, health and prosperity, nourish and care for Tasmania's outstanding natural values, recognise and enrich our cultural heritage and, through democratic and transparent processes, deliver sustainable, integrated development in harmony with the surrounding environment.'*

Planning schemes must offer a balance between development, individual rights and community amenity, and not just make it easier for development and growth at the cost of community well-being and natural and cultural values. PMAT aims to ensure that Tasmanians have a say in a planning system that prioritises the health and well-being of the whole community, the liveability of our cities, towns and rural areas, and the protection of the natural environment and cultural heritage. PMAT considers that the incoming Tasmanian Planning Scheme will weaken the protections for places where we live and places we love around Tasmania.



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2. Local Government Review Details and Timelines

The Tasmanian Government is conducting a major review of the future of Local Government in Tasmania.

The review has been conducted within two broad processes: 1) *Review of Tasmania's Local Government Legislation Framework* and 2) *Future of Local Government in Tasmania*.

Review of Tasmania's Local Government Legislation Framework

This process ran from 2018 to 2020 and focused on a *Review of Tasmania's Local Government Legislation Framework*. See below for a broad summary of the review details and recommendations.

Future of Local Government in Tasmania

This process started in 2021 with the final report expected on 31 of October 2023. In accordance with the Act, the Minister may either accept or reject the recommendations, ask the Board to reconsider them, or refer to the Board any alterations requested by councils.

See below for a broad summary of the review process to date.

Broad Summary

Review of Tasmania's Local Government Legislation Framework

2018 – Phase 1

- The Review was announced in June 2018.
- From 7 December 2018 to 1 March 2019 the Tasmanian Government released a '[Discussion Paper: Review of Tasmania's Local Government Legislation Framework](#)'.
- The Discussion Paper focused on what principles should underpin 'a contemporary legislative framework for local government'.
- **382 submissions were received. PMAT made a submission.**

2019 – Phase 2

- The Review Reference Group was appointed in February 2019. PMAT asked to be part of the reference group but our application was unsuccessful.
- In July 2019, a '[Reform Directions Paper Phase 2](#)' was released for public comment until 30 September 2019. This Paper outlined 'Major Reform Areas', 'Considerations of other key issues raised', and 'Out of Scope' issues which included two topics only: 'Councils Role as a Planning Authority' and 'Amalgamations'. **At this stage, as per page 49 of the Directions Paper, 'The Government's position is no forced amalgamations'**.



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- The proposed Reform Directions sought to address issues during Phase 1.
- **This consultation period received almost 800 survey responses and 75 written submissions.**
- The submissions and feedback on the proposed Reform Directions was provided to the State Government to inform its legislative drafting process.

2020 Phase 3

- On 22 April 2020 the Government released the [Approved Reforms for the Local Government Legislative Framework Review](#). This included a total of 51 reforms.
- The reforms were developed following extensive consultation during 2018 and 2019 with the local government sector, key stakeholders, and the broader community and generated almost 800 survey responses and 75 submissions. See the Minister's media release [here](#).
- Only 48 reforms were to be implemented after receiving broad support from the public, councils and stakeholders.
- Only three of the 51 reforms were **strongly opposed** in the consultation feedback and accordingly will not be progressed. These were:
 - changing the way mayors and deputy mayors are elected;
 - introducing a candidate nomination fee; and
 - **establishing Regional Councils.**
- **'#48 – Introduce the option to create Regional Councils (Not proceeding). This proposal will not proceed. The option to create Regional Councils will not be introduced.'**
- **Note at this point forced amalgamations were not on the table:**
- **'#51 – Voluntary amalgamations: Voluntary amalgamations of two or more councils will be able to occur, without the need for a Local Government Board review. Councils will need to develop a business case to explore amalgamations but will no longer require a report from the Local Government Board, which is time and resource intensive.'**
- At this point, the Tasmanian Government also announced the creation of two new Bills:
 - a new Local Government Bill
 - Stand-alone Local Government (Elections) Bill
- Timelines for final drafting, exposure bill consultation and progress through the Parliament were impacted by the coronavirus pandemic.

Future of Local Government in Tasmania

2021

- Information about the review can be found on two main websites:
www.futurelocal.tas.gov.au
www.dpac.tas.gov.au



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- The Tasmanian Government commissioned the Local Government Board to review the Future of Local Government in Tasmania.
- On 15 December 2021, the Minister for Local Government and Planning [announced](#) the six members of the Local Government Board to oversee the review of local government in Tasmania.
- See information about the Review Board [here](#) and the Review Terms of Reference [here](#).

2022

- The Local Government Review Board commenced the Review in January 2022.
- **Stage one** - The **first stage** of the Review, which commenced in January 2022, focused on community level consultation, where members of the Tasmanian community community members everyone were apparently given the opportunity to describe the services they expect from councils to meet current and future needs, access opportunities and meet challenges.
- On 14 December 2022, the Local Government Review Board released an options paper for public comment: [The Future of Local Government Review Options Paper – review Stage 2 December 2022](#) and appendix [Future of Local Government Review Stage 2 Options Paper Appendix – Reform Options \(December 2022\)](#). Public comment closed on 19 February 2023.
- See media release here: '[Options Paper – Department of Premier and Cabinet, 14 December 2022](#)'
- A community update was also published: [Future of Local Government Review Stage 2 Options Paper Community Update \(December 2022\)](#).
- A series of other reports were also released in July and October 2022:
 - [Future of Local Government Review Stage 1 Interim Report Engagement Overview \(October 2022\)](#)
 - [Future of Local Government Review Stage 1 Interim Report Public Submissions Analysis \(October 2022\)](#)
 - [Future of Local Government Review Stage 1 Interim Report Council and Peak Organisation Submissions Analysis \(October 2022\)](#)
 - [Future of Local Government Review Stage 1 Interim Report \(July 2022\)](#)
 - [Future of Local Government Review Stage 1 Interim Report Executive Summary \(July 2022\)](#)
 - [Future of Local Government Review Stage 1 Interim Report Appendices \(July 2022\)](#)
 - [Future of Local Government Review Stage 1 Community Update \(July 2022\)](#)

2023

- **Stage 2 continued** – the following documents were out for public comment from 14 December 2022 to 19 February 2023: [The Future of Local Government Review Options Paper – review Stage 2 December 2022](#) and [Appendix which](#) outlined three potential pathways for redesigning Local



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Government in Tasmania: 1) mandated sharing and consolidation of services, 2) forced amalgamations (i.e. 'boundary consolidation to achieve fewer larger councils' or 3) a mix of both.

- The Local Government Board provided its [Interim Report](#) and [Summary](#) for Stage 2 of the Review to the Minister for Local Government on 19 April 2023, marking the end of Stage 2 of the Review. This marked the beginning of Stage 3.
- **Stage 3:** Stage 3 invited comment on the [Stage 2 Interim Report](#) and [Summary](#) and Community [Catchment Information Packs](#). On 19 May 2023, the Minister for Local Government announced the timeframe for consultation during the third and final stage of the Future of Local Government Review will be extended until the 2 August 2023.
- **16 July 2023** – The State Government announced it would not force amalgamations.
- **18 July 2023** - The State Government announced it would introduce new legislation to allow for planning decisions to be made by independent Development Assessment Panels (DAP).
- **August Public hearings:** In August 2023, the Board will hold a series of formal hearings, where all 29 councils have been invited to make presentations on how they see local government best serving the identified community catchments. Community members will also be able to make presentations during this process. PMAT has been invited to present at a dedicated session for organisations or peak bodies with a statewide policy focus on 9 August 2023.
- **The final Local Government Board Review Report is due to be delivered to the Minister for Local Government on 31 October 2023.** In accordance with the *Local Government Act 1993*, the Minister may either accept or reject the recommendations, ask the Board to reconsider them, or refer to the Board any alterations requested by councils.



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3. PMAT's Position on the future of Local Government

3.1 No forced amalgamations

PMAT [welcomed](#) the [announcement](#) by the Tasmanian Government on 16 July 2023 that there would be no forced amalgamations.

However, it is noted that the *Local Government Act 1993* gives the State the power to amalgamate local Councils at will and they may continue down this path.

Given that the Local Government Review is supposed to be an independent process, can you please explain why the State Government is giving directions on amalgamations? Will the Local Government Board be giving further advice on forced amalgamations or mandated boundary adjustments?

PMAT is not against amalgamation per se - we accept amalgamation of some Councils may be advantageous. However, we are particularly concerned with forced amalgamations, which we believe are undemocratic. Interstate experience demonstrates that forced amalgamations can have disastrous financial outcomes as well as devastating outcomes for residents, ratepayers and democracy, including the loss of local representation.

3.2 Adopt the major elements required for successful amalgamations as identified by Drew (2022 and 2020)

If amalgamations are to happen in Tasmania it is strongly recommended that the six major elements required for successful amalgamations, as outlined in *Saving Local Government Financial Sustainability in a Challenging World* by Joseph Drew (2022)¹, be adopted.

These major elements are:

1. *Those wishing to implement reforms must give good reasons and good evidence for acting.*
2. *Alternate treatments should be practised prior to more radical interventions.*
3. *Proposed amalgamations must be designed by bona fide experts, supported by evidence.*
4. *Community consultation must be focused on people, and be conducted in a thorough and genuine manner.*
5. *Amalgamations must be conducted in a morally licit manner. This means that the consent of (at least) the majority of citizens must be given before proceeding. It also means that grants should be made to ensure that no nett debt is transferred to taxpayers as a consequence of amalgamations.*
6. *Adequate post-implementation support and review must be considered essential elements to amalgamation success.*

¹ Drew, J., 2022, *Saving Local Government Financial Sustainability in a Challenging World*, Springer.



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Further to the six elements, Chapter 4 *Boundary Change of Reforming Local Government* by Drew (2020)², identifies *community homogeneity* as another critical consideration in successful amalgamations. Drew (2020) states that ‘*If communities are relatively homogenous then it is easier for local governments to tailor goods and services to the standard required by residents*’ and ‘*Indeed, this desirability of community homogeneity tends to act as a limiting factor on size. Analysis of economies of scale might suggest the ‘remedy’ of amalgamation but if the adjoining local government areas are comprised of vastly different communities with very different tastes, then amalgamation might well end in disaster (a good case study is the de-amalgamation of Delatite shire which occurred as a result of an earlier amalgamation of two completely different demographics; Drew and Dollery 2015³).*’*In 1994, the Victorian Government instituted a radical council amalgamation program which eliminated over 60% of all local authorities. In the forcibly merged Delatite Shire Council local resentment engendered a sustained grassroots campaign which eventually reversed its contentious compulsory consolidation. The resultant de-amalgamation was the first in modern Australian local government history*’.

3.3. Retain Councils as a Planning Authority for all development applications

On 19 April 2023, the State Government announced it was changing the scope of the Local Government Review and would not consider changes to the current role and function of Tasmanian councils in assessing development applications under the *Land Use Planning and Approvals Act 1993*. The updated Terms of Reference of the Local Government Review stated that the Minister for Planning will ‘*separately consider and consult on this matter in the Tasmanian Government’s broader planning reform agenda.*’ (Note that this version of the Terms of Reference of the Local Government Review has since been removed from the Future of Local Government website).

This was a welcome announcement, especially given that, as already identified through the Local Government Review process, [the majority of Councils support retaining their role as a Planning Authority](#). This position is also consistent with a [survey](#) PMAT ran during the 2022 Local Government elections which found that the overwhelming majority of local council candidates who took part in our survey, believe councils should retain their role as a Planning Authority. That is Councils should retain the power to vote on the developments that have the greatest impact on their local community. They do not want to give up this right to represent their local communities.

It is also noted, that in March 2021, the Local Government Association of Tasmania [rejected a motion to even investigate removing councils as a Planning Authority](#).

Then, **without any community consultation**, including [no consultation with the local government sector](#), the State Government [announced](#) on 18 July 2023 that they will introduce new legislation to allow planning decisions to be made by ‘independent’ expert Development Assessment Panels (DAP)

² Drew, J., 2020, *Reforming Local Government*, Springer.

³ Drew, J., Dollery, B., 2015, *Breaking up is hard to do: the de-amalgamation of delatite shire*, [Pub Finance Mgmt 15\(1\):1–23](#)



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thus removing Councils as a Planning Authority. In making the announcement the State Government provided no real evidence that the change was needed or would in fact lead to better planning outcomes for Tasmania.

This is also especially concerning when considering the compounding impacts of 1) the Integrity Commission Tasmania is one of the weakest anti-corruption bodies in Australia, 2) political donations are not regulated in Tasmania, despite a government review on this issue, and property developers can still make political donations unlike other Australian jurisdictions such as NSW, ACT and QLD, and 3) Tasmania's freedom of information (FOI) laws have recently been found, by the Environmental Defenders Office, to be the most secretive and non-transparent in Australia.

Removing councils as a Planning Authority together with forcing amalgamations would significantly undermine the operation of Local Government in Tasmania and with it local decision making. As per [PMAT's media release](#), the State Government's '*surprise decision to create legislation that gives developers the option to bypass local councils as the decision maker on planning applications represents a weakening of planning rules and sidelining of the democratic process.*' PMAT condemned the new proposal and called on elected members in the Parliament to oppose it.

Given that the Local Government Review is supposed to be an independent process, can you please explain why the State Government intervened in the process and has already made an announcement about its intentions? Will the Local Government Board be giving further advice on removing Councils as a Planning Authority?

3.4 Improve the *Tasmanian Planning Scheme* to ensure Communities and Councils have a meaningful right of say on their future

PMAT was founded in 2016 due to concerns the *Tasmanian Planning Scheme* removed opportunities for Councils and communities to have a say on future developments. More and more uses and development are able to occur without public consultation or rights of appeal. This was also an issue highlighted by Councillors during the [nine public meetings](#) PMAT held between February and July 2023 regarding the Local Government Review.

For example, within the *Tasmanian Planning Scheme* rules commercial tourism developments can be approved in most National Parks and Reserves without guarantee of public consultation, and with no rights to appeal. This means that the public has no guarantee of public comment and no appeal rights over public land on almost 50% of the State. Similar concerns also exist with regards to the residential standards, where housing density (i.e. facilitating population growth) is as of right prioritised over good design and community well-being. Smaller block sizes, higher buildings built closer to fences, and multi-unit developments in all residential areas allowed, even in the Low Density Residential Zone. Inadequate protections put at risk neighbourhood amenity and character, privacy, sunlight in backyards, homes, gardens and on solar panels. Rights to challenge inappropriate developments are very limited.