



#Planning Matters

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29 February 2024

Local Government Reform  
GPO Box 123, Hobart  
TAS Australia 7001

By email to [jg.consultation@dpac.tas.gov.au](mailto:jg.consultation@dpac.tas.gov.au)

Dear Local Government Board,

***RE: The Future of Local Government Review – PMAT submission on the Final Report, October 2023***

Thank you for the opportunity to make a submission regarding the [Final Report of the Future of Local Government Review](#) and [Final Report community Summary](#), which have been on public exhibition from the 17 November 2023 to the 29 February 2024.

The review into the Future of Local Government in Tasmania started in January 2021. See details on the Department of Premier and Cabinet website [here](#) and the Future of Local Government Review website [here](#).

According to the Minister for Local Government [here](#), the *'Final report makes 37 recommendations covering all aspects of the local government system, from voluntary amalgamations through to councillor performance and council management of local infrastructure.'*

We welcome the [Minister's statement](#) that the *'Review will not result in forced amalgamations of councils'* and that *'There will be no change to council boundaries unless both the councils and communities want them'*.

As per PMAT's submission dated the 2 August 2023 regarding *'The Future of Local Government Review Stage 3'* **we would like to re-emphasise that if voluntary amalgamations are to occur that the review 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)<sup>1</sup>, be adopted.

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



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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.*

Further to the six elements, Chapter 4 *Boundary Change of Reforming Local Government* by Drew (2020)<sup>2</sup>, 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 2015<sup>3</sup>).'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'.*

The above seven elements are especially important given what NSW local councils have had to endure and the massive costs to councils and local communities if amalgamations fail.

A 5 February 2024 Sydney Morning Herald report highlights the costs of unfounded amalgamations : [Voters to decide on future of council mergers but Government won't pay](#)

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<sup>2</sup> Drew, J., 2020, *Reforming Local Government*, Springer.

<sup>3</sup> 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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stated that ‘*It has found a legal solution to allow for forcibly merged councils to break up, but it could cost them more than \$150 million each. Who will cover the cost?*’.

The article also states ‘*In its first major piece of legislation for the year, the government will repeal what it says is a “legally flawed section” of the Local Government Act and replace it with a “democratic process” to allow voters to decide on the demerger of their local council.*

*The government says the changes would give certainty to councils in limbo since the former Liberal premier Mike Baird announced in 2016 that he would amalgamate councils, which prompted legal action across the state. His successor Gladys Berejiklian abandoned the policy in 2017 – midway through the process. See full article below.*

PMAT’s submission has also been prompted following the Tasmanian Government’s continuing attacks on the integrity, role, and responsibilities of Local Government, in particular:

- Increasing Ministerial power to overrule local councils on planning scheme changes i.e. being able to override planning schemes by directing amendments to be made potentially with no real consultation with Councils or the public.
- The threat of removing development assessment from the normal local council process to be replaced by State-appointed Development Assessment Panels (DAPs) conducted by the Tasmanian Planning Commission. This will restrict input from the public.
- PMAT considers that the government’s assertion that Councils are to blame for insufficient housing supply, thereby justifying the introduction of DAPs, is misplaced and not supported by the facts.
- PMAT does not support the government’s continual reliance of increasing population to create economic growth without firstly determining the impact on the environment and community wellbeing and without strategically planning for new housing developments, health and community services, public transport, employment opportunities and connecting infrastructure.
- Removing merit-based planning appeal rights.
- Proposing to force local council amalgamations.
- Increasing land uses and developments within the *Tasmanian Planning Scheme* that can occur without public consultation or rights of appeal.

PMAT considers that local government, being closest to the people, has a crucial role in enhancing the wellbeing of communities. PMAT is also strongly supportive of local people retaining local control over decisions that affect them. This includes maintaining Council’s role as a planning authority for local development projects. Rather than diminishing the role



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of Councils, the Government has the option of recognising, supporting and enhancing their role in representing local communities and fulfilling their statutory obligations.

It is the importance of local government to the lives of Tasmanians that has prompted PMAT to make this submission.

Yours sincerely,

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### Key to PMAT Responses

Please see below PMAT's responses to the Future of Local Government Review Final Report's 37 recommendations.

	PMAT is supportive
	PMAT is supportive but with qualifications
	PMAT is not supportive

<i>Review Board 37 Recommendations</i>		<i>PMAT Response</i>
<b>The future role for local government</b>		
1.	<p>Define in Tasmania's new Local Government Act the role of local government consistent with the statement below:</p> <p>The role of local government is to support and improve the wellbeing of Tasmanian communities by:</p> <ol style="list-style-type: none"> <li>1. harnessing and building on the unique strengths and capabilities of local communities;</li> <li>2. providing infrastructure and services that, to be effective, require local approaches;</li> <li>3. representing and advocating for the specific needs and interests of local communities in regional, state-wide, and national decision-making; and</li> <li>4. promoting the social, economic, and environmental sustainability of local communities, by mitigating and planning for climate change impacts.</li> </ol>	<p>While PMAT wholeheartedly supports the emphasis on community wellbeing, we recognise that this means different things to different people.</p> <p>There are many factors potentially contributing to personal and community wellbeing.</p> <p>It is therefore essential that individual Councils seek their community's views on what factors are most important to them.</p> <p>PMAT also strongly supports the reference to climate change but considers that Councils also have a critical role in building the <u>resilience</u> of their communities to climate change impacts.</p> <p>Further, implementing effective climate mitigation measures will often exceed the capability and financial resources of Councils, requiring direct input from state and federal governments.</p> <p>PMAT considers that this tripartite arrangement should be formalised to create more certainty in the fight</p>



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		<p>against the impacts of climate change, in particular:</p> <ul style="list-style-type: none"> <li>• to protect coastal communities and infrastructure from inundation and/or erosion.</li> <li>• possible relocation of vulnerable buildings to safer locations.</li> <li>• rebuilding of communities, essential services and infrastructure following catastrophic events such as wind storms, bushfires and floods.</li> </ul> <p>Further, PMAT supports the inclusion of an important and additional role of Council:</p> <ul style="list-style-type: none"> <li>• to fulfil its statutory obligations.</li> </ul> <p>The Parliament of NSW is currently conducting an inquiry into the <a href="#">‘Planning system and the impacts of climate change on the environment and communities’</a>.</p> <p>This inquiry was established on 24 August 2023 to inquire into and report on the planning system and the impacts of climate change on the environment and communities.</p> <p>It is recommended that learnings from this inquiry be considered by any new Local Government Board.</p>
2.	<p>The Tasmanian Government – through subordinate legislation – should implement a Local Government Charter to support the new legislated role for local government.</p> <p>The Charter should be developed in close consultation with the sector and clarify and consolidate in a single document councils’ core functions, principles, and responsibilities, as well as the obligations of the Tasmanian</p>	<p>PMAT supports this recommendation but considers that Councils’ ability to implement effective climate change mitigation measures will require a formalised partnership with the Tasmanian (and Australian) Governments.</p> <p>The Parliament of NSW is currently conducting an inquiry into the</p>



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	<p>Government when dealing with the sector as a partner in delivering community services and support.</p>	<p><a href="#">‘Planning system and the impacts of climate change on the environment and communities’</a>.</p> <p>This inquiry was established on 24 August 2023 to inquire into and report on the planning system and the impacts of climate change on the environment and communities.</p> <p><b>It is recommended that learnings from this inquiry be considered by any new Local Government Board.</b></p>
<p>3.</p>	<p>The Tasmanian Government should work with the sector to develop, resource, and implement a renewed Strategic Planning and Reporting Framework that is embedded in a new Local Government Act to support and underpin the role of local government. Under this Framework councils will be required to develop – within the first year of every council election – a four-year strategic plan.</p> <p>The plan would consist of component plans including, at minimum, a:</p> <ul style="list-style-type: none"> <li>• community engagement plan;</li> <li>• workforce development plan;</li> <li>• elected member capability and professional development plan; and</li> <li>• financial and asset sustainability plan.</li> </ul>	<p>PMAT strongly supports this recommendation.</p>
<p><b>Voluntary amalgamations</b></p>		
<p>4.</p>	<p>Formal council amalgamation proposals should be developed for the following:</p> <ul style="list-style-type: none"> <li>• West Coast, Waratah-Wynyard and Circular Head Councils (into 2 councils);</li> <li>• Kentish and Latrobe Councils;</li> <li>• Break O’Day, Glamorgan-Spring Bay and Sorell Councils (into 2 councils);</li> <li>• City of Hobart and Glenorchy City Councils;</li> <li>• Kingborough and Huon Valley Councils.</li> </ul>	<p>PMAT supports the Tasmanian Government’s decision not to proceed with compulsory Council amalgamations.</p> <p>Rather, PMAT supports <u>voluntary</u> Council amalgamations where it can be demonstrated that residents within the respective communities will:</p> <ul style="list-style-type: none"> <li>• have their wellbeing enhanced</li> <li>• be no worse off financially</li> <li>• will be able to see a better fulfilment of their new</li> </ul>



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	<p>The Board acknowledges council interest in and discussions on boundary changes are less advanced in respect of City of Hobart and Glenorchy, and Kingborough and Huon Valley councils, but nonetheless believes that these councils have expressed clear interest in further exploring opportunities. The Board believes there is substantial merit in ensuring that those councils (and their communities) are afforded the opportunity to genuinely explore structural consolidation proposals in greater detail.</p>	<p>Council's statutory obligations eg around planning, and</p> <ul style="list-style-type: none"> <li>• have the final say as to whether amalgamations should proceed.</li> </ul> <p>Further to the above, if amalgamations are to happen in Tasmania it is strongly recommended that the seven major elements required for successful amalgamations - as outlined in our cover letter to this submission adopted.</p> <p><b>PMAT further believes that any vote on amalgamations should be by an elector poll conducted by the Tasmanian Electoral Commission.</b></p>
5.	<p>A new Local Government Board should be established to undertake detailed assessment of formal council amalgamation proposals and make recommendations to the Tasmanian Government on specific new council structures.</p>	<p>PMAT supports this recommendation, <u>provided</u> that the Local Government Board is completely independent of government, in order to:</p> <ul style="list-style-type: none"> <li>• provide an independent assessment process, and</li> <li>• implement a common methodology.</li> </ul> <p>However, rather than make recommendations to the Tasmanian Government (and therefore give an incentive to force a compulsory amalgamation if the Government chooses), the assessment should be presented to the respective communities for them to have the final say.</p>
6.	<p>A Community Working Group (CWG) should be established in each area where formal amalgamation proposals are being prepared. The CWG would identify specific opportunities the Tasmanian Government could support to improve community outcomes.</p>	<p>PMAT supports this recommendation.</p> <p>The Parliament of NSW is currently conducting an inquiry into the <a href="#">'Planning system and the impacts of climate change on the environment and communities'</a>.</p>





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		<p>This inquiry was established on 24 August 2023 to inquire into and report on the planning system and the impacts of climate change on the environment and communities.</p> <p><b>Learnings from the inquiry should be considered the Community Working Groups.</b></p>
7.	<p>In those areas where amalgamation proposals are being developed, a community vote should be held before any reform proceeds, to consider an integrated package of reform that involves both a formal council amalgamation proposal and a funded package of opportunities to improve community outcomes.</p>	<p>PMAT strongly supports this recommendation.</p> <p>Any community vote must be done in the form of an Elector Poll administered by the Tasmanian Electoral Commission.</p> <p>Voluntary amalgamation must also meet the seven elements for successful amalgamations as outlined in the cover letter to this submission.</p>
8.	<p>If a successful community-initiated elector poll requests councils to consider amalgamation, the Minister for Local Government should request the Local Government Board to develop a formal amalgamation proposal and put it to a community vote.</p>	<p>PMAT supports this recommendation but only if the Elector Poll is administered by the Tasmanian Electoral Commission.</p> <p>It is unclear what a '<i>community-initiated elector poll</i>' is.</p>
<b>Shared services</b>		
9.	<p>The new Local Government Act should provide that the Minister for Local Government can require councils to participate in identified shared service or shared staffing arrangements.</p>	<p>PMAT does not support this recommendation, as it:</p> <ul style="list-style-type: none"> <li>removes the prime motivation that should come from individual Councils</li> <li>Gives the impression of a forced arrangement, rather than a voluntary one.</li> </ul>
10.	<p>Give councils the opportunity to design identified shared service arrangements</p>	<p>While PMAT supports giving Councils the opportunity, it does not support</p>



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	themselves, with a model only being imposed if councils cannot reach consensus.		the government <u>imposing</u> shared service arrangements. PMAT considers that final decision must be made by the residents of the Councils via an elector poll.
11.	Before endorsing a particular mandatory shared service arrangement, the Minister for Local Government should seek the advice of the Local Government Board.		PMAT does not support this recommendation. PMAT does not support the government having the ability to make such mandatory decisions.
12.	If councils are unable to reach consensus on a mandatory service sharing agreement, the Minister for Local Government should have the power to require councils to participate in a specific model or models the Tasmanian Government has developed.		PMAT does not support this recommendation.
13.	The first priorities for developing mandatory shared service arrangements should be: <ul style="list-style-type: none"> <li>• sharing of key technical staff;</li> <li>• sharing of common digital business systems and ICT infrastructure; and</li> <li>• sharing of asset management expertise through a centralised, council-owned authority.</li> </ul>		PMAT does not support this recommendation as it involves <u>mandated</u> shared service arrangements. PMAT supports the items listed being examined in <u>voluntary</u> discussions between interested Councils.
<b>Community engagement</b>			
14.	Include a statutory requirement for councils to consult with local communities to identify wellbeing priorities, objectives, and outcomes in a new Local Government Act. Once identified, councils would be required to integrate the priorities into their strategic planning, service delivery and decision-making processes.		PMAT strongly supports this recommendation. It would also support the need for Councils generally to develop a common methodology for measuring the wellbeing of their communities and for individual Councils to report progress in their Annual Reports.
15.	All Tasmanian councils should be required under a new Local Government Act to develop and adopt community engagement strategies – underpinned by clear deliberative engagement principles.		PMAT supports this recommendation but only with the qualifications below. Given that the Tasmanian Government wants a uniform planning system, it appears that if each Council prepares



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		<p>its own community engagement strategy this is contrary to that objective.</p> <p>PMAT is also only supportive of this recommendation if there are no changes to the way communities are consulted with as per under the <i>Land Use Planning and Approvals Act 1993</i>. That is we do not support this recommendation if it means that opportunities for public consultation and appeal rights under the Act are either removed or reduced.</p> <p>It could be argued that public comment on Development Applications under the Act could be increased for example from 14 days to 21 days plus a new emphasis on early consultation.</p>
16.	<p>A new Local Government Act should require councils, when developing and adopting their Community Engagement Strategies, to clearly set out how they will consult on, assess, and communicate the community impact of all significant new services or infrastructure.</p>	<p>PMAT supports this recommendation but only with the qualifications below.</p> <p>Given that the Tasmanian Government wants a uniform planning system, it appears that if each Council prepares its own community engagement strategy this is contrary to that objective.</p> <p>PMAT is also only supportive of this recommendation if there are no changes to the way communities are consulted with as per under the <i>Land Use Planning and Approvals Act 1993</i>. That is we do not support this recommendation if it means that opportunities for public consultation and appeal rights under the Act are either removed or reduced.</p> <p>It could be argued that public comment on Development Applications under the Act could be increased for example from 14 days to 21 days plus a new emphasis on early consultation.</p>



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Rating and Revenue		
17.	The Tasmanian Government should further investigate and consider introducing an alternative framework for councils to raise revenue from major commercial operations in their local government areas, where rates based on the improved value of land are not an efficient, effective, or equitable form of taxation.	PMAT supports the <u>investigation</u> of such an alternative framework. <u>Introduction</u> should be the decision of individual Councils.
18.	The Tasmanian Government should work with the sector and the development industry to further investigate and consider introducing a marginal cost-based integrated developer charging regime.	While PMAT supports this recommendation in principle, it questions whether the Tasmanian Government should be directly involved, as opposed to an independent panel of investigators.  PMAT is not confident that the Government is sufficiently divorced from the influence of developers to take a direct role in such an investigation.
19.	Introduce additional minimum information requirements for council rates notices to improve public transparency, accountability, and confidence in council rating and financial management decisions.	PMAT supports this recommendation.
20.	Within the context of the national framework, the Tasmanian Government should seek advice from the State Grants Commission on how it will ensure the Financial Assistance Grants methodology: <ul style="list-style-type: none"> <li>• is transparent and well understood by councils and the community,</li> <li>• that assistance is being targeted efficiently and effectively, and</li> <li>• is not acting as a disincentive for councils to pursue structural reform opportunities.</li> </ul>	PMAT supports this recommendation.



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21.	The Tasmanian Government should review the total amount of Heavy Vehicle Motor Tax Revenue made available to councils and consider basing this total amount on service usage data.		PMAT supports this recommendation <u>if</u> it results in a less contentious and more equitable distribution of funds to Councils.
22.	Introduce a framework for council fees and charges in a new Local Government Act, to support the expanded, equitable and transparent utilisation of fees and charges to fund certain council services.		PMAT supports this recommendation.
23.	The Tasmanian Government should review the current rating system under the Local Government Act to make it simpler, more equitable, and more predictable for landowners. The review should only be undertaken following implementation of the Board's other rating and revenue recommendations.		While PMAT supports this recommendation in principle, it questions whether the Tasmanian Government should be directly involved, as opposed to an independent panel of investigators.
<b>Elected member capability and conduct</b>			
24.	To be eligible to stand for election to council, all candidates should first undertake – within six months prior to nominating – a prescribed, mandatory education session, to ensure all candidates understand the role of councillor and their responsibilities if elected.		<p>Good induction programs and ongoing professional development for councillors should be encouraged, but compulsory education before nominating for election is not recommended.</p> <p>Mandatory training as a candidate may act as a barrier to community members nominating – and may possibly also be discriminatory.</p> <p>Is the Councillor role inherently more complex/demanding than that of a State Parliamentarian? There is no requirement there for State Parliament candidates to undergo prior training.</p> <p>Voluntary prior education could be considered.</p>
25.	The Tasmanian Government and the local government sector should jointly develop and implement a contemporary, best practice		PMAT supports this recommendation.



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	<p>learning and ongoing professional development framework for elected members. As part of this framework, under a new Local Government Act:</p> <ul style="list-style-type: none"> <li>• all elected members – including both new and returning councillors - should be required to complete a prescribed ‘core’ learning and development program within the first 12 months of being elected; and</li> <li>• councils should be required to prepare, at the beginning of each new term, an elected member learning and capability development plan to support the broader ongoing professional development needs of their elected members.</li> </ul>	
26.	Following the phase 1 voluntary amalgamation program, the Tasmanian Government should commission an independent review into councillor numbers and allowances.	PMAT supports this recommendation in principle.
27.	The Tasmanian Government should expedite reforms already agreed and/or in train in respect of statutory sanctions available to deal with councillor misconduct or poor performance.	<p>PMAT broadly supports this recommendation and suggests that the Tasmanian Government work with the sector (perhaps through LGAT) in order to consolidate agreed statutory sanctions.</p> <p>PMAT also suggests that councillor misconduct and poor performance should be very clearly defined.</p>
<b>Performance monitoring and continuous improvement</b>		
28.	The Tasmanian Government should work with the sector to develop, resource, and implement a best practice local government performance monitoring system.	PMAT strongly supports this recommendation.
29.	The Tasmanian Government should develop a clear and consistent set of guidelines for the collection, recording, and publication of datasets that underpin the new performance reporting system to improve overall data	PMAT supports this recommendation.



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	consistency and integrity, and prescribe data methodologies and protocols via a Ministerial Order or similar mechanism.	
30.	<p>The new Strategic Planning and Reporting Framework should actively inform and drive education, compliance, and regulatory enforcement activities for the sector, and entities with responsibility for compliance monitoring and management – including the Office of Local Government and council audit panels – should be properly empowered and resourced to effectively deliver their roles.</p> <p>As part of this the Tasmanian Government should consider introducing a requirement for councils to have an internal audit function given their responsibilities for managing significant public assets and resources, and whether this requirement needs to be legislated or otherwise mandated.</p> <p>Consideration should also be given to resourcing internal audit via service sharing or pooling arrangements, particularly for smaller councils.</p>	PMAT supports this recommendation.
<b>Managing Council Assets</b>		
31.	The Tasmanian Government – in consultation with the sector – should review the current legislative requirements on councils for strategic financial and asset management planning documentation to simplify and streamline the requirements and support more consistent and transparent compliance.	PMAT supports this recommendation.
32.	The Tasmanian Government – in consultation with the sector – should investigate the viability of, and seek to implement wherever possible, standardised useful asset life ranges for all major asset classes.	<p>PMAT supports this recommendation because it may prevent Councils from artificially (and perhaps unrealistically) extending the useful life of assets in order to limit rate increases.</p> <p>However, there still may be good reason for Councils to vary the useful life of particular items. In which case, it needs to be justified.</p>



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Partnering with the Tasmanian Government		
33.	The Tasmanian Government should collaborate with the local government sector to support a genuine, co-regulatory approach to councils' regulatory responsibilities, with state agencies providing ongoing professional support to council staff and involving councils in all stages of regulatory design and implementation.	PMAT supports this recommendation.
34.	The Tasmanian Government should work with the local government sector to pursue opportunities for strengthened partnerships between local government and Service Tasmania.	PMAT supports this recommendation but only without loss of local services and local jobs.
35.	Councils should migrate over time to common digital business systems and ICT infrastructure that meet their needs for digital business services, with support from the Department of Premier and Cabinet's Digital Strategy and Services (DSS).	PMAT supports this recommendation but only if workable for local councils.
36.	The Tasmanian Government should partner with, and better support, councils to build capacity and capability to plan for and respond to emergency events and climate change impacts.	While PMAT supports this recommendation it considers that Councils' ability to respond to emergency events and to implement effective climate change mitigation measures will require a <u>formalised partnership</u> with the Tasmanian and Federal Governments.
Developing the council workforce		
37.	The Tasmanian Government should: <ul style="list-style-type: none"> <li>support the Local Government Association of Tasmania (LGAT) to develop and implement – in consultation with councils and their staff – a workforce development toolkit tailored to the sector and aligned with the Tasmanian Government's workforce development system;</li> </ul>	PMAT supports this recommendation.





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|  | <ul style="list-style-type: none"><li>• support councils to update their workforce plans at the time of any consolidation;</li><li>• support LGAT to lead the development and implementation of a state-wide approach to workforce development for key technical staff, beginning with environmental health officers, planners, engineers and building inspectors;</li><li>• recognise in statute that workforce development is an ongoing responsibility of council general managers and is included as part of the new Strategic Planning and Reporting Framework; and</li><li>• include simple indicators of each council's workforce profile in the proposed council performance dashboard.</li></ul> |  |
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[Voters to decide on future of council mergers but Government won't pay](#)

5 February 2024, Sydney Morning Herald

**Voters to decide on mergers but councils would foot bill**

Alexandra Smith

*The NSW government will introduce new laws to remove a major legal roadblock delaying the breakup of forcibly merged councils but won't foot the bill to undo amalgamations, which could cost councils more than \$150 million each.*

*In its first major piece of legislation for the year, the government will repeal what it says is a 'legally flawed section' of the Local Government Act and replace it with a 'democratic process' to allow voters to decide on the demerger of their local council.*

*The government says the changes would give certainty to councils in limbo since the former Liberal premier Mike Baird announced in 2016 that he would amalgamate councils, which prompted legal action across the state. His successor Gladys Berejiklian abandoned the policy in 2017 – midway through the process.*

*Under Labor's changes, councils wanting to demerge must develop a robust business case which considers the financial impacts and the council's ability to fund deamalgamation, long-term strategic plans and the service delivery capacity of the new demerged councils.*

*Councils will also be required to undertake community consultation on the business case, and the minister for local government must then forward that business case to the NSW Local Government Boundaries Commission for an independent review.*

*After the review, the minister may then approve a constitutional referendum with a compulsory vote, which would require majority support from locals to proceed with a de-amalgamation.*

*One major sticking point for councils will be their ability to pay for the demerger.*

*That will be particularly significant for the Inner West Council, which presented a business case to the NSW Boundaries Commission in 2022 to undo its amalgamation.*

*A poll found 62 per cent of residents supported reverting to Marrickville, Leichhardt and Ashfield councils, but the council's business case was predicated on the government paying for the cost of the demerger, which is estimated to be more than \$150 million over 10 years.*

*Local Government Minister Ron Hoenig said the forced amalgamation of NSW councils was 'a failed and expensive experiment'.*



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*“While the NSW government strongly supports a clear process for councils and communities to exercise their democratic right to pursue de-amalgamation, we also have to be realistic about ... challenges this brings,” Hoenig said.*

*“It’s why one of my main priorities as local government minister has been to find a way to remove the roadblocks posed by the existing demerger process, and give communities the opportunity to decide.”*

*NSW Labor has been searching for a solution to the demerger issue, and Hoenig last year told Cootamundra-Gundagai Council that he could not proceed with its break-up because the current Local Government Act did not “provide a legal pathway” to a formal split.*

*In November last year, Hoenig also told budget estimates that the problematic section of the act, 218CC, was “unconstitutional”, according to legal advice he had received.*

*Despite this, Hoenig told the Greens MLC Amanda Cohn indicated that he did not think an amendment to the act would pass through parliament because Labor is in minority government.*