

The Development of the new Local Government Act

Phase 1 Amendments

How will the new Act be legislated?

- The new Act will be phased in from 2016/17. To facilitate a comprehensive and structured approach, the Act has been split into 60 discreet topic areas with work to be undertaken over 2 phases.
- Phase 1 topics are the priority areas to be legislated for commencement at the start of the next term of councils. These will relate to the “system of Local Government” (ie the structural, governance, strategic and performance frameworks councils operate under). These will be largely informed by the outcomes of the work of the Independent Local Government Review Panel and the Local Government Acts Taskforce
- Phase 2 topics relate to areas that are/will be subject to separate review. These will be informed by the outcomes of the IPART reviews. Phase 2 changes are likely to be legislated incrementally after the start of the next council term.
- Changes will be legislated incrementally as amendments to the current Act and when complete reordered, rewritten and incorporated into a new Act.
- The proposed changes will be the subject of a comprehensive consultation process.

Approach to developing the Phase 1 amendments

- Changes to the existing provisions of the Act have been proposed on the following bases:
 1. In relation to matters specifically addressed by the Panel or Taskforce:
 - To give effect to the Government's response to their recommendations
 2. In relation to matters that were not specifically addressed by the Panel or Taskforce:
 - To give consequential effect to a recommendation of the Panel or Taskforce that has been accepted by the Government,
 - To give effect to the legislative principles recommended by the Taskforce, or
 - To address a previously identified issue with the drafting or operation of a provision in the existing Act.
- Based on this approach, it has become apparent that more of the existing Act is being retained than is being changed. This is consistent with the Taskforce's observations that many aspects of the Act still work well, that there was "*considerable support for the Act and rather than a total rewrite it is more in need of refocus, re-emphasis and simplification*".

What do the Phase 1 changes seek to achieve?

- The Phase 1 changes recognise that the fundamentals of the existing Local Government Act are sound and continue to be fit for purpose. They are designed to strengthen and update the existing Act by legislating a new system of Local Government through integrated structural, governance, strategic and performance frameworks.
- They seek to:
 - legislate elements of the new structural framework for Local Government recommended by the Independent Local Government Review Panel
 - build on the landmark reforms to the Local Government Act 1993 that saw the introduction of integrated planning and reporting (IP&R) to councils by embedding IP&R principles across a range of council functions and practices.
- promote independent and sustainable councils engaged with and accountable to their local communities that have the capacity to deliver on local and regional needs

What do the Phase 1 changes seek to achieve?

- drive a culture of continuous improvement in councils to ensure the effective and efficient delivery of the strategic goals agreed to with their local communities through the IP&R process.
- remove barriers to innovation and the effective and efficient delivery of community goals by giving councils the flexibility to adapt their practices to best meet local needs.
- adopt a more outcomes focussed approach to prescription
- update and align the standards and practices of councils with those that operate at State and Federal Government levels.

The phase 1 amendments: the highlights package

- Key features of the proposed Phase 1 amendments include:
 - Implementation of the Panel's recommendations agreed to by the Government
 - An increased focus on prescribing outcomes with prescriptive detail shifted to Codes and Guidelines
 - Prescribing a Model Meeting Code
 - Consolidating the prescription of all ethical standards in the Model Code of Conduct
 - Greater clarity in the roles of councillors, Mayors and GMs
 - The term of Office of Mayors elected by councillors will be increased from 1 to 2 years
 - Councillors will be required to swear an oath of office
 - Councils will be required to adopt and deliver induction and ongoing professional development programs for their councillors and report publicly on councillor attendance
 - The option of universal postal voting will be extended to all councils
 - Embedding IP&R as an input into a broader range of council activities (eg through the expanded scope of the community engagement strategy and delivery program)

The phase 1 amendments: the highlights package

- Legislating the performance measurement framework
- Mandating internal audit and making it a driver for improved council performance
- Placing external audit under the auspices of the Auditor General
- A principles based approach to the regulation of councils' financial governance practices (based on the principles of sound financial management prescribed under the *Fiscal Responsibility Act 2012*)
- Legislating the deferred red-tape reduction measures

Options for reform in relation to council workforce management

- The workforce management provisions are those that relate to the determination of councils' organisation structures and the role, appointment and employment conditions of general managers, senior and other staff.
- This is an area that the Panel and Taskforce did not address in detail. The views of MAG members are sought to assist the OLG to consider policy options in this area. Key considerations in developing options include the following:
 - Whether the current employment provisions of the Act could be better aligned with IP&R principles to give councils the flexibility to reposition their workforces to deliver the objectives councils set in consultation with their communities every 4 years through IP&R
 - Whether Local Government employment practices could be better aligned with more contemporary State Government practices.
- Key questions include the following:
 - Should all senior staff be employed under a performance based contract?
 - Should councils' workforce management plans be the appropriate vehicle for ensuring diverse council workplaces?

Options for reform in relation to council workforce management

- Should State Government employment practices apply to councils (ie by focussing on roles and capabilities rather than positions and position descriptions)?
- Should there be greatly flexibility for councils within a region to transfer staff to support regional collaboration?
- Should councils be able to make temporary appointments of up to 4 years (to align with the IP&R cycle and State Government practice)?
- Is there a need to provide greater clarity about what the words “as far as is reasonably practicable” mean in the rural centre protection?

Consultation strategy

- Consultation on the proposed changes will be undertaken as follows:
 - A set of topic based information papers will be published electronically setting out the detail of the proposed changes and the rationale for them
 - To facilitate ease of access and to support a less resource intensive evaluation process, submissions may be made electronically on web based forms
 - Submissions can also be made by other means
 - Workshops will be held at locations across the State which will be open to anyone to attend.
 - Targeted workshops will be held with specialist groups (ie Local Government Finance Professionals and HR, Internal Audit, Governance and IP&R networks)
- Briefings will be provided to MAG members

Indicative Timeframe

- October 2015 - launch of information papers
- October – December 2015 – consultation period
- April 2016 – Phase 1 amendments introduced into Parliament
- September 2016 – Phase 1 amendments commence