

LOCAL GOVERNMENT ACTS TASKFORCE

PRELIMINARY IDEAS PAPER

OCTOBER 2012



A New Local Government Act for New South Wales

Message from the Chair of the Local Government Acts Taskforce

In August 2012, the NSW Minister for Local Government, the Hon Don Page MP, announced that the legislative framework for local government in the State is to be rewritten and modernised.

The Minister has appointed the Local Government Acts Taskforce to consult with stakeholders and the public to make recommendations for a new Local Government Act that is responsive to the current and future needs of the community. This Act applies to the operations of general purpose councils and county councils across the vast majority of the area of the State.

The Taskforce brief also includes a review of the operation of the City of Sydney Act 1988 which applies to the area of the Council of the City of Sydney.

As Chair of the Taskforce, I now have pleasure in releasing this Preliminary Ideas Paper. This is the first of several opportunities for you to participate in the review where fundamental issues affecting the development of a new legislative framework will be canvassed and your comments invited.

I encourage you and interested organisations to join in the discussion at each stage of the reform process.

The ways to make a submission in writing are outlined at the end of this Paper. Further information on the work of the Taskforce will also be made available progressively via the dedicated page on the website of the Division of Local Government, Department of Premier and Cabinet, www.dlg.nsw.gov.au



John Turner
Chair

1. Purpose

The purpose of this paper is to:

- Provide information about the work of the Local Government Acts (LGA) Taskforce;
- To identify the fundamental principles that should underpin the content of a new Local Government Act for NSW; and
- Invite feedback and ideas from stakeholders and the community.

2. Introduction

In August 2011, over 350 representatives from every council in the State gathered in Dubbo to begin the process of creating a strong and viable local government sector that will allow the sector to meet the needs and expectations of our communities of the future. This was the initiation of Destination 2036. The Destination 2036 Action Plan recognises a key initiative is to 'Ensure the Local Government Act supports strong Local Government' (Initiative 3).

The key outcome from this forum was the development of an Action Plan which is designed to support more detailed consideration of the ideas and suggestions which were developed at the Dubbo forum.

More information about Destination 2036 and the Action Plan can be accessed via the following webpage: www.dlg.nsw.gov.au



As illustrated by the diagram above, the work of implementing the Destination 2036 Action Plan is being undertaken by three main groups:

- **the Destination 2036 Implementation Steering Committee** – The ISC comprises the Presidents of the Local Government Association of NSW, the Shires Association of NSW, Local Government Managers Australia (NSW) and the Chief Executive of the Division of Local Government, Department of Premier and Cabinet (DLG) as Chair. It has been established to develop and oversee the Action Plan. Its role is to ensure actions for which it is responsible are delivered in collaboration with interested groups;
- **the Independent Local Government Review Panel** – The Minister for Local Government has appointed three members to the ILGRP – Professor Graham Sansom (Chair); Ms Jude Munro AO and Mr Glenn Inglis. The ILGRP is looking at ways to strengthen the effectiveness of local government in NSW. The Panel will review the governance, structural arrangements and boundaries of local government in NSW. The final recommendations will be presented to the Minister in July 2013; and
- **the Local Government Acts Taskforce.** – The Minister for Local Government has appointed a four member LGA Taskforce to oversee the rewriting of the *Local Government Act 1993* and the *City of Sydney Act 1988*. The LGA Taskforce is to report to the Minister in September 2013.

Membership of the Local Government Acts Taskforce

The LGA Taskforce is chaired by Mr John Turner. The three other members of the Taskforce are Mrs Gabrielle Kibble AO, Dr Ian Tiley, and Mr Stephen Blackadder. Please refer to the LGA Taskforce webpage at www.dlg.nsw.gov.au for their background details.

The Taskforce is supported by staff of the Division of Local Government, Department of Premier and Cabinet.

3. LGA Taskforce Terms of Reference

The Local Government Acts Taskforce will consider the provisions of the *Local Government Act 1993* and the *City of Sydney Act 1988*, and their practical operation so as to:

- Ensure that the legislation and statutory framework meet the current and future needs of the community, local government, and the local government sector.
- Strengthen and streamline the legislation to enable local government to deliver services and infrastructure efficiently, effectively and in a timely manner.
- Ensure that the legislation is progressive, easily understood and provides a comprehensive framework, while avoiding unnecessary red tape.
- Recognise the diversity of local government in NSW.
- Provide greater clarity on the role and responsibility of local government.
- Adopt the decisions of the Government in relation to the recommendations of the Independent Local Government Review Panel.
- Make recommendations to the Minister for Local Government for legislative changes considered necessary and appropriate for a new Local Government Act.
- Identify and recommend to the Minister for Local Government, at any time during the review process, any legislative changes that need to be implemented prior to the completion of the review.

The Taskforce will provide to the Minister for Local Government its final report by September 2013.

Other considerations:

In carrying out its work the Taskforce will:

- Engage and consult with the wider NSW community and with local government stakeholders (including the Local Government and Shires Associations of NSW, Local Government Managers Australia (NSW), local councils, village committees, county councils, regional organisations of councils, business, community, industrial and employee associations, relevant professional bodies, and government agencies) about the operation of the legislation.
- Identify key principles to underpin local government legislation in NSW. In developing these principles the Taskforce will consider legislation and its application in other jurisdictions both in Australia and overseas.
- Take account of the work, findings and government decisions, in relation to the NSW Planning System Review, the Destination 2036 Action Plan and the NSW State Plan “NSW 2021 – A Plan to make NSW number one”.
- Conduct its work in a manner that recognises the terms of reference and approach being taken by the Independent Local Government Review Panel.

4. Background to the Local Government Act 1993

The 1993 Local Government Act principally deals with the legal and governance framework of local councils and county councils in New South Wales.

A review of the Local Government Act was last undertaken in 1998 following five years of its operation.

Since 1993, there have been 178 amending Acts comprising hundreds of individual changes to the legislation.

The Local Government Act 1993 consists of 18 Chapters, 749 sections and 9 Schedules. Broadly, it covers the following areas:

- Application and purpose of the Act
- Council charter
- How the community can influence what a council does
- Council service functions
- Council regulatory and ancillary functions
- How councils are established
- Council elections
- Council staffing
- Council operations
- Accountability of councils
- Disclosure of interests
- Council finances
- Offences, enforcement and miscellaneous provisions

The Local Government Act is available on the internet at <http://www.legislation.nsw.gov.au/>

5. Background to the City of Sydney Act 1988

A general review has never been undertaken of the City of Sydney Act (CSA).

The CSA does not set out its objects or purpose. It addresses a number of separate matters particular to the powers and functions of the Council of the City of Sydney, the key components being:

- Elections;
- Planning for the City of Sydney;
- Central Sydney Traffic and Transport Committee; and
- Special environmental planning powers.

In 2010, an Independent Panel conducted a review of the role of the Central Sydney Planning Committee provisions of the CSA. The Panel made 21 recommendations to support and improve the continued operation of the Committee.

The CSA is available at <http://www.legislation.nsw.gov.au/>

6. Work of the Local Government Acts Taskforce

In undertaking its work, the LGA Taskforce will engage and consult with the wider NSW community and with key local government stakeholders. This paper is the first opportunity for interested parties to make submissions and contribute to the Acts review.

The LGA Taskforce will also work closely with the Independent Local Government Review Panel and take into account the outcomes and recommendations of the Panel.

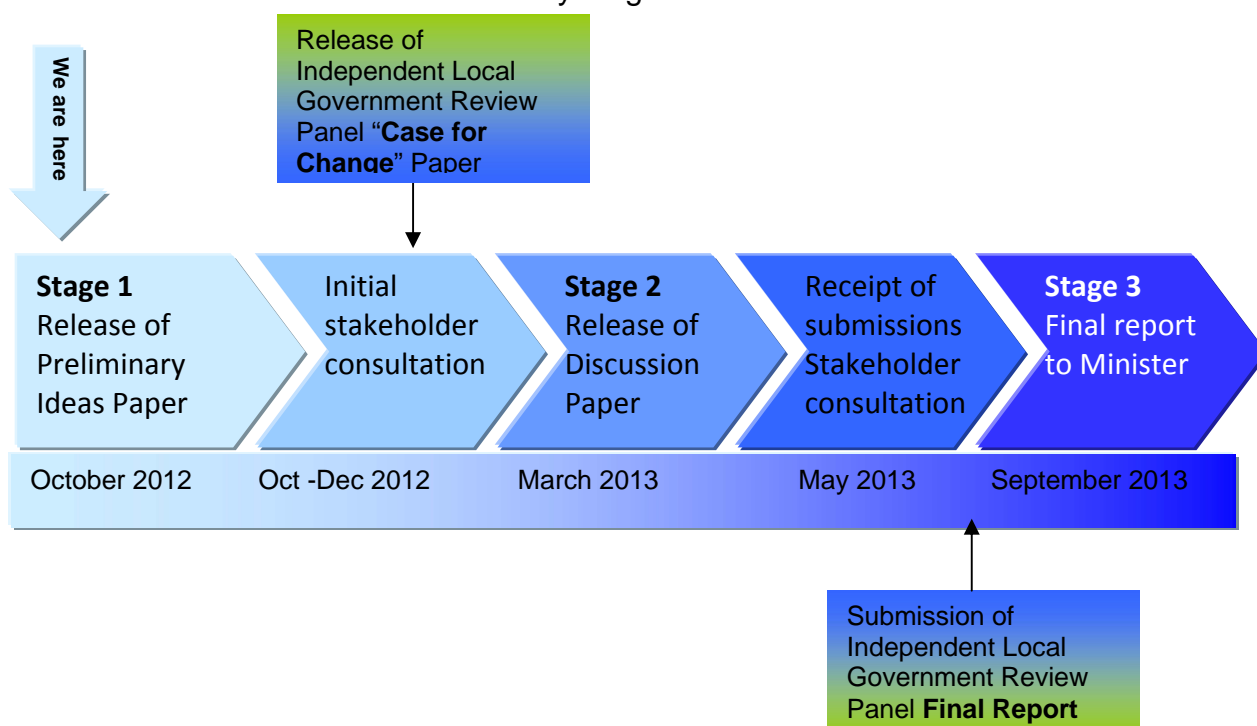
In adopting those recommendations of the Independent Local Government Review Panel that are approved by the Government, the Taskforce will ensure that the new Local Government Act provides an appropriate framework to facilitate and support the implementation of those recommendations.

The LGA Taskforce aims to produce new, modern legislation that will facilitate the delivery by general purpose councils and county councils of more efficient services to their communities and a stronger, sustainable local government sector.

In particular, it is expected that the work of the LGA Taskforce will result in the development of a new Local Government Act that is:

- Modern
- Flexible
- Streamlined
- Supports diversity among councils
- Written in plain language
- Eliminates unnecessary red tape affecting councils and the public

The Review will be undertaken in three key stages:



7. We Would Like Your Views

Stage 1 – Preliminary Ideas Paper – Release and Consultation, October to December 2012

The purpose of this paper is to pose some key questions relevant to the Acts review and a call for submissions addressing these questions.

In undertaking its work the LGA Taskforce is required to ensure that the new legislation:

- meets the current and future needs of local government;
- is streamlined and designed so as to strengthen local government so that it can deliver to its community in an efficient and effective manner;
- is modern and written in plain language and while providing a comprehensive framework, unnecessary red tape is avoided;
- recognises the diversity of local government in NSW; and
- provides greater clarity on the role and responsibility of local government.

The LGA Taskforce has developed a series of questions, posed below, to which it is inviting comment and submissions. These questions are designed to gather information and ideas that will assist the LGA Taskforce develop a framework for the new legislation, following which a more detailed examination of the content of the new legislation will occur. These questions are:

- i) What top 5 principles should underpin the content of the new Local Government Act?
- ii) What is currently working well in the Local Government Act and why, and should it be retained in the new Act?
- iii) Are there areas in the Local Government Act that are working well but should be moved to another Act or into Regulations, Codes or Guidelines?
- iv) What is not working well in the Local Government Act (barriers and weaknesses) and should either be modified or not carried forward to the new Act?
- v) Should the City of Sydney Act be retained and if so, how can it be improved?

The Taskforce has prepared some considerations in relation to each question that are outlined below.

i. What top 5 Principles should underpin the content of the new Local Government Act?

In answering this question it is relevant to consider what the community considers the **role and purpose** of local government should be both now and into the future. Are the **purposes** of each Act clearly identified, contemporaneous or could they be better expressed? How **prescribed** should this be by the legislation?

Local Government is often thought to be too bureaucratic and process driven, to the detriment of innovation and practicality. The Government has a clear policy on reducing red tape. How might a new Local Government Act **reduce unnecessary red tape** and reach an appropriate balance between **process, accountability and council performance**?

If we were to take a more principles based approach to drafting of a new Act could you identify good examples?

ii. What is currently working well in the Local Government Act and why. Should it be retained in the new Act?

The LGA Taskforce recognises that the current Act already contains elements that are working well and may be retained or updated. Perhaps these elements could benefit from a restructure in the new Act by linking these provisions to other sections?

The LGA Taskforce is interested in receiving submissions that identify sections in the current Act that are **working well** and should perhaps be **retained or strengthened**. It is important that in any submission a well reasoned argument is provided to support the view that the section in question should be retained in the Act or why the section(s) could be improved.

iii. Are there areas in the Local Government Act that are working well but should be removed to another Act or into Regulations, Codes or Guidelines?

An important component of the work of the LGA Taskforce is to develop recommendations for a new Local Government Act that reduces unnecessary red tape and is easy to use. Reflective of the roles and functions of local government, the current Act covers a wide diversity of areas including, for example, strategic planning, elections, tendering, approval of activities, street drinking and finances.

The LGA Taskforce is interested in receiving submissions that identify areas of the Act that should be retained but perhaps moved to another Act or guidelines, codes or regulations. If yes, in what areas and why?

iv. What is not working well in the Local Government Act (barriers or weaknesses) and should be modified or not carried forward to the new Act?

It is essential that the Local Government Act provides a framework that is supportive of local government and enables it to operate as effectively and efficiently as possible. To assist in minimising the likelihood that the new Act includes elements that are known not to work well or to act as barriers to effective local government, submissions are invited that identify **weaknesses or barriers** in the current Act.

The LGA Taskforce is interested in receiving submissions that identify functions or aspects in the current Act that are not working well and should perhaps be **deleted or significantly modified**. It is important that in any submission well reasoned argument is provided to support the view that the section in question should be deleted or improved.

v) Is there a case for retaining the City of Sydney Act. If so, how can it be improved?

The City of Sydney Act has separate provisions for the administration of that Council in addition to those in the Local Government Act – see section 5 above. The LGA Taskforce is interested in hearing whether these special provisions are working well and whether there are reasons for **retaining a separate Act for the City of Sydney**.

Alternatively, are these provisions still necessary or could they be accommodated in other legislation?

8. How to make a submission

Submissions can be made through email or mail. Please, if possible, complete the feedback form attached to this paper or use the electronic form that is accessible from the webpage at www.dlg.nsw.gov.au.

Email submissions to:

LGATSubmissions@dlg.nsw.gov.au

Or mail to:

Local Government Acts Taskforce
C/- Division of Local Government
Department of Premier and Cabinet
Locked Bag 3015
NOWRA NSW 2541

It is expected that submissions proposing amendments to the legislation would contain sufficient background and supporting information on which to base a recommendation for change.

All submissions may be made publicly available. If you do not want any part of the submission or your personal details released, because of copyright or other cogent reasons, please indicate this clearly in your submission together with an explanation.

You should be aware that even if you request that you do not wish certain information to be published, there may be circumstances in which the Government is required by law to release that information (for example, in accordance with the requirements of the *Government Information (Public Access) Act 2009*).

Closing date for submissions is COB Friday, 21 December 2012.

Local Government Acts Taskforce –“Preliminary Ideas” Submission Form

Name:	Title:	Contact Details:	
Question	Response		
i) What top 5 Principles should underpin the content of the new Local Government Act and the City of Sydney Act? Identify good examples of Principles.			
ii) What is currently working well in the Local Government Act and why, and should it be retained in the new Act?	What is working well in the Act (strengths)?	Why?	
iii) Are there areas in the Local Government Act that should be removed to another Act or into Regulations, Codes or Guidelines? What are they and how should they be dealt with?			

(Attach additional pages for each question if required. All submissions may be made publicly available – see note section 8 above)

Local Government Acts Taskforce –“Preliminary Ideas” Submission Form

iv) What is not working well in the Local Government Act (barriers or weaknesses)?	What is not working well in the Act (barriers/weaknesses)?	Why not?
v) Should the City of Sydney Act be retained and if so, can it be improved?		
Do you have any other suggestions or comments that might aid the Acts Review?		

(Attach additional pages for each question if required. All submissions may be made publicly available – see note section 8 above)