



Department of Local Government

**REVIEW OF THE
LOCAL GOVERNMENT ACT
1993
REPORT ON THE ACT REVIEW**

MAY, 1999

Review of the *Local Government Act 1993*

Report on the Act Review

Minister's introduction

The aim in reviewing the *Local Government Act 1993* was to determine whether the policy objectives of the Act remain valid, and whether the terms of the Act remain appropriate for securing those objectives. There have been wide consultations with the community and industry in the process of conducting this review, and I am pleased to report that the major stakeholders agree that the principles of the 1993 reforms to local government still hold true. This Report identifies a number of possible areas in which change may be considered appropriate.

I am pleased to submit this report to Parliament.

Executive summary

The aim of this review of the Local Government Act 1993 was to determine whether the policy objectives of the Act remain valid, and whether the terms of the Act remain appropriate for securing those objectives.

The Act principally deals with the governance of councils in New South Wales. It represented a major overhaul of the previous legislation, which was considered to be too prescriptive, inhibiting effective governance at the local level and restricting the performance of councils in managing assets and carrying out their functions in response to community needs.

Although a number of changes have been made to the Act since 1993, the underlying principles in the legislation - greater autonomy and accountability for local councils - remain undiluted. The amendments have generally been minor to correct identified deficiencies, or to meet new policy objectives.

As part of this review, public submissions were called for, and consultations were undertaken with major stakeholders. None of the submissions to the review suggested that the Act was in any way fundamentally flawed. Indeed, the primary stakeholders indicated a general satisfaction with the framework and philosophy of the Act. Nevertheless, there were some areas of concern which emerged as common themes running through a number of submissions.

Some of these issues, discussed on some detail in this report, include:

- the management planning process
- contracts of employment for senior staff
- employment matters for other staff
- the relationship between mayors and general managers

This review has endeavoured to reach outcomes that not only consider all submissions made, but which fairly balance all competing interests. The resulting

proposals for amendments have been made only where convincing arguments have been made that change is necessary to meet the Act's objectives - that is, change has not been sought for its own sake.

As the views of the major stakeholders have made clear, the principles of the 1993 reforms - greater accountability to local communities, more professional management of the day-to-day activities of councils, and increased flexibility to devise methods of efficient service delivery and the performance of regulatory activities - still hold true.

This review provided a valuable opportunity for analysis and comment. A number of possible areas for change have been identified, in order to build upon, rather than alter, the principles underlying the Act. This report concludes that the framework for local government in New South Wales, as set out in the Local Government Act 1993, has, on the whole, been successful.

Introduction

This is a report on the Review of the Local Government Act 1993 ("the Act"), conducted under section 747 of the Act. That section requires that the Act be reviewed five years after its commencement, with a report to be tabled in Parliament within 12 months.

The aim of the review is to determine whether the policy objectives of the Act remain valid, and whether the terms of the Act remain appropriate for securing those objectives. Where appropriate, therefore, this report identifies possible areas for change in order to better meet those objectives.

Background to the Act

The Act principally deals with the governance of councils in New South Wales. The Act was the result of several years of extensive research and consultation throughout New South Wales with government agencies, councils, industry groups, a range of other interest groups and members of the community. It represented a major overhaul of the previous legislation - the Local Government Act 1919 ("the 1919 Act").

The 1919 Act was considered to be too prescriptive, inhibiting effective governance at the local level and restricting the performance of councils in managing assets and carrying out their functions in response to community needs. The 1993 reforms were therefore aimed at avoiding unnecessary State Government intervention in local affairs, while ensuring that councils, their elected bodies and their staff, remain properly accountable to the public.

The review of the 1919 Act was undertaken in two phases. Phase I of the review imposed a standard, generic system across the many functions of councils to simplify operations and enable a better understanding by the community of the

processes and practices of each local government body. Phase II was based on substantial constitutional, electoral, financial, employment and accountability issues.

An initial White Paper and Draft Bill was widely circulated in July – September 1990. A series of twelve seminars were held across the State, attracting over 700 participants and over 100 detailed submissions from interest groups, the professions and the public. This feedback was considered and largely incorporated in initial reform proposals in 1991, addressing the streamlining of council functions.

A further Discussion Paper on local government reform was released in August 1991. This Paper raised major issues in local government, including reform of employment, management, financing, elections, accounting and auditing, public disclosure and accountability. More than 3,000 people attended workshops and seminars run by the Department in 1991, and more than 1,000 submissions incorporating over 4,000 comments on individual provisions were received.

The concepts outlined in the Discussion Paper, together with the results of the discussions and submissions, were put into legislative form and released in December 1991 as the Exposure Draft Local Government Bill 1992. The next rounds of consultation on the Exposure Draft Bill yielded a further 7,500 comments on individual provisions. The Parliamentary Legislative Committee on the Exposure Draft Local Government Bill 1992 reported to Parliament in May 1992.

The final Local Government Bill was debated in 1993, and had general bipartisan support. The Bill was passed by Parliament on 21 May 1993, given assent on 8 June and commenced on 1 July 1993. Over 100 Ordinances were repealed and replaced by nine Regulations under the new Act - the *Local Government Act 1993* (NSW).

The principles of the 1993 reforms

The main principles guiding the legislative reforms of 1993 were:

- *greater accountability by councils to their communities* - through better annual reporting, management plans, consultation on key matters such as revenue raising and rating levels, and access to information requirements,
- *changes to the relationship between councillors and staff* - the elected body of councillors holds all powers given to councils under the Act, although it may delegate powers as it sees fit; councils now appoint general managers to be responsible for day-to-day management, staff and financial resources of the council, and
- *better distinction between providing services and regulating activities* - councils were given maximum flexibility with respect to service provision, such as the ability to change operational and administrative procedures and review priorities, although with specific constraints and increased accountability to the community. With respect to the exercise of councils' regulatory functions, councils must pay

proper regard to due process, fairness and people's rights; councils themselves cannot decide what is regulated and what is not.

The first five years - evolution of the Act

There have been amendments to the Act in almost every parliamentary session since 1993. Although a number of changes have been made, the underlying principles in the legislation of autonomy and accountability for local councils have remained essentially undiluted. The amendments have generally been minor to correct identified deficiencies, or to meet new policy objectives. A summary of those amendments is provided as an attachment to this report.

In addition, a number of initiatives, both state and federal, have impacted on council responsibilities with respect to environmental management and planning functions since 1993. This review therefore provides an opportunity to analyse the cumulative impacts of the first five years of the Act's operation, and to integrate these diverse strands of policy initiatives within the broader objectives of the Act.

This review has therefore examined whether the Act met its objectives in 1993, whether those objectives continue to be valid, and whether the Act still meets those objectives.

The purposes of the Act

The purposes of the Act are set out in section 7, and are as follows:

- (a) to provide the legal framework for an effective, efficient, environmentally responsible and open system of local government in New South Wales,
- (b) to regulate the relationships between the people and bodies comprising the system of local government in New South Wales,
- (c) to encourage and assist the effective participation of local communities in the affairs of local government,
- (d) to give councils:
 - the ability to provide goods, services and facilities, and to carry out activities, appropriate to the current and future needs of local communities and of the wider public
 - the responsibility for administering some regulatory systems under this Act
 - a role in the management, improvement and development of the resources of their areas,
- (e) to require councils, councillors and council employees to have regard to the principles of ecologically sustainable development in carrying out their responsibilities.

Methodology of the review

In December 1997 the then Minister for Local Government, the Hon. Ernie Page MP, consulted with the Local Government Reform Task Force on the nature of the statutory review. Given the continuous review process that has occurred, the Minister determined that the review would be focussed on ensuring that the intent and integrity of the Act has been retained. The review was intended to address inconsistencies that have arisen as a result of the many minor changes that have occurred and ensure that the legislation reflects recent changes in government administration and policy.

Advertisements were placed in the *Sydney Morning Herald* on 2 May 1998 and 19 May 1998, calling for public submissions to the review. Advertisements were also placed in a number of community language newspapers, such as *La Fiamma* and the *Australian Chinese Daily* on 21 May 1998, and the *Greek Herald*, *Chieu Duong* and *El Telegraph* on 22 May 1998.

As a result, 79 submissions were received from a variety of organisations and individuals.

A number of other resource documents were considered as part of the review, where they had application to the Act. These documents included State government policy statements on the application of National Competition Policy to local government, a report from the Public Accounts Committee (*Changing the culture : Dispute management in local councils*), as well as a report from IPART on benchmarking in local government. Other documents included reports of Departmental investigations into council activities and management overviews, and reports received under section 430 of the Act. Matters identified in correspondence to the Minister and the Department were also considered as were resolutions of recent annual conferences of the Local Government and Shires Associations.

In addition to analysing the issues raised in the 79 submissions and the various other resource documents, discussions were held with some of the major stakeholders in local government, including the Local Government and Shires Associations (LG&SA), the Municipal Employees Union (MEU), the Environmental Health and Building Surveyors Association (HABSA), and the Institute of Municipal Management (IMM). Issues raised by the Ombudsman and the ICAC in their frequent relations with the Department were also included in the review.

Analysis of submissions received

Submissions received

A total of 79 formal submissions were received for the review. Of these, 55 were external, and the remainder were generated internally as a result of issues identified in dealing with correspondence from the public to the Minister or the Department.

Of the 55 external submissions received, 34 came from 28 different councils (that is, some councils sent more than one submission).

Seven of the remaining 21 submissions could also be categorised as raising issues on behalf of councils: one came from a Voluntary Regional Organisation of Councils (a VROC) representing nine councils; three came from the Local Government and Shires Associations (representing all 177 councils in NSW); one came from a councillor, one from a State MP on behalf of a council, and one came from a council administrator. Generally, submissions identified a number of different matters for consideration.

A number of other submissions came from other major stakeholders in local government: there was one submission each from the IMM, the MEU, the Institute of Municipal Engineering, HABSA, the Local Community Services Association, and the Local Government Auditors Association.

Other non-government, community and business groups and individuals accounted for a further six submissions, and there were two submissions from state government agencies.

The review process also incorporated consideration of recent reports from other organisations which have made recommendations regarding the Act, such as the IPART report *Benchmarking Local Government Performance in NSW : Final Report* (April 1998). A review of past resolutions of Local Government and Shires Associations conferences was also undertaken to identify any outstanding issues not previously addressed by the Department.

Issues raised

Each distinct comment made within a submission or resource document was collated, yielding a total of 572 “comments” for examination. However this does not mean that there were 572 *distinct* issues raised, since many “comments” were duplicated over a number of submissions. For example, 12 submissions raised the issue of open meetings (section 10 of the Act). These 12 submissions generated 42 “comments” about section 10, many of which were duplicated.

34 of the 572 comments related primarily to matters not within the Act, but within associated Regulations or other documents within the Department’s portfolio, such as Practice Notes or guidelines, or raised matters best dealt with through educative, rather than legislative, measures.

A further 100 comments were found to not require further analysis. These comments tended to address matters since rendered obsolete. One reason for this was if the topics covered in the submissions dealt with issues already covered in other recent reviews which had already sought public submissions on specific issues in the Act, such as community land, election provisions and open meetings reforms. Another reason that specific issues raised in submissions might be considered to not require further analysis was if the relevant sections of the Act have been amended since the date that the relevant submissions were prepared, such as through the reforms introduced in the *Environmental Planning and Assessment Amendment Act 1997*.

Of the remaining 438 comments, the topics raised were spread throughout the Act. The chapter of the Act which received the most attention was chapter 15: "How are councils financed?". 142 comments identified issues which raised aspects of National Competition Policy. This report does not detail a response to every one of the 438 comments made, but instead presents the general findings of the Review process, as well as identifies areas for possible change.

Overview of the review findings

One concern of the Review process, as mentioned above, was to determine whether the policy objectives of the Act remain valid, and whether the terms of the Act remain appropriate for securing those objectives.

The majority of comments addressing the objectives of the Act indicated a general satisfaction with the framework and general philosophy of the Act, although of course they also made numerous suggestions for changes that might be termed procedural.

A number of major stakeholders had various comments to make about the Act as a whole, such as:

"The aim of the Government ... in 1993 was stated as being to give Councils autonomy, responsibility and accountability. ... There is little doubt that the original Act accomplished this objective" (LG&SA, 3 July 1998).

"The present legislation, particularly in the area of reporting mechanisms, disclosure of interests, accounting and finance has contributed towards the development of a more open system of government promoting improvements in productivity and the delivery of more effective community services" (MEU, 25 June 1998).

"the Institute generally supports the direction that has been established by the new legislation in moving away from a prescriptive approach to one that is more enabling" (IMM, 7 August 1998).

"the Act has provided an effective legislative framework for the daily operations of local government" (IMEA, 24 June 1998).

Other comments focussed on a desire to maintain the flexibility of the Act (IMEA, 24 June 1998), maintaining current levels of accountabilities to the community (IMM, 7 August 1998), and ensuring that in drafting future amendments, the government resists the temptation to be too prescriptive (LG&SA, 3 July 1998).

Of the submissions received on particular issues, a variety of views were expressed, often conflicting. The review focussed on the primary question of whether the legislation is achieving its objectives, and therefore areas of possible change have only been identified in this report where needed to facilitate better meeting those objectives. Careful consideration was given to all of the views expressed during this process.

Major areas of review

As noted above, there have been a number of amendments made to the Act in the first five years, addressing new issues as they have arisen. This process of making minor changes from time to time can be seen to support the view that the Act does not require a major overhaul - and indeed, none of the submissions to the review suggested that the Act was in any way fundamentally flawed. The primary stakeholders agree with the objectives of the Act, and believe that the Act as a whole meets those objectives.

Nevertheless, there were some areas of concern which emerged as common themes running through a number of submissions. The discussion below highlights some of these issues, and incorporates the proposed method of dealing with those issues.

The management planning process

The central mechanism established by the Local Government Act by which councils allocate their resources and prioritise their activities in consultation with the community is the Management Plan. The Local Government Act requires that councils prepare a Management Plan each year. The Management Plan must address the objectives, strategies and performance management of council activities for at least the next three years and may look further, particularly where long term assets or strategies are relevant.

The process of preparing the Management Plan is also an essential part of enabling interaction between councils and their communities. It provides members of the public with a valuable means of expressing their views about council's management of community resources. In this sense, preparation of the management plan is the first link in the chain of accountability.

Development of the Management Plan is linked in a planning cycle with the State of the Environment Report and Annual Report. This process is designed to systematically identify key directions and areas for work, to prioritise activities to be undertaken within a holistic framework, and to design, implement and monitor feedback on objectives, budgets, strategies and performance standards to ensure that those issues are addressed by the council in an integrated and efficient way. The cyclical process of planning, implementing and reporting is the key to the whole chain of accountability.

In its submission to the review, the LG&SA suggested that the preparation of management plans become a more dynamic process, similar to the State of the Environment reporting process, with preparation of a major four-year plan in the first year following council elections, and a relevant update each year. The IMM was supportive of the current approach taken to the level of accountability expected of councils to their communities, with respect to management plans. The IMM also

requested further assistance for councils from the Department in the preparation of management plans.

There has been some indication that the management planning process - in particular, the focus on developing, implementing and achieving long-term objectives - could yet be greatly improved. Problems identified in reviews and investigations of councils support this view. The proposal is therefore to take a more holistic and strategic view of the role of management planning in councils. The planning process is the key to the integration of identifying community needs and expectations with determining resource allocation and organisational structure to meet those needs.

It is considered that management plans should look at the medium and long-term goals of the organisation. A rolling yearly plan should then contain the more specific level of detail, with short-term priorities set to meet the community needs, aligned with the medium and long-term objectives. This will assist councils to develop integrated policies and provide a framework for decisions arising from single issues.

The development of 'big picture' objectives should be the focus of the management plan, with the achievement of these objectives being the guiding principle for both the policies developed by councillors and the day-to-day management of the council by senior staff. The management planning process should also be used to link, through the use of similar performance indicators for both council and senior staff, the objectives of council with the objectives of management. This would help address other concerns about reviewing the performance of senior staff on contracts (see below). This approach clearly provides to the community, councillors and council staff information about the direction, priorities and performance of the council.

As a related matter, a complaint was raised by the MEU that organisational redesigns sometimes appear to be undertaken in an arbitrary fashion, without any relation to the long-term objectives of the particular council. The proposal (above) to sharpen the focus on the management planning process should deal with this issue, because a council's organisational structure should be addressed as part of reviews of the council's long-term direction. The discretion to redesign the organisational structure should therefore be linked to the pursuit of the objectives as set out in the management plan.

This focus on forward-planning should ensure that changes to the organisational structure are placed in the context of the objectives of the council. Management planning is a multi-layered process, with the broader objectives (as set by the council) feeding into the operational strategies implemented by council management (the general manager and other senior staff), and the integration of activities across functional divisions within councils.

The Department of Local Government proposes to develop guidelines on the management planning process which will assist councils in better addressing the strategic importance of management planning and its essential role in the accountability process.

Contracts of employment for senior staff

The issue of the relationship between councillors and council staff drew much attention in the first five years since the Act commenced. The IMM and HABSA have indicated that the fixed-term nature of senior staff contracts, in particular, has been a problem. The NSW Ombudsman has expressed concerns over problems perceived to arise through the contractual relationship.

The IMM submitted that in some cases, councils have used the fixed-term nature of employment contracts for senior staff as a tool for terminating individual staff, rather than using a more appropriate performance management system. Senior staff positions have thereby become politicised, with staff under particular pressures as the end of their fixed-term draws nearer. This gives rise to concerns about the ability of council staff to maintain their independence and give professional advice about council matters.

This issue also points to a flaw inherent in the nature of fixed-term contracts. This has resulted in unnecessarily high costs of separation for some councils, where staff on fixed-term contracts have been terminated with substantial periods left to run. The converse result is that other councils, because of the fear of such high costs of separation, leave under-performing staff in their positions for the full length of their term. Both of these situations provide a poor result for both council and the local community.

The focus on the term of the contract overlooks the requirement that the contracts are also performance-based. Failure to rectify deficiencies in performance may provide the basis for terminating a contract without substantial penalty payments. In a number of cases, management overviews conducted by the Department have identified failures by councils and senior staff to tackle the issues of performance based management, both for the organisation and for individual staff. This reflects a focus on the short-term without adequate long-term objectives being developed or followed. Breakdowns in relationships between councils and senior staff are similarly symptomatic of this problem.

The IMM has therefore called for the introduction of annual performance reviews for senior staff in place of the current fixed-term nature of employment contracts, and also supported the development of guidelines to assist councils put better procedures into place with respect to performance agreements and assessments. There may also be a role for the Department in reviewing the performance assessment process of councils, and in providing independent opinions where disputes regarding performance might arise.

The performance basis for contracts should also link to the performance objectives of council, so that performance can be objectively assessed. This provides an essential aspect of accountability both for staff and the council, since the strategic objectives should be agreed upon through the community-driven management planning process.

This should in turn result in better performance and more effective and independent decision-making from senior staff (by providing greater job certainty for those staff meeting their performance objectives) and reduce the costs of unnecessary staff turnover. Both results would be beneficial to the local community. This does not prevent the removal of senior staff who are not performing well - rather it focuses the process on objective criteria, rather than a reliance upon the expiry of a fixed term. It is also a fundamental tenet in accountability.

Although the LG&SA opposed the option of eliminating fixed-term contracts for senior staff, this was favoured by HABSA and the MEU. The MEU and HABSA in fact went further, proposing that senior staff should not be on contract at all, but covered by the state award. The LG&SA argued that councils should have the ability to terminate a general manager's contract if he or she does not "get on" with the council or mayor, regardless of their performance.

Having reviewed the various viewpoints, no recommendation for legislative change is proposed at this stage. It is considered that a more critical issue with respect to employment contracts is that continued employment should be conditional upon meeting performance indicators - that is, through the performance-based nature of the contract.

Employment matters for other staff

The submission from the MEU also expressed concern over the areas of staffing and tender regulation. Proposals for reform from the MEU included measures to promote the development of career pathways and protect council employees from arbitrary organisational redesign.

The MEU submitted that the Act should limit councils from externally advertising job vacancies until they have looked at internal applicants first. The aim of this proposal was to assist council employees with career opportunities and the acquisition of skills. However this submission was opposed by both the LG&SA and the IMM on a number of grounds, which may be broadly summarised as raising concerns about the cost, equity and accountability of such a scheme, as well as a concern that it would lead to a dilution of the principle of merit-based appointment. The IMM therefore requested that the discretion to first advertise internally remain with councils.

It is considered that the encouragement of staff development through career opportunities is a matter of good management practice, and thus not appropriate for legislated compulsion.

A further proposal from the MEU dealt with defining "lateral transfer" under section 350 (which provides an exemption from the normal recruitment requirements regarding advertising and appointment on the basis of merit) so as to clarify the inclusion of transfers that have arisen from organisational redesign. One way of doing this would be to include some criteria such as equivalence in skills, accountability and remuneration. As mentioned above, reforms to link the objectives of council's management plan more closely with the internal management of the

council should prevent the need for frequent tinkering with job redesigns. However it is proposed to amend section 350 by replacing the term “lateral transfer” with a more descriptive phrase, such as “by way of transfer to a position of similar skills, accountability and remuneration”.

The relationship between mayors and general managers

The relationship between mayors and general managers generated a number of submissions. Some were concerned about the turnover rate of general managers, and suggested that confusion as to the respective roles and responsibilities of councillors versus senior council staff may be the cause. Some submissions therefore suggested that legislative action is needed.

However, on balance, it is considered that amendment to the Act is not warranted in this instance. As the IMM noted in their submission, it is not possible to legislate for the nature of the relationship between mayors and general managers. In particular, the past six years has represented a time of enormous change for local government, and therefore a certain period of adjustment is only to be expected.

People changing careers - particularly at the executive level - is an ongoing process, and the turnover of general managers since 1993 is no exception to this trend. With the local government elections in 1995 there were changes at the elected level, which in turn led to new policy initiatives and, in some cases, reviews of contractual arrangements with senior staff. There have only been to date a limited number of general managers whose services have been terminated out of 177 general purpose councils.

The management overviews conducted by the Department have indicated that if a general manager is not performing, the issue should be dealt with through proper contract management, rather than by simply terminating the manager and paying out their contract. Councils should therefore recognise the need for general managers to manage the council within the framework of their employment contracts, and in pursuit of the performance criteria set. The fundamental responsibility is for councils to determine objectives and priorities, and for the general manager to implement these policy decisions. The reporting framework should allow councils to monitor the achievement of their objectives, and make changes to short-term directions if circumstances require.

Experience has shown that a major cause in the breakdown of relationships between councils and their general managers has been the failure of the parties to continually monitor their relationship, identifying at an early stage any potential sources of conflict and developing strategies to resolve it. Some councils have therefore failed to fulfil their statutory responsibilities.

Councils should be ensuring that adequate performance management mechanisms are in place, that they monitor performance at set intervals or conduct annual reviews in keeping with the terms of the contract, and that they ensure performance agreements for senior staff include specific performance criteria that are both

relevant and measurable, as well as aligned with the responsibilities, objectives and indicators outlined in the council's management plan.

This issue therefore highlights the need for better staff contract management, along with a closer alignment between senior staff performance objectives and council's performance objectives, as set out in the management plan.

Other issues covered by the review

There was enormous breadth to the issues covered in submissions to this review. Not surprisingly, a number of submissions raised issues that were already the subject of much debate prior to the 1993 reforms. Few submissions, however, made any arguments in favour of returning to the pre-1993 system of local government. Again not surprisingly, for each issue there are always numerous view-points and varied stakeholder interests to be considered. This review has endeavoured to reach outcomes that not only consider all submissions made, but which fairly balance all competing interests. A number of areas have been identified as possibly requiring change, although they have been identified only where convincing arguments have been made that change is necessary to meet the Act's objectives - that is, change has not been sought for its own sake.

Areas identified as possibly requiring change include provisions to:

- Clarify the situation with respect to councillors' leave
- Disqualify persons declared bankrupt from holding civic office
- Simplify the procedure for minor boundary changes
- Clarify in which situations by-elections are not needed
- Clarify what constitutes quorum
- Clarify matters relating to pecuniary interest including: matters not requiring a hearing; the powers of the Pecuniary Interest Tribunal with respect to council employees; and the reporting requirements for the Tribunal
- Bring provisions relating to access to information closer in line with the Freedom of Information Act 1989
- Make explicit the Minister's power to place conditions on special rate variations
- Clarify the powers of county councils
- Provide increased powers for the Auditor-General
- Clarify the status of matters referred to the Department by the Ombudsman
- Clarify the access provided to community land for utility operators
- Insert a new streamlined approval process for commercial filming activities
- Clarify orders powers relating to places of public entertainment, moveable dwellings and buildings erected prior to 1993
- Allow illegal parking on council land to be dealt with by an on the spot fine

- Remove the need for council approval to hold a public meeting
- Allow council business activities to calculate their full costs
- Increase reporting requirements for contracts made without tendering
- Allow councils to streamline billing processes
- Provide greater flexibility for council businesses to vary their fees
- Effect consequential amendments required by changes to the Environmental Planning and Assessment Act 1979
- Clarify a range of definitions
- Introduce a range of minor and/or machinery changes

The result of this Act Review process will form the basis for a set of legislative proposals for amendments to the *Local Government Act 1993*, as well as cognate amendments to other Acts and the various regulations made under the Act.

Consultation on areas of change

Once the review was completed, a paper on possible areas of change was circulated to members of the Local Government Minister's Reform Taskforce. This Taskforce includes representatives from the MEU, HABSA, LG&SA, IMM, the Country Mayors Association, the Institute of Municipal Engineering, the Local Government Community Services Association and the Australian Local Government Women's Association, as well as individuals such as academics and councillors.

Constructive comments on the proposed areas of change were received from the MEU, HABSA, LG&SA, IMM, the Institute of Municipal Engineering and the Country Mayors Association. Those comments were taken into account when drafting the final report. Although the responses received indicated that the vast bulk of the proposals were supported, inevitably there was some disagreement between different stakeholders on particular issues of concern to them. Discussion of the various viewpoints taken with respect to senior staff contracts, for example, has already been detailed above.

Substantial issues for further consideration

Some substantial issues, such as water reform issues, reciprocal charging and matters relating to ensuring competitive neutrality for council businesses, were considered to be such that further consultation was required before legislative proposals could be considered. Therefore these matters have been deferred for further discussion and development later in 1999.

Conclusion

As the major stakeholders have indicated, there is wide support for the objectives of the 1993 Act, as well as general agreement that, on the whole, the Act continues to meet those objectives.

As a result of the 1993 reforms, far greater responsibility has been placed on councillors and staff to perform well and to carry out operational and decision making functions with absolute integrity. There has also been an increased focus on the need for efficiency and transparency of operations and decisions at the local government level. In addition, there have been a number of policy initiatives at the state and federal levels which have impacted on the responsibilities of councils, especially in the area of environmental management and planning, and compliance with National Competition Policy.

Understandably, therefore, the first five years since the Act commenced has been a period of considerable adjustment for councillors, council staff, and all other members of the community coming into contact with councils, including the Department itself.

However, as the views of the major stakeholders have made clear, the principles of the 1993 reforms - greater accountability to local communities, more professional management of the day-to-day activities of councils, and increased flexibility to devise methods of efficient service delivery and the performance of regulatory activities - still hold true today. The Act, as a whole, can be said to have met its objectives in the pursuit of these principles. The framework for local government in New South Wales, as set out in the Local Government Act 1993, has been successful.

This review process, the outcome of which has included some proposals identifying areas for change, has nevertheless provided a valuable opportunity for analysis and comment. A number of proposals have been identified, in order to build upon, rather than fundamentally alter, the principles underlying the Act.

The near future will likely represent a continued period of consolidation for local government, in which councils will continue to provide service to meet the needs of their communities. The development, through consultative processes, of long-term objectives and priorities, the measurement of performance, and the essential mechanisms of accountability will bring about better results for local communities.

ATTACHMENT - Summary of amendments made to the Local Government Act since 1993

Local Government (Boarding & Lodging Houses) Amendment Act 1994

- to categorise certain land used for residential accommodation in the form of a boarding or lodging house as “residential” for rating purposes

Local Government Legislation (Miscellaneous Amendment) Act 1994

- with respect to a variety of matters relating to the administration of local government

Local Government Legislation Amendment Act 1995

- with respect to a variety of matters relating to the administration of local government

Local Government Amendment (Alcohol-Free Zones) Act 1995

- to enable a council to prepare a proposal for the establishment of an alcohol-free zone on its own motion, and to make miscellaneous amendments to other provisions relating to alcohol-free zones

Local Government Amendment (Tribunals) Act 1996

- in connection with appointments to the Local Government Pecuniary Interest Tribunal and the Local Government Remuneration Tribunal

Local Government Amendment Act 1996

- with respect to fire safety, rates and charges and in other miscellaneous respects

Local Government Amendment (Nude Bathing) Act 1996

- to allow nude bathing on certain beaches

Local Government Amendment (Cudgegong Abattoir) Act 1997

- to enable Cudgegong (Abattoir) County Council to give security for loans by way of a mortgage over its land

Local Government Amendment (ESD) Act 1997

- to require councils to take into consideration the principles of ecologically sustainable development and to enhance requirements as to state of the environment reporting by councils

Local Government Amendment (Open Meetings) Act 1997

- to specify the limited circumstances in which a local council or certain council committees may close part of a meeting to the public
- to make further provision concerning the public's right to inspect and obtain copies of documents held by a council
- and for other purposes

Local Government Amendment Act 1997

- with respect to council resolutions, rates and charges and in other miscellaneous respects

Local Government Amendment Act 1998

- in relation to a council's exercise of its functions and its financial and annual reports, the Local Government Pecuniary Interest Tribunal, the sale of land for unpaid rates and charges, and other matters

Local Government Amendment (Community Land Management) Act 1998

- to place more stringent controls on the uses of community land

Local Government Legislation Amendment (Elections) Act 1988

- to make minor changes to local government elections and eligibility for voting in the City of Sydney

Miscellaneous amendments have also been made to the Local Government Act 1993 via cognate amendments to other Acts, such as:

- Building Services Corporation Legislation Amendment Act 1996
- Bush Fires (Further Amendment) Act 1994
- Classification (Publications, Films & Computer Games) Enforcement Act 1995
- Electricity Legislation Amendment Act 1995
- Electricity Supply Act 1995
- Energy Legislation (Miscellaneous Amendment) Act 1994
- Evidence (Consequential & Other Provisions) Act 1995
- Financial Institutions (Miscellaneous Amendment) Act 1996
- Fisheries Management Act 1994
- Mines Rescue Act 1994
- National Parks & Wildlife Amendment Act
- Native Title (NSW) Act 1994
- Ports Corporatisation & Waterways Management Act 1995
- Rural Fires Act 1997
- Statute Law (Miscellaneous Provisions) Act (No 2) 1996
- Statute Law Revision (Local Government) Act 1995
- Threatened Species Conservation Act 1995
- Timber Plantations (Harvest Guarantee) Act 1995
- Transport Administration Amendment (Light Rail) Act 1996
- Transport Administration Amendment (Rail Corporatisation and Restructuring) Act 1996
- Unclaimed Money Act 1995
- Waste Minimisation and Management Act 1995