

Opinion Editorial

Councils – balancing the needs of the whole community

With Local Government elections only being held every four years, it is no surprise that as we get closer to the postal ballot period, there is increasing interest in and commentary around council activities. Engagement in local democracy is to be celebrated. However, it is a shame that this engagement sometimes comes from a base of having taken little previous interest, and consequently not always having a complete understanding, of a matter.

The recent interest in Clarence City Council's Public Places By-Law is one such example. The use of by-laws to manage the use of public buildings and spaces is common across Tasmania with currently 10 councils having by-laws in place which address such matters (although they might have slightly different titles). Many of these by-laws have been in place for a considerable period, but they expire after 10 years and must be renewed.

All councils have the power to create by-laws under the *Local Government Act* and the Local Government Division of the State Government has produced and published several resources related to the making of by-laws including guidance on consultation. By-laws allow councils to respond to issues and community needs at the municipal level and complement the powers and functions they have under legislation.

While a by-law can be disallowed by a motion of either the Legislative Council or the House of Assembly, this has not occurred in several decades. This is because the Parliament is well aware of the extensive process councils go through when making a by-law; including the preparation of a Regulatory Impact Statement (RIS) and public notification and consultation at a number of stages of the process.

Public space or similar by-laws are developed to ensure safe, orderly and equitable use of spaces and places that belong to the whole community. They can help promote public health or support desired amenity values. Historically some by-laws were developed to address gaps in State legislation but today by-laws are generally developed to allow the application of certain laws to local circumstances. By-laws are specifically designed to ensure that the actions of an individual or a group do not have an adverse impact on the community as a whole.

Through the designation of spaces or permit/permission pathways, the by-laws ensure that there is both the opportunity for people to play beach cricket, and the opportunity for people to use the beach unbothered by people playing beach cricket. They provide the ability for groups to rally around issues of concern without being hassled by opposing groups who would like to gather in the same space at the same time. They enable council to



work on behalf of the broad community when someone doesn't want to be fair or appropriate in their use of community space. Sometimes people want to undertake an activity in a space which could result in their injury. Through the permission paths required of council they can be directed to more appropriate sites.

Council officers are not automatons. They have the ability to apply by-laws sensibly with the focus on public order and safety as well as equitable use for their whole community. In the rhetoric of the last few days, the focus on broad community benefit and community good seems to have been lost but rest assured councils will work with communities to get the balance right when it comes to the establishment of by-laws.

Dr Katrena Stephenson
CEO
Local Government Association of Tasmania
Mob: 0488610641