GLENORCHY CITY COUNCIL
ATTACHMENTS
MONDAY, 18 DECEMBER 2023

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Managing conflicts of interest of councillors

Framework proposal/discussion paper

Office of Local Government
Department of Premier and Cabinet

Tasmanian Government

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Contents

Introduction

Background

The Tasmanian Government is committed to supporting and strengthening Tasmania's local government sector and ensuring that our local councils are equipped to serve their communities. In 2020 following extensive public consultation, 51 legislative reforms were approved by the Tasmanian Government as part of the Local Government Legislation Review. Two of the proposed reforms directly address conflict of interest issues.

On 29 September 2022, the Integrity Commission released a summary report of its own-motion Investigation Fisher. The report presented its findings into alleged misconduct of a councillor surrounding undeclared conflicts of interest.

An additional research paper produced by the Integrity Commission, based on the findings from Investigation Fisher, highlighted gaps in the current regulatory framework for managing the interests of councillors in local government and recommended potential reforms.

Early in 2023 the Office of Local Government convened a local government sector working group to develop a proposal for an effective and contemporary framework for managing conflicts of interests. The working group has informed the development of this framework proposal and endorsed its release for consultation. The Premier's Local Government Council (PLGC) met on 27 July 2023 and endorsed the outline of the draft framework that is now presented for consultation.

Changes to legislation will be required to give effect to the proposed reforms. Accordingly, this document is presented as a "framework proposal". Consequently, throughout this document, references to future legislation are subject to consideration by Government, which will be informed by this engagement.

Making a submission

Submissions on this framework proposal are welcome from members of the community, stakeholders, councils, and elected representatives. Respondents are encouraged to review the principles, specific reform proposals, and context outlined in this paper to inform their feedback.

Submissions might consider the following:

- Do the provisions of the proposed framework reflect the guiding principles?
- Does the proposed framework support public confidence and trust in local government?
- Are the proposed exemptions to conflicts of interest comprehensive, practical, and suitable for adoption in Tasmania?
- When determining what information contained in a Personal Interest Return should be exempt from publication, are the examples provided appropriate for adoption in Tasmania?

Submissions by email to lgconsultation@dpac.tas.gov.au are preferred.

Alternatively, submissions may be provided by mail, addressed to:

Attention: Managing interests framework
Office of Local Government
Department of Premier and Cabinet
GPO Box 123

HOBART TAS 7001

Submissions must be received by 5:00pm on 22 December 2023.

Submissions will be treated as public information and published on the Department of Premier and Cabinet's website. If you would like your submission to be treated as confidential, you must indicate in writing, at the time of providing your submission, the parts of your submission you wish to remain confidential and provide the reasons for this. Please consult the Tasmanian Government's Public Submission Policy for further information. Submissions will be published after consideration by Government.

Proposed changes to managing conflicts of interests of councillors

Proposed change	Page
1. This framework introduces six guiding principles: 1) integrity 2) impartiality 3) transparency 4) accountability 5) proactivity and responsiveness 6) consistency.	9
2. Currently in Tasmania, pecuniary (financial) conflicts of interest are regulated through the *Local Government Act 1993* (the Act). Non-pecuniary interests are regulated through the Code of Conduct. Under this proposed framework, all conflicts of interest will be regulated through the Act and will be classified either as actual, perceived or potential conflicts of interest. For this reason, the Code of Conduct Panel would no longer assess alleged conflicts of interest and all types of conflicts of interest may be either pecuniary or non-pecuniary.	11
3. Councillors will be required to disclose both the fact that they have a conflict of interest and the nature of the conflict of interest before a council meeting, workshop, agenda briefing or other forum where the matter would be discussed.	14
4. After disclosing an actual conflict of interest, councillors must exclude themselves from meetings, workshops, agenda briefings or other forums during discussion on the matter. Councillors with an actual conflict of interest will have restricted or no access to deliberative material and information on those matters.	14
5. After disclosing a perceived or potential conflict of interest, councillors must exercise their own reasonable judgment as to whether or not to participate. In certain circumstances, it may be appropriate for the Council to overturn a councillor's decision to participate.	14
6. The management of perceived and potential conflicts of interest needs to be flexible to reflect the variety and broad scale of conflicts that could be included. Changes to the Act will be considered to empower the Minister to introduce guidance around how assessments and judgements are made and the types of management options that are available, especially if a perceived or potential conflict of interest is disclosed.	14

7. This proposed framework introduces new arrangements for submitting and managing personal interest returns. Councillors will be required to submit an initial personal interest return shortly after being elected to council. Councillors will also be required to submit an annual personal interest return on a fixed date, through their term.	15
8. Where a personal interest return discloses an interest that will foreseeably give rise to a conflict in the council, councillors will be required to develop a Proactive Management Plan including pre-arranged actions and strategies to manage the foreseeable conflict.	15
9. In the interests of accountability and transparency, this framework proposes that Personal Interest Returns and Proactive Management Plans (or summaries providing agreed details) should be publicly available.	16
10. Updated penalties under this framework may include fines, dismissal from office, and prison terms.	17

Objectives

Any perception that local governments may be unable to make fair and unbiased decisions has the capacity to erode their legitimacy and have negative impacts on their functioning.

This framework sets out a contemporary approach for identifying, managing, and mitigating councillors' personal interests and conflicts of interest, while ensuring that councillors' decisions and actions are guided by ethical principles. It is aligned with the *Good Governance Guide for Local Government in Tasmania* published by the Department of Premier and Cabinet.

Two key objectives of good governance in local government (and all decision making of public officials) are to:

1. Ensure that decisions are made in the best interests of the community and free from bias arising from the personal interests of decision-makers.
2. Promote trust in decision-making in local government by managing perceptions of bias arising from perceived personal interests of decision-makers.

These are the primary objectives of this framework for managing conflicts of interest of councillors.

Guiding Principles

Implementing a principles-based framework encourages a culture of ethical behaviour, professional conduct, and good governance, while also fostering trust and confidence among constituents and other stakeholders.

Councillors should uphold the following six principles when managing their personal interests in the course of their duties. All councils and councillors should bear these principles in mind when managing interests and deciding how legislation and regulations should be interpreted and applied.

Integrity

Integrity is a value that underpins all councils' trustworthiness. Having integrity as a foundational principle demonstrates a commitment to ethical conduct and responsible governance. Integrity underscores the importance of self-awareness and self-regulation while encouraging councillors to recognise and disclose conflicts of interest that arise in the course of their duties. Integrity serves as a guiding principle for councillors to navigate conflicts responsibly and make decisions in the best interests of the council and its constituents.

Impartiality

Impartiality is a fundamental principle of ethical conduct. Councillors committed to acting impartially will prioritise their duties as a councillor, and the welfare of their constituents, over their personal interests. Impartiality promotes fair and unbiased decision-making and fosters trust among stakeholders and constituents.

Accountability

Accountability is a fundamental requirement of good governance. Accountability ensures that councillors are responsible and answerable for their actions and decisions. It promotes transparency by requiring councillors to disclose their interests. When councillors demonstrate that they are accountable for identifying and managing conflicts of interest, it enhances confidence in council's decision-making processes and governance.

Transparency

The community should be able to follow and understand council's decision-making process. Transparency promotes accountability, trust and fairness within local government and ensures that councillors are aware of their obligation to disclose conflicts of interest. A culture of transparency and openness will minimise the occurrence of undisclosed conflicts of interest and ensure decision-making processes are fair and unbiased, safeguarding the integrity of decisions. Transparency serves as a vital foundation for the success of this framework and the maintenance of trust among constituents.

Proactivity and Responsiveness

Councillors should proactively disclose and manage conflicts of interest at the earliest possible stage. Simultaneously, the requirement to be responsive promotes a dynamic approach to managing conflicts of interest and ensures that they are promptly and appropriately addressed.

Consistency

This framework increases clarity surrounding the management of interests, which in turn will promote a consistent approach across the State in line with community expectations of good governance. Consistency is reinforced by adopting the Integrity Commission's classification system of conflicts of interest, introducing best practice principles used across Australia, and updating penalties so that they are commensurate with those in other jurisdictions. When councillors collectively disclose and manage their interests in line with this framework, they help maintain high standards, setting a strong example as leaders in their community.

Classifying Interests

Introduction

In Tasmania, interests for councillors in Local Government are currently categorised as either pecuniary (financial) or non-pecuniary (non-financial). Pecuniary conflicts of interest are regulated through the *Local Government Act 1993* (the Act). Non-pecuniary interests are regulated through the Code of Conduct (the Code).

The Local Government Act Legislation Review identified the current arrangements as confusing for councillors and difficult to manage, especially as pecuniary and non-pecuniary interests operate with different regulations and sanctions.

The Act, while managing actual pecuniary conflicts of interest, is silent on how perceived pecuniary interests should be managed. Under the Code, non-pecuniary interests are not clearly defined making the Code difficult to interpret and enforce. The most severe sanction for a councillor participating in council meetings with a serious undeclared non-pecuniary conflict of interest is a three-month suspension from duties without allowances, after which they resume their position on the council.

Under this proposed framework, a conflict of interest arises when a councillor has an interest in any matter with which the Council is concerned that may impact on their ability to make an impartial decision. All conflicts of interest will be regulated through the Act and will be classified as either actual, perceived, or potential conflicts, following the Integrity Commission classifications.

For this reason, the Code of Conduct Panel would no longer assess alleged conflicts of interest and all types of conflicts of interest may be either pecuniary (financial) or non-pecuniary.

Actual conflict of interest

A councillor has an actual conflict of interest in respect of a matter if an impartial, fair-minded person would consider that the councillor would gain a benefit or suffer a loss from a decision made by the council. The benefit gained or loss incurred may arise directly (ie directly to them) or indirectly (ie through a close associate) or be of a pecuniary or non-pecuniary nature.

A pecuniary benefit or loss is one that can be measured in money. However, a benefit or loss does not have to be pecuniary.[1] Non-pecuniary benefits or losses might include:

- an impact on a person's social or community standing;
- an impact on a person's residential amenity; or
- a permit allowing a person to conduct an activity.

[1] *Managing Personal Interests in Local Government - A manual for council managers and governance officers*, p 13, Local Government Victoria, October 2020.

Perceived conflict of interest

A perceived conflict of interest is when a councillor may appear – to a reasonable person familiar with the facts of the situation – to be influenced in a manner that is contrary to their public duty to impartially perform the role of a councillor. It is still a perceived interest even if it is not occurring.

Perceived conflicts of interest may be either pecuniary (financial) or non-pecuniary.

Potential conflict of interest

A potential conflict of interest occurs when a councillor is in a position where they may be influenced in the future by their personal interests when fulfilling their duties. Importantly, under a potential conflict of interest, there is no intimation of a current conflict of interest but rather, a recognition of one that may occur in the future.

Potential conflicts of interest may be either pecuniary (financial) or non-pecuniary.

Examples

- Councillor A is a member of the committee of a local not for profit sports club that is applying to the council for a grant. The Councillor's status as a committee member gives rise to an actual (non-pecuniary) conflict of interest.
- Councillor B owns a business that is submitting a tender for a contract with the council. Councillor B has an actual (pecuniary) conflict of interest in the matter as they will gain an immediate and tangible financial benefit if their company is successful in being awarded the contract.
- Councillor C used to work for the business that is applying for the tender for the contract with council and maintains close personal friendships within the company. Councillor C has a perceived conflict of interest in the matter because an impartial, fair-minded person may consider that Councillor C's previous employment and friendships could influence their decision-making and result in them acting in a manner that is contrary to their public duty.
- Councillor D has an intimate relationship with the owner of a local construction company. The Councillor's private interests are currently not relevant to their official duties, but they could be in the future if their spouse submits a tender for works. This is a potential conflict.
- Councillor E has a property that will be served by the tendered contract. Because this benefit is held in common with a substantial proportion of residents and does not exceed the interest held by the other residents, Councillor E does not have a conflict of interest.

Exemptions

As illustrated by the Councillor E scenario, some situations should not give rise to a conflict of interest. These will be established in legislation to give effect to this framework proposal.

Based on exemptions currently in force in Victoria, below are examples of the types of exemptions that could apply for this framework:

- the conflict of interest is so remote or insignificant that it could not be reasonably regarded as capable of influencing the actions or decisions of the councillor in relation to the matter;
- the interest that would give rise to a conflict of interest is held in common with a substantial proportion of the residents, ratepayers or electors of the municipal district and does not exceed the interest held by the other residents, ratepayers or electors;
- the councillor does not know the circumstances that give rise to the conflict of interest, and could not be reasonably expected to know those circumstances;
- the interest only arises because the councillor is the representative of the council on a not-for-profit organisation that has an interest in the matter and the councillor receives no personal advantage from the not-for-profit organisation;
- the interest only arises because a family member of the councillor is a member but not a committee/board member of a not-for-profit organisation;
- the interest only arises because the councillor is a member, but not a committee/board member, of a not-for-profit organisation – even where that organisation has expressed an opinion or advocated for an outcome in regard to the matter;
- the interest arises in relation to a decision by a councillor on a matter or in a circumstance that is prescribed to be exempt.

Exemptions do not discharge an obligation to disclose an interest required under a Personal Interest Return, and appropriate actions and strategies should be proactively developed, as discussed later in this document.

Disclosure and management of conflicts of interest

Disclosure

Actual, perceived and potential conflicts of interest must be disclosed whenever a councillor is called on to perform a public duty that could affect their personal interests.

Under this framework proposal, councillors will be required to disclose both the fact that they have an interest in a matter, and the nature of the interest, before a council meeting, workshop, agenda briefing or other forum where the matter would be discussed. Depending on the nature of a councillor's interest, they may be prohibited from attending or participating in forums while the matter is discussed, as well as receiving information on the matter in which they have disclosed an interest.

Councils will appoint a Principal Officer (General Manager or their delegate), to ensure that councillors have a clear point of contact to discuss and disclose conflicts with. This will assist in clearer direction to councillors on how to manage a conflict and also allow for council to record and manage conflicts.

A councillor must not take actions that are contrary to a previous declaration, effectively giving rise to a conflict of interest after the fact. For example: if a councillor has a business that could compete for a tender that the council has to approve, the councillor cannot say that they do not have a conflict of interest on the basis that their business will not apply for the tender, and then later, after they have received information and participated in the decision to release the tender, disclose a conflict of interest and compete for the tender.

Management

Actual conflicts of interest

After disclosing an actual conflict of interest, councillors must exclude themselves from attending meetings, workshops, agenda briefings or other forums while the matter is being discussed. Councillors with an actual conflict of interest shall have restricted or no access to deliberative material and information on those matters. Changes to legislation will be considered to automatically classify such material and information confidential in respect of an actual conflict of interest.

Perceived and potential conflicts of interest

After disclosing a perceived or potential conflict of interest, councillors must exercise their own reasonable judgment as to whether or not to participate. In certain circumstances, it may be appropriate for the Council to overturn a councillor's decision to participate. In a workshop setting, agenda briefing or other forum, the Mayor would be empowered to exercise an interim decision to overturn a councillor's decision to participate. The matter will then be brought to the next council meeting for a decision.

The management of perceived and potential conflicts of interest needs to be flexible to reflect the variety and broad scale of conflicts that could be included in this category. Changes to legislation will be considered to empower the Minister to introduce guidance around how assessments and judgements are made and the types of management options that are available if a perceived or potential conflict of interest is disclosed.

Personal Interest Returns

Tasmania is the only Australian jurisdiction that does not require councillors to lodge a Personal Interests Return (PIR) that discloses and records interests held by councillors in property, corporations and business partnerships, membership of organisations, as well as sources of income. In Victoria, a PIR is described as "a record of the private interests of a person in public office that assists in improving probity. It helps to ensure transparency and reduce conflicts of interest."

This proposed framework addresses this by introducing arrangements for submitting and managing PIRs.

Councillors will be required to submit an initial PIR to the General Manager or a delegated officer shortly after being elected to council.

Councillors will also be required to submit an annual PIR by a fixed date to the General Manager or a delegated officer throughout their term.

Throughout the year, councillors will be required to disclose new or emerging personal interests by updating their annual PIR.

The information that a councillor must disclose relating to the nature of different types of interests will be prescribed in legislation developed to give effect to this framework.

A councillor may be reported to the Director of Local Government if the councillor:

- knowingly fails to provide a PIR within the allotted time frame;
- knowingly fails to notify of any alteration of those interests within 28 days of the change occurring, or
- knowingly provides false or misleading information.

Examples of the types of interest that must be disclosed in the PIR, based on the Registration of Members' Interests applied to Members of the Federal House of Representatives, are included in Appendix A.

Proactive Management Plan

After completing, or updating their PIR, councillors will be required to develop a Proactive Management Plan including pre-arranged actions and strategies to manage foreseeable conflicts.

These actions and strategies should be developed collaboratively with input and advice from the council's mayor and the Principal Officer (General Manager or their delegate). If the mayor has an interest that must be proactively managed, the General Manager should assume the mayor's role for this purpose.

If a councillor does not voluntarily propose pre-arranged actions and strategies, or the mayor considers that the proposed actions and strategies are unlikely to effectively prevent foreseeable conflicts in the council, the mayor will be able to request the councillor develop appropriate pre-arranged actions and strategies that, in the mayor's reasonable opinion, will effectively manage a conflict of interest in foreseeable scenarios.

Proactive Management Plans must be developed within 28 days from the submission of a PIR.

Publication of Personal Interest Return and Proactive Management Plan

In the interests of accountability and transparency, this framework proposes that PIRs and Proactive Management Plans (or summaries providing agreed details) should be publicly available. This would be consistent with current arrangements in most other Australian jurisdictions.

In developing legislation to give effect to this framework, provisions will be included to exempt appropriate details from publication. For example, in Victoria, information exempt from publication includes:

- the monetary value or amount of any income, shares, other beneficial interests and debt;
- the street address and number of any land owned by the specified person, or in which the specified person has a beneficial interest, if the land is the principal place of residence of any person;
- information which, if released, would be reasonably likely to place the personal safety of any person at risk;
- private commercial information.

Complaints, penalties and deterrents

Initially, a complaint should be lodged with the General Manger of the council. After assessing the complaint to ensure it addresses a breach of the Act or Regulations, and that it is in the correct format, the General Manager should refer the complaint to the Director of Local Government.

Penalties or sanctions will be imposed for:

- failing to declare an interest;
- failing to declare an interest with an intent to dishonestly obtain a benefit;
- intentionally or recklessly lodging a personal interests return that contains false or incomplete information;
- failing to update a personal interests return in the required time;
- failing to develop and agree to pre-arranged actions and strategies to proactively manage foreseeable conflicts of interest;
- acting inconsistently with a previous declaration or giving rise to a conflict of interest after the fact.
- attending a meeting, workshop, agenda briefing or other forum where a matter relating to a known conflict of interest would be discussed without disclosing a conflict of interest.

Penalties under this framework may include fines, dismissal from office, and prison terms. These will be set through the development of legislation.

Penalties should be proportionate to legislation and penalties in other States. Tasmania currently has penalties that are significantly lower than elsewhere.

Impact of undeclared conflict of interest on a council decision

Under this framework, a councillor's participation in a council decision while having an undeclared conflict of interest would not automatically invalidate the council's decision. However, if the conflicted councillor's vote or conduct appears to be material to the outcome of the council's decision, it is proposed that this information may be used as grounds to appeal the decision where such an avenue exists.

This process would be an administrative appeal.

Further support and guidance

To support the implementation of this framework, the Office of Local Government will develop support materials including:

- a Guide to the management of actual, perceived and potential conflicts of interests, including case studies;
- a Personal Interest Returns template;
- a Proactive Management Plan template;
- information on implications for the Code of Conduct framework; and
- a module to be included in the Local Government Learning and Development Framework.

Definitions

The following definitions are derived from contemporary managing interests frameworks across Australia. They will be refined as a result of this submissions received in response to this consultation draft, and through the development of legislation to give effect to the draft framework.

actual conflict of interest: A councillor has an actual conflict of interest in a matter if, in respect of a matter a councillor would gain a benefit or suffer a loss depending on the outcome of the matter. The benefit may arise, or the loss may be incurred, directly or indirectly or in a pecuniary or non-pecuniary form.

annual personal interests return means a return lodged annually by a councillor, after the initial personal interests return, while they continue to be a councillor.

close associate means:

- a family member of the councillor;
- a body corporate of which the councillor or their spouse or domestic partner is a director or a member of the governing body;
- an employer of the councillor, unless the employer is a public body;
- a business partner of the councillor;
- a person for whom the councillor is a consultant, contractor or agent;
- a beneficiary under a trust or an object of a discretionary trust of which the councillor is a trustee;
- a person from whom the councillor has received a disclosable gift.

family member means:

- a spouse or domestic partner of the councillor; or
- a parent, grandparent, sibling, child, grandchild, step-parent, step-sibling or step-child of the councillor or of their spouse or domestic partner; or
- any other relative that regularly resides with the councillor.

initial personal interests return means the first return lodged by a councillor.

matter means a matter with which a council will require a power to be exercised, a duty or function to be performed, or a decision to be made, by the Council.

perceived conflict of interest: A perceived conflict of interest is when a councillor may appear – to a reasonable person familiar with the facts of the situation – to be influenced in a manner that is contrary to their public duty to impartially perform the role of a councillor. It is still a perceived interest even if it may not be occurring. A perceived conflict of interest may be either pecuniary or non-pecuniary.

personal interest means any direct or indirect interest of a councillor that does not derive from their public duty and does not include an interest that is only a matter of personal opinion or belief.

potential conflict of interest: A potential conflict of interest occurs when a councillor is in a position where they may be influenced in the future by their personal interests when fulfilling their duties.

public duty means the responsibilities and obligations that a councillor has to members of the public in their role as a councillor.

Appendix A – Information included in personal interest returns

The detail that must be provided by a councillor in a personal interest return varies between jurisdictions that require returns to be submitted.

Below is an example of the type of interests, and level of detail about those interests, that Federal Members of the House of Representatives are required to disclose and declare. This information is published online as soon as possible after the commencement of each Parliament and is updated as required to include any alteration of their interests by a Member.

Federal Registration of Members' interests – Requirements of the House of Representatives

Within 28 days of making and subscribing an oath or affirmation as a Member of the House of Representatives each Member shall provide a statement of:

(a) the Member's registrable interests; and

(b) the registrable interests of which the Member is aware (i) of the Member's spouse/partner and (ii) of any children who are wholly or mainly dependent on the Member for support.

The statement of a Member's registrable interests shall include the Member's registrable interests as well as those of their spouse/partner and any children who are dependent on the Member.

Declarations/disclosures shall cover the following matters:

(a) shareholdings in public and private companies (including holding companies) indicating the name of the company or companies;

(b) family and business trusts and nominee companies—

(i) in which a beneficial interest is held, indicating the name of the trust, the nature of its operation and beneficial interest, and

(ii) in which the Member, the Member's spouse/partner, or a child who is wholly or mainly dependent on the Member for support, is a trustee (but not including a trustee of an estate where no beneficial interest is held by the Member, the Member's spouse/partner or dependent children), indicating the name of the trust, the nature of its operation and the beneficiary of the trust;

(c) real estate, including the location (suburb or area only) and the purpose for which it is owned;

(d) registered directorships of companies;

(e) partnerships indicating the nature of the interests and the activities of the partnership;

(f) liabilities indicating the nature of the liability and the creditor concerned;

(g) the nature of any bonds, debentures and like investments;

(h) saving or investment accounts, indicating their nature and the name of the bank or other institutions concerned;

(i) the nature of any other assets (excluding household and personal effects) each valued at over $7,500;

(j) the nature of any other substantial sources of income;

(k) gifts valued at more than $750 received from official sources, or at more than $300 where received from other than official sources provided that a gift received by a Member, the Member's spouse/partner or dependent children from family members or personal friends in a purely personal capacity need not be registered unless the Member judges that an appearance of conflict of interest may be seen to exist;

(l) any sponsored travel or hospitality received where the value of the sponsored travel or hospitality exceeds $300;

(m) membership of any organisation where a conflict of interest with a Member's public duties could foreseeably arise or be seen to arise, and

(n) any other interests where a conflict of interest with a Member's public duties could foreseeably arise or be seen to arise.

Appendix B – Interjurisdictional comparison

State	Act	Regulations	Code	Types of interest	Declaring interests	Managing interests
Tasmania	*Local Government Act 1993*	*Local Government (General) Regulations 2015*	Prescribed *Model Code of Conduct*	Pecuniary (legislation) Non-pecuniary (regulation - code of conduct)	Pecuniary and non-pecuniary interests must be declared only before matter discussed at meeting. **No requirement for councillors to complete return of interests.**	Pecuniary – non-participation in meeting and decisions. Non-pecuniary – councillor decides if they have a conflict of interest and whether it requires non-participation in meeting.
Victoria	*Local Government Act 2020*	*Local Government (Governance and Integrity) Regulations 2020*	Yes, (but not prescribed)	General – if reasonably presumed to be a conflict between councillor's personal interests and the public duty. Material – if would gain benefit of loss (either pecuniary or non-pecuniary)	Yes, lodge a written personal interests return after election, then biannually. Disclose conflict of interest before matter discussed at council meeting. **Summary of interests made publicly available.**	General and material – non-participation in meeting and decisions.
NSW	*Local Government Act 1993*	*Local Government (General) Regulation 2005*	*Model Code of Conduct for Local Councils in NSW*	Pecuniary Non-pecuniary	Yes, lodge a written personal interests return after election, then annually. Register of interests not public.	Pecuniary – non-participation in meeting and decisions. Non-pecuniary – assess, non-participation if deemed significant.
Queensland	*Local Government Act 2009*	*Local Government Regulation 2012*	*Code of Conduct for Councillors in Queensland*	Prescribed – mostly relates to supply of goods and services and lease or sale of assets. Declarable - conflict between councillor's personal and public	Yes, lodge a written financial and non-financial interests return after election, then annually.	Prescribed – non-participation in meeting and decisions. Declarable – participation or non-participation as voted on by council.

				interests where decision might not be in public interest. Personal interest	Register of interests made publicly available.	Personal – council to decide if personal interest is declarable.
Northern Territory	*Local Government Act 2019*	*Local Government (General) Regulations 2021*	Code of Conduct (Schedule 1 of the Act)	A direct interest, an indirect financial interest, an indirect interest by close association and an indirect interest due to conflicting duties.	Written return on election, then annually, disclosing a range of financial interests, membership of political party, and organisation for which a conflict of interest with the person's duties could foreseeably arise. Register of interests made publicly available.	All interests – non-participation unless permission granted by Minister.
South Australia	*Local Government Act 1999*	*Local Government (General) Regulations 2013*	*Code of Conduct for Council Members*	General – if reasonably presumed to be a conflict between councillor's personal interests and the public duty. Material – if would gain benefit of loss (pecuniary or non-pecuniary)	Yes, lodge a written personal interests return after election, then annually. Must include pecuniary interests, and non-pecuniary interests that might raise a material conflict of interest. **Register of interests made publicly available.**	Material – non-participation (except with Minister's approval). General – participation or non-participation as decided by the councillor with the declared interest.
Western Australia	*Local Government Act 1995*	*Local Government (Rules of Conduct) Regulations 2007*	*Local Government (Model Code of Conduct) Regulations 2021*	Financial (primary legislation) Non-financial (interest that might affect impartiality including kinship, friendship or membership of an association (regulations).	Financial – written return after election, then annually. Non-financial interests – must be declared before matter discussed at meeting. Register of interests not public.	Financial - non-participation, unless permitted by other members present or permission granted by Minister. Non-financial – allowed to participate.

Tasmanian Government

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Tasmanian Government

8 NOV 2023

Ald Bec Thomas
Mayor
Glenorchy City Council
bec.thomas@gcc.tas.gov.au

Dear Mayor

I write to you to draw your attention to the release of a discussion paper titled *Managing conflicts of interest of councillors - framework proposal* and invite you to provide feedback on a proposed draft framework to better manage local government elected officials' conflicts of interests. The Tasmanian Government is pursuing these reforms to enhance and strengthen the governance and professionalism of our local government sector.

The proposed framework has been developed by a Working Group comprising representatives from the Local Government Association of Tasmania, Tasmanian council representatives and the Office of Local Government.

The discussion paper proposes reforms to the current regulatory framework under which councillors must manage conflicts of interest in the course of their official duties.

A range of reforms are proposed for discussion, including:

- **Changes to the way conflicts of interest are classified**

  It is proposed that the classification of conflicts of interests would change from the current pecuniary interests regulated through the *Local Government Act 1993*, and non-pecuniary interests which are regulated through the *Code of Conduct for Councillors*, to actual, perceived, and potential conflicts of interest, all of which would be regulated through the Act. All types of conflict of interest would include both pecuniary and non-pecuniary conflicts of interest.

- **Disclosure of interests by councillors**

  It is proposed that personal interest returns are submitted by all councillors soon after they are elected and thereafter on an annual basis throughout their term. It is proposed that personal interest returns will be made publicly available to promote transparency and accountability.

  As well as lodging personal interest returns, it is proposed that councillors must disclose the fact that they have an interest in a matter, and the nature of the interest, before a council meeting, workshop, agenda briefing or other forum where the matter would be discussed.

- Management of conflicts of interest

  It is proposed that when a councillor has an actual conflict of interest (pecuniary or otherwise) they must exclude themselves from attendance of any official council forum while the matter is being discussed. Additionally, councillors with an actual conflict of interest should not have access to deliberative material and information on the matter.

  Where a councillor has a perceived or potential conflict of interest, it is proposed that they should exercise their own reasonable judgment as to whether to participate in a meeting or other forum where the matter is discussed. However, in certain circumstances it may be appropriate for the council to overturn a councillor's decision to participate.

A range of other reforms are also proposed, including: the development of proactive conflict management plans, the strengthening of penalties for breaches of the Act to bring Tasmania in line with other States, and the development of appropriate guidance material for councillors and council staff.

I strongly encourage councils, council staff, and councillors individually to engage with this important proposal.

Feedback is welcome until midnight on 22 December 2023, preferably by email, and can be submitted to lgconsultation@dpac.tas.gov.au. You may access copies of the discussion papers and further information on the Office of Local Government website: www.dpac.tas.gov.au/council-consult

Yours sincerely

Hon Nic Street MP
Minister Local Government

cc. Tony McMullen – tmcmullen@gcc.tas.gov.au

Our ref: Minister for Local Government
Enquiries Tony McMullen, General Manager
Direct phone: (03) 6216 6800
Email: GCCMail@gcc.tas.gov.au

19 December 2023

Hon. Nic Street MP
Minister for Local Government
GPO Box 123
Hobart TAS 7001

nic.street@dpac.tas.gov.au

Dear Nic,

Comments on the Managing Conflicts of interest of councillors – framework proposal

Thank you for the early opportunity to provide comments on the Managing Conflicts of interest from councillors report.

In general terms the Council is supportive of the proposed changes. While the changes require more administrative action on the part of Elected Members and officers, we acknowledge that there are public benefits to be gained from Tasmania coming into line with other jurisdictions on these matters. The Council accepts the need to follow best practice in its governance arrangement.

We thank you for the advance notice and look forward to further opportunities to comment as the new legislation is ready to be enacted.

Many of the changes are similar to existing processes. In terms of internal administration, they are unlikely to result in a significantly increased burden on Council officers. Other positive aspects of the proposals include removing the artificial and confusing distinction between pecuniary and non-pecuniary interests.

<u>Definitions</u>

The definition of an actual non-pecuniary conflict of interest could be further refined, "impact on a person's social or community standing" is too vague. The use of the word "actual" can also be confusing where it is linked to a 'reasonable person' test. An "actual" state of affairs is normally taken to be a proven fact, not a matter of judgement.

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GLENORCHY CITY COUNCIL

Guidance Materials

It would be very helpful to have high quality guidance material, especially where it gives examples that illustrate common dilemmas faced by Elected Members in recognising and managing conflicts. Perceived conflicts are common issues that councillors have to resolve. They are sometimes founded on as little as when a councillor lives in the same suburb as a proposed development, but not adjacent to it. We would like to see this material as soon as possible. It would also be useful to see examples of a model Proactive Management Plan.

Meetings

We would concur with comments already raised by other councils in relation to the Mayor's power to exclude a councillor's from a workshop, agenda briefing or council meeting. The framework would need to provide clear guidance on when a Mayor can overturn a councillor's decision to participate in a meeting.

This could include the power to exclude where there is evidence on the balance of probabilities of the existence of a conflict of interest, disclosed or otherwise. We recognise that in many circumstances this will be difficult to establish, and some form of guidance around the use of this power (such as the level of evidence required) is needed to avoid potential misuse.

Proactive Management Plan

We would disagree that it would be preferrable to have the Mayor assisting with the development of Proactive Management Plans. This would conflict with the requirement that the Mayor does not direct a councillor in their duties. This function should be coordinated by the General Manager.

Information sharing

We also share some reservations about the practical difficulty in restricting access to information. It is normal for councillors to talk with each other openly about issues, including issues about to come before Council and councillors only become aware late in the cycle that there is a conflict affecting one of the parties to the conversation. There may also need to be a power to recover materials from a member who has declared an interest.

Personal Interest Returns

We would also suggest that there is clear guidance on when these declaration records can be destroyed and that they do not need to be available for public viewing (apart from RTI requests) when the councillor is no longer in office. These could be retained for 6 years only in case of potential future legal challenges.

There was a strong consensus that candidates who have nominated for election to Council should also make the same public disclosure of their interests as well as current elected councillors. This would create a level playing field for all candidates at each election.

There was commentary from elected members about the details of the personal interest return. The declaration of gifts and benefits appears to duplicate an interest that would have already been declared under existing requirements (Appendix a, sub para (f)).

Once again, we would like to thank you for the opportunity to comment and we look forward to viewing the draft legislation.

Yours sincerely

Bec Thomas
Mayor

Royal Commission into Institutional Responses to Child Sexual Abuse

Draft Task List

Task	Source document	Details of task	Task summary
Designate Child Safety Officers	Recommendation 6.12 - Royal Commission into Institutional Responses to Child Sexual Abuse	"Should work closely with the independent State oversight body"[not yet determined]. Will need training and support.	1. Appoint child safety officers 2.Organise training
Child safe messages in GCC facilities.	Recommendation 6.12 - Royal Commission into Institutional Responses to Child Sexual Abuse	-Ensure that organisations formally engaging with Council (using facilities or grants) understand their obligations and are implementing appropriate child safe practices. -Proforma material is promised but not yet delivered. - Halls and venues need standardised information rollout - review licensing and booking arrangements to specify WWVP cards and other measures, right to exclude persons not of good standing? Right to assess suitability of their child safety arrangement. Generic material is located at the following links: https://www.justice.tas.gov.au/carcru/child-and-youth-safe-organisations-framework/information-sharing-and-the-child-and-youth-safe-organisations-framework https://www.esafety.gov.au/parents/children-under-5/online-safety-for-under-5s-booklet https://www.napcan.org.au/napcan-brochures/ https://tals.net.au/uploads/general/Child-safety-matters-brochure.pdf	3. pamphlets and materials 4. review bookings and licenses

Task	Source document	Details of task	Task summary
Assist local institutions to access online child safe resources	Recommendation 6.12 - Royal Commission into Institutional Responses to Child Sexual Abuse	-We need to create a website page in an accessible format -Proforma material is promised but not yet delivered.	5.website page
Provide child safety information to support local institutions on a needs basis.	Recommendation 6.12 - Royal Commission into Institutional Responses to Child Sexual Abuse	See notes above on Child Safety officers Child Safety Officers should be available for the community to contact for information to support their compliance. Training of CSOs	6. collate relevant community contacts
work collaboratively to ensure child safe approaches are culturally safe, disability aware and appropriate for children from diverse backgrounds.	Recommendation 6.12 - Royal Commission into Institutional Responses to Child Sexual Abuse	Materials not available Training We have existing community contacts and skilled people for specific initiatives.	

Task	**Source document**	**Details of task**	**Task summary**
1. Undertake risk assessments annually	Eg. From the Commonwealth Child and Youth Safe Organizations Framework (from 2024 onwards) https://www.childsafety.gov.au/our-work/lead-commonwealth-child-safe-framework	In relation to activities of the entity, to identify the level of responsibility for, and contact with, children, evaluate risks to child safety, and put in place appropriate strategies to manage identified risks	7. risk assessment
2. a system of training and compliance,	Eg. From the Commonwealth Child and Youth Safe Organisations Framework (from 2024 onwards)	To make staff aware of, and compliant with, the Framework and relevant legislation, including Working with Children Checks / Working with Vulnerable People Checks and mandatory reporting requirements, a policy document	8. staff information
4. publish an annual statement of compliance	Eg. From the Commonwealth Child and Youth Safe Organisations Framework (from 2024 onwards)	We have found some Federal templates of compliance statements.	9. prepare a draft statement

Task	Source document	Details of task	Task summary
1. Child safety and wellbeing is embedded in organisational leadership, governance and culture.	National Principles for Child Safe Organisations. (compliance with these is Incorporated from the Commonwealth Child and Youth Safe Organisations Framework https://childsafe.humanrights.gov.au/sites/default/files/2019-02/National_Principles_for_Child_Safe_Organisations2019.pdf	Key action areas: 1.1 The organisation makes a public commitment to child safety. 1.2 A child safe culture is championed and modelled at all levels of the organisation from the top down and the bottom up. 1.3 Governance arrangements facilitate implementation of the child safety and wellbeing policy at all levels. 1.4 A Code of Conduct provides guidelines for staff and volunteers on expected behavioural standards and responsibilities. 1.5 Risk management strategies focus on preventing, identifying and mitigating risks to children and young people. 1.6 Staff and volunteers understand their obligations on information sharing and recordkeeping. Indicators that this principle is upheld: The organisation can demonstrate they have publicly available and current documents such as a child safety and wellbeing policy, practice guidance, information sharing protocols, staff and volunteer codes of conduct and risk management strategies. The organisational leadership models and regularly reinforces attitudes and behaviours that value children and young people and a commitment to child safety, child wellbeing and cultural safety. This commitment is clear in duty statements, performance agreements and staff and volunteer review processes. Staff, volunteers, children and young people have a sound knowledge of children's rights, including their rights to feel safe and be heard, and the accountabilities that accompany these rights. Leaders promote sharing good practice and learnings about child safety and wellbeing.	10. Consider amending the Code of Conduct? 11. New policy and directives 12. Review recruitment and procurement and volunteer process

Task	Source document	Details of task	Task summary
2. Children and young people are informed about their rights, participate in decisions affecting them and are taken seriously.	National Principles for Child Safe Organisations.	Key action areas: 2.1 Children and young people are informed about all of their rights, including to safety, information, and participation. 2.2 The importance of friendships is recognised and support from peers is encouraged, to help children and young people feel safe and be less isolated. 2.3 Where relevant to the setting or context, children may be offered access to sexual abuse prevention programs and to relevant related information in an age appropriate way. 2.4 Staff and volunteers are attuned to signs of harm and facilitate child-friendly ways for children to express their views, participate in decision-making and raise their concerns. Indicators that this principle is upheld: • The organisation has programs and resources to educate children and young people on their rights including their right to safety and right to be listened to. • The organisation is proactive in providing age appropriate platforms to regularly seek children and young people's views and encourage participation in decision-making. • Staff and volunteers have a good understanding of children and young people's developmental needs. • Opportunities for participating are documented and regularly reviewed. • The organisational environment is friendly and welcoming for children and young people. • Children and young people participate in decision-making in the organisation, including in relation to safety issues and risk identification. • Children and young people can identify trusted adults and friends. • Children and young people are informed about their roles and responsibilities in helping to ensure the safety and wellbeing of their peers.	13. Consider participation forums

Task	Source document	Details of task	Task summary
3. Families and communities are informed and involved in promoting child safety and wellbeing.	National Principles for Child Safe Organisations	Key action areas: 3.1 Families participate in decisions affecting their child. 3.2 The organisation engages and openly communicates with families and the community about its child safe approach and relevant information is accessible. 3.3 Families and communities have a say in the development and review of the organisation's policies and practices. 3.4 Families, carers and the community are informed about the organisation's operations and governance. Indicators that this principle is upheld: • The organisation is responsive to the needs of families and communities, including to cultural safety aspects. • The organisation creates opportunities for families and communities to be involved in how the organisation operates, including encouraging their children's participation and feedback. • The organisation has clear and accessible information for families and communities about the organisation's operations and policies, including child safety and wellbeing policy, Code of Conduct, record keeping practices and complaints and investigation processes. • The organisation seeks feedback from families and communities on issues of child safety and wellbeing and incorporates this into their policies and practices. • The organisation engages with and supports approaches that build cultural safety through partnerships and respectful relationships.	14. review information, complaints and investigations policies

Task	Source document	Details of task	Task summary
4. Equity is upheld and diverse needs respected in policy and practice.	National Principles for Child Safe Organisations	Key action areas: 4.1 The organisation, including staff and volunteers, understands children and young people's diverse circumstances, and provides support and responds to those who are vulnerable. 4.2 Children and young people have access to information, support and complaints processes in ways that are culturally safe, accessible and easy to understand. 4.3 The organisation pays particular attention to the needs of Aboriginal and Torres Strait Islander children, children with disability, children from culturally and linguistically diverse backgrounds, those who are unable to live at home, and lesbian, gay, bisexual, transgender and intersex children and young people. Indicators that this principle is upheld: • The organisation has specific policies in place that promote equity and respect diversity for the safety and wellbeing of all children and young people. • The organisation produces child-friendly material in accessible language and formats that promotes inclusion and informs all children and young people of the support and complaints processes available to them. • Board members, employees and volunteers champion attitudes and behaviours that respect the human rights of all children and young people, and are inclusive, well informed and responsive to diverse needs. • Board members, staff and volunteers reflect on how discrimination and exclusion, whether intentional or unintentional, may work against a safe and inclusive culture and they develop proactive strategies to address this. • Staff and volunteers are trained to recognise and respond effectively to children and young people with diverse needs.	

Task	Source document	Details of task	Task summary
5. People working with children and young people are suitable and supported to reflect child safety and wellbeing values in practice.	National Principles for Child Safe Organisations	Key action areas: 5.1 Recruitment, including advertising, referee checks and staff and volunteer pre-employment screening, emphasise child safety and wellbeing. 5.2 Relevant staff and volunteers have current working with children checks or equivalent background checks. 5.3 All staff and volunteers receive an appropriate induction and are aware of their responsibilities to children and young people, including record keeping, information sharing and reporting obligations. 5.4 Ongoing supervision and people management is focused on child safety and wellbeing. Indicators that this principle is upheld: • The organisation emphasises its commitment to child safety and wellbeing when advertising for, recruiting and screening staff and volunteers. • Duty statements, selection criteria and referee checks demonstrate children and young people are valued and respected, commitment to child safety and wellbeing, understanding of children's developmental needs and culturally safe practices. • Employers, staff and volunteers in an organisation have completed background check requirements. • Staff and volunteers understand the child safety policy and procedures of the organisation and meet their record keeping, information sharing and reporting responsibilities. • Ongoing staff support, supervision and performance management processes involve child safety elements. • The organisation maintains suitable record keeping systems and protocols for staff and volunteers. • The organisation has a range of tools and processes to monitor and mitigate risk.	15. Management awareness training. 16. performance review process

6. Processes to respond to complaints and concerns are child focused.	National Principles for Child Safe Organisations	Key action areas: 6.1 The organisation has an accessible, child focused complaint handling policy which clearly outlines the roles and responsibilities of leadership, staff and volunteers, approaches to dealing with different types of complaints, breaches of relevant policies or the Code of Conduct and obligations to act and report. 6.2 Effective complaint handling processes are understood by children and young people, families, staff and volunteers, and are culturally safe. 6.3 Complaints are taken seriously and responded to promptly and thoroughly. 6.4 The organisation has policies and procedures in place that address reporting of complaints and concerns to relevant authorities, whether or not the law requires reporting, and co-operates with law enforcement. 6.5 Reporting, privacy and employment law obligations are met. Indicators that this principle is upheld: • Staff and volunteers are well-informed about their roles and responsibilities, reporting and privacy obligations and processes for responding to disclosures. • They feel empowered and supported to draw attention to breaches of the Code of Conduct within the organisation and to challenge these behaviours. • The complaints handling policy prioritises the safety and wellbeing of children and young people and recognises the role of families and communities in understanding and using the policy. • Policies and procedures demonstrate regard for fairness to all parties to a complaint or investigation including support and information as appropriate. • Staff and volunteers have a good knowledge of the different ways children and young people express concerns or distress and disclose harm. • Information about all complaints and concerns, including breaches of relevant policies or the Code of Conduct, is recorded and analysed, including in relation to processes, timeframes and record keeping practices. • Systemic issues are identified and mitigated through this process. • Children and young people know who to talk to if they are feeling unsafe and know what will happen.	17. PIDA, privacy, disclosure training

Task	Source document	Details of task	Task summary
		• Timely feedback is provided to children and young people, families, staff and volunteers who raise concerns or complaints. This includes reporting back on incidents, concerns and complaints.	
7. Staff and volunteers are equipped with the knowledge, skills and awareness to keep children and young people safe through ongoing education and training.	National Principles for Child Safe Organisations	Key action areas: 7.1 Staff and volunteers are trained and supported to effectively implement the organisation's child safety and wellbeing policy. 7.2 Staff and volunteers receive training and information to recognise indicators of child harm including harm caused by other children and young people. 7.3 Staff and volunteers receive training and information to respond effectively to issues of child safety and wellbeing and support colleagues who disclose harm. 7.4 Staff and volunteers receive training and information on how to build culturally safe environments for children and young people. Indicators that this principle is upheld: • The organisation provides regular opportunities to educate and train staff on child safety and wellbeing policies and procedures and evidence-based practice. • The organisation provides a supportive and safe environment for staff and volunteers who disclose harm or risk to children and young people. • Staff and volunteers receive training on the rights of children and young people in relation to records being created about children and young people and their use. • Staff and volunteers recognise the range of indicators of child harm. • Staff and volunteers respond effectively when issues of child safety and wellbeing or cultural safety arise.	18. Volunteer information and support

Task	Source document	Details of task	Task summary
8. Physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed.	National Principles for Child Safe Organisations	Key action areas: 8.1 Staff and volunteers identify and mitigate risks in the online and physical environments without compromising a child's right to privacy, access to information, social connections and learning opportunities. 8.2 The online environment is used in accordance with the organisation's Code of Conduct and child safety and wellbeing policy and practices. 8.3 Risk management plans consider risks posed by organisational settings, activities, and the physical environment. 8.4 Organisations that contract facilities and services from third parties have procurement policies that ensure the safety of children and young people. Indicators that this principle is upheld: • The organisation's risk management strategy addresses physical and online risks, including risks arising from child to child and adult to child interactions and the state and nature of physical spaces. • The organisation's policies promote the use of safe online applications for children and young people to learn, communicate and seek help. • The organisation considers ways in which the physical environment might promote cultural safety. • Staff and volunteers are proactive in identifying and mitigating physical and online risks. • Staff and volunteers access and use online environments in line with the organisation's Code of Conduct and relevant communication protocols. • Children and young people and their families are informed, in culturally appropriate ways, about the use of the organisation's technology and safety tools. • Third party contractors for the provision of facilities and services have appropriate measures in place to ensure the safety and wellbeing of children and young people.	19. facilities and physical environment safety review

Task	Source document	Details of task	Task summary
9. Implementation of the national child safe principles is regularly reviewed and improved.	National Principles for Child Safe Organisations	Key action areas: 9.1 The organisation regularly reviews, evaluates and improves child safe practices. 9.2 Complaints, concerns and safety incidents are analysed to identify causes and systemic failures so as to inform continuous improvement. 9.3 The organisation reports on the findings of relevant reviews to staff and volunteers, community and families and children and young people. Indicators that this principle is upheld: • The organisation seeks the participation of children and young people, parents and communities in its regular reviews of child safety and wellbeing policies, procedures and practices. • Child safety and wellbeing indicators are included in documentation used for reviews. • Review outcomes are considered and implemented to improve child safe practices. • Regular analysis of complaints demonstrates improvement in child safe practices.	20. review, audit and survey processs

Task	Source document	Details of task	Task summary
10. Policies and procedures document how the organisation is safe for children and young people.	National Principles for Child Safe Organisations	Key action areas: 10.1 Policies and procedures address all national child safe principles. 10.2 Policies and procedures are documented and easy to understand. 10.3 Best practice models and stakeholder consultation informs the development of policies and procedures. 10.4 Leaders champion and model compliance with policies and procedures. 10.5 Staff and volunteers understand and implement policies and procedures. Indicators that this principle is upheld: • The organisation's child safety and wellbeing policy is comprehensive and addresses all ten of these Principles. • The organisation's child safety and wellbeing policy and procedures are documented in a language and format that is easily understood and accessible to staff, volunteers, families and children and young people. • Audits of the organisation's policies and procedures provide evidence of how the organisation is child safe through its governance, leadership and culture. • Practice within the organisation is consistent across the board and compliant with child safe policies and procedures, including culturally safe work practices. • Interviews or surveys of children and young people, families and community members demonstrate confidence in and awareness of the organisation's policies and procedures on promoting a child safe culture. • Surveys of executive, staff and volunteers demonstrate high levels of understanding of policies, procedures and practice requirements of the organisation.	21. update policies and procedures

Monthly Financial Performance Report

For the year-to-date ending 30 November 2023

Statement of Comprehensive Income

Glenorchy City Council
Financial Report
Statement of Comprehensive Income to 30 November 2023

Year-to-Date (YTD)	Note	2024 Budget $'000	2024 Actual $'000	2023 Actual $'000	2024 Variance Actual to Budget
Operating Revenue					
Rates	1	49,285	49,255	45,495	⬇
User charges and licences	2	10,146	10,390	9,987	⇧
Interest	3	480	494	244	⇧
Grants	4	1,618	2,024	2,106	⇧
Contributions - cash	5	17	155	28	⇧
Investment income from TasWater	6	543	543	543	⇔
Other income	7	120	263	101	⇧
Total Operating Revenue		**62,209**	**63,124**	**58,504**	⇧
Operating Expenditure					
Employment costs	8	11,560	10,940	10,476	⇩
Materials and services	9	8,293	7,328	7,109	⇩
Depreciation and amortisation	10	7,823	7,583	6,100	⇩
Finance costs	11	67	66	-2	⇩
Bad and doubtful debts	13	-	-	-	⇔
Other expenses	14	2,054	1,973	2,558	⇩
Total Operating Expenditure		**29,797**	**27,888**	**26,550**	⇩
Total Operating Surplus/(Deficit)		**32,412**	**35,235**	**31,954**	⇧
Non-Operating Revenue					
Contributions – non-monetary assets	15	-	-	1,302	⇔
Net gain/(loss) on disposal of property, infrastructure, plant and equipment	16	(3)	12	592	⇧
Capital grants received specifically for new or upgraded assets	17	5,240	6,056	3,111	⇧
Total Non-Operating Revenue		**5,237**	**6,068**	**5,006**	⇧
Non-Operating Expense					
Assets written off	12	-	-	310	⇔
Total Non-Operating Expense					
Total Surplus/(Deficit)		**37,649**	**41,303**	**36,959**	⇧

Operating Revenue

Year-to-date operational revenue is $63.124m compared to budgeted operational revenue of $62.209m. This represents a favourable result of $0.915m or 1.5% against budget.

Note 1 – Rates Revenue
Unfavourable against the year-to-date $49.285m budget by $30k, noting supplementary valuation rate revenue is $81k ahead of budget, however new charitable exemptions result in an extra $66k expense and penalty on overdue instalments is $44k less than budgeted due to a reduced rate.

Note 2 – User Charges and Licences Revenue
Favourable against the year-to-date $10.145m budget by $244k, noting a one-off workcover premium refund of $142k has been received, additional property leases/licences of $134k, landfill user fees of $75k and planning fees of $41k, however building fees are lower by $136k.

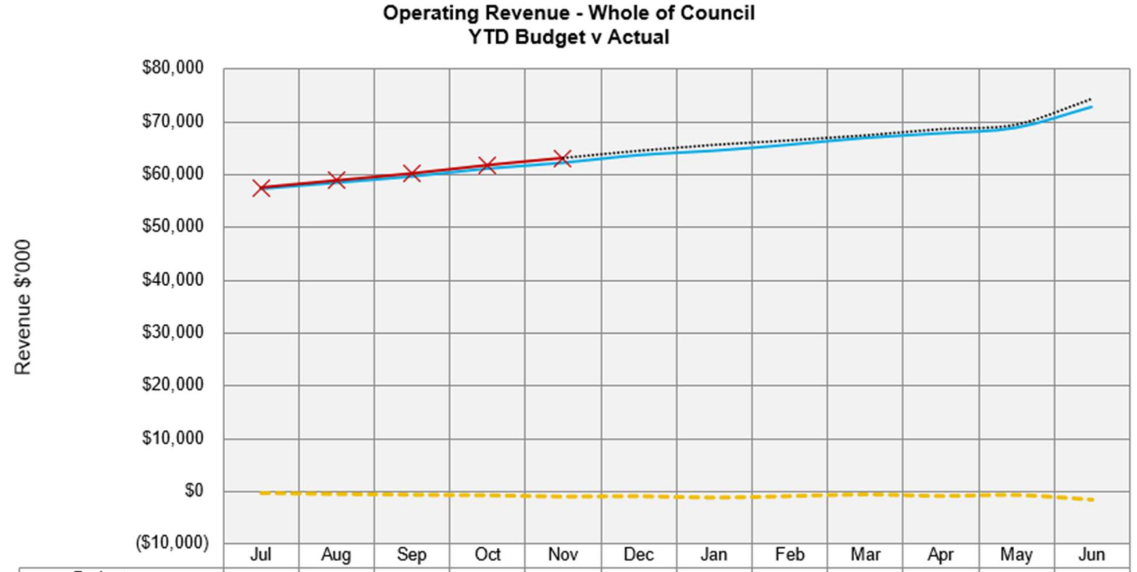
Note 3 – Interest on Investments
Favourable against the year-to-date $480k budget by $33k, noting $620k in interest has been received to date, less accruals back to last year of $126k.

Note 4 – Operating Grants
Favourable against the year-to-date $1.617m budget by $406k, noting unspent grants from last year of $396k have been carried forward, the Glenorchy Pool Feasibility Study of $200k has been received as has 26TEN Community grant of $145k, Digital Ready for Life of $127k,but less Glenorchy Jobs Hub grant yet to receive in accordance with contractual obligations of $300k and Financial Assistance Grant prepaid in 2022/23 of $383k will not be received in 2023/24.

Note 5 – Contributions
Favourable against the year-to-date $17k budget by $137k, noting a donation of $127k for accessible playground equipment at Benjafield Park has been received.

Note 6 – TasWater Income
The first $543k dividend payment for 2023/24 was received against an annual budget of $2.172m.

Note 7 – Other Income
Favourable against the year-to-date $119k budget by $143k, noting insurance claim refunds of $93k and Childcare Inclusion Support Subsidy (ISS) of $35k have been received.



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Budget ($'000)	$57,254	$58,415	$59,611	$61,096	$62,209	$63,664	$64,499	$65,645	$66,938	$67,813	$68,872	$72,824
Actual ($'000)	$57,469	$58,823	$60,167	$61,749	$63,124							
Running Variance - $'000 (Favourable) / Unfavourable	($215)	($408)	($556)	($653)	($915)	($827)	($1,123)	($823)	($486)	($796)	($595)	($1,532)
Forecast ($'000)						$64,491	$65,622	$66,469	$67,425	$68,609	$69,467	$74,356

Operating Expenditure

Year-to-date operational expenditure is $27.888m compared to budgeted expenditure of $29.797m. This represents a favourable result of $1.909m or 6.4% against budget.

Note 8 – Employment Costs
Favourable against the year-to-date $11.560m budget by $620k, representing positions remaining vacant for extended periods during the recruitment process.

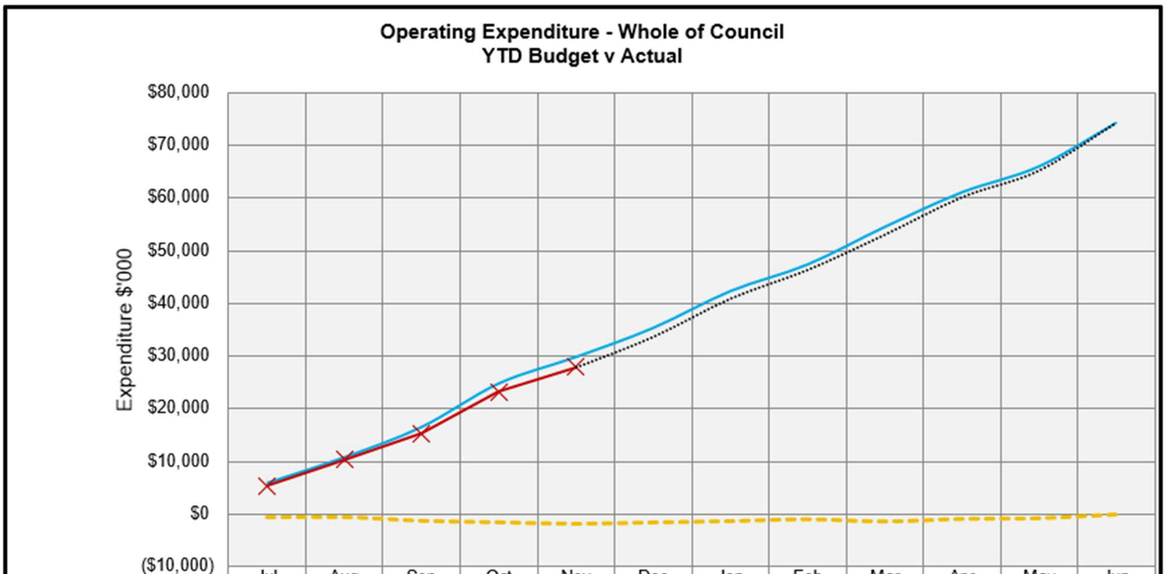
Note 9 – Materials and Services Expenditure
Favourable against the year-to-date $8.209m budget by $714k, noting underspends in contractor invoicing for waste management of $385k, regional contributions awaiting invoices of $262k and public utility charges in property services of $190k, but additional weed management expenditure in vegetation control $106k.

Note 10 – Depreciation and Amortisation
Favourable against the year-to-date $7.823m budget by $240k, noting these figures are on an accrual basis until asset reconciliations are undertaken in January 2024.

Note 11 – Finance Costs
Favourable against the year-to-date $66k budget by $1k, with no notable variances to report.

Note 13 – Bad and Doubtful Debts
No bad or doubtful debts identified this year to date.

Note 14 – Other Expenses
Favourable against the year-to-date $2.053m budget by $81k, noting increased land tax of $61k.



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Budget ($'000)	$5,921	$10,789	$16,531	$24,779	$29,797	$35,302	$42,276	$47,322	$54,436	$60,996	$65,910	$74,153
Actual ($'000)	$5,356	$10,268	$15,240	$23,181	$27,888							
Running Variance - $'000 (Favourable) / Unfavourable	($565)	($521)	($1,291)	($1,598)	($1,909)	($1,626)	($1,366)	($980)	($1,430)	($897)	($760)	$20
Forecast ($'000)						$33,676	$40,910	$46,341	$53,006	$60,099	$65,150	$74,172

Non-Operating Revenue

Note 15 – Contributions – Non Monetary Assets
No non-monetary assets have been received to date against an annual budget of $3.500m.

Note 16 – Gain or Loss on Disposal of Assets
Favourable against the year-to-date $2k budget by $14k, noting upfront expenditure has been incurred on properties identified as being eligible for disposal $61k, less minor assets sales of $75k.

Note 17 – Capital Grants
Favourable against the year-to-date $5.240m budget by $816k, noting $606k of unspent grants from the previous financial year were carried forward, federal government LRCI grants of $679k and state government grants for various projects $763k received, less federal major projects grants yet to receive $1.232m.

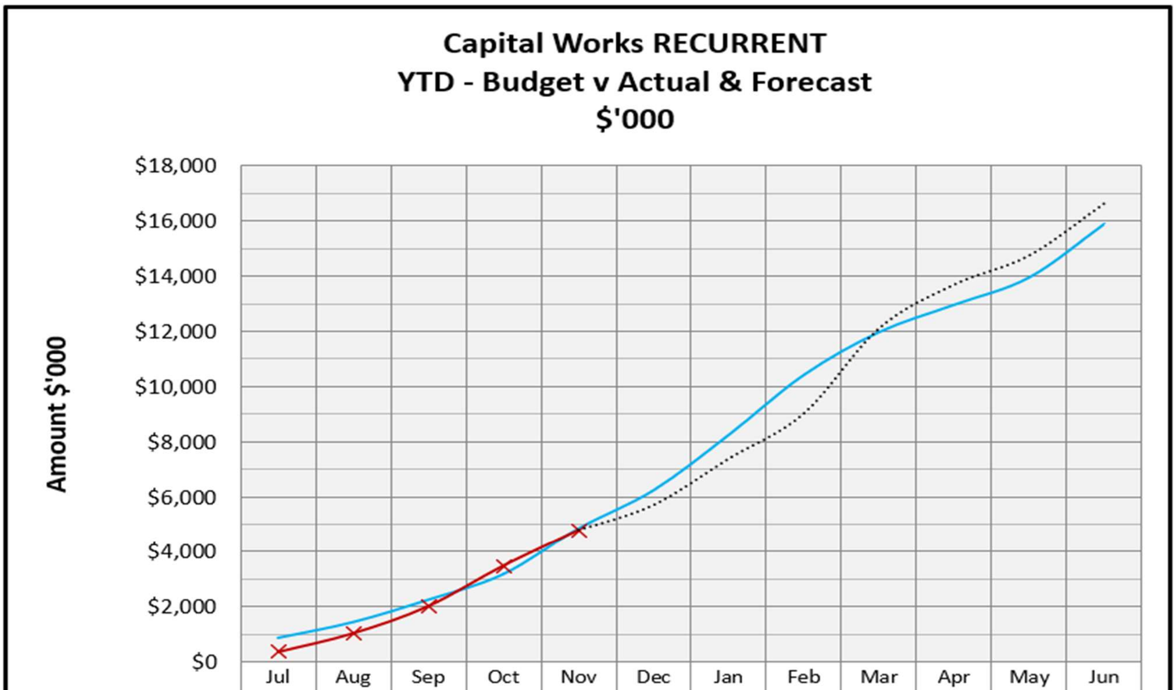
Non-Operating Expenditure

Note 12 – Assets Written Off
No assets have been written off to date against an annual budget of $1.920m.

Capital Works

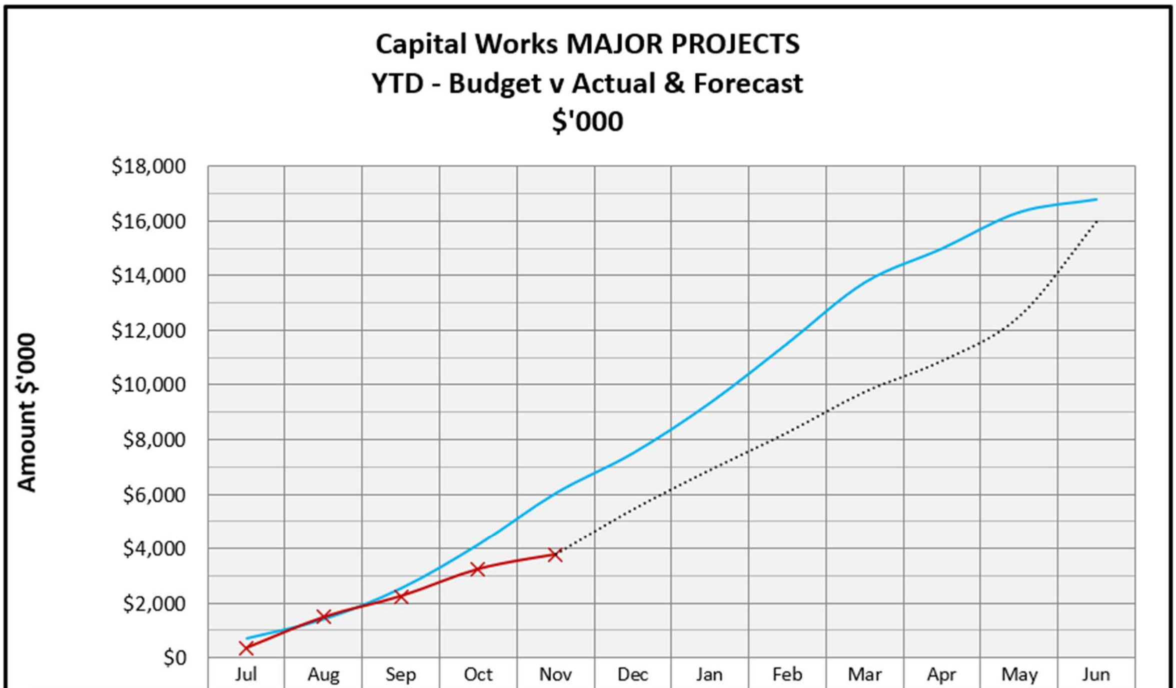
Year-to-date Capital Works expenditure is $8.532m against a combined annual budget of $32.686m and a combined annual forecast spend of $32.617m. At the end of November, $4.768m or 30% has been expended on Council funded Recurrent projects and $3.764m or 22% for Major projects.

Capital Program – Recurrent



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Budget YTD	865	1,438	2,248	3,179	4,844	6,240	8,248	10,425	11,977	12,971	13,964	15,908
Actual YTD	370	1,043	2,019	3,479	4,768							
Forecast						5,684	7,365	9,005	12,093	13,681	14,736	16,627

Capital Program – Major Projects*

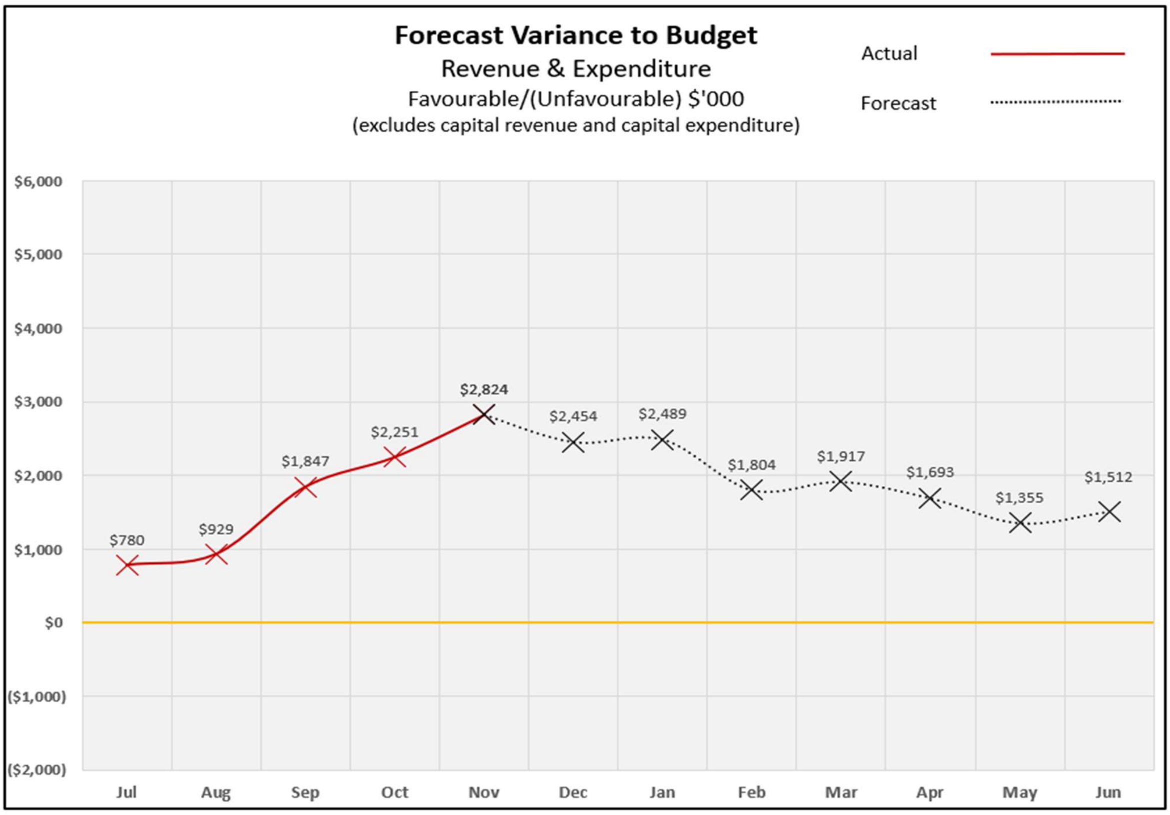


	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Budget YTD	710	1,415	2,544	4,149	6,034	7,499	9,342	11,516	13,741	14,981	16,310	16,779
Actual YTD	363	1,484	2,246	3,231	3,764							
Forecast						5,427	6,880	8,254	9,745	10,885	12,514	15,990

*The following projects form the Major Projects capital works program:

Project	YTD Actual	ANNUAL Budget	ANNUAL Forecast
101059 - CSR - KGV Soccer - Design & Construction	$432,476	$2,500,000	$2,682,476
101246 - Grant - Giblins Reserve Play Space	$1,485,746	$2,500,000	$1,615,186
101250 - Grant - North Chigwell Football and Community Facility	$113,351	$4,000,000	$3,180,833
101282 - Grant - Montrose Foreshore Park Skatepark	$236,606	$0	$319,683
101517 - Upgrade Interchange Facilities at KGV Oval for GDFC	$2,401	$145,000	$194,401
101518 - Upgrade to the Claremont Junior Football Clubrooms	$0	$0	$1,500
101519 - New Lighting at Cadbury Oval	$686	$0	($814)
101536 - Tolosa Park Dam Rehabilitation	$5,878	$2,995,000	$2,664,853
101767 - Relocation of Terry Street to Chambers	$330,275	$200,000	$463,819
101914 - MP - Benjafield Playground Renewal	$758,106	$1,000,000	$1,301,481
101915 - Grant - Playground Renewal - Federal	$0	$1,500,000	$1,500,000
101916 - Benjafield Childcare Centre Stage 1 - Sleep Area	$23,220	$700,000	$700,090
101917 - Benjafield Childcare Centre Stage 2 - Amenities		$580,000	$232,130
101930 - Eady St Sportsfield Lighting	$127,020	$0	$127,020
101931 - Mountain Bike Renewal	$225,139	$0	$255,139
101953 - Municipal Revaluation 2024	$0	$395,000	$395,000
101954 - Multicultural Kitchen	$19,352	$164,000	$163,352
101956 - Cadbury Changerooms	$4,050	$100,000	$194,050
TOTALS	**$3,764,304**	**$16,779,000**	**$15,990,199**

Operating Forecast to 30 June 2024



Note 1: The data in this chart is a compilation of actual, budget and forecast revenue / expenditure. It is recalculated each month to ensure it represents the most up-to-date analysis of Councils financial position which may result in differences to previously reported charts.

Adjustments to amounts previously reported

There are instances where ledger adjustments are required in respect of amounts reported in prior periods. These adjustments will be visible when comparing this report against previously presented Financial Performance Reports.

MAKING BY-LAWS (2)

STEPS IN MAKING A BY-LAW

GOOD PRACTICE GUIDELINES
AUGUST 10

Note: This information sheet should be read in conjunction with the other information sheets in this series:

- **Making By-laws (1)**: Part 11 of the *Local Government Act 1993*
- **Making By-laws (2)**: Steps in making a by-law
- **Making By-laws (3)**: Regulatory Impact Statements Section 156A *Local Government Act 1993*
- **Making By-laws (4):** Penalties and Infringement Notices - The *Monetary Penalties Enforcement Act 2005*
- **Making By-laws (5)**: Tabling a by-law in parliament & the requirements of the Standing Committee on Subordinate Legislation
- **Making By-laws (6):** Making a by-law for which a Regulatory Impact Statement is not required

Steps in making a by-law

1. Consider the need for regulation, in the context of existing regulation, and with regard to the alternatives to making a by-law.

2. Prepare a draft by-law.

3. Undertake initial consultation on the by-law with key stakeholders. This may include inviting comments or submissions and holding meetings or workshops.

4. Adjust the by-law to reflect comments received during initial consultation process.

5. Council passes a formal resolution (by an absolute majority) of its intention to make a by-law. This can occur at any stage in the process up to this point. However, at this point the by-law consultation draft should be finalised and the council may wish to see it.

6. Council prepares a draft Regulatory Impact Statement (RIS) if required (see Section 156A of the Act or information sheet (3)).

7. The RIS and by-law are referred to the Director of Local Government for consideration.

8. If satisfied that the RIS meets all statutory requirements, the Director will issue a certificate of approval to the council.

9. Council gives notice of the proposed by-law and carries out its public consultation.

10. Notice of the proposed by-law is advertised in print media.

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GOOD PRACTICE GUIDELINES

11. Copies of the RIS and by-law are to be made available for public inspection/purchase, and displayed on the council's website, as required under Section 158 of the Act.

12. Submissions are invited from the community and key stakeholders. Section 159 of the Act requires that all submissions are to be considered by the council.

13. If required, alterations to the draft by-law are to be made only by an absolute majority. If the alteration substantially changes the purpose of the proposed by-law, or its effect on the public, the council will provide public notice.

14. Council makes the by-law under its common seal.

15. The by-law is certified by a legal practitioner and the general manager of the council.

16. The by-law must be published in the *Tasmanian Government Gazette* within 21 days of being made by the council and be titled with reference to the municipal area, subject matter and the year in which it is made.

17. The general manager of the council is to make the by-law available for purchase and should put it on the council's website.

18. The by-law is submitted to the Subordinate Legislation Committee as required within seven working days of publication in the Gazette.

19. The by-law is tabled in parliament within 10 sitting days of publication in the Gazette, as required under Section 47 of the *Acts Interpretation Act 1931.*

20. Council sends the Director of Local Government a sealed copy of the by-law, the certifications under Section 162 of the Act and a statement explaining:

    - the purpose and effect of the by-law
    - the outcomes of public consultations in respect of the by-law.

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