



City of
LAUNCESTON

COUNCIL MINUTES

**COUNCIL MEETING
THURSDAY 28 NOVEMBER 2024
1.00PM**

The Ordinary Meeting of the City of Launceston Council was held at the Council Chambers, Town Hall, St John Street, Launceston:

Date: 28 November 2024

Time: 1:00 pm

Certificate of Qualified Advice

Background

To comply with section 65 of the *Local Government Act 1993* (Tas):

1. A General Manager must ensure that any advice, information or recommendation given to the council, or a council committee, is given by a person who has the qualifications or experience necessary to give such advice, information or recommendation.
2. A council or council committee is not to decide on any matter which requires the advice of a qualified person without considering such advice unless -
 - (a) the General Manager certifies, in writing -
 - (i) that such advice was obtained; and
 - (ii) the General Manager took the advice into account in providing general advice to the council or council committee; and
 - (b) a copy of that advice or, if the advice was given orally, a written transcript or summary of that advice is provided to the council or council committee with the General Manager's certificate.

Certification

I certify that:

- (i) the advice of a qualified person has been sought where required;
- (ii) this advice was taken into account in providing general advice to the council or council committee; and
- (iii) a copy of the advice, or a written transcript or summary of advice provided orally, is included with the agenda item.



Sam Johnson OAM
Chief Executive Officer

AUDIO of COUNCIL MEETINGS

An audio recording of this Council Meeting, except for any part held in Closed Session, will be made in accordance with our Council Meetings - Audio Recording Policy - 14-Plx-008.

This Council Meeting was streamed live to and can be accessed at:
www.launceston.tas.gov.au/Council/Meetings/Listen.

The following information was provided to members of the public in respect of attendance at the Council Meeting.

PUBLIC QUESTION TIME - AGENDA ITEM 8

Questions received in writing by close of business Wednesday of the week prior to the Council Meeting are treated as Questions on Notice. Your question and an answer will be published in the Agenda of the Council Meeting. Questions may be submitted to the Chief Executive Officer at contactus@launceston.tas.gov.au, PO Box 396, Launceston TAS 7250, or Town Hall, St John Street, Launceston.

If attending the Council Meeting in person, you may ask up to three questions during Public Question Time. If accepted, your questions will be either answered at the Meeting, or Taken on Notice and answered at a later Council Meeting.

PUBLIC COMMENT ON AGENDA ITEMS

When attending the Council Meeting, you will be asked if you wish to comment on an item in the Agenda. Prior to debate on that Agenda Item, you will be invited by the Chair to move to the public microphone at the doors to the Council Chambers and state your name and address.

Please note the following important information:

- Each item on the Agenda includes a Recommendation prepared by a Council Officer.
- You may speak for up to two minutes, either for or against the Recommendation.
- You may not ask questions or enter into debate with Councillors or Council Officers.
- Your statement is not to be defamatory, inappropriate or abusive, or be intended to embarrass any person, including Councillors or Council Officers.
- The Chair may direct you to stop speaking if you do not follow these rules, or if your statement repeats points that have already been made.
- Audio from our Council Meetings is streamed live via YouTube.

Your respectful contribution is welcome and appreciated.

LEGISLATIVE TERMINOLOGY - GENERAL MANAGER

At the City of Launceston, the positions of General Manager Community and Place, General Manager Organisational Services, General Manager Infrastructure and Assets and General Manager Creative Arts and Cultural Services do not assume the functions and powers of the term *general manager* in a legislative sense: any legislative functions and powers to be delegated to these roles will be made by Council or the Chief Executive Officer. At the City of Launceston, the title Chief Executive Officer is a term of reference for the General Manager as appointed by Council pursuant to section 61 of the *Local Government Act 1993* (Tas). For the avoidance of doubt, *Chief Executive Officer* means *General Manager* for the purposes of the *Local Government Act 1993* (Tas) and all other legislation administered by or concerning Council.

Present:

Mayor Councillor M K Garwood
Deputy Mayor Councillor D H McKenzie
Councillor A E Dawkins
Councillor A G Harris
Councillor T G Walker
Councillor Prof G Razay
Councillor J J Pentridge
Councillor L M McMahon
Councillor S Cai

In Attendance:

Nathan Williams (Acting General Manager Organisational Services Network)
Michelle Ogulin (Acting General Manager Community and Place Network)
Chelsea van Riet (Acting General Manager Infrastructure and Assets Network)
Zara Dawtry (Team Leader Communications)
Kelsey Hartland (Team Leader Governance)
Lorraine Wyatt (Council and Committees Officer)
Richard Jamieson (Manager City Development) (Item 11.1 and Item 17.2)
Duncan Payton (Town Planner) (Item 11.1)
Lucas Lim (Governance and Legal Officer) (Item 17.1, Item 20.1 and Item 20.3)
Anna Feldman (Project Manager (Item 19.1)
Erica Deegan (Manager Infrastructure and Engineering) (Item 19.2)
Samuel Kelty (Manager Finance) (Item 20.2 and Item 20.4)
Matt Morgan (Acting Manager Governance) (Item 20.5)

Apologies:

Councillor A J Palmer
Councillor A J Britton
Sam Johnson (Chief Executive Officer)

Apology with a Leave of Absence
Councillor D C Gibson

ORDER OF BUSINESS

1. OPENING OF MEETING - ATTENDANCE AND APOLOGIES.....	9
2. MAYORAL ACKNOWLEDGEMENTS	9
3. DECLARATIONS OF INTEREST	9
4. CONFIRMATION OF MINUTES.....	10
4.1. Confirmation of Minutes	10
5. COUNCIL WORKSHOPS	11
5.1. Council Workshops Report - 14 November 2024	11
6. COUNCILLORS' LEAVE OF ABSENCE APPLICATIONS	13
7. COMMUNITY REPORTS	13
8. PUBLIC QUESTION TIME	14
8.1. Public Questions on Notice.....	14
8.1.1. Public Questions on Notice - Rocelyn Ives - Duck Reach Power Station Model - 28 October 2024	14
8.1.2. Public Questions on Notice - Robin Smith - City Heart Place plan 2024- 2029 Traffic Calming - 7 November 2024	16
8.1.3. Public Questions on Notice - Ian Goninon - 60th Anniversary Ikeda Sister City Relationship - 14 November 2024	17
8.2. Public Questions Without Notice.....	18
8.2.1. Public Questions Without Notice - Rocelyn Ives - Meeting Space in the Central Business District (CBD) - 28 November 2024	18
8.2.2. Public Questions Without Notice - Robin Smith - City Heart Place Plan 2024-2029, Rubbish and Recycling Collections - 28 November 2024	19
9. PETITIONS.....	20
10. DEPUTATIONS	20

11. PLANNING AUTHORITY	21
11.1. DA0402/2024 - 24 Bedford Street, Invermay - Visitor Accommodation - Change of Use to Short Term Accommodation	21
12. ANNOUNCEMENTS BY THE MAYOR.....	26
12.1. Mayor's Announcements.....	26
13. COUNCILLORS' REPORTS	27
14. QUESTIONS BY COUNCILLORS	28
14.1. Councillors' Questions on Notice.....	28
14.1.1. Councillors' Questions on Notice - Councillor T J Walker - Midlands Highway, Kings Meadows - Supplementary Response - Construction of an Acoustic Wall - 31 October 2024.....	28
14.2. Councillors' Questions Without Notice.....	29
14.2.1. Councillors' Question Without Notice - Councillor L McMahon - Cancellation of Carol by Candlelight - Council Funding - 28 November 2024	29
15. NOTICES OF MOTION	30
16. COMMITTEE REPORTS.....	30
17. COMMUNITY AND PLACE NETWORK	31
17.1. Municipal Emergency Management Coordinator and Deputy Municipal Emergency Management Coordinator Roles.....	31
17.2. Development Assessment Panel Submission.....	34
18. CREATIVE ARTS AND CULTURAL SERVICES NETWORK.....	36
19. INFRASTRUCTURE AND ASSETS NETWORK.....	36
19.1. On-street Dining Fee Waiver Related to George Street Parklets (Dining Decks).....	36
19.2. Launceston Flood Authority Report.....	38

20. ORGANISATIONAL SERVICES NETWORK	39
20.1. Revised Delegation from Council to Chief Executive Officer - Building Act 2016 and Building Regulations 2016	39
20.2. Budget Amendment - 28th November 2024	43
20.3. Public Interest Disclosure Procedures	45
20.4. Monthly Financial Performance Report	121
20.5. 2025 Council Meeting Schedule and Update of Council Meetings Policy (Frequency and Commencement Time) (14-PI-001).....	122
21. CHIEF EXECUTIVE OFFICER NETWORK	132
22. LATE ITEMS	133
22.1. Acceptance of Urgent Late Item: Committee Report Chief Executive Officer Contract and Performance Review Committee (CPRC).....	133
22.2. Committee Report - Chief Executive Officer Contract and Performance Review Committee (CPRC).....	135
23. CLOSED COUNCIL	136
23.2. Chief Executive Officer's Contract and Performance Review Committee Recommendations	136
23.3. End of Closed Session	136
24. MEETING CLOSURE	138
25. NEXT COUNCIL MEETING DATE.....	138

1. OPENING OF MEETING - ATTENDANCE AND APOLOGIES

The Mayor, Councillor M K Garwood, opened the Meeting at 1.00pm and noted apologies from Councillor D C Gibson, Councillor A J Palmer and Councillor A J Britton.

2. MAYORAL ACKNOWLEDGEMENTS

The Mayor, Councillor M K Garwood, acknowledged the National Trust Australia (Tasmania) for receiving Tourism Tasmania, Cultural Tourism Award for UNSHACKLED Hobart Penitentiary, and the work they are do with Franklin House and Clarendon House.

3. DECLARATIONS OF INTEREST

Local Government Act 1993 (Tas) - section 48

(A councillor must declare any interest that the councillor has in a matter before any discussion on that matter commences).

No Declarations of Interest were identified as part of these Minutes

4. CONFIRMATION OF MINUTES

4.1. Confirmation of Minutes

Local Government (Meeting Procedures) Regulations 2015 - Regulation 35(1)(b)

RECOMMENDATION:

That the Minutes of the Ordinary Meeting of the City of Launceston Council held on 14 November 2024 be confirmed as a true and correct record.

DECISION: 28 November 2024

MOTION

Moved Councillor A G Harris, seconded Councillor Prof G Razay.

That the Minutes of the Ordinary Meeting of the City of Launceston Council held on 14 November 2024 be confirmed as a true and correct record.

CARRIED 9:0

FOR VOTE: Mayor Councillor M K Garwood, Deputy Mayor Councillor D H McKenzie, Councillor A E Dawkins, Councillor A G Harris, Councillor T G Walker, Councillor Prof G Razay, Councillor J J Pentridge, Councillor L M McMahan and Councillor S Cai

AGAINST VOTE: Nil

5. COUNCIL WORKSHOPS

Local Government (Meeting Procedures) Regulations 2015 - Regulation 8(2)(c)

5.1. Council Workshops Report - 14 November 2024

FILE NO: SF4401

AUTHOR: Lorraine Wyatt (Council and Committees Officer)

APPROVER: Sam Johnson OAM (Chief Executive Officer)

DECISION STATEMENT:

To consider Council Workshops conducted since the last Council Meeting.

RELEVANT LEGISLATION:

Local Government (Meeting Procedures) Regulations 2015 - Regulation 8(2)(c)

RECOMMENDATION:

That Council, pursuant to Regulation 8(2)(c) of the *Local Government (Meeting Procedures) Regulations 2015*, notes the Council Workshops conducted and attended since the last Council Meeting, for the purposes described:

1. pre-Council Workshop conducted on 14 November 2024:

Building Height and Massing Project

Councillors received an update from the internal project team and Julia Bell (Project Director, Urbis) on the Building Height and Massing Finalisation Project.

Northern Tasmania Regional Land Use Strategy Update

Councillors received a presentation and briefing from Ethos Urban about the progress made towards a Regional Land Use Strategy including matters that need to be considered from Launceston's perspective.

In Attendance: Mayor Councillor M K Garwood, Deputy Mayor Councillor D H McKenzie, , Councillor A E Dawkins, Councillor A G Harris, Councillor T G Walker, Councillor Prof G Razay, Councillor J J Pentridge, Councillor A J Palmer, Councillor L M McMahon, Councillor S Cai and Councillor A J Britton
Apology with a Leave of Absence: Councillor D C Gibson

DECISION: 28 November 2024

MOTION

Moved Deputy Mayor Councillor D H McKenzie, seconded Councillor S Cai.

That Council, pursuant to Regulation 8(2)(c) of the *Local Government (Meeting Procedures) Regulations 2015*, notes the Council Workshops conducted and attended since the last Council Meeting, for the purposes described:

1. pre-Council Workshop conducted on 14 November 2024:

Building Height and Massing Project

Councillors received an update from the internal project team and Julia Bell (Project Director, Urbis) on the Building Height and Massing Finalisation Project.

Northern Tasmania Regional Land Use Strategy Update

Councillors received a presentation and briefing from Ethos Urban about the progress made towards a Regional Land Use Strategy including matters that need to be considered from Launceston's perspective.

In Attendance: Mayor Councillor M K Garwood, Deputy Mayor Councillor D H McKenzie, , Councillor A E Dawkins, Councillor A G Harris, Councillor T G Walker, Councillor Prof G Razay, Councillor J J Pentridge, Councillor A J Palmer, Councillor L M McMahon, Councillor S Cai and Councillor A J Britton
Apology with a Leave of Absence: Councillor D C Gibson

CARRIED 9:0

FOR VOTE: Mayor Councillor M K Garwood, Deputy Mayor Councillor D H McKenzie, Councillor A E Dawkins, Councillor A G Harris, Councillor T G Walker, Councillor Prof G Razay, Councillor J J Pentridge, Councillor L M McMahon and Councillor S Cai

AGAINST VOTE: Nil

6. COUNCILLORS' LEAVE OF ABSENCE APPLICATIONS

No Councillors' Leave of Absence Applications have been identified as part of these Minutes.

7. COMMUNITY REPORTS

(Community Reports allow an opportunity for Community Groups to provide Council with a three minute verbal presentation detailing activities of the group. This report is not intended to be used as the time to speak on Agenda Items; that opportunity exists when that Agenda Item is about to be considered. Speakers are not to request funding or ask questions of Council. Printed documentation may be left for Councillors).

No Community Reports were registered with Council as part of these Minutes.

8. PUBLIC QUESTION TIME

Local Government (Meeting Procedures) Regulations 2015 - Regulation 31

8.1. Public Questions on Notice

Local Government (Meeting Procedures) Regulations 2015 - Regulation 31(1)

8.1.1. Public Questions on Notice - Rocelyn Ives - Duck Reach Power Station Model - 28 October 2024

FILE NO: SF6381/SF6381

AUTHOR: Kelsey Hartland (Team Leader Governance)

APPROVER: Sam Johnson OAM (Chief Executive Officer)

QUESTIONS AND RESPONSES:

The following question, submitted to Council on 28 October 2024 by Rocelyn Ives, has been answered by Shane Fitzgerald (General Manager Creative Arts and Cultural Services Network) and Matthew Jordan (Acting Team Leader Recreation and Parks).

Questions:

1.



This is the sculptural model that was created by an anonymous artist and donated to Council. It was not known when it was made but local knowledge indicated that it was pre-1950. I would be appalled if this model, which was protected in a glass case and

could be so easily damaged, is now in an "open to the public" Basin cottage. I believe you may be talking about a different thing from the above in your response to my question taken on notice on 17 October. The cottage is open to public access. It is so disappointing that as with the chocolate machine so little credence can be given to relocating iconic council objects. It was Danny who at my request and with lots of effort was able to find and relocate the chocolate machine now located in the town hall. Both models were regularly commented on by visitors and conversation starters about the history of the Gorge. They were valued and cared for by the volunteer team members located at the cottage until 2018.

I would like the model to be stored for long term safety. Perhaps when the eventual development of Duck Reach occurs with tourism access it could be located in a suitable cabinet there?

Please respond when the DR model has been found and is safely stored/ located. In relation to the collection of books, how do I and the public gain access to these?

Response:

QVMAG does not hold the model (or any other model) Duck Reach Power Station in the Collection however does have a selection of books that were provided by a Council Officer in 2022. These were added to the QVMAG Library Collection and can be viewed by any member of the public making an appointment via the QVMAG History Centre.



The large model is currently housed at the Basin Cottage for public viewing and the small, more delicate model in the glass case is now stored at Town Hall. The Recreation and Parks team are in discussion with QVMAG in relation to the smaller model's inclusion in the upcoming exhibition entitled Electric City which is planned for 2026.

**8.1.2. Public Questions on Notice - Robin Smith - City Heart Place plan 2024-2029
Traffic Calming - 7 November 2024**

FILE NO: SF6381, SF6160

AUTHOR: Lorraine Wyatt (Council and Committees Officer)

APPROVER: Sam Johnson OAM (Chief Executive Officer)

QUESTIONS AND RESPONSES:

The following question, submitted to Council on 7 November 2024 by Robin Smith, has been answered by Anna Feldman (Project Manager Strategic Projects).

Questions:

1. With reference to the City of Launceston City Heart Place Plan 2024-2029, is Council in a position to cite examples of where turning one-way streets into two-way streets calms traffic, please?

Response:

The view that converting one-way streets to two-way streets to calm traffic is supported throughout Australia and internationally. The original reason for making streets one way was to increase traffic capacity and efficiency through the city, but this also increased the impact of traffic on the city environment.

A literature review about two-way streets prepared for Launceston City Council by GHD found the following:

- *Conversion of city streets to two-way traffic*
 - *can reduce average vehicle speeds by 20% to 30% compared to one-way operation due to a general increase in the number of stops,*
 - *will increase the number of conflict points at intersections, however, may reduce incidence of red light running and crash severity, and*
 - *will reduce the number of situations, or conflict sequences, that a pedestrian will experience when walking through the network.*
- *The reduction in traffic volumes and vehicle speeds anticipated because of the conversion of city streets to two-way traffic, would reduce the traffic barrier effects experienced by pedestrians walking through the city.*

The specific relevance to Launceston of the expected effects of conversion to two-way traffic are summarised on pages 15 and 16 of the report. The report quotes from the 2010 report by Jan Gehl which also promotes the benefits of changing one-way streets to two-way streets.

8.1.3. Public Questions on Notice - Ian Goninon - 60th Anniversary Ikeda Sister City Relationship - 14 November 2024

FILE NO: SF6381

AUTHOR: Lorraine Wyatt (Council and Committees Officer)

APPROVER: Sam Johnson OAM (Chief Executive Officer)

QUESTIONS AND RESPONSES:

The following question, submitted to Council on 14 November 2024 by Ian Goninon, has been answered by Kelsey Hartland (Team Leader Governance).

Questions:

1. What is organised for the 60th Anniversary of Sister City Ikeda?

Response:

Council is currently considering what options it has to ensure it maximises the benefits of its long term relationship with Ikeda and as part of the celebration.

8.2. Public Questions Without Notice

Local Government (Meeting Procedures) Regulations 2015 - Regulation 31(2)(b)

8.2.1. Public Questions Without Notice - Rocelyn Ives - Meeting Space in the Central Business District (CBD) - 28 November 2024

- 1. Not for profit established Community groups, especially literary ones such as Write Here, Book Council of Lutruwita, Womens Writers Group, poetry groups like Poetry Pedlars, and many more long time established groups with sustained public membership numbers, are in need of a regular meeting place that is affordable or free.**

Level 2 of the Library and QVMAG small meeting room are only available in day time hours. Pubs have been used as venues from time to time but have many limitations. The Library has recently substantially increased its hire fees, and has become non affordable. St Lukes, Macquarie House, and Door of Hope are likewise unaffordable. A pub is not always able to provide a suitable space for night events and community halls also have hire charges.

Does City of Launceston Council agree that a space for groups and associations to meet is needed in the CBD?

- 2. Paterson Street Barracks is ideal in location and has huge potential. A perfect community meeting place with parking. Rosny Barn in Hobart was developed by Clarence Council as a much needed cultural meeting and events venue. The Barracks similarly could be developed. Hire charges for the Barracks could be on a sliding scale to enable smaller not for profits to have access.**

Will Council pursue the purchase of the Paterson Barracks as raised by Councillor Walker to provide a much needed space to expand the cultural offerings of the Launceston community?

The Mayor, Councillor M K Garwood, responded that this is an ongoing conversation for Council moving forward, working with our state colleagues and the owners of that building as to what that might look like into the future including the importance of adequate community meeting spaces. In the master planning, Council is looking at various locations including the Tramsheds and QVMAG and discussing ways of opening up some spaces for our community.

This is an absolute priority for this Council however there is a process that has to be worked through including some restraints around availability and pricing.

8.2.2. Public Questions Without Notice - Robin Smith - City Heart Place Plan 2024-2029, Rubbish and Recycling Collections - 28 November 2024

1. **[Regarding Agenda Item 8.1.2. Public Questions on Notice - Robin Smith - City Heart Place plan 2024-2029 Traffic Calming - 7 November 2024]**
When I read that literature, I come away with a completely different opinion, that would support keeping Charles Street the way it is, as a one-way street. When I read from their quoted literature, 'One-way Streets Are Better Than Two-Way' says:
 - Pedestrians particularly benefit from one-way streets.
 - Two-way streets produced 163 percent more pedestrian accidents in Sacramento.
 - One study called one-way streets “the most effective urban counter-measure” to pedestrian accidents.
 - Numerous studies have shown that businesses actually do better on one-way streets than two-way.
 - Portland found 51 percent fewer accidents at intersections [with one-way streets] and 37 percent fewer between intersections
 - Oregon (State Highway Department) found that one-way streets in a dozen cities ... led to an average of ... 10 percent fewer accidents in one-way streets Sacramento found 14 percent fewer accidents.

How can we have such a divergent opinion of the same literature, interpreted by me, completely different to that GHD report?

The Mayor, Councillor M K Garwood, advised the question would be taken on Notice.

2. **[Regarding the City of Launceston City Heart Place Plan 2024-2029]Is Council in a position to cite examples of where turning one-way streets into two-way streets in Charles and Paterson Streets would reduce 'blockie' driving?**

The Mayor, Councillor M K Garwood, advised the question would be taken on Notice.

3. **About 5 o'clock, a council contractor squashes the recycling into the landfill rubbish bins creating a lot of spills, bottles, cans go everywhere. At 7 o'clock, a separate council team tip those rubbish bins into a truck. Then council bring in a sweeper around the bins because of the mess made by tipping the recycling into the landfill.**

Should we go back to the old system of not having recycling bins if it is an issue?

The Mayor, Councillor M K Garwood, advised the question would be taken on Notice.

9. PETITIONS

No Petitions were identified as part of these Minutes.

10. DEPUTATIONS

No Deputations were identified as part of these Minutes.

11. PLANNING AUTHORITY

Under the provisions of the *Land Use Planning and Approvals Act 1993*, Council acts as a Planning Authority in regard to items included in Agenda Item 11 - Planning Authority.

11.1. DA0402/2024 - 24 Bedford Street, Invermay - Visitor Accommodation - Change of Use to Short Term Accommodation

FILE NO: DA0402/2024

AUTHOR: Duncan Payton (Town Planner)

APPROVER: Michelle Ogulin (Acting General Manager Community and Place Network)

DECISION STATEMENT:

To consider and determine a development application pursuant to the *Land Use Planning and Approvals Act 1993*.

PLANNING APPLICATION INFORMATION:

Applicant:	Evelyn June Williams and Bevan John Williams
Property:	24 Bedford Street, Invermay
Zoning: General Residential	
Receipt Date:	12/09/2024
Validity Date:	1/10/2024
Further Information Request:	N/A
Further Information Received:	N/A
Deemed Approval (extension granted):	2/12/2024
Representations:	4

RELEVANT LEGISLATION:

Land Use Planning and Approvals Act 1993
Tasmanian Planning Scheme - Launceston

STANDARDS REQUIRING PLANNING DISCRETION:

8.3.2 P2 - Visitor Accommodation on a strata lot

RECOMMENDATION:

That, in accordance with sections 51 and 57 of the *Land Use Planning and Approvals Act 1993* and the Tasmanian Planning Scheme - Launceston, a permit be granted for DA0402/2024 - Visitor Accommodation - change of use to visitor accommodation at 24 Bedford Street, Invermay, subject to the following conditions:

1. ENDORSED PLANS & DOCUMENTS

The use must be carried out in accordance with the endorsed plans and documents to the satisfaction of the Council unless modified by a condition of the Permit:

- a. Floor plan, 24 Bedford Street, dated 16/10/2024

2. ADVERTISING

Advertising of the visitor accommodation must include an advisory statement to the effect that on-site parking is not available, and that on-street parking is time limited to 2 hours, 9am-5pm Monday to Friday.

3. LEGAL TITLE

All development and use associated with the proposal must be confined to the legal title of the subject land.

Notes

A. General

This permit was issued based on the proposal documents submitted for DA0402/2024. You should contact Council with any other use or developments, as they may require the separate approval of Council. Council's planning staff can be contacted on 03 6323 3000.

This permit takes effect after:

- a. *The 14 day appeal period expires; or*
- b. *Any appeal to the Tasmanian Civil & Administrative Appeal Tribunal (TASCAT) is withdrawn or determined; or*
- c. *Any agreement that is required by this permit pursuant to Part V of the Land Use Planning and Approvals Act 1993 is executed; or*
- d. *Any other required approvals under this or any other Act are granted.*

The permit lapses after a period of two (2) years if the development or use has not substantially commenced within that period. An extension may be granted subject to the provisions of the Land Use Planning and Approvals Act 1993 as amended, by request to Council.

B. Restrictive Covenants

The granting of this permit takes no account of any covenants applicable to the land. The permit holder and any other interested party, should make their own enquiries as to whether the proposed development is affected, restricted or prohibited by any such covenant.

If the proposal is non-compliant with any restrictive covenants, those restrictive covenants should be removed from the title prior to construction commencing or the owner will carry the liability of potential legal action in the future.

C. Appeal Provisions

A planning appeal may be instituted by lodging a notice of appeal with the Registrar of the Tasmanian Civil & Administrative Tribunal (TASCAT).

A planning appeal may be instituted within 14 days of the date the Corporation serves notice of the decision on the applicant.

For more information see the *Tasmanian Civil & Administrative Tribunal (TASCAT)* website www.tascat.tas.gov.au <<http://www.tascat.tas.gov.au>>

D. Permit Commencement.

If an applicant is the only person with a right of appeal pursuant to section 61 of the Land Use Planning and Approvals Act 1993 and wishes to commence the use or development for which the permit has been granted within that 14 day period, the Council must be so notified in writing. A copy of Council's Notice to Waive Right of Appeal is attached.

E. Building Act 2016 Requirements

Prior to acting on this permit, it is recommended that a building surveyor be consulted to determine the requirements for any associated building, plumbing or demolition work under the Building Act 2016.

F. Sale of food and beverages

If food and/or beverages are to be sold to visitors, including with an inclusive charge for food and accommodation, the Food Act 2003 will apply and the operator must notify the council prior to operating the food business.

Richard Jamieson (Manager City Development) and Duncan Payton (Town Planner) were in attendance to answer questions in respect of this item.

DECISION: 28 November 2024

MOTION

Moved Deputy Mayor Councillor D H McKenzie, seconded Councillor J J Pentridge.

That, in accordance with sections 51 and 57 of the *Land Use Planning and Approvals Act 1993* and the *Tasmanian Planning Scheme - Launceston*, a permit be granted for DA0402/2024 - Visitor Accommodation - change of use to visitor accommodation at 24 Bedford Street, Invermay, subject to the following conditions:

1. ENDORSED PLANS & DOCUMENTS

The use must be carried out in accordance with the endorsed plans and documents to the satisfaction of the Council unless modified by a condition of the Permit:

- a. Floor plan, 24 Bedford Street, dated 16/10/2024**

2. ADVERTISING

Advertising of the visitor accommodation must include an advisory statement to the effect that on-site parking is not available, and that on-street parking is time limited to 2 hours, 9am-5pm Monday to Friday.

3. LEGAL TITLE

All development and use associated with the proposal must be confined to the legal title of the subject land.

Notes

A. General

This permit was issued based on the proposal documents submitted for DA0402/2024. You should contact Council with any other use or developments, as they may require the separate approval of Council. Council's planning staff can be contacted on 03 6323 3000.

This permit takes effect after:

- a. The 14 day appeal period expires; or***
- b. Any appeal to the Tasmanian Civil & Administrative Appeal Tribunal (TASCAT) is withdrawn or determined; or***
- c. Any agreement that is required by this permit pursuant to Part V of the Land Use Planning and Approvals Act 1993 is executed; or***
- d. Any other required approvals under this or any other Act are granted.***

The permit lapses after a period of two (2) years if the development or use has not substantially commenced within that period. An extension may be granted subject to the provisions of the Land Use Planning and Approvals Act 1993 as amended, by request to Council.

B. Restrictive Covenants

The granting of this permit takes no account of any covenants applicable to the land. The permit holder and any other interested party, should make their own enquiries as to whether the proposed development is affected, restricted or prohibited by any such covenant.

If the proposal is non-compliant with any restrictive covenants, those restrictive covenants should be removed from the title prior to construction commencing or the owner will carry the liability of potential legal action in the future.

C. Appeal Provisions

A planning appeal may be instituted by lodging a notice of appeal with the Registrar of the Tasmanian Civil & Administrative Tribunal (TASCAT).

A planning appeal may be instituted within 14 days of the date the Corporation serves notice of the decision on the applicant.

For more information see the Tasmanian Civil & Administrative Tribunal (TASCAT) website www.tascat.tas.gov.au <<http://www.tascat.tas.gov.au>>

D. Permit Commencement.

If an applicant is the only person with a right of appeal pursuant to section 61 of the Land Use Planning and Approvals Act 1993 and wishes to commence the use or development for which the permit has been granted within that 14 day period, the Council must be so notified in writing. A copy of Council's Notice to Waive Right of Appeal is attached.

E. Building Act 2016 Requirements

Prior to acting on this permit, it is recommended that a building surveyor be consulted to determine the requirements for any associated building, plumbing or demolition work under the Building Act 2016.

F. Sale of food and beverages

If food and/or beverages are to be sold to visitors, including with an inclusive charge for food and accommodation, the Food Act 2003 will apply and the operator must notify the council prior to operating the food business.

CARRIED 7:2

FOR VOTE: Mayor Councillor M K Garwood, Deputy Mayor Councillor D H McKenzie, Councillor A E Dawkins, Councillor A G Harris, Councillor J J Pentridge, Councillor L M McMahon and Councillor S Cai

AGAINST VOTE: Councillor T G Walker and Councillor Prof G Razay

12. ANNOUNCEMENTS BY THE MAYOR

12.1. Mayor's Announcements

FILE NO: SF2375

Friday 15 November 2024

- Attended the Northern Tasmanian Development Corporation AGM, Peppers Silo Hotel, Invermay
- Attended *Dementia: A New Hope* book launch, Door of Hope, South Launceston

Monday 18 & Tuesday 19 November 2024

- Participated in Advocacy Trip for Launceston to Canberra

Wednesday 20 November 2024

- Attended Local Government Association Tasmania's Mayor and Deputy Mayor Workshop, Peppers Silo Hotel, Invermay

Thursday 21 November 2024

- Attended Local Government Association Tasmania's General Meeting, Peppers Silo Hotel, Invermay
- Officiated at Launch of KreamArt at Ravenswood Library, Ravenswood
- Attended the Legacy Appreciation Cocktail Event, Legacy House, Launceston

Saturday 23 November 2024

- Participated in the MRA Motorcycle Awareness Ride from Perth Roadhouse, Perth
- Attended Launceston sub-branch Vietnam Veterans Association Christmas Lunch, RSL, Launceston

Monday 25 November 2024

- Attended the David Chaplin Trust Fund AGM, Launceston
- Attended the Mission Health 'extension' opening, Wellington Street, Launceston
- Attended Heritage Sketch Awards, Civic Square, Launceston

Tuesday 26 November 2024

- Attended the NAB Customer Appreciation Evening, Peppers Silo Hotel, Inveresk

Wednesday 27 November 2024

- Attended Band Program Sing Along with NOSS, The Red Shed, Riverside
 - Attended National Trust Tasmania - Annual Fundraising Christmas Cocktail Party, Catherine Street, Longford
-

13. COUNCILLORS' REPORTS

(This item provides an opportunity for Councillors to briefly report on the activities that have been undertaken in their capacity as a representative of the Council. It is not necessary to list social functions that have been attended).

Councillor S Cai

- **18 November 2024 - participated in the Communities for Children kanamaluka/Tamar River Children's Voice Leadership Summit**
- **21 November 2024 - LGAT General Meeting**
- **25 November 2024 - Heritage Sketch Judging**

Councillor A G Harris

- **17 November 2024 - Represented the Council in serving afternoon tea to the volunteers for National Trust at Franklin House**
- **Acknowledged the work undertaken by the Council's cleaning team for assisting with the clean up after the Sally's Ride event**

Deputy Mayor Councillor D H McKenzie

- **18 November 2024 - participated in the Communities for Children kanamaluka/Tamar River Children's Voice Leadership Summit**
- **19 November 2024 - attended dinner with the delegation of Ikeda Zookeepers**
- **20 and 21 November 2024 - LGAT Meetings**
- **Congratulated the Heritage Advisory Committee on the success of the Heritage Sketch Competition.**

14. QUESTIONS BY COUNCILLORS

14.1. Councillors' Questions on Notice

Local Government (Meeting Procedures) Regulations 2015 - Regulation 30

(A councillor, at least seven days before an ordinary Council Meeting or a Council Committee Meeting, may give written notice to the Chief Executive Officer of a question in respect of which the councillor seeks an answer at that Meeting. An answer to a Question on Notice will be provided in writing).

14.1.1. Councillors' Questions on Notice - Councillor T J Walker - Midlands Highway, Kings Meadows - Supplementary Response - Construction of an Acoustic Wall - 31 October 2024

FILE NO: SF6381

AUTHOR: Lorraine Wyatt (Council and Committees Officer)

APPROVER: Sam Johnson OAM (Chief Executive Officer)

QUESTIONS AND RESPONSES:

The following question, submitted to Council on 31 October 2024 by Councillor T J Walker, was answered in the 14 November 2024 Agenda and a supplementary response has now been provided by Richard Jamieson (Manager City Development).

Questions:

1. Has the Council had any communication with the State Government regarding the truck pullover area since the Council decision of 5 September 2024?

Response:

On the 24 September 2024 the Department of State Growth wrote the Council acknowledging Councils refusal of the proposed acoustic wall associated with the Kings Meadows Heavy Vehicle Driver Rest Area and further to this, outlining their intention progress the design for rest area excluding the acoustic wall. Construction is intended to commence in early 2025

The design includes a retaining wall which has previously been agreed as exempt under the Tasmanian Planning Scheme. The department also confirms that the existing vegetation between the adjoining residents and the heavy vehicle driver rest area will not be altered as part of the works.

An offer for further discussion was made should there be any community concerns about the proposal.

14.2. Councillors' Questions Without Notice

Local Government (Meeting Procedures) Regulations 2015 - Regulation 29

(Questions Without Notice, and any answers to those questions, are not required to be recorded in the Minutes of the Meeting).

14.2.1. Councillors' Question Without Notice - Councillor L McMahon - Cancellation of Carol by Candlelight - Council Funding - 28 November 2024

1. **Given the organising Committee for the Carols by Candlelight received \$15,000 from Council Events funding, will Council be seeking:**
 - a. **a full explanation as to why the event was cancelled at the 11th hour;**
 - b. **a full report on what work had been completed for the event;**
 - c. **when were the participants notified of its cancellation;**
 - d. **has any of the funding been expended; and**
 - e. **when will the funding be returned to Council?**

The Mayor, Councillor M K Garwood, advised that a report could be sought.

15. NOTICES OF MOTION

Local Government (Meeting Procedures) Regulations 2015 - Regulation 16(5)

No Notices of Motions were identified as part of these Minutes.

16. COMMITTEE REPORTS

Refer to Late Item 22.2 Committee Report - Chief Executive Officer Contract and Performance Review Committee (CPRC).

17. COMMUNITY AND PLACE NETWORK

17.1. Municipal Emergency Management Coordinator and Deputy Municipal Emergency Management Coordinator Roles

FILE NO: SF0031/SF3177

AUTHOR: Lynda Robins (Emergency Management Officer)

APPROVER: Sam Johnson OAM (Chief Executive Officer)

DECISION STATEMENT:

To obtain Council endorsement for nominations to the positions of Municipal Emergency Management Coordinator and Deputy Municipal Emergency Management Coordinator.

RELEVANT LEGISLATION:

Emergency Management Act 2006 (Tas)

PREVIOUS COUNCIL CONSIDERATION:

Council – 7 August 2017 - Agenda Item 21.4 - Deputy Municipal Emergency Management Coordinator

Council - 27 June 2019 - Agenda Item 20.1 - Municipal Emergency Management Coordinator and Deputy Municipal Emergency Management Coordinator Nominations

Council - 20 August 2020 - Agenda Item 18.2 - Deputy Municipal Emergency Management Coordinator

Council – 11 August 2022 – Agenda Item 16.1 - Municipal Emergency Management Coordinator and Deputy Municipal Emergency Management Coordinator Nominations

RECOMMENDATION:

That Council:

1. nominates Lynda Robins as the Municipal Emergency Management Coordinator, with her name to be forwarded to the Minister of Police and Emergency Management via the State Controller in accordance with section 23 of the *Emergency Management Act 2006*;
2. nominates Michael Newby as the Deputy Municipal Emergency Management Coordinator, with his name to be forwarded to the Minister of Police and Emergency Management via the State Controller in accordance with section 23 of the *Emergency Management Act 2006*;

3. recommends the appointment of both roles above be for a period of three (3) years;
 4. rescinds the previous appointments of Shane Eberhardt and Louise Foster as Municipal Emergency Management Coordinator and Deputy Municipal Emergency Management Coordinator respectively;
 5. authorises the Chief Executive Officer to forward nominations and notice of recision to the Minister of Police and Emergency Management via the State Contoller in accordance with section 23 of the Emergency Management Act 2006; and
 6. notes that the term Chief Executive Officer means the General Manager as defined by the *Local Government Act 1993*.
-

Lucas Lim (Governance and Legal Officer) was in attendance to answer questions in respect of this item.

DECISION: 28 November 2024

MOTION

Moved Deputy Mayor Councillor D H McKenzie, seconded Councillor A G Harris.

That Council:

1. **nominates Lynda Robins as the Municipal Emergency Management Coordinator, with her name to be forwarded to the Minister of Police and Emergency Management via the State Controller in accordance with section 23 of the *Emergency Management Act 2006*;**
 2. **nominates Michael Newby as the Deputy Municipal Emergency Management Coordinator, with his name to be forwarded to the Minister of Police and Emergency Management via the State Controller in accordance with section 23 of the *Emergency Management Act 2006*;**
 3. **recommends the appointment of both roles above be for a period of three (3) years;**
 4. **rescinds the previous appointments of Shane Eberhardt and Louise Foster as Municipal Emergency Management Coordinator and Deputy Municipal Emergency Management Coordinator respectively;**
 5. **authorises the Chief Executive Officer to forward nominations and notice of recision to the Minister of Police and Emergency Management via the State Contoller in accordance with section 23 of the Emergency Management Act 2006; and**
-

6. notes that the term Chief Executive Officer means the General Manager as defined by the *Local Government Act 1993*.

CARRIED 9:0

FOR VOTE: Mayor Councillor M K Garwood, Deputy Mayor Councillor D H McKenzie, Councillor A E Dawkins, Councillor A G Harris, Councillor T G Walker, Councillor Prof G Razay, Councillor J J Pentridge, Councillor L M McMahon and Councillor S Cai

AGAINST VOTE: Nil

17.2. Development Assessment Panel Submission

FILE NO: SF2378

AUTHOR: Richard Jamieson (Manager City Development)

APPROVER: Michelle Ogulin (Acting General Manager Community and Place Network)

DECISION STATEMENT:

To note the submission made by the City of Launceston to the draft Land Use Planning and Approvals (Development Assessment Panel) Bill 2024

RELEVANT LEGISLATION:

Land Use Planning and Approvals Act 1993

Draft Land Use Planning and Approvals (Development Assessment Panels) Bill 2024

PREVIOUS COUNCIL CONSIDERATION:

Workshop – 18 January 2024 – Development Assessment Panel Framework - Councillor's discussed and provided guidance for the City of Launceston submission on the Development Assessment Panel framework.

RECOMMENDATION:

That Council:

1. notes the submission made by Council Officers to the *Draft Land Use Planning and Approvals (Development Assessment Panels) Bill 2024*.
-

Richard Jamieson (Manager City Development) was in attendance to answer questions in respect of this Item.

DECISION: 28 November 2024

MOTION

Moved Councillor T G Walker, seconded Councillor J J Pentridge.

That Council:

1. notes the submission made by Council Officers to the *Draft Land Use Planning and Approvals (Development Assessment Panels) Bill 2024*.

CARRIED 9:0

FOR VOTE: Mayor Councillor M K Garwood, Deputy Mayor Councillor D H McKenzie, Councillor A E Dawkins, Councillor A G Harris, Councillor T G Walker, Councillor Prof G Razay, Councillor J J Pentridge, Councillor L M McMahon and Councillor S Cai

AGAINST VOTE: Nil

18. CREATIVE ARTS AND CULTURAL SERVICES NETWORK

No Items were identified as part of these Minutes.

19. INFRASTRUCTURE AND ASSETS NETWORK

19.1. On-street Dining Fee Waiver Related to George Street Parklets (Dining Decks)

FILE NO: SF6432

AUTHOR: Anna Feldman (Project Manager)

APPROVER: Chelsea van Riet (Acting General Manager Infrastructure and Assets Network)

DECISION STATEMENT:

To consider waiving on-street dining fees for businesses within the George Street Parklets Trial area who wanted to participate but are unable to have a parklet/dining deck.

RELEVANT LEGISLATION:

Local Government Act 1993 (Tas)

PREVIOUS COUNCIL CONSIDERATION:

Pre-Council Workshop Thursday 19 September 2024
Councillor Bulletin Friday 1 November 2024

RECOMMENDATION:

That Council:

1. Receive and note the report: and
 2. waive on-street dining fees for businesses within the George Street Parklets Trial area who wanted to participate but are unable to have a parklet/dining deck.
-

Anna Feldman (Project Manager) was in attendance to answer questions in respect of this item.

DECISION: 28 November 2024

MOTION

Moved Councillor A G Harris, seconded Councillor S Cai.

That Council:

1. Receive and note the report: and
2. waive on-street dining fees for businesses within the George Street Parklets Trial area who wanted to participate but are unable to have a parklet/dining deck.

CARRIED 9:0

FOR VOTE: Mayor Councillor M K Garwood, Deputy Mayor Councillor D H McKenzie, Councillor A E Dawkins, Councillor A G Harris, Councillor T G Walker, Councillor Prof G Razay, Councillor J J Pentridge, Councillor L M McMahon and Councillor S Cai

AGAINST VOTE: Nil

19.2. Launceston Flood Authority Report

FILE NO: SF4493

AUTHOR: Debbie Pickett (Personal Assistant Infrastructure and Assets)

GENERAL MANAGER APPROVAL: Chelsea van Riet (Infrastructure and Assets Network)

DECISION STATEMENT:

To receive the Launceston Flood Authority Quarterly Report – July to September 2024.

RELEVANT LEGISLATION:

Launceston Flood Authority Rules, April 2020

RECOMMENDATION:

That Council, in accordance with Rule 26 of the *Launceston Flood Authority Rules, April 2020*, receives the Launceston Flood Authority Quarterly Report, July to September 2024 (ECM Document Set ID 5155514).

Erica Deegan (Manager Infrastructure and Engineering) was in attendance to answers question in respect of this item.

DECISION: 28 November 2024

MOTION

Moved Councillor T G Walker, seconded Councillor J J Pentridge.

That Council, in accordance with Rule 26 of the *Launceston Flood Authority Rules, April 2020*, receives the Launceston Flood Authority Quarterly Report, July to September 2024 (ECM Document Set ID 5155514).

CARRIED 9:0

FOR VOTE: Mayor Councillor M K Garwood, Deputy Mayor Councillor D H McKenzie, Councillor A E Dawkins, Councillor A G Harris, Councillor T G Walker, Councillor Prof G Razay, Councillor J J Pentridge, Councillor L M McMahan and Councillor S Cai

AGAINST VOTE: Nil

20. ORGANISATIONAL SERVICES NETWORK

20.1. Revised Delegation from Council to Chief Executive Officer - Building Act 2016 and Building Regulations 2016

FILE NO: SF2611/SF0789/SF0113

AUTHOR: Lucas Lim (Governance and Legal Officer)

APPROVER: Nathan Williams (Acting General Manager Organisational Services Network)

DECISION STATEMENT:

To consider the partial revocation of a delegation under the *Building Act 2016*.

RELEVANT LEGISLATION:

Building Act 2016

Building Regulations 2016

PREVIOUS COUNCIL CONSIDERATION:

Council - 23 January 2017 - Item 19.4 - Delegation from Council to General Manager - *Building Act 2016* (Tas) and *Building Regulations 2016* (Tas)

RECOMMENDATION:

That Council:

1. notes its decision to delegate its powers and functions under the *Building Act 2016* and associated regulations from Council to the General Manager (Chief Executive Officer) made at item 19.4 at the Council Meeting on 23 January 2017 ("2017 Decision").
2. revokes part of the 2017 decision as it relates to the delegation of the powers and functions contained in sections 267(1) and (2) and (3) of the *Building Act 2016*.
3. notes that the following powers and functions under the *Building Act 2016* and *Building Regulations 2016* will remain exercisable by the Chief Executive Officer under delegation:

Building Act 2016

Provision	Function or Power
Section 27(3)	Make information retained pursuant to sections 27(2) available to the persons specified in section 27(3)
Section 265(3)	Perform works where there has been a failure to comply with an emergency order, a building order, or a plumbing order.
Section 265(4)	The power to (a) enter on the land where the work is to be done with the appropriate equipment; and (b) exclude other persons from the place where the work is being done; and (c) if anything is to be altered, determine the form of the alteration so far as it was not previously specified; and (d) if anything is to be taken down, demolished or removed, determine in what condition the remainder is to be left; and (e) carry away to some convenient place any materials removed; and (f) sell any materials so carried away and deduct the proceeds from the cost of the work
Section 266	Take proceedings to obtain possession of a building or temporary structure if any occupier fails to allow any person to do work pursuant to section 265.
Section 269	Enter land or a building and perform the required work, make an application to recover the cost of performing any work, and to impose a charge on land
Section 271(1)	Sell a building for removal or after demolishing a building, sell the materials on the premises for removal
Section 271(2)	Grant the purchaser of a building sold pursuant to section 271(1) all of the powers Council has under section 265
Section 271(6)	Pay the owner of the building or materials sold under subsection (1) the balance of any proceeds of the same after deducting reasonable expenses incurred

Building Regulations 2016

Provision	Function or Power
Regulation 43(1)	Provide written consent for works proposed pursuant to regulation 43(1)
Regulation 43(3)	If not satisfied that a stormwater drainage system is sealed in accordance with the <i>Building Act 2016 (Tas)</i> , enter the premises and perform any work necessary
Regulation 43(5)(a)	Recover costs as a charge under the <i>Local Government Act 1993 (Tas)</i>
Regulation 53	Assessment of land as having a reasonable probability of flooding
Regulation 78(3)	Recover costs as a charge under the <i>Local Government Act 1993 (Tas)</i>

4. authorises the Mayor to sign a new Instrument of Delegation giving effect to the recommendations above.
5. notes, for the avoidance of doubt, that the term Chief Executive Officer is a term of reference for the General Manager as appointed by Council pursuant to section 61 of the *Local Government Act 1993*.

Lucas Lim (Governance and Legal Officer) was in attendance to answer questions in respect of this item.

DECISION: 28 November 2024

MOTION

Moved Deputy Mayor Councillor D H McKenzie, seconded Councillor A G Harris.

That Council:

1. notes its decision to delegate its powers and functions under the *Building Act 2016* and associated regulations from Council to the General Manager (Chief Executive Officer) made at item 19.4 at the Council Meeting on 23 January 2017 ("2017 Decision").
2. revokes part of the 2017 decision as it relates to the delegation of the powers and functions contained in sections 267(1) and (2) and (3) of the *Building Act 2016*.
3. notes that the following powers and functions under the *Building Act 2016* and *Building Regulations 2016* will remain exercisable by the Chief Executive Officer under delegation:

Building Act 2016

Provision	Function or Power
Section 27(3)	Make information retained pursuant to sections 27(2) available to the persons specified in section 27(3)
Section 265(3)	Perform works where there has been a failure to comply with an emergency order, a building order, or a plumbing order.
Section 265(4)	The power to (a) enter on the land where the work is to be done with the appropriate equipment; and (b) exclude other persons from the place where the work is being done; and (c) if anything is to be altered, determine the form of the alteration so far as it was not previously specified; and (d) if anything is to be taken down, demolished or removed, determine in what condition the remainder is to be left; and (e) carry away to some convenient place any materials removed;

	and (f) sell any materials so carried away and deduct the proceeds from the cost of the work
Section 266	Take proceedings to obtain possession of a building or temporary structure if any occupier fails to allow any person to do work pursuant to section 265.
Section 269	Enter land or a building and perform the required work, make an application to recover the cost of performing any work, and to impose a charge on land
Section 271(1)	Sell a building for removal or after demolishing a building, sell the materials on the premises for removal
Section 271(2)	Grant the purchaser of a building sold pursuant to section 271(1) all of the powers Council has under section 265
Section 271(6)	Pay the owner of the building or materials sold under subsection (1) the balance of any proceeds of the same after deducting reasonable expenses incurred

Building Regulations 2016

Provision	Function or Power
Regulation 43(1)	Provide written consent for works proposed pursuant to regulation 43(1)
Regulation 43(3)	If not satisfied that a stormwater drainage system is sealed in accordance with the <i>Building Act 2016 (Tas)</i> , enter the premises and perform any work necessary
Regulation 43(5)(a)	Recover costs as a charge under the <i>Local Government Act 1993 (Tas)</i>
Regulation 53	Assessment of land as having a reasonable probability of flooding
Regulation 78(3)	Recover costs as a charge under the <i>Local Government Act 1993 (Tas)</i>

4. authorises the Mayor to sign a new Instrument of Delegation giving effect to the recommendations above.
5. notes, for the avoidance of doubt, that the term Chief Executive Officer is a term of reference for the General Manager as appointed by Council pursuant to section 61 of the *Local Government Act 1993*.

CARRIED 9:0

FOR VOTE: Mayor Councillor M K Garwood, Deputy Mayor Councillor D H McKenzie, Councillor A E Dawkins, Councillor A G Harris, Councillor T G Walker, Councillor Prof G Razay, Councillor J J Pentridge, Councillor L M McMahon and Councillor S Cai

AGAINST VOTE: Nil

20.2. Budget Amendment - 28th November 2024

FILE NO: SF6817/SF7334

AUTHOR: Samuel Kelty (Manager Finance)

APPROVER: Nathan Williams (Acting General Manager Organisational Services Network)

DECISION STATEMENT:

For Council to:

1. consider changes to the Council's 2024/2025 Statutory Estimates.

A decision for Recommendation 1. requires an absolute majority of Council in accordance with section 82(4) of the Local Government Act 1993 (Tas).

2. consider adjustments made during 1 October to 31 October 2024 by the Chief Executive Officer to the 2024/2025 Budget.

RELEVANT LEGISLATION:

Local Government Act 1993 (Tas)

RECOMMENDATION:

That Council:

1. pursuant to section 82(4) of the *Local Government Act 1993 (Tas)* and by an absolute majority, approves the following changes to the 2024/2025 Statutory Estimates:
 - (a) Revenue
 - i. the net increase in revenue from external grants and contributions of \$51,500.
 - (b) Expenses
 - i. the net increase in expenditure from external funds of \$51,500.
 - ii. the net decrease in operations expenditure of \$17,510.
 - (c) Capital Works Expenditure
 - i. the increase in the Council's funded expenditure of \$17,510.
 2. notes that amendments from Recommendation 1. result in:
 - (a) the operating deficit being amended to \$5,630,841 including capital grants of \$19,178,656) for 2024/2025.
 - (b) the capital budget being increased to \$43,549,166 for 2024/2025.
 3. pursuant to section 82(7) of the *Local Government Act 1993 (Tas)*, receives the Chief Executive Officer's report on adjustments to the 2024/2025 budget for the period 1 October to 31 October 2024.
-

Samuel Kelty (Manager Finance) was in attendance to answer questions in respect of this item.

DECISION: 28 November 2024

MOTION

Moved Deputy Mayor Councillor D H McKenzie, seconded Councillor T G Walker.

That Council:

1. pursuant to section 82(4) of the *Local Government Act 1993* (Tas) and by an absolute majority, approves the following changes to the 2024/2025 Statutory Estimates:
 - (a) Revenue
 - i. the net increase in revenue from external grants and contributions of \$51,500.
 - (b) Expenses
 - i. the net increase in expenditure from external funds of \$51,500.
 - ii. the net decrease in operations expenditure of \$17,510.
 - (c) Capital Works Expenditure
 - i. the increase in the Council's funded expenditure of \$17,510.
2. notes that amendments from Recommendation 1. result in:
 - (a) the operating deficit being amended to \$5,630,841 including capital grants of \$19,178,656) for 2024/2025.
 - (b) the capital budget being increased to \$43,549,166 for 2024/2025.
3. pursuant to section 82(7) of the *Local Government Act 1993* (Tas), receives the Chief Executive Officer's report on adjustments to the 2024/2025 budget for the period 1 October to 31 October 2024.

CARRIED BY ABSOLUTE MAJORITY 9:0

FOR VOTE: Mayor Councillor M K Garwood, Deputy Mayor Councillor D H McKenzie, Councillor A E Dawkins, Councillor A G Harris, Councillor T G Walker, Councillor Prof G Razay, Councillor J J Pentridge, Councillor L M McMahon and Councillor S Cai

AGAINST VOTE: Nil

20.3. Public Interest Disclosure Procedures

FILE NO: SF3199

AUTHOR: Lucas Lim (Governance and Legal Officer)

APPROVER: Nathan Williams (Acting General Manager Organisational Services Network)

DECISION STATEMENT:

To consider approval of the Public Interest Disclosure Procedure

RELEVANT LEGISLATION:

Public Interest Disclosures Act 2002 (Tas)

PREVIOUS COUNCIL CONSIDERATION:

Council – 17 June 2021 – Public Interest Disclosure Procedure
Workshop - 1 August 2024 - Public Interest Disclosure Procedures

RECOMMENDATION:

That Council:

1. approves the Public Interest Disclosure Procedures ("Procedures") below:

Public Interest Disclosure Procedures

Public Interest Disclosures Act 2002 (Tas)

Public Interest Disclosure Officers:

- Nathan Williams, Acting General Manager Organisational Services Network
 - Michael Newby, Chief Infrastructure Officer - Infrastructure and Assets Network
 - Michelle Ogulin, Manager Liveable Communities - Community and Place Network
 - Roxanne Chugg, Manager People and Culture - Organisational Services Network
 - Julie Clements, Leader Business Support (QVMAG) - Creative and Cultural Services Network
-

1	Statement of support.....	49
2	Purpose of these procedures	49
3	The purpose of the Act.....	50
4	How the Act works	50
5	Roles and responsibilities	51
5.1	Members, officers and employees	51
5.2	Principal Officer.....	51
5.3	Public Interest Disclosure Officers.....	52
5.4	Investigator	52
5.5	Welfare Manager.....	52
6	Who can make a disclosure?	53
6.1	Public officers.....	53
6.2	Contractors	53
6.3	Members of the public	53
6.4	Anonymous persons.....	53
7	What can a disclosure be made about?	53
7.1	Improper conduct.....	53
7.2	Corrupt conduct	54
7.3	Detrimental action	55
8	Where to make a disclosure	55
9	How to make a disclosure.....	56
9.1	Public Interest Disclosure Officers.....	56
9.2	Written or oral disclosure	56
9.3	Disclosure to the Ombudsman	57
9.4	Disclosure to the Integrity Commission.....	57
10	Confidentiality	58
11	Assessing the disclosure	59

11.1	What should the recipient of the disclosure do upon receipt of the disclosure?...	59
11.2	Is it a protected disclosure?	59
11.3	Mixed content disclosures	60
11.4	Risk Assessment.....	60
11.5	Referral of a protected disclosure to the Integrity Commission.....	60
11.6	Is the disclosure a public interest disclosure?	61
11.7	Referral of criminal conduct to the Commissioner of Police	62
12	Protection	62
12.1	When does protection commence?	62
12.2	What protection does the Act provide?	62
13	Investigations.....	63
13.1	Introduction.....	63
13.2	Matters that do not have to be investigated	63
13.3	Appointment of investigator and framing of terms of reference	64
13.4	Investigation plan	64
13.5	Procedural fairness	65
13.6	Conduct of the investigation	65
13.7	Referral of an investigation to the Ombudsman	66
13.8	Provision of information about the investigation.....	66
14	Action taken after an investigation	66
14.1	Investigator’s final report	66
14.2	Action to be taken	67
15	Managing the welfare of the discloser.....	68
15.1	Support for the discloser.....	68
15.2	Keeping the discloser informed.....	68
15.3	Occurrence of detrimental action	68

15.4 Discloser implicated in improper conduct.....	68
16 Management of the person against whom a disclosure has been made	69
17 Publishing statistics.....	70
18 Offences	70
19 Approval and review of these procedures	71
Attachment 1	72
Assessment of disclosure form.....	72
Attachment 2	77
Risk assessment template.....	77
Attachment 3	80
Ombudsman notification template	80
Attachment 4	81
Flowchart - Disclosure to a Public Body.....	81

1 Statement of support

The City of Launceston (CoL) is committed to the aims and objectives of the *Public Interest Disclosures Act 2002* (Tas) (the Act). The CoL will promote a top down approach to proper conduct by its employees, officers or members. Further to this CoL will strive:

- *to encourage and facilitate disclosures of improper conduct by public officers;*
- *to protect persons making those disclosures and others from reprisals;*
- *to provide for the matters disclosed to be properly investigated and dealt with; and*
- *to provide all parties involved with those disclosures with procedural fairness (referred to as natural justice in the Act).*

The CoL recognises the value of transparency and accountability in its administrative and management practices, and supports the making of disclosures that reveal the type of conduct to which the Act is directed.

The CoL will take all reasonable steps to protect people who make such a disclosure from any detrimental action in reprisal for making the disclosure, and to protect their welfare. It will also afford natural justice to all parties involved in the investigation of a disclosure.

2 Purpose of these procedures

These procedures establish a system for reporting disclosures of improper conduct or detrimental action by members, officers or employees of the CoL. The procedures are also intended to assist its members, officers and employees to understand the way in which the Act operates and needs to be administered.

The system created by these procedures provides for such disclosures to be made to the Chief Executive Officer of the CoL (the Principal Officer) or to a delegated Public Interest Disclosure Officer. Disclosures may be made by people who are “public officers” with the CoL. People who are or have been “contractors” with CoL for the supply of goods or services can make disclosures to the Ombudsman or Integrity Commission. The meaning of public officers and contractors is explained later in this document.

These procedures are designed to complement normal communication channels between supervisors and employees. Employees are encouraged to continue to raise appropriate matters at any time with their supervisors, and to use existing grievance procedures within the organisation where appropriate.

At the CoL, the other policies and procedures to which you might refer include:

- [22-PI-030 Code of Conduct Policy](#)
- [22-PI-036 Workplace Behaviour Policy](#)
- [22-PI-034 Issue Resolution Policy](#)

The procedures have been prepared in accordance with Guidelines and Standards published by the Ombudsman under section 38(1)(c) of the Act. These Guidelines and Standards can be seen on the Ombudsman’s website at: www.ombudsman.tas.gov.au.

3 The purpose of the Act

The Act commenced operation on 1 January 2004. It was substantially amended by the *Public Interest Disclosures Amendment Act 2009* (Tas). The purposes of the Act are contained in its long title. These are:

- to encourage and facilitate disclosures of improper conduct by public officers and public bodies;
- to protect persons making those disclosures, and others, from detrimental action;
- to provide for the matters disclosed to be properly investigated and dealt with; and
- to provide all parties involved in the disclosures with natural justice.

The public interest is served by providing an avenue for persons to report improper conduct and be protected for doing so.

4 How the Act works

Briefly, the Act works in this way:

- It gives certain people – “public officers” and “contractors” – the right to make a disclosure about “improper conduct” or “detrimental action” to certain integrity agencies, other persons and bodies (Part 2 of the Act, particularly section 6).¹
- It provides certain statutory protections for protected disclosures, even if the discloser does not reference the Act (Part 3).
- It dictates how the recipient of the disclosure is to deal with it (Parts 4 to 8).
- It treats the Ombudsman as the oversight agency in relation to the operation of the Act, including the default investigator, monitor of investigations by public bodies, and setter of standards under the Act.
- Where the disclosure is handled by the Ombudsman or a public body, it requires a determination as to whether the protected disclosure is a “public interest disclosure” (sections 30 and 33). In other words a disclosure which, in the case of decision-making by the Ombudsman, meets the requirements of section 30(2), or, in the case of decision-making by the public body, meets the requirements of section 33(2).
- Subject to exceptions, it requires investigation by the Ombudsman or public body of any protected disclosure which is found to be a public interest disclosure (sections 39 and 63).
- It requires such investigation to be conducted as soon as practicable, but if it is being conducted by a public body, not more than six months from the date of the determination that the disclosure is a public interest disclosure (sections 39A and 77A).
- It controls the manner in which a disclosure is investigated, and provides powers in this

¹ Note that section 7A of the Act permits a person to whom a disclosure may be made under Part 2 of the Act to treat a person who is not a public officer or contractor as a contractor for the purposes of the Act, if they consider that it would be in the public interest to do so. A disclosure by a contractor is not. Members of the public may also make disclosures in limited circumstances, when the Ombudsman or Integrity Commission deems this in the public interest under section 7A.

respect.

- In the case of investigation by the Ombudsman, it gives the Ombudsman the power to provide a report and may recommend that action be taken in light of the investigation (section 56).
- In the case of an investigation by a public body which results in a finding that the alleged conduct occurred, it obliges the public body to take action to prevent that conduct from continuing or recurring, and to take action to remedy any harm or loss which may have arisen (section 75).

A flow chart, which depicts the way in which a public body should deal with a disclosure made to it under the Act, is at Attachment 4 to this document. It is important to note that a person does not have to expressly reference the Act when making a disclosure in order to be eligible for protection, if all the requirements in the Act are otherwise met.

5 Roles and responsibilities

This part explains the roles and responsibilities of individuals within the CoL under the Act.

5.1 Members, officers and employees

Members, officers and employees of the CoL are encouraged to report known or suspected incidences of improper conduct or detrimental action under the Act, in accordance with these procedures.

All members, officers and employees of the CoL have an important role to play in supporting those who have made a legitimate disclosure. They must refrain from any activity that is, or could be perceived to be, victimisation or harassment of a person who makes a disclosure. Furthermore, they should protect and maintain the confidentiality of a person they know or suspect to have made a disclosure.

5.2 Principal Officer

The Principal Officer has primary responsibility for ensuring that the provisions of the Act are implemented by the public body. Section 62A of the Act provides that the Principal Officer has responsibility for:

- preparing procedures for approval by the Ombudsman;
- receiving public interest disclosures and ensuring they are dealt with in accordance with the Act;
- ensuring the protection of witnesses;
- ensuring the application of natural justice in the public body's procedures;
- ensuring the promotion of the importance of public interest disclosures and general education about the Act to all staff, and ensuring easy access to information about the Act and the public body's procedures; and
- providing access to confidential employee assistance programs and appropriately trained internal support staff for those involved in the process.

The Principal Officer may delegate any or all of his or her functions to a Public Interest Disclosure Officer.

5.3 Public Interest Disclosure Officers

A Public Interest Disclosure Officer is appointed by the Principal Officer under section 62A(2) of the Act, and holds a delegation from the Principal Officer which enables him or her to exercise the statutory powers and functions given to the Principal Officer by the Act which are listed in their instrument of delegation.

These procedures frequently give responsibilities or functions to a Public Interest Disclosure Officer. Not all of these are preferable to specific statutory powers or functions bestowed on the Principal Officer by the Act, and so some of them represent things which the Public Interest Disclosure Officer is expected to do on a purely administrative basis.

Subject to the terms of their delegation, the responsibilities of a Public Interest Disclosure Officer generally include:

- acting as a contact point for general advice about the operation of the Act for any person wishing to make a disclosure about improper conduct or detrimental action;
- making arrangements for a disclosure to be made privately and discreetly and, if necessary, away from the workplace;
- receiving any disclosure made orally or in writing (from internal and external disclosers);
- recording in writing the details of any disclosure which is made orally;
- impartially assessing the allegation and determining whether it is a disclosure made in accordance with Part 2 of the Act (that is, “a protected disclosure”);
- impartially assessing under section 33 of the Act whether a disclosure is a “public interest disclosure”;
- taking all necessary steps to ensure that the identity of the discloser and the identity of the person who is the subject of the disclosure are kept confidential; and
- administrative functions to support the role under the Act, as required.

See the cover page for a list of CoL's Public Interest Disclosure Officers.

5.4 Investigator

Where the CoL has determined that a disclosure is a public interest disclosure, or where the Ombudsman has referred a disclosed matter to the CoL for investigation, the Principal Officer will appoint an investigator to investigate the matter in accordance with the Act. An investigator may be a person from within the public body or a consultant engaged for that purpose.

5.6 Welfare Manager

The welfare manager will be appointed by the Principal Officer or by a Public Interest Disclosure Officer and is responsible for looking after the general welfare of the discloser. The welfare manager will:

- examine the immediate welfare and protection needs of a person who has made a disclosure, and seek to foster a supportive work environment;
- advise the discloser of the legislative and administrative protections available to him or her²;

² See [Protection](#) below for details of the legislative protections.

- listen and respond to any concerns of harassment, intimidation, victimisation or other detrimental action which may be occurring in reprisal for making the disclosure; and
- so far as is practicable, protect the identity of the discloser in the course of carrying out these responsibilities.

A welfare manager may be a person employed by CoL or a consultant engaged for that purpose. They must not be responsible for assessing or investigating the disclosure.

6 Who can make a disclosure?

6.1 Public officers

Any current public officer³ can make a disclosure to the CoL under the Act. This includes all employees and Councillors of the CoL. Council volunteers are not considered public officers, but could make a disclosure to the Ombudsman or Integrity Commission about a public body as a member of the public.

6.2 Contractors

Current or past contractors and sub-contractors can make disclosures about public bodies, not public officers, but they can only make a disclosure to the Ombudsman or the Integrity Commission not to CoL Public Interest Disclosure Officer. Officers should refer any contractors wanting to make a disclosure to either of these bodies.

6.3 Members of the public

Members of the public can make a disclosure about a public body and may be treated in the same way as a contractor if it is in the public interest to do so, but they can only make the disclosure to the Ombudsman or Integrity Commission. The Ombudsman or Integrity Commission determines whether it is in the public interest to treat the discloser as a contractor, not the discloser. Public interest disclosure officers should refer any members of the public wanting to make a disclosure to either of these bodies.

6.4 Anonymous persons

An anonymous disclosure may be accepted if the person receiving it is satisfied that the disclosure is being made by a public officer or contractor (see section 8 of the Act). If the person is satisfied that an anonymous disclosure is from a contractor it should be referred to the Ombudsman.

7 What can a disclosure be made about?

A disclosure can be made about one or more public officers or a public body itself. If a disclosure relates to the CoL as a whole or the Principal Officer of the CoL, it should be referred to the Ombudsman or Integrity Commission as internal investigation would not be appropriate.

7.1 Improper conduct

Disclosures about public officers need to relate to improper conduct by that officer, in the past, present or future (proposed action). Section 3 of the Act defines improper conduct as:

³ This can include a public officer from another public body.

- a. conduct that constitutes an illegal or unlawful activity; or
- b. corrupt conduct; or
- c. conduct that constitutes maladministration; or
- d. conduct that constitutes professional misconduct; or
- e. conduct that constitutes a waste of public resources; or
- f. conduct that constitutes a danger to public health or safety or to both public health and safety; or
- g. conduct that constitutes a danger to the environment; or
- h. misconduct, including breaches of applicable codes of conduct; or
- i. conduct that constitutes detrimental action against a person who makes a public interest disclosure under this Act,

that is serious or significant as determined in accordance with guidelines issued by the Ombudsman.⁴

Examples of improper conduct include:

- to avoid closure of a town's only industry, an environmental health officer ignores or conceals evidence of illegal dumping of waste;
- an agricultural officer delays or declines imposing quarantine to allow a financially distressed farmer to sell diseased stock; and
- a principal officer spends \$15,000 of public money on a staff Christmas party.

7.2 Corrupt conduct

Corrupt conduct is further defined in section 3 of the Act as:

- a. conduct of a person (whether or not a public officer) that adversely affects, or could adversely affect, either directly or indirectly, the honest performance of a public officer's or public body's functions; or
- b. conduct of a public officer that amounts to the performance of any of their functions as a public officer dishonestly or with inappropriate partiality; or
- c. conduct of a public officer, a former public officer or a public body that amounts to a breach of public trust; or
- d. conduct of a public officer, a former public officer or a public body that amounts to the misuse of information or material acquired in the course of the performance of their functions as such (whether for the benefit of that person or body or otherwise); or
- e. a conspiracy or attempt to engage in conduct referred to in paragraph (a), (b), (c) or (d).

Examples of corrupt conduct include:

- a public officer takes a bribe in exchange for the discharge of a public duty;
- a public officer favours unmeritorious applications for jobs or permits by friends and relatives; and

⁴ See Public Interest Disclosure Guideline One: Serious or Significant Improper Conduct, available at www.ombudsman.tas.gov.au

- a public officer accesses and discloses third-party personal information at the request of a friend, without any legitimate reason.

7.3 Detrimental action

Detrimental action, or reprisal action, against a discloser can be a form of improper conduct. It is defined in section 3 of the Act, as including:

- a. action causing injury, loss or damage; and
- b. intimidation or harassment; and
- c. discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business, including the taking of disciplinary action; and
- d. threats of detrimental action.

Examples of detrimental action include:

- refusal of a deserved promotion;
- demotion, transfer, isolation in the workplace or changing a person's duties to their disadvantage;
- threats, abuse or other forms of harassment directly or indirectly against the discloser, their family or friends; and
- discrimination against the discloser or their family and associates in applications for jobs, permits or tenders.

8 Where to make a disclosure

For the protections in the Act to apply, a disclosure must be made to the right person or body. Section 7 of the Act deals with this subject, and the following table summarises its effect:

Officer or public body to which the disclosure relates	Where the disclosure may be made
a member, officer or employee of a public body other than the Police Service or a State Service Agency	that public body; or the Integrity Commission; or the Ombudsman
a member, officer or employee of a public body that is a State Service Agency	that State Service Agency; or the Integrity Commission; or the Ombudsman
the principal officer of a public body or State Service Agency	the Ombudsman; or the Integrity Commission
a member of the Police Service, other than the Commissioner of Police	the Commissioner of Police
the Commissioner of Police	the Ombudsman
a member of the Legislative Council	the President of the Legislative Council
a member of the House of Assembly	the Speaker of the House

Officer or public body to which the disclosure relates	Where the disclosure may be made
a Councillor, within the meaning of the <i>Local Government Act 1993</i> (Tas)	the Ombudsman
a person employed under the provisions of the <i>Parliamentary Privilege Act 1898</i> (Tas)	the Ombudsman; or the Integrity Commission
the Auditor-General	the chairman of the Public Accounts Committee
the Ombudsman	the Joint Standing Committee on Integrity
a person employed in an office of a Minister, Parliamentary Secretary or other Member of Parliament	the Ombudsman
the Principal Officer of City of Launceston or City of Launceston as a whole	the Ombudsman; or the Integrity Commission
in any other case, including if the disclosure is about a public body as opposed to an individual public officer	the Ombudsman; or the Integrity Commission

9 How to make a disclosure

Public officers can make a disclosure about other public officers of the CoL orally or in writing to the following officers:

- The Chief Executive Officer – who is the “Principal Officer” of the public body, within the terms of the Act.
- A Public Interest Disclosure Officer.

6.1 Public interest disclosure officers

The following staff are public interest disclosure officers and can receive disclosures:

- Nathan Williams, Acting General Manager Organisational Services Network
- Michael Newby, Chief Infrastructure Officer - Infrastructure and Assets Network
- Michelle Ogulin, Manager Liveable Communities - Community and Place Network
- Julie Clements, Leader Business Support (QVMAG) - Creative and Cultural Services Network
- Roxanne Chugg, Manager People and Culture - Organisational Services Network

6.2 Written or oral disclosure

It is preferable that a disclosure be made in writing. It should be addressed to the public body, marked for the attention of the Principal Officer or Public Interest Disclosure Officer. A disclosure can be sent, delivered or left at 18-28 St John Street, Launceston TAS 7250 or emailed to:

publicinterestdisclosure@launceston.tas.gov.au

nathan.williams@launceston.tas.gov.au

michael.newby@launceston.tas.gov.au

michelle.ogulin@launceston.tas.gov.au

julie.clements@launceston.tas.gov.au

roxanne.chugg@launceston.tas.gov.au

A public officer can also make an oral disclosure over the phone or in person to a Public Interest Disclosure Officer. An oral disclosure should be made in private. If a public officer is concerned about making a disclosure in person in the workplace, they can call or email the Public Interest Disclosure Officer to request a meeting in a location away from the workplace.

It is not a requirement that the person contemplating making a disclosure refers to the Act, or is aware of the Act.

6.3 Disclosure to the ombudsman

A disclosure about improper conduct or detrimental action by the CoL or any of its members, officers or employees may also be made directly to the Ombudsman. The contact details for the Ombudsman are:

The Ombudsman
GPO Box 960
HOBART TAS 7001

or at

Level 6, 86 Collins Street
HOBART TAS 7000

Website: www.ombudsman.tas.gov.au
Email: ombudsman@ombudsman.tas.gov.au
Telephone: 1800 001 170 (free call though charges for mobile phones may apply)

6.4 Disclosure to the integrity commission

A disclosure about improper conduct or detrimental action by CoL or any of its members, officers or employees may also be made directly to the Integrity Commission. The contact details for the Integrity Commission are:

Integrity Commission
GPO Box 822
HOBART TAS 7001

or at

Level 2, Surrey House
199 Macquarie Street
HOBART TAS 7000

Website: www.integrity.tas.gov.au
Email: integritycommission@integrity.tas.gov.au
Telephone: 1300 720 289

10 Confidentiality

The CoL will take all reasonable steps to protect the identity of a discloser. Maintaining confidentiality is crucial in ensuring reprisals are not made against the discloser.

All reasonable care should also be taken to protect the privacy of witnesses and of the person against whom the disclosure has been made.

Section 23 of the Act requires any person who receives information due to the handling or investigation of a protected disclosure, not to disclose that information except in certain limited circumstances. Disclosure of information in breach of this section constitutes an offence that is punishable by a maximum fine of 60 penalty units or six months imprisonment, or both.

The circumstances in which a person may disclose information obtained about a protected disclosure include:

- where exercising their functions or the functions of the public body under the Act;
- when making a report or recommendation under the Act;
- when publishing statistics in the annual report of a public body, and
- in proceedings for certain offences in the Act.

The Act, however, prohibits the inclusion of particulars in any report or recommendation that is likely to lead to the identification of the discloser. The Act also prohibits the identification of the person who is the subject of the disclosure in any particulars included in an annual report made in accordance with Part 9 of the Act.

It may be necessary to consider disclosing information where:

- it is essential, having regard to the principles of natural justice, that the identifying information be disclosed to the person who is the subject of the disclosure, or
- the investigating body believes that the disclosure of the identifying information is necessary for the matter to be effectively investigated; or
- the identity of the discloser is likely to be guessed from the circumstances of the disclosure and the risks for the discloser are better managed if their identity is known and specific warnings or risk management actions can be taken.

In these circumstances, the person who made the disclosure should first be consulted before any action is taken. Consider obtaining permission in writing from the discloser prior to identifying them.

The CoL will ensure that all relevant files, whether paper or electronic, are kept securely and can only be accessed by the Principal Officer, Public Interest Disclosure Officer/s, the investigator and (in relation to welfare matters only) the welfare manager.

All printed and electronic material will be kept in files that are clearly marked as confidential, and all materials relevant to an investigation, such as interview recordings, will also be stored securely with the files. Electronic files should have access restricted to the relevant officers.

Care should also be taken to ensure that all relevant phone calls and meetings are conducted in private.

Section 90 exempts documents from release under the Right to Information Act 2009 (Tas) to the extent that:

- they contain information regarding a disclosure; or
- information that is likely to lead to the identification of the person who:
 - made the disclosure; or
 - the person who is the subject of the disclosure.

11 Assessing the disclosure

The Act requires the taking of two distinct steps when assessing a disclosure. It first needs to be determined whether or not it qualifies as a protected disclosure, and thus attracts the protections contained in the Act. In order to do so it must satisfy the following prerequisites:

- has it been made to the correct person or body; and
- if it has been correctly made to the CoL -
 - has it been made by a public officer (or, if the disclosure is anonymous, is the person receiving it satisfied that it is being made by a public officer);
 - is it about the conduct of a public officer;
 - does the discloser believe the public officer has, is or is proposing to engage in improper conduct;
 - is it about conduct that could objectively fall within the definition of improper conduct; and
 - does it concern conduct that occurred on or after 1 January 2001?

The next step is to determine if it is a public interest disclosure. This requires an assessment of the evidence provided by the discloser to determine if it shows or tends to show a public officer has, is or is proposing to engage in improper conduct.

11.1 What should the recipient of the disclosure do upon receipt of the disclosure?

If the disclosure is oral, the recipient should make a file note as soon as possible. The note should record the time the disclosure was made, the circumstances under which it was made and, so far as is possible, the exact words used by the discloser. The recipient should ask the discloser to consider putting the disclosure in writing as soon as possible.

Unless the recipient is the Principal Officer (or the disclosure is about the Principal Officer), the recipient should immediately inform the Principal Officer of the disclosure, and should provide the Principal Officer with a copy of the disclosure, or record of the disclosure, and any accompanying Documents.⁵ If the disclosure is about the Principal Officer, contact the Ombudsman for advice.

11.2 Is it a protected disclosure?

The protections for disclosers, provided in Part 3 of the Act, only apply where the disclosure is a *protected disclosure* made in accordance with Part 2 of the Act.

The Principal Officer or a Public Interest Disclosure Officer should assess whether a

⁵ Contractors or members of the public who wish to make a disclosure should be advised to contact the Ombudsman or Integrity Commission, as per [Who can make a disclosure?](#)

disclosure has been made in accordance with Part 2 as soon as possible after it has been received. The assessment of disclosure form at Attachment 1 should be completed as part of this process. It contains a series of questions going to the essential elements of a protected disclosure, raised at [Assessing the disclosure](#) and what is needed to be established before a disclosure can be a protected disclosure. A separate assessment of disclosure form will usually need to be completed for each disclosure. This means, for example, that if a discloser is complaining about three different public officers, this constitutes three disclosures and three assessments should be completed.

If it is determined that it is a protected disclosure, the discloser should be given information about the protections in the Act (such as a copy of Part 3 of the Act). These protections should be explained to the discloser if necessary. The discloser should also be informed of the process which will be followed with respect to the disclosure.

The Principal Officer or a Public Interest Disclosure Officer should also immediately appoint a Welfare Manager to protect the interests of the discloser and ensure that the discloser is advised of the name and contact details of that person. A risk assessment should also be completed.

11.3 Mixed content disclosures

Many disclosures will also contain personal grievances. When conducting assessments of complaints or grievances the assessor needs to be alert to identifying those aspects that could constitute a protected disclosure.

It is not a requirement that a discloser specify they are making a disclosure, the onus rests on the CoL to identify whether or not the Act applies.

Consider discussing with the person whether they wish to make a public interest disclosure if it appears their concerns would meet the threshold.

Those matters that can be dealt with under a grievance process and those that are more appropriately dealt with under these procedures should be dealt with separately where possible.

11.4 Risk assessment

A risk assessment should occur as soon as possible after the disclosure has been assessed as being a protected disclosure under the Act. The Risk Assessment Template at Attachment 2 should be completed by the Principal Officer or Public Interest Disclosure Officer and any appropriate risk mitigation action required be implemented. A single assessment can be made of all relevant risks, or you may prefer to undertake separate assessments of the different risks relating to a particular disclosure, such as the risks to the discloser, the subject of the disclosure, any witnesses, or the CoL. The discloser is usually the most able to identify potential reprisal risks, so input should be sought from the discloser and the Welfare Manager in completing the risk assessment. All reasonable steps to reduce risks of reprisal to the discloser should be taken.

11.5 Referral of a protected disclosure to the integrity commission

The CoL may refer a protected disclosure, as distinct from a public interest disclosure, to the Integrity Commission where it considers that the disclosure relates to misconduct as defined in section 4(1) of the Integrity Commission Act 2009. Consideration should also be given to:

- whether independent investigation of the subject matter of the disclosure by the Integrity

Commission is preferable; and

- the views of the discloser and the Integrity Commission about whether the matter should be referred.

The CoL must notify the discloser of the referral under section 29D of the Act within a reasonable time (unless the disclosure was made anonymously).

The Integrity Commission may deal with the disclosure under its legislation, or it may refer the disclosure to the Ombudsman or a public body, as the case may require, for action in accordance with the Act.

11.6 Is the disclosure a public interest disclosure?

Once a disclosure has been assessed as being a protected disclosure, a further determination must be made as to whether or not it is a public interest disclosure. The Principal Officer or Public Interest Disclosure Officer must make this determination under section 33 of the Act within 45 days of the receipt of the disclosure. Use the Assessment of Disclosure Form at Attachment 1 to ensure you consider all the necessary requirements.

For a disclosure to be a public interest disclosure, the Principal Officer, or their delegated Public Interest Disclosure Officer, must be satisfied that the disclosure shows or tends to show that the public officer to whom the disclosure relates has:

- engaged, is engaging or proposes to engage in improper conduct in their capacity as a public officer, or
- taken, is taking or proposes to take detrimental action in reprisal for the making of the protected disclosure.

A disclosure must be more than a mere allegation without substantiation to meet this threshold. A disclosure must include an indication of the existence of evidence that, if substantiated, would show or tend to show that the alleged improper conduct occurred.

Where the Principal Officer or Public Interest Disclosure Officer determines that the disclosure amounts to a public interest disclosure, they must:

- advise the Principal Officer (if not the person assessing the disclosure);
- notify the Ombudsman within 14 days of the decision using the notification template at Attachment 3;
- notify the person making the disclosure within 14 days of the decision (unless they are anonymous and uncontactable); and
- proceed to investigate the disclosed matter under section 34 of the Act.

If the Principal Officer or Public Interest Disclosure Officer determines that the disclosure is not a public interest disclosure, they must:

- advise the Principal Officer (if not the person assessing the disclosure);
- notify the Ombudsman within 14 days of the decision using the notification template at Attachment 3; and
- notify the person making the disclosure within 14 days of the decision (unless they are anonymous and uncontactable) – see section 35.

The Ombudsman must then review this decision under section 35(2).

If, on review of the matter, the Ombudsman agrees that the disclosure is not a public interest disclosure, it does not need to be dealt with under the Act. The Principal Officer, or the Public Interest Disclosure Officer in consultation with the Principal Officer, will then decide how the disclosure should be dealt with.

If the Ombudsman determines on review that the disclosure is a public interest disclosure, it maybe referred back to the public body under section 42 for investigation under the Act or the Ombudsman will deal with the disclosed matter.

11.7 Referral of criminal conduct to the commissioner of police

It is possible that, before or during the investigation of a public interest disclosure, facts are uncovered that indicate the possibility that a criminal offence might have been committed. If this happens, the CoL will not commence, or will suspend, the investigation and will consult with the Ombudsman as to the future conduct of the matter. Under section 41 of the Act, the Ombudsman has the power to refer a public interest disclosure to the Commissioner of Police for investigation.

If the Ombudsman is satisfied that the disclosed matter should be referred to the Commissioner, the CoL should consider whether the disclosure should be referred to the Ombudsman under section 68 of the Act.

Early referral of the matter may avoid interference with the evidentiary trail and so should be done at the first possible opportunity. Referral to the Commissioner through the Ombudsman will also avoid any question of a breach of confidentiality under section 23 of the Act. Once a disclosure is referred to the Commissioner through the Ombudsman, the investigation under the Act ceases.

There may still be administrative or operational issues which have been identified during the disclosure process or investigation, however, these should be dealt with under other internal processes of the CoL. The Principal Officer, or the Public Interest Disclosure Officer acting in consultation with the Principal Officer, will decide how the matter should be dealt with.

12 Protection

12.1 When does protection commence?

Where the CoL receives a disclosure which complies with the requirements of Part 2 of the Act, the disclosure immediately attracts the protections set out in Part 3 of the Act. This is so whether or not the disclosure is factually correct (although one of the requirements of Part 2 is that the discloser genuinely believes that the alleged improper conduct or detrimental action in fact occurred).

The protection can also extend to a person who intends to make a disclosure - see section 19 of the Act.

12.2 What protection does the act provide?

Part 3 of the Act gives various types of protection to a person who makes a protected disclosure. This part of these procedures only provides a summary of some elements of that Part of the Act.

A person who makes a protected disclosure:

- is not subject to any civil or criminal liability, or to any liability arising by way of administrative process, for making the protected disclosure (section 16); and
- does not by doing so commit an offence under a provision of any other Act that imposes a duty to maintain confidentiality, or which imposes any other restriction on the disclosure of information (section 17(1)(a)); and
- does not by doing so breach an obligation by way of oath, or rule of law or practice, or under an agreement, which requires the discloser to maintain confidentiality or otherwise restricts the disclosure of information (section 17(1)(b)).

If a disclosure is not made to the correct entity, the protections may not apply. For example, a discloser will not be protected if otherwise confidential information is disclosed to the media.

Part 3 also contains various provisions which are intended to protect a discloser from detrimental action by way of reprisal for a protected disclosure. These are:

- section 19, which makes it an offence to take such detrimental action;
- section 20, which creates a liability to pay damages for such detrimental action; and
- section 21, which gives a person who believes that detrimental action has been taken against them the right to apply to the Supreme Court for an order requiring the person who has taken the detrimental action to remedy that action, or for an injunction.

13 Investigations

13.1 Introduction

Any disclosure the CoL determines to be a public interest disclosure under section 33 must be investigated under the Act, unless there is a good reason not to do so pursuant to section 64 the CoL must investigate every disclosure referred to it for investigation by the Ombudsman under section 63(b).

The Principal Officer will appoint an investigator to carry out the investigation. The investigator may be a person from within an organisation or a consultant engaged for the purpose.

The objectives of an investigation are to:

- collate information relating to the allegation as quickly as possible, which may involve taking steps to protect or preserve documents, materials and equipment;
- consider the information collected and to draw conclusions objectively and impartially; and
- maintain procedural fairness in the treatment of witnesses and generally to all parties involved in the disclosure.

13.2 Matters that do not have to be investigated

Before starting an investigation, the Principal Officer or Public Interest Disclosure Officer must first consider whether the disclosed matter needs to be investigated. Section 64 specifies certain circumstances under which a public body may legitimately decide not to

investigate. Use the disclosure assessment template at Attachment 1 to assist in assessing whether any of the grounds in section 64 apply.

Any decision not to proceed with an investigation on a ground specified in section 64 must be made by the Principal Officer.

If it is decided that the disclosed matter is not to be investigated, written notice must be given within 14 days of this decision to both the Ombudsman and (except in the case of an uncontactable anonymous discloser) the person who made the disclosure. Reasons for the decision must accompany the notice. Use the notification template at Attachment 3 to provide notice to the Ombudsman.

The Ombudsman will review the decision. If the Ombudsman agrees that the disclosure should not be investigated, the matter does not need to be dealt with under the Act. Importantly, the discloser still retains the protections. The Principal Officer, or the Public Interest Disclosure Officer in consultation with the Principal Officer, will decide how the matter should be dealt with.

If the Ombudsman determines that the disclosure should be investigated, they will advise the Principal Officer.

Section 64 may be reconsidered at a later time during the investigation.

13.3 Appointment of investigator and framing of terms of reference

The Principal Officer – not a Public Interest Disclosure Officer – will determine who is to carry out the investigation.

The investigator will be given formal terms of reference, signed by the Principal Officer. The terms of reference will specify:

- the matters to be investigated;
- the date by which the investigation is to be concluded;
- the requirement for regular reports to be made to the Principal Officer, including details of compliance with any measures identified in the risk assessment; and
- the resources available to the investigator for the purposes of the investigation.

The completion date should be as soon as practicable but, in any event, not more than six months from the date of the determination that the disclosure is a public interest disclosure under section 77A(1). If at any stage before or during the investigation it appears that the investigation cannot be completed within six months, the CoL may apply to the Ombudsman for an extension of up to a further six months.

13.4 Investigation plan

The investigator should prepare an investigation plan for approval by the Principal Officer. The plan should list the issues which are to be investigated and describe the steps which the investigator intends to take when investigating each of those issues. The risk assessment should be considered as part of the investigation planning and appropriate steps taken to reduce identified risks during the investigation.

The plan should be updated as necessary during the course of the investigation.

13.5 Procedural fairness

The principles of procedural fairness must be carefully observed in the course of the investigation, with respect to all parties involved. These principles are referred to as natural justice in the Act.

The principles are a set of procedural standards which need to be met in order to satisfy a person's right to a fair hearing. If natural justice is not provided, the investigation findings may be questionable and could be challenged.

The CoL will comply with the following requirements in ensuring that procedural fairness is accorded to all parties involved.

No one is to be involved in the investigation:

- who is known to be biased against any person who is potentially subject to an adverse finding;
- who is known to hold any biases which are relevant to the subject matter of the investigation; or
- against whom there are reasonable grounds for apprehending or suspecting bias.⁶

If the investigator is aware of any reason why they may be susceptible to an allegation of bias on the basis of these principles, they should immediately inform the Principal Officer. It is best to err on the side of caution and to consider an external investigator if there might be a perception of bias over the investigation.

Any person who is potentially subject to an adverse finding or comment must be told of:

- the allegations made against them, or which have arisen against them as a result of the investigation
- all of the information which is adverse to their interests and which is, on an objective basis, credible, relevant and significant to the investigation; and
- the potential findings in view, and their possible consequences.

This must be done before any final conclusions are formed by the investigator. The person subject to the potential adverse finding must be given a reasonable time to respond.

Despite the above, there is no requirement to inform the person who is subject to the disclosure as soon as it is received, or as soon as the investigation has commenced.

The final investigation report should be drafted in a way that demonstrates that procedural fairness has been afforded. For instance, it should record and deal with all submissions and evidence which a person has put in their defence.

13.6 Conduct of the investigation

The Integrity Commission's Guide to Managing Misconduct in the Tasmanian Public Sector⁷ is a useful guide on the conduct of a public interest disclosure investigation.

⁶ The test for establishing the existence of apprehended bias is whether a fair minded lay observer, taking into account all relevant circumstances, might reasonably apprehend that the decision-maker might not bring an impartial mind to the resolution of the questions that they are required to decide.

⁷ Accessible at <https://www.integrity.tas.gov.au/publications/prevention-resources/guides>.

The investigator should make contemporaneous notes of all discussions and phone calls, and audio recordings of significant interviews with witnesses should be made where possible.

All information gathered in the course of the investigation must be securely stored. Interviews should be conducted in private, and the investigator should take all reasonable steps to protect the identity of the discloser. The name of the discloser or any particulars which might identify that person must not be revealed unless necessary and then only with the discloser's knowledge.

13.7 Referral of an investigation to the ombudsman

Under section 68 of the Act, a public body may refer the investigation of a public interest disclosure to the Ombudsman where the public body considers that its own investigation is being obstructed or that it is otherwise not within the capacity of the public body to complete the investigation. An investigation can also be referred to the Ombudsman if evidence of possible criminal conduct is found, to enable the Ombudsman to refer the matter to Tasmania Police for investigation (see [Referral of criminal conduct to the Commissioner of Police](#) above for more detail).

Any decision as to whether the investigation should be referred to the Ombudsman will be made by the Principal Officer.

13.8 Provision of information about the investigation

The Principal Officer or the Public Interest Disclosure Officer must ensure that the discloser is kept regularly informed concerning the handling of their protected disclosure and any investigation.

Section 74 of the Act requires a public body, at the request of the Ombudsman or the person who made the disclosure, to give the Ombudsman or that person reasonable information about the investigation. The information must be given within 28 days of the request.

As provided by section 74(3), however, such information does not have to be given to the discloser if:

- it has already been given to the person; or
- the giving of the information would endanger the safety of another or may prejudice the conduct of the investigation.

14 Action taken after an investigation

14.1 Investigator's final report

At the conclusion of the investigation, the investigator must submit a written report of their findings to the Principal Officer. The report should contain:

- the allegation/s;
- a description of the manner in which the investigation was conducted, with sufficient detail to demonstrate that procedural fairness was observed;
- an account of all relevant information received;
- details of the evidence and submissions supplied by any person against whom an adverse finding is made, and the evaluation of that material by the investigator; and

- the findings made and conclusions reached, and the basis for them.

Note in particular that the report should not include any comment adverse to any person unless that person has been given an opportunity to be heard on the matter and their defence is fairly set out in the report. A public body must take action, under section 75 of the Act, to redress any improper conduct found and try to prevent its recurrence.

Accordingly, if the investigator has found that the alleged improper conduct has occurred, the investigator may wish to include recommendations as to:

- any steps that need to be taken by the CoL to prevent the conduct from continuing or occurring in the future; and
- any action that should be taken by the CoL to remedy any harm or loss arising from that conduct.

The steps to be taken may include bringing disciplinary proceedings against the person responsible for the conduct, and referring the matter to an appropriate authority for further consideration. For example, if the investigation has revealed conduct that may constitute a criminal offence, consideration should be given to whether the matter should be referred to Tasmania Police, unless this has previously occurred.

The internal investigation report must be accompanied by:

- the transcript or other record of any oral evidence taken, including audio or video recordings; and
- all documents, statements or other exhibits received by the investigator and accepted as evidence during the course of the investigation.

14.2 Action to be taken

If the investigation makes a finding that a public officer has engaged, is engaging or proposes to engage in improper conduct, the CoL must, in accordance with section 75, take all reasonable steps to prevent the conduct from continuing or occurring in the future and may take action to remedy any loss or harm arising from the conduct. The Principal Officer should take into consideration any recommendations in the investigator's report, but can take different or broader action if appropriate.

The Principal Officer will provide a written report to Minister for Local Government, or the Council of the CoL and the Ombudsman, setting out the findings of the investigation and any remedial steps taken. The report must not disclose particulars likely to lead to the identification of the discloser. The Ombudsman will also be provided with the full internal investigation report and accompanying evidence. See the notification template at Attachment 3.

As required by section 77 of the Act, the Principal Officer will also inform the discloser of the findings of the investigation and of any steps taken under section 75 as a result of those findings having been made.

Where the investigation concludes that the disclosed conduct did not occur, the Principal Officer will report that finding to the Ombudsman, in accordance with the notification template at Attachment 3, and to the discloser.

15 Managing the welfare of the discloser

15.1 Support for the discloser

The Principal Officer or the Public Interest Disclosure Officer must appoint a Welfare Manager to support all persons who have made a protected disclosure. This must occur within five working days of the protected disclosure being received.

The welfare manager must contact the discloser as soon as possible and not more than five working days after being appointed.

A discloser who believes that they are being subjected to detrimental action in reprisal for having made the disclosure should report it to the Principal Officer or a Public Interest Disclosure Officer, as this can be a potential further protected disclosure. If they believe that the reprisal is not being effectively dealt with by the CoL, they may report the matter to the Ombudsman.

15.2 Keeping the discloser informed

The Principal Officer or the Public Interest Disclosure Officer must ensure that the discloser is kept informed of action taken in relation to his or her disclosure, and the time frames that apply. The discloser must be informed of the objectives of any investigation that takes place, the findings of the investigation, and the steps taken by the CoL to address any improper conduct that has been found to have occurred. The discloser must be given reasons for all decisions made by the CoL in relation to a disclosure. All communication with the discloser must be in plain English.

15.3 Occurrence of detrimental action

If a discloser reports an incident of detrimental action allegedly taken in reprisal for the making of a disclosure, the Welfare Manager should:

- record details of the incident;
- advise the discloser of their rights under the Act; and
- assist the discloser to advise a Public Interest Disclosure Officer or the Principal Officer of the detrimental action.

The taking of detrimental action in reprisal for the making of a disclosure can be an offence under the Act as well as grounds for making a further disclosure. Where such detrimental action is reported, the Public Interest Disclosure Officer or the Principal Officer will assess the report as a new disclosure under the Act and it will be dealt with accordingly.

15.4 Discloser implicated in improper conduct

Where a person who makes a disclosure is implicated in misconduct, the CoL will handle the disclosure and protect the discloser from reprisals in accordance with the Act, the Ombudsman's guidelines and these procedures. At the same time the CoL acknowledges that the act of disclosing should not shield disclosers from the reasonable consequences flowing from any involvement in improper conduct. Section 18 of the Act specifically provides that a person's liability for his or her own conduct is not affected by the person's disclosure of that conduct under the Act. However, in some circumstances, an admission may be a mitigating factor when considering disciplinary or other action.

The Principal Officer will make the final decision as to whether disciplinary or other action will be taken against a discloser. Where disciplinary or other action relates to conduct that is

the subject of the person's disclosure, the disciplinary or other action will only be taken after the disclosed matter has been appropriately dealt with.

In all cases where disciplinary or other action is being contemplated, the Principal Officer must be satisfied that it has been clearly demonstrated that:

- the intention to proceed with disciplinary action is not because of the making of the disclosure (as opposed to the content of the disclosure or other available information);
- there are good and sufficient grounds that would fully justify action against any non-discloser in the same circumstances; and
- there are good and sufficient grounds that justify exercising any discretion to institute disciplinary or other action.

The Public Interest Disclosure Officer or Principal Officer will thoroughly document the process, including recording the reasons why the disciplinary or other action is being taken and the reasons why the action is not in retribution for the making of the disclosure. The Public Interest Disclosure Officer or Principal Officer will clearly advise the discloser of the proposed action to be taken, and of any mitigating factors that have been taken into account. They should advise the discloser that they can raise any concerns about the action taken being a potential reprisal with the Ombudsman.

16 Management of the person against whom a disclosure has been made

The CoL recognises that employees against whom disclosures are made must also be supported during the handling and investigation of disclosures. When a person who is the subject of the disclosure is made aware of the allegations or of an investigation, they should be provided with an appropriate contact person to whom to direct queries. Information about employee assistance programs or other supports should also be provided, if appropriate.

The CoL will take all reasonable steps to ensure the confidentiality of the person who is the subject of the disclosure during the assessment and investigation process. Where an investigation does not substantiate a disclosure, the fact that the investigation has been carried out, the results of the investigation, and the identity of the person who is the subject of the disclosure will remain confidential.

The Public Interest Disclosure Officer or Principal Officer will ensure that the person who is the subject of any disclosure investigated by or on behalf of the CoL is afforded [procedural fairness](#) in accordance with these procedures.

Where the allegations in a disclosure have been investigated, and the person who is the subject of the disclosure is aware of the allegations or of the investigation, the Public Interest Disclosure Officer or Principal Officer will formally advise the person who is the subject of the disclosure of the outcome of the investigation.

The CoL will give its full support to a person who is the subject of a disclosure where the allegations contained in a disclosure are clearly wrong or unsubstantiated. If the matter has been publicly disclosed, the Principal Officer of the CoL will consider any request by that person to issue a statement of support setting out that the allegations were wrong or unsubstantiated.

17 Publishing statistics

Section 86 of the Act requires the CoL to include in its annual report:

- the number and types of disclosures made to the CoL during the year, and the number of disclosures determined to be a public interest disclosure;
- the number of disclosures determined by the CoL to be public interest disclosures that it investigated during the year;
- the number and types of disclosed matters referred to the CoL by the Ombudsman for investigation;
- the number and types of disclosures referred by the CoL to the Ombudsman for investigation;
- the number and types of investigations taken over from the CoL by the Ombudsman;
- the number and types of disclosed matters that the CoL has declined to investigate;
- the number and types of disclosed matters that were substantiated upon investigation and the action taken on completion of the investigation; and
- any recommendations made by the Ombudsman that relate to the CoL.

18 Offences

The CoL will ensure officers appointed to handle protected disclosures and all other employees are aware of the following offences created by the Act:

- Protection from reprisal - Section 19(1)

This provision makes it an offence for a person to take detrimental action against a person in reprisal for a protected disclosure being made. The section provides for a maximum penalty of a fine of 240 penalty units or two years imprisonment, or both.

- Offence to reveal confidential information - Section 23(1)

This provision makes it an offence for a person to disclose, except under specified circumstances, information which they have obtained or received in the course of or as a result of a protected disclosure or the investigation of a disclosed matter under the Act. The section provides for a maximum penalty of 60 penalty units or six months imprisonment, or both.

- Obstruction - Section 54

This section creates various offences relating to obstructing the work of the Ombudsman under the Act, including offences relating to misleading the Ombudsman. The section provides for a maximum penalty of 240 penalty units or two years imprisonment, or both.

- Offence to make false disclosure

➤ Section 87(1)

This provision makes it an offence for a person to knowingly provide false information under the Act to certain officers (including the Ombudsman) with the intention that it be acted on as a disclosed matter. The provision provides for a maximum penalty of 240 penalty units or two years imprisonment, or both.

➤ Section 87(2)

This section makes it an offence for a person to knowingly provide false information to a person conducting an investigation under the Act. The provision provides for a maximum penalty of 240 penalty units or two years imprisonment, or both.

The value of a penalty unit varies from time to time in accordance with movements in the Consumer Price Index. For more information, see the [Department of Justice website](#).⁸

19 Approval and review of these procedures

These procedures were approved by the Ombudsman under section 60(3) of the Act on 23 August 2024.

The procedures will be submitted to the Ombudsman for review at least once every three years to ensure they meet the objectives of the Act and accord with the Guidelines and Standards published by the Ombudsman under section 38(1)(c).

The date by which the procedures must be submitted to the Ombudsman for review is 23 August 2027.

⁸ www.justice.tas.gov.au/about/legislation/value_of_indexed_units_in_legislation

Attachment 1

Assessment of disclosure form

Public Interest Disclosures Act 2002 (Tas)

File number:

Date of assessment:

Name of assessing officer:

Summary of disclosure:

Include details of how the disclosure was received, the subject of the disclosure and details of the allegations.

An assessment of disclosure form will usually need to be completed for each disclosure. This means, for example, that if a discloser is complaining about three different public officers, this constitutes three disclosures and three assessments may be required.

Part 1: Is the disclosure a protected disclosure?

Question 1: Is the discloser a public officer?

The discloser needs to be a current public officer. See s4(2) and s4(4) of the Act for the definition of a public officer. If the discloser is anonymous, it is enough to be satisfied that the discloser is a public officer. If the discloser is a contractor, member of the public or no longer a public officer at the time the disclosure is made, refer them to the Ombudsman or Integrity Commission.

Yes No

Please provide details if relevant:

Question 2: Is the disclosure about a public officer?

A disclosure can be made even if the discloser cannot identify the public officer – see s9 of the Act. If a disclosure is about the principal officer or the public body itself, refer the discloser to the Ombudsman or Integrity Commission.

Yes No

Question 3: Has the disclosure been made to the right person or body?

See s7 of the Act and reg 8 of the Public Interest Disclosures Regulations 2013.

Yes No

Please provide details:

Question 4: Does the discloser believe that a public officer has, is or proposes to engage in improper conduct?

Yes No

If no, provide details:

Question 5: Does the disclosure relate to improper conduct?

Is the disclosure about conduct that could objectively fall within one of the categories of improper conduct, i.e:

- conduct that constitutes an illegal or unlawful activity; or
- corrupt conduct; or
- conduct that constitutes maladministration; or
- conduct that constitutes professional misconduct; or
- conduct that constitutes a waste of public resources; or
- conduct that constitutes a danger to public health or safety or to both public health and safety; or
- conduct that constitutes a danger to the environment; or
- misconduct, including breaches of applicable codes of conduct; or
- conduct that constitutes detrimental action against a person who makes a public interest disclosure under this Act –

that is serious or significant as determined in accordance with guidelines issued by the Ombudsman?

For example, a discloser may believe that taking a non-confidential work file home is serious or significant improper conduct but it may not objectively fall within that definition.

Yes No

Please provide details:

Question 6: Does the disclosure concern conduct that occurred on or after 1 January 2001?

This is the only time limitation that is relevant when assessing if a disclosure is a protected disclosure. Delays in making a disclosure any time on or after 1 January 2001 can be relevant when deciding whether to investigate a public interest disclosure under s64 of the Act.

Yes No

Assessment of Answers to Part 1 Questions

If **ALL** the answers to the above are yes, the disclosure is a protected disclosure. The discloser should be notified as soon as possible, if the disclosure is a protected disclosure and the assessment of whether it is a public interest disclosure has not been undertaken simultaneously.

If **ANY** of the answers to the above are no, the disclosure is not protected and the Act does not apply. Refer the discloser to the appropriate body and/or handle the matter under complaint or grievance policies.

In either case, the discloser should be given reasons in writing. A copy of the assessment should be given to the Principal Officer without delay, where the person who carried out the assessment is not the Principal Officer.

Part 2: Should the protected disclosure be referred to the Integrity Commission?

Does the disclosure relate to misconduct, as defined in the *Integrity Commission Act 2009*?

Yes No

If yes, should the disclosure be referred to the Integrity Commission under section 29B of the Act?

Yes No

If yes, please provide details:

If the disclosure is referred, the assessment process is complete after the discloser is notified of the referral.

Part 3: Is the protected disclosure a public interest disclosure?

Are you satisfied that the protected disclosure shows, or tends to show, that the public officer to whom the disclosure relates –

- a) has engaged, is engaged or proposes to engage in improper conduct in his or her capacity as a public officer; or
- b) has taken, is taking or proposes to take detrimental action in contravention of s 19 of the Act?

A mere allegation without substantiation is not sufficient – the disclosure must contain evidence or point to its existence (name documents, refer to potential witnesses etc.) that shows or tends to show that the public officer is, has, or is proposing to engage in improper conduct.

This determination under s33 of the Act must be made within 45 days of the disclosure being received.

Yes No

Provide reasons for your decision and attach evidence if available:

Next steps

Notify the discloser and the Ombudsman of the assessment determination. Use the notification template attached to the public interest disclosure procedures when notifying the Ombudsman.

If the answer is no, the assessment is complete and Part 4 does not need to be completed. The Ombudsman will review the determination. If the answer is yes, the public interest disclosure must be investigated unless a ground exists not to under s64 of the Act.

Part 4 - Is there a ground under s64 not to investigate the public interest disclosure?

Question 1: Is the public interest disclosure trivial, vexatious, misconceived or lacking in substance?

Yes No

If yes, provide details. Compelling reasons will be required to justify not investigating on this ground:

Question 2: Has the subject matter of the public interest disclosure already been adequately dealt with by the Ombudsman or a public body, statutory authority, Commonwealth statutory authority, commission, court or tribunal?

Yes No

If yes, please provide details:

Question 3: Has the discloser commenced proceedings in a commission, court or tribunal in relation to the same matter, and does that commission, court or tribunal have power to order remedies similar to those available under this Act?

Yes No

If yes, please provide details:

Question 4: Did the discloser:

- have knowledge for more than 12 months of the public interest disclosure matter before making the disclosure; and
- fail to give a satisfactory explanation for the delay in making the disclosure?

Yes No

If yes, provide details of this issue being put to the discloser and analysis concerning why any explanation provided was not satisfactory:

Question 5: Does the public interest disclosure relate solely to the personal interests of the discloser?

Yes No

Most disclosures will contain some element of personal interest. This should only be used as a basis to not investigate in clear circumstances.

If yes, please provide details:

Question 6: Is the public interest disclosure based on false or misleading information?

Yes No

If yes, please provide details and consider whether an offence may have been committed under s87 of the Act:

Question 7: Has the matter the subject of the public interest disclosure already been determined AND this additional disclosure fails to provide significant or substantial new information?

Yes No

If yes, please provide details:

Assessment of Answers to Part 4 Questions

If the answers to **ALL** the questions in Part 4 are no, the disclosure **must** be investigated in accordance with the public interest disclosure procedures. Referral to the Ombudsman can occur if internal investigation is not possible or appropriate.

If the answer is yes to **one or more of the above questions**, will the public interest disclosure be investigated? *Although the public interest disclosure may not need to be investigated if an answer to any of the Part 4 questions is yes, it may still be appropriate to investigate in some circumstances.*

Yes No

Provide reasons for your decision:

Notify the discloser and the Ombudsman if it is decided not to investigate. The Ombudsman will review the decision. Use the notification template attached to the public interest disclosure procedures when notifying the Ombudsman.

Summary

Part	Question	Answer
Part 1	Is the disclosure a protected disclosure?	
Part 2	Should the protected disclosure be referred to the Integrity Commission?	
Part 3	Is the protected disclosure a public interest disclosure?	
Part 4	Should the public interest disclosure be investigated?	

Approval

Approved by:

Name of Public Interest Disclosure Officer or Principal Officer:

Date of approval:

Attachment 2

Risk assessment template

Public Interest Disclosures Act 2002 (Tas)

File number:

Date of assessment:

Name of assessing officer:

Risk assessed to:

Please select all relevant options -

- | | |
|--|---|
| <input type="checkbox"/> Discloser | <input type="checkbox"/> Other employees including potential witnesses |
| <input type="checkbox"/> Your public body
public) | <input type="checkbox"/> Other (e.g. Tasmanian Government, the general
public) |
| <input type="checkbox"/> The subject of the disclosure | |

Type of risk / possible harm

Such as:

- Adverse employment action
- Workplace injury
- Physical violence
- Verbal abuse
- Stress
- Untenable work environment
- Withdrawal of cooperation due to fear of reprisal/lack of support
- Reputational damage
- Risk to public safety
- Misuse of public funds
- Disruption to functioning of public body

Please provide details:

Likelihood risk/s will occur

- Unlikely
- Possible
- Likely

Considerations:

- Can confidentiality be maintained?
- Is the discloser (or others) concerned about reprisals?
- How many public officers are involved in the alleged improper conduct?
- What is their level of seniority?
- What is the seriousness of the alleged conduct?
- Is there a history of conflict in the workplace?

Please provide your reasons:

Seriousness of consequences if risk/s occurs

- Minor
- Moderate
- Major

Considerations:

- What is the potential impact if the risk occurs?
- Will the impact be limited, with the person able to readily deal with it?
- Will the impact have consequences which will affect the person’s work or their personal and home life?
- Will the consequences be short-term, medium-term or long-term?

Please provide your reasons:

Evaluation of level of risk

Risk occurrence	Minor consequence	Moderate consequence	Major consequence
Unlikely	Low	Low	Medium
Possible	Low	Medium	High
Likely	Medium	High	High

Determine your level of risk:

Steps needed to mitigate risk

Consult with discloser and other parties as required. Possible strategies include:

- maintaining confidentiality as much as possible
- ensuring all parties are aware of their obligations
- when the identity of the discloser will be known or guessed by the subject of the disclosure and/or associates, proactively identifying the discloser (with their written permission) and advising relevant parties of the consequences of taking reprisal action and that their actions are being monitored
- altering reporting structures
- increasing monitoring of the work environment
- standing down the subject of the disclosure
- temporarily relocating the subject of the disclosure or the discloser to a different location/ role
- independently verifying the work performance of the discloser
- providing access to specialist support services if required
- making a statement to all staff or the media to address concerns

Please provide details:

Action to be taken

Considerations:

- risk rating
- ease or difficulty of mitigating risk
- financial cost of taking action
- consequences of not taking action should risk occur

Please provide details of your risk action plan:

Approval

Approved by:

Public Interest Disclosure Officer or Principal Officer – Type Name

Date of approval:

Risk assessment review

Risk assessment to be reviewed on (date) or when (event) occurs.

Name of reviewing officer:

Date of assessment:

Notes on changes to risk since last assessment

Review outcome

- No change to action plan
- Further action required

Please provide details:

Thank you to the Queensland Ombudsman for the use of some of its risk assessment materials in this template.

Attachment 3

Ombudsman notification template

Public Interest Disclosures Act 2002 (Tas)

Public body name:

Date of disclosure:

Contact person: *(include telephone and email contact details)*

Date of s 33 determination:

(to be made within 45 days of date of disclosure)

Date of notification:

Notification type:

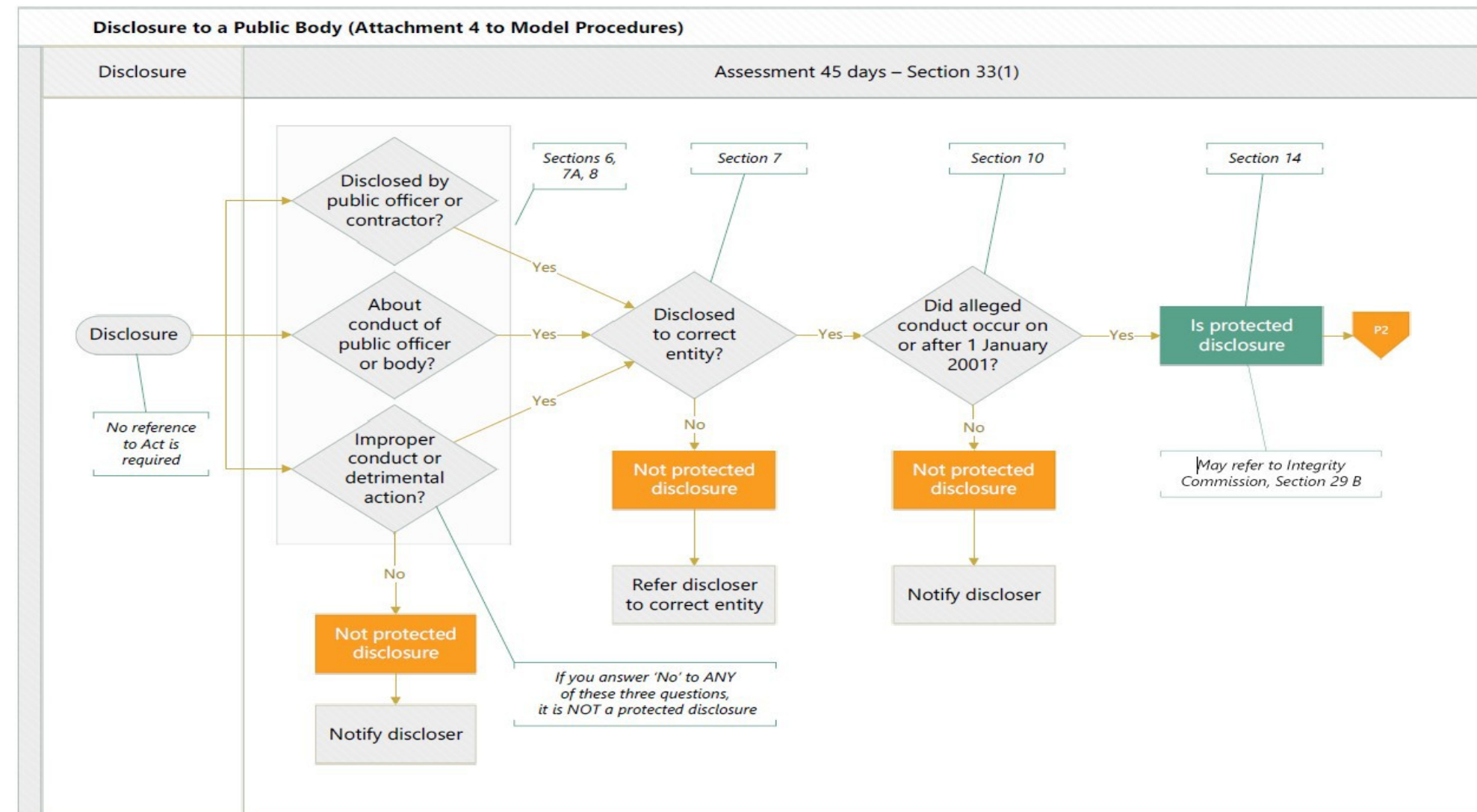
- Section 34 – Determination that disclosure is a public interest disclosure
Notification to be made within 14 days of decision
- Section 35 – Determination that disclosure is not a public interest disclosure
Notification to be made within 14 days of decision
- Section 65 – Decision not to investigate public interest disclosure under s 64
Notification to be made within 14 days of decision
- Section 76 – Findings of investigation and steps taken under s 75
Investigation to be completed within 6 months unless Ombudsman extension granted

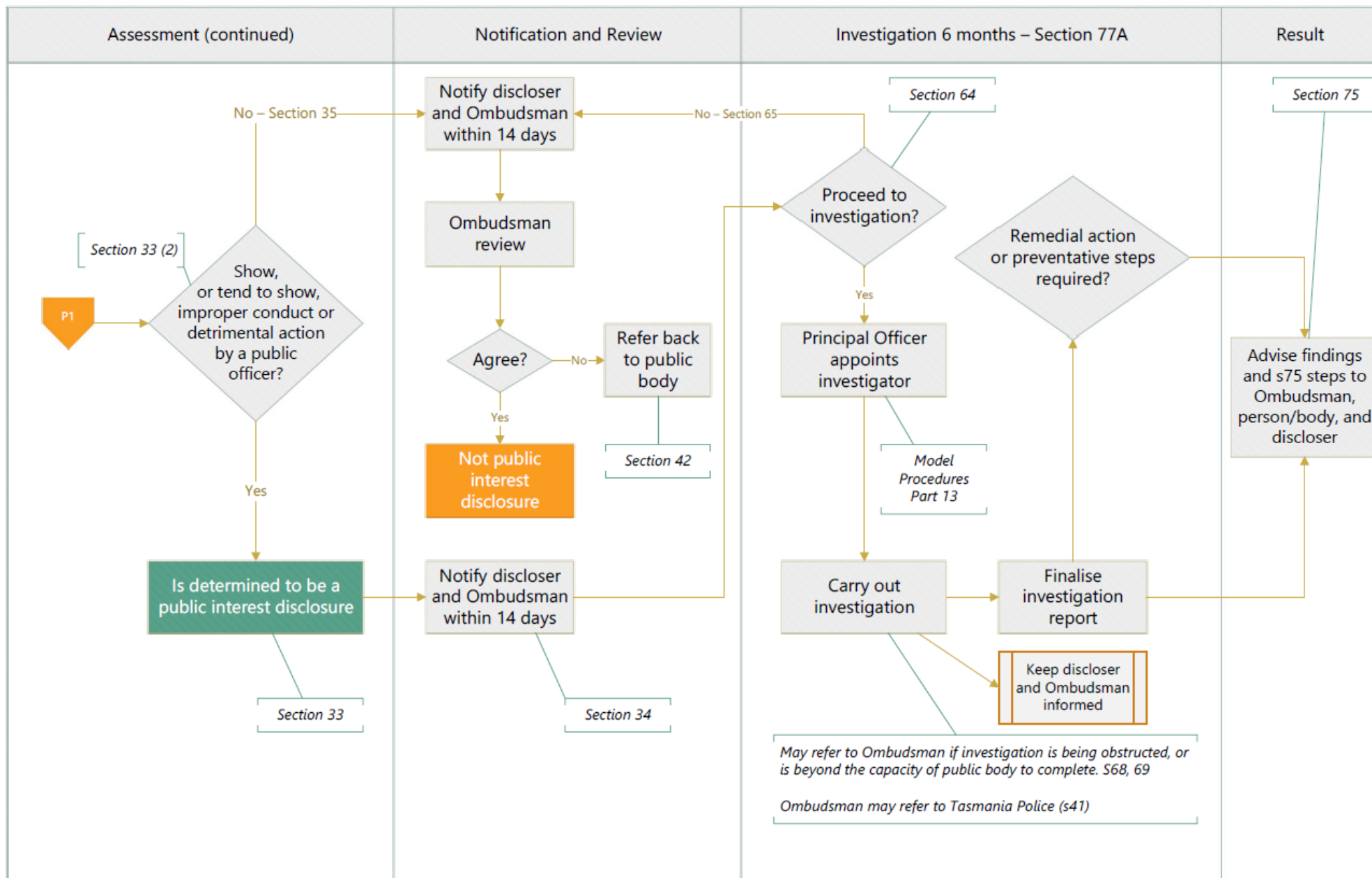
Evidence attached:

- Copy of original disclosure or record of oral disclosure
- Disclosure assessment
- Risk assessment/s
- Investigation report including:
 - the transcript or other record of any oral evidence taken, including audio or video recordings; and
 - all documents, statements or other exhibits received by the investigator and accepted as evidence during the course of the investigation.
- Any other material used to make determination (list):
 -
 -
 -

Attachment 4

Flowchart - disclosure to a public body





- notes that approval has been provided by the Ombudsman on 23 August 2024 to the making of the Procedures.

Lucas Lim (Legal and Governance Officer) was in attendance to answer questions in respect of this item.

DECISION: 28 November 2024

MOTION

Moved Deputy Mayor Councillor D H McKenzie, seconded Councillor A G Harris.

That Council:

- approves the Public Interest Disclosure Procedures ("Procedures") below:

Public Interest Disclosure Procedures

Public Interest Disclosures Act 2002 (Tas)

Public Interest Disclosure Officers:

- Nathan Williams, Acting General Manager Organisational Services Network
- Michael Newby, Chief Infrastructure Officer - Infrastructure and Assets Network
- Michelle Ogulin, Manager Liveable Communities - Community and Place Network
- Roxanne Chugg, Manager People and Culture - Organisational Services Network
- Julie Clements, Leader Business Support (QVMAG) - Creative and Cultural Services Network

1	Statement of support	5
2	Purpose of these procedures	5
3	The purpose of the Act	6
4	How the Act works	6
5	Roles and responsibilities	7
5.1	Members, officers and employees	7
5.2	Principal Officer	7
5.3	Public Interest Disclosure Officers	7
5.4	Investigator	8
5.5	Welfare Manager	8
6	Who can make a disclosure?	9
6.1	Public officers	9
6.2	Contractors	9
6.3	Members of the public	9
6.4	Anonymous persons	9
7	What can a disclosure be made about?	9
7.1	Improper conduct	9
7.2	Corrupt conduct	10
7.3	Detrimental action	10
8	Where to make a disclosure	11
9	How to make a disclosure	12
9.1	Public Interest Disclosure Officers	12
9.2	Written or oral disclosure	12
9.3	Disclosure to the Ombudsman	13
9.4	Disclosure to the Integrity Commission	13
10	Confidentiality	13
11	Assessing the disclosure	14

11.1	What should the recipient of the disclosure do upon receipt of the disclosure?.....	15
11.2	Is it a protected disclosure?	15
11.3	Mixed content disclosures	15
11.4	Risk Assessment	16
11.5	Referral of a protected disclosure to the Integrity Commission	16
11.6	Is the disclosure a public interest disclosure?	16
11.7	Referral of criminal conduct to the Commissioner of Police.....	17
12	Protection	18
12.1	When does protection commence?	18
12.2	What protection does the Act provide?	18
13	Investigations.....	18
13.1	Introduction	18
13.2	Matters that do not have to be investigated	19
13.3	Appointment of investigator and framing of terms of reference	19
13.4	Investigation plan.....	20
13.5	Procedural fairness.....	20
13.6	Conduct of the investigation.....	20
13.7	Referral of an investigation to the Ombudsman	21
13.8	Provision of information about the investigation	21
14	Action taken after an investigation.....	21
14.1	Investigator’s final report	21
14.2	Action to be taken	22
15	Managing the welfare of the discloser.....	22
15.1	Support for the discloser.....	22
15.2	Keeping the discloser informed	23
15.3	Occurrence of detrimental action	23

15.4	Discloser implicated in improper conduct.....	23
16	Management of the person against whom a disclosure has been made	24
17	Publishing statistics	24
18	Offences.....	25
19	Approval and review of these procedures	25
	Attachment 1	27
	Assessment of disclosure form	27
	Attachment 2	32
	Risk assessment template	32
	Attachment 3	35
	Ombudsman notification template	35
	Attachment 4	36
	Flowchart - Disclosure to a Public Body	36

1 Statement of support

The City of Launceston (CoL) is committed to the aims and objectives of the *Public Interest Disclosures Act 2002 (Tas)* (the Act). The CoL will promote a top down approach to proper conduct by its employees, officers or members. Further to this CoL will strive:

- *to encourage and facilitate disclosures of improper conduct by public officers;*
- *to protect persons making those disclosures and others from reprisals;*
- *to provide for the matters disclosed to be properly investigated and dealt with;*
and
- *to provide all parties involved with those disclosures with procedural fairness (referred to as natural justice in the Act).*

The CoL recognises the value of transparency and accountability in its administrative and management practices, and supports the making of disclosures that reveal the type of conduct to which the Act is directed.

The CoL will take all reasonable steps to protect people who make such a disclosure from any detrimental action in reprisal for making the disclosure, and to protect their welfare. It will also afford natural justice to all parties involved in the investigation of a disclosure.

2 Purpose of these procedures

These procedures establish a system for reporting disclosures of improper conduct or detrimental action by members, officers or employees of the CoL. The procedures are also intended to assist its members, officers and employees to understand the way in which the Act operates and needs to be administered.

The system created by these procedures provides for such disclosures to be made to the Chief Executive Officer of the CoL (the Principal Officer) or to a delegated Public Interest Disclosure Officer. Disclosures may be made by people who are “public officers” with the CoL. People who are or have been “contractors” with CoL for the supply of goods or services can make disclosures to the Ombudsman or Integrity Commission. The meaning of public officers and contractors is explained later in this document.

These procedures are designed to complement normal communication channels between supervisors and employees. Employees are encouraged to continue to raise appropriate matters at any time with their supervisors, and to use existing grievance procedures within the organisation where appropriate.

At the CoL, the other policies and procedures to which you might refer include:

- [22-PI-030 Code of Conduct Policy](#)
- [22-PI-036 Workplace Behaviour Policy](#)
- [22-PI-034 Issue Resolution Policy](#)

The procedures have been prepared in accordance with Guidelines and Standards published by the Ombudsman under section 38(1)(c) of the Act. These Guidelines and Standards can be seen on the Ombudsman's website at:

www.ombudsman.tas.gov.au.

3 The purpose of the Act

The Act commenced operation on 1 January 2004. It was substantially amended by the *Public Interest Disclosures Amendment Act 2009* (Tas). The purposes of the Act are contained in its long title. These are:

- to encourage and facilitate disclosures of improper conduct by public officers and public bodies;
- to protect persons making those disclosures, and others, from detrimental action;
- to provide for the matters disclosed to be properly investigated and dealt with; and
- to provide all parties involved in the disclosures with natural justice.

The public interest is served by providing an avenue for persons to report improper conduct and be protected for doing so.

4 How the Act works

Briefly, the Act works in this way:

- It gives certain people – “public officers” and “contractors” – the right to make a disclosure about “improper conduct” or “detrimental action” to certain integrity agencies, other persons and bodies (Part 2 of the Act, particularly section 6).⁹
- It provides certain statutory protections for protected disclosures, even if the discloser does not reference the Act (Part 3).
- It dictates how the recipient of the disclosure is to deal with it (Parts 4 to 8).
- It treats the Ombudsman as the oversight agency in relation to the operation of the Act, including the default investigator, monitor of investigations by public bodies, and setter of standards under the Act.
- Where the disclosure is handled by the Ombudsman or a public body, it requires a determination as to whether the protected disclosure is a “public interest disclosure” (sections 30 and 33). In other words a disclosure which, in the case of decision-making by the Ombudsman, meets the requirements of section 30(2), or, in the case of decision-making by the public body, meets the requirements of section 33(2).

⁹ Note that section 7A of the Act permits a person to whom a disclosure may be made under Part 2 of the Act to treat a person who is not a public officer or contractor as a contractor for the purposes of the Act, if they consider that it would be in the public interest to do so. A disclosure by a contractor is not. Members of the public may also make disclosures in limited circumstances, when the Ombudsman or Integrity Commission deems this in the public interest under section 7A.

- Subject to exceptions, it requires investigation by the Ombudsman or public body of any protected disclosure which is found to be a public interest disclosure (sections 39 and 63).
- It requires such investigation to be conducted as soon as practicable, but if it is being conducted by a public body, not more than six months from the date of the determination that the disclosure is a public interest disclosure (sections 39A and 77A).
- It controls the manner in which a disclosure is investigated, and provides powers in this respect.
- In the case of investigation by the Ombudsman, it gives the Ombudsman the power to provide a report and may recommend that action be taken in light of the investigation (section 56).
- In the case of an investigation by a public body which results in a finding that the alleged conduct occurred, it obliges the public body to take action to prevent that conduct from continuing or recurring, and to take action to remedy any harm or loss which may have arisen (section 75).

A flow chart, which depicts the way in which a public body should deal with a disclosure made to it under the Act, is at Attachment 4 to this document. It is important to note that a person does not have to expressly reference the Act when making a disclosure in order to be eligible for protection, if all the requirements in the Act are otherwise met.

5 Roles and responsibilities

This part explains the roles and responsibilities of individuals within the CoL under the Act.

5.1 Members, officers and employees

Members, officers and employees of the CoL are encouraged to report known or suspected incidences of improper conduct or detrimental action under the Act, in accordance with these procedures.

All members, officers and employees of the CoL have an important role to play in supporting those who have made a legitimate disclosure. They must refrain from any activity that is, or could be perceived to be, victimisation or harassment of a person who makes a disclosure. Furthermore, they should protect and maintain the confidentiality of a person they know or suspect to have made a disclosure.

5.2 Principal Officer

The Principal Officer has primary responsibility for ensuring that the provisions of the Act are implemented by the public body. Section 62A of the Act provides that the Principal Officer has responsibility for:

- preparing procedures for approval by the Ombudsman;
- receiving public interest disclosures and ensuring they are dealt with in accordance with the Act;
- ensuring the protection of witnesses;
- ensuring the application of natural justice in the public body's procedures;

- ensuring the promotion of the importance of public interest disclosures and general education about the Act to all staff, and ensuring easy access to information about the Act and the public body's procedures; and
- providing access to confidential employee assistance programs and appropriately trained internal support staff for those involved in the process.

The Principal Officer may delegate any or all of his or her functions to a Public Interest Disclosure Officer.

5.3 Public Interest Disclosure Officers

A Public Interest Disclosure Officer is appointed by the Principal Officer under section 62A(2) of the Act, and holds a delegation from the Principal Officer which enables him or her to exercise the statutory powers and functions given to the Principal Officer by the Act which are listed in their instrument of delegation.

These procedures frequently give responsibilities or functions to a Public Interest Disclosure Officer. Not all of these are preferable to specific statutory powers or functions bestowed on the Principal Officer by the Act, and so some of them represent things which the Public Interest Disclosure Officer is expected to do on a purely administrative basis.

Subject to the terms of their delegation, the responsibilities of a Public Interest Disclosure Officer generally include:

- acting as a contact point for general advice about the operation of the Act for any person wishing to make a disclosure about improper conduct or detrimental action;
- making arrangements for a disclosure to be made privately and discreetly and, if necessary, away from the workplace;
- receiving any disclosure made orally or in writing (from internal and external disclosers);
- recording in writing the details of any disclosure which is made orally;
- impartially assessing the allegation and determining whether it is a disclosure made in accordance with Part 2 of the Act (that is, "a protected disclosure");
- impartially assessing under section 33 of the Act whether a disclosure is a "public interest disclosure";
- taking all necessary steps to ensure that the identity of the discloser and the identity of the person who is the subject of the disclosure are kept confidential; and
- administrative functions to support the role under the Act, as required.

See the cover page for a list of CoL's Public Interest Disclosure Officers.

5.4 Investigator

Where the CoL has determined that a disclosure is a public interest disclosure, or where the Ombudsman has referred a disclosed matter to the CoL for investigation, the Principal Officer will appoint an investigator to investigate the matter in accordance with the Act. An investigator may be a person from within the public body or a consultant engaged for that purpose.

5.5 Welfare Manager

The welfare manager will be appointed by the Principal Officer or by a Public Interest Disclosure Officer and is responsible for looking after the general welfare of the discloser. The welfare manager will:

- examine the immediate welfare and protection needs of a person who has made a disclosure, and seek to foster a supportive work environment;
- advise the discloser of the legislative and administrative protections available to him or her¹⁰;
- listen and respond to any concerns of harassment, intimidation, victimisation or other detrimental action which may be occurring in reprisal for making the disclosure; and
- so far as is practicable, protect the identity of the discloser in the course of carrying out these responsibilities.

A welfare manager may be a person employed by CoL or a consultant engaged for that purpose. They must not be responsible for assessing or investigating the disclosure.

6 Who can make a disclosure?

6.1 Public officers

Any current public officer¹¹ can make a disclosure to the CoL under the Act. This includes all employees and Councillors of the CoL. Council volunteers are not considered public officers, but could make a disclosure to the Ombudsman or Integrity Commission about a public body as a member of the public.

6.2 Contractors

Current or past contractors and sub-contractors can make disclosures about public bodies, not public officers, but they can only make a disclosure to the Ombudsman or the Integrity Commission not to CoL Public Interest Disclosure Officer. Officers should refer any contractors wanting to make a disclosure to either of these bodies.

6.3 Members of the public

Members of the public can make a disclosure about a public body and may be treated in the same way as a contractor if it is in the public interest to do so, but they can only make the disclosure to the Ombudsman or Integrity Commission. The Ombudsman or Integrity Commission determines whether it is in the public interest to treat the discloser as a contractor, not the discloser. Public interest disclosure officers should refer any members of the public wanting to make a disclosure to either of these bodies.

6.4 Anonymous persons

An anonymous disclosure may be accepted if the person receiving it is satisfied that the disclosure is being made by a public officer or contractor (see section 8 of the Act). If the person is satisfied that an anonymous disclosure is from a contractor it should be referred to the Ombudsman.

¹⁰ See [Protection](#) below for details of the legislative protections.

¹¹ This can include a public officer from another public body.

7 What can a disclosure be made about?

A disclosure can be made about one or more public officers or a public body itself. If a disclosure relates to the CoL as a whole or the Principal Officer of the CoL, it should be referred to the Ombudsman or Integrity Commission as internal investigation would not be appropriate.

7.1 Improper conduct

Disclosures about public officers need to relate to improper conduct by that officer, in the past, present or future (proposed action). Section 3 of the Act defines improper conduct as:

- a. conduct that constitutes an illegal or unlawful activity; or
- b. corrupt conduct; or
- c. conduct that constitutes maladministration; or
- d. conduct that constitutes professional misconduct; or
- e. conduct that constitutes a waste of public resources; or
- f. conduct that constitutes a danger to public health or safety or to both public health and safety; or
- g. conduct that constitutes a danger to the environment; or
- h. misconduct, including breaches of applicable codes of conduct; or
- i. conduct that constitutes detrimental action against a person who makes a public interest disclosure under this Act,

that is serious or significant as determined in accordance with guidelines issued by the Ombudsman.¹²

Examples of improper conduct include:

- to avoid closure of a town's only industry, an environmental health officer ignores or conceals evidence of illegal dumping of waste;
- an agricultural officer delays or declines imposing quarantine to allow a financially distressed farmer to sell diseased stock; and
- a principal officer spends \$15,000 of public money on a staff Christmas party.

7.2 Corrupt conduct

Corrupt conduct is further defined in section 3 of the Act as:

- a. conduct of a person (whether or not a public officer) that adversely affects, or could adversely affect, either directly or indirectly, the honest performance of a public officer's or public body's functions; or
- b. conduct of a public officer that amounts to the performance of any of their functions as a public officer dishonestly or with inappropriate partiality; or
- c. conduct of a public officer, a former public officer or a public body that amounts to a breach of public trust; or

¹² See Public Interest Disclosure Guideline One: Serious or Significant Improper Conduct, available at www.ombudsman.tas.gov.au

- d. conduct of a public officer, a former public officer or a public body that amounts to the misuse of information or material acquired in the course of the performance of their functions as such (whether for the benefit of that person or body or otherwise); or
- e. a conspiracy or attempt to engage in conduct referred to in paragraph (a), (b), (c) or (d).

Examples of corrupt conduct include:

- a public officer takes a bribe in exchange for the discharge of a public duty;
- a public officer favours unmeritorious applications for jobs or permits by friends and relatives; and
- a public officer accesses and discloses third-party personal information at the request of a friend, without any legitimate reason.

7.3 Detrimental action

Detrimental action, or reprisal action, against a discloser can be a form of improper conduct. It is defined in section 3 of the Act, as including:

- a. action causing injury, loss or damage; and
- b. intimidation or harassment; and
- c. discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business, including the taking of disciplinary action; and
- d. threats of detrimental action.

Examples of detrimental action include:

- refusal of a deserved promotion;
- demotion, transfer, isolation in the workplace or changing a person's duties to their disadvantage;
- threats, abuse or other forms of harassment directly or indirectly against the discloser, their family or friends; and
- discrimination against the discloser or their family and associates in applications for jobs, permits or tenders.

8 Where to make a disclosure

For the protections in the Act to apply, a disclosure must be made to the right person or body. Section 7 of the Act deals with this subject, and the following table summarises its effect:

Officer or public body to which the disclosure relates	Where the disclosure may be made
a member, officer or employee of a public body other than the Police Service or a State Service Agency	that public body; or the Integrity Commission; or the Ombudsman

Officer or public body to which the disclosure relates	Where the disclosure may be made
a member, officer or employee of a public body that is a State Service Agency	that State Service Agency; or the Integrity Commission; or the Ombudsman
the principal officer of a public body or State Service Agency	the Ombudsman; or the Integrity Commission
a member of the Police Service, other than the Commissioner of Police	the Commissioner of Police
the Commissioner of Police	the Ombudsman
a member of the Legislative Council	the President of the Legislative Council
a member of the House of Assembly	the Speaker of the House
a Councillor, within the meaning of the <i>Local Government Act 1993 (Tas)</i>	the Ombudsman
a person employed under the provisions of the <i>Parliamentary Privilege Act 1898 (Tas)</i>	the Ombudsman; or the Integrity Commission
the Auditor-General	the chairman of the Public Accounts Committee
the Ombudsman	the Joint Standing Committee on Integrity
a person employed in an office of a Minister, Parliamentary Secretary or other Member of Parliament	the Ombudsman
the Principal Officer of City of Launceston or City of Launceston as a whole	the Ombudsman; or the Integrity Commission
in any other case, including if the disclosure is about a public body as opposed to an individual public officer	the Ombudsman; or the Integrity Commission

9 How to make a disclosure

Public officers can make a disclosure about other public officers of the CoL orally or in writing to the following officers:

- The Chief Executive Officer – who is the “Principal Officer” of the public body, within the terms of the Act.
- A Public Interest Disclosure Officer.

9.1 Public interest disclosure officers

The following staff are public interest disclosure officers and can receive disclosures:

- Nathan Williams, Acting General Manager Organisational Services Network
- Michael Newby, Chief Infrastructure Officer - Infrastructure and Assets Network
- Michelle Ogulin, Manager Liveable Communities - Community and Place Network

- Julie Clements, Leader Business Support (QVMAG) - Creative and Cultural Services Network
- Roxanne Chugg, Manager People and Culture - Organisational Services Network

9.2 Written or oral disclosure

It is preferable that a disclosure be made in writing. It should be addressed to the public body, marked for the attention of the Principal Officer or Public Interest Disclosure Officer. A disclosure can be sent, delivered or left at 18-28 St John Street, Launceston TAS 7250 or emailed to:
publicinterestdisclosure@launceston.tas.gov.au

nathan.williams@launceston.tas.gov.au

michael.newby@launceston.tas.gov.au

michelle.ogulin@launceston.tas.gov.au

julie.clements@launceston.tas.gov.au

roxanne.chugg@launceston.tas.gov.au

A public officer can also make an oral disclosure over the phone or in person to a Public Interest Disclosure Officer. An oral disclosure should be made in private. If a public officer is concerned about making a disclosure in person in the workplace, they can call or email the Public Interest Disclosure Officer to request a meeting in a location away from the workplace.

It is not a requirement that the person contemplating making a disclosure refers to the Act, or is aware of the Act.

9.3 Disclosure to the ombudsman

A disclosure about improper conduct or detrimental action by the CoL or any of its members, officers or employees may also be made directly to the Ombudsman. The contact details for the Ombudsman are:

The Ombudsman
GPO Box 960
HOBART TAS 7001

or at

Level 6, 86 Collins Street
HOBART TAS 7000

Website: www.ombudsman.tas.gov.au
Email: ombudsman@ombudsman.tas.gov.au
Telephone: 1800 001 170 (free call though charges for mobile phones may apply)

9.4 Disclosure to the integrity commission

A disclosure about improper conduct or detrimental action by CoL or any of its members, officers or employees may also be made directly to the Integrity Commission. The contact details for the Integrity Commission are:

Integrity Commission
GPO Box 822
HOBART TAS 7001

or at

Level 2, Surrey House
199 Macquarie Street
HOBART TAS 7000

Website: www.integrity.tas.gov.au
Email: integritycommission@integrity.tas.gov.au
Telephone: 1300 720 289

10 Confidentiality

The CoL will take all reasonable steps to protect the identity of a discloser. Maintaining confidentiality is crucial in ensuring reprisals are not made against the discloser.

All reasonable care should also be taken to protect the privacy of witnesses and of the person against whom the disclosure has been made.

Section 23 of the Act requires any person who receives information due to the handling or investigation of a protected disclosure, not to disclose that information except in certain limited circumstances. Disclosure of information in breach of this section constitutes an offence that is punishable by a maximum fine of 60 penalty units or six months imprisonment, or both.

The circumstances in which a person may disclose information obtained about a protected disclosure include:

- where exercising their functions or the functions of the public body under the Act;
- when making a report or recommendation under the Act;
- when publishing statistics in the annual report of a public body, and
- in proceedings for certain offences in the Act.

The Act, however, prohibits the inclusion of particulars in any report or recommendation that is likely to lead to the identification of the discloser. The Act also prohibits the identification of the person who is the subject of the disclosure in any particulars included in an annual report made in accordance with Part 9 of the Act.

It may be necessary to consider disclosing information where:

- it is essential, having regard to the principles of natural justice, that the identifying information be disclosed to the person who is the subject of the disclosure, or
- the investigating body believes that the disclosure of the identifying information is necessary for the matter to be effectively investigated; or
- the identity of the discloser is likely to be guessed from the circumstances of the disclosure and the risks for the discloser are better managed if their identity is known and specific warnings or risk management actions can be taken.

In these circumstances, the person who made the disclosure should first be consulted before any action is taken. Consider obtaining permission in writing from

the discloser prior to identifying them.

The CoL will ensure that all relevant files, whether paper or electronic, are kept securely and can only be accessed by the Principal Officer, Public Interest Disclosure Officer/s, the investigator and (in relation to welfare matters only) the welfare manager.

All printed and electronic material will be kept in files that are clearly marked as confidential, and all materials relevant to an investigation, such as interview recordings, will also be stored securely with the files. Electronic files should have access restricted to the relevant officers.

Care should also be taken to ensure that all relevant phone calls and meetings are conducted in private.

Section 90 exempts documents from release under the *Right to Information Act 2009* (Tas) to the extent that:

- they contain information regarding a disclosure; or
- information that is likely to lead to the identification of the person who:
 - made the disclosure; or
 - the person who is the subject of the disclosure.

11 Assessing the disclosure

The Act requires the taking of two distinct steps when assessing a disclosure. It first needs to be determined whether or not it qualifies as a protected disclosure, and thus attracts the protections contained in the Act. In order to do so it must satisfy the following prerequisites:

- has it been made to the correct person or body; and
- if it has been correctly made to the CoL -
 - has it been made by a public officer (or, if the disclosure is anonymous, is the person receiving it satisfied that it is being made by a public officer);
 - is it about the conduct of a public officer;
 - does the discloser believe the public officer has, is or is proposing to engage in improper conduct;
 - is it about conduct that could objectively fall within the definition of improper conduct; and
 - does it concern conduct that occurred on or after 1 January 2001?

The next step is to determine if it is a public interest disclosure. This requires an assessment of the evidence provided by the discloser to determine if it shows or tends to show a public officer has, is or is proposing to engage in improper conduct.

11.1 What should the recipient of the disclosure do upon receipt of the disclosure?

If the disclosure is oral, the recipient should make a file note as soon as possible. The note should record the time the disclosure was made, the circumstances under which it was made and, so far as is possible, the exact words used by the discloser.

The recipient should ask the discloser to consider putting the disclosure in writing as soon as possible.

Unless the recipient is the Principal Officer (or the disclosure is about the Principal Officer), the recipient should immediately inform the Principal Officer of the disclosure, and should provide the Principal Officer with a copy of the disclosure, or record of the disclosure, and any accompanying Documents.¹³ If the disclosure is about the Principal Officer, contact the Ombudsman for advice.

11.2 Is it a protected disclosure?

The protections for disclosers, provided in Part 3 of the Act, only apply where the disclosure is a *protected disclosure* made in accordance with Part 2 of the Act.

The Principal Officer or a Public Interest Disclosure Officer should assess whether a disclosure has been made in accordance with Part 2 as soon as possible after it has been received. The assessment of disclosure form at Attachment 1 should be completed as part of this process. It contains a series of questions going to the essential elements of a protected disclosure, raised at [Assessing the disclosure](#) and what is needed to be established before a disclosure can be a protected disclosure. A separate assessment of disclosure form will usually need to be completed for each disclosure. This means, for example, that if a discloser is complaining about three different public officers, this constitutes three disclosures and three assessments should be completed.

If it is determined that it is a protected disclosure, the discloser should be given information about the protections in the Act (such as a copy of Part 3 of the Act). These protections should be explained to the discloser if necessary. The discloser should also be informed of the process which will be followed with respect to the disclosure.

The Principal Officer or a Public Interest Disclosure Officer should also immediately appoint a Welfare Manager to protect the interests of the discloser and ensure that the discloser is advised of the name and contact details of that person. A risk assessment should also be completed.

11.3 Mixed content disclosures

Many disclosures will also contain personal grievances. When conducting assessments of complaints or grievances the assessor needs to be alert to identifying those aspects that could constitute a protected disclosure.

It is not a requirement that a discloser specify they are making a disclosure, the onus rests on the CoL to identify whether or not the Act applies.

Consider discussing with the person whether they wish to make a public interest disclosure if it appears their concerns would meet the threshold.

Those matters that can be dealt with under a grievance process and those that are more appropriately dealt with under these procedures should be dealt with separately where possible.

11.4 Risk assessment

A risk assessment should occur as soon as possible after the disclosure has been

¹³ Contractors or members of the public who wish to make a disclosure should be advised to contact the Ombudsman or Integrity Commission, as per [Who can make a disclosure?](#)

assessed as being a protected disclosure under the Act. The Risk Assessment Template at Attachment 2 should be completed by the Principal Officer or Public Interest Disclosure Officer and any appropriate risk mitigation action required be implemented. A single assessment can be made of all relevant risks, or you may prefer to undertake separate assessments of the different risks relating to a particular disclosure, such as the risks to the discloser, the subject of the disclosure, any witnesses, or the CoL. The discloser is usually the most able to identify potential reprisal risks, so input should be sought from the discloser and the Welfare Manager in completing the risk assessment. All reasonable steps to reduce risks of reprisal to the discloser should be taken.

11.5 Referral of a protected disclosure to the integrity commission

The CoL may refer a protected disclosure, as distinct from a public interest disclosure, to the Integrity Commission where it considers that the disclosure relates to misconduct as defined in section 4(1) of the *Integrity Commission Act 2009*. Consideration should also be given to:

- whether independent investigation of the subject matter of the disclosure by the Integrity Commission is preferable; and
- the views of the discloser and the Integrity Commission about whether the matter should be referred.

The CoL must notify the discloser of the referral under section 29D of the Act within a reasonable time (unless the disclosure was made anonymously).

The Integrity Commission may deal with the disclosure under its legislation, or it may refer the disclosure to the Ombudsman or a public body, as the case may require, for action in accordance with the Act.

11.6 Is the disclosure a public interest disclosure?

Once a disclosure has been assessed as being a protected disclosure, a further determination must be made as to whether or not it is a public interest disclosure. The Principal Officer or Public Interest Disclosure Officer must make this determination under section 33 of the Act within 45 days of the receipt of the disclosure. Use the Assessment of Disclosure Form at Attachment 1 to ensure you consider all the necessary requirements.

For a disclosure to be a public interest disclosure, the Principal Officer, or their delegated Public Interest Disclosure Officer, must be satisfied that the disclosure shows or tends to show that the public officer to whom the disclosure relates has:

- engaged, is engaging or proposes to engage in improper conduct in their capacity as a public officer, or
- taken, is taking or proposes to take detrimental action in reprisal for the making of the protected disclosure.

A disclosure must be more than a mere allegation without substantiation to meet this threshold. A disclosure must include an indication of the existence of evidence that, if substantiated, would show or tend to show that the alleged improper conduct occurred.

Where the Principal Officer or Public Interest Disclosure Officer determines that the

disclosure amounts to a public interest disclosure, they must:

- advise the Principal Officer (if not the person assessing the disclosure);
- notify the Ombudsman within 14 days of the decision using the notification template at Attachment 3;
- notify the person making the disclosure within 14 days of the decision (unless they are anonymous and uncontactable); and
- proceed to investigate the disclosed matter under section 34 of the Act.

If the Principal Officer or Public Interest Disclosure Officer determines that the disclosure is not a public interest disclosure, they must:

- advise the Principal Officer (if not the person assessing the disclosure);
- notify the Ombudsman within 14 days of the decision using the notification template at Attachment 3; and
- notify the person making the disclosure within 14 days of the decision (unless they are anonymous and uncontactable) – see section 35.

The Ombudsman must then review this decision under section 35(2).

If, on review of the matter, the Ombudsman agrees that the disclosure is not a public interest disclosure, it does not need to be dealt with under the Act. The Principal Officer, or the Public Interest Disclosure Officer in consultation with the Principal Officer, will then decide how the disclosure should be dealt with.

If the Ombudsman determines on review that the disclosure is a public interest disclosure, it may be referred back to the public body under section 42 for investigation under the Act or the Ombudsman will deal with the disclosed matter.

11.7 Referral of criminal conduct to the commissioner of police

It is possible that, before or during the investigation of a public interest disclosure, facts are uncovered that indicate the possibility that a criminal offence might have been committed. If this happens, the CoL will not commence, or will suspend, the investigation and will consult with the Ombudsman as to the future conduct of the matter. Under section 41 of the Act, the Ombudsman has the power to refer a public interest disclosure to the Commissioner of Police for investigation.

If the Ombudsman is satisfied that the disclosed matter should be referred to the Commissioner, the CoL should consider whether the disclosure should be referred to the Ombudsman under section 68 of the Act.

Early referral of the matter may avoid interference with the evidentiary trail and so should be done at the first possible opportunity. Referral to the Commissioner through the Ombudsman will also avoid any question of a breach of confidentiality under section 23 of the Act. Once a disclosure is referred to the Commissioner through the Ombudsman, the investigation under the Act ceases.

There may still be administrative or operational issues which have been identified during the disclosure process or investigation, however, these should be dealt with under other internal processes of the CoL. The Principal Officer, or the Public Interest Disclosure Officer acting in consultation with the Principal Officer, will decide how the matter should be dealt with.

12 Protection

12.1 When does protection commence?

Where the CoL receives a disclosure which complies with the requirements of Part 2 of the Act, the disclosure immediately attracts the protections set out in Part 3 of the Act. This is so whether or not the disclosure is factually correct (although one of the requirements of Part 2 is that the discloser genuinely believes that the alleged improper conduct or detrimental action in fact occurred).

The protection can also extend to a person who intends to make a disclosure - see section 19 of the Act.

12.2 What protection does the act provide?

Part 3 of the Act gives various types of protection to a person who makes a protected disclosure. This part of these procedures only provides a summary of some elements of that Part of the Act.

A person who makes a protected disclosure:

- is not subject to any civil or criminal liability, or to any liability arising by way of administrative process, for making the protected disclosure (section 16); and
- does not by doing so commit an offence under a provision of any other Act that imposes a duty to maintain confidentiality, or which imposes any other restriction on the disclosure of information (section 17(1)(a)); and
- does not by doing so breach an obligation by way of oath, or rule of law or practice, or under an agreement, which requires the discloser to maintain confidentiality or otherwise restricts the disclosure of information (section 17(1)(b)).

If a disclosure is not made to the correct entity, the protections may not apply. For example, a discloser will not be protected if otherwise confidential information is disclosed to the media.

Part 3 also contains various provisions which are intended to protect a discloser from detrimental action by way of reprisal for a protected disclosure. These are:

- section 19, which makes it an offence to take such detrimental action;
- section 20, which creates a liability to pay damages for such detrimental action; and
- section 21, which gives a person who believes that detrimental action has been taken against them the right to apply to the Supreme Court for an order requiring the person who has taken the detrimental action to remedy that action, or for an injunction.

13 Investigations

13.1 Introduction

Any disclosure the CoL determines to be a public interest disclosure under section 33 must be investigated under the Act, unless there is a good reason not to do so pursuant to section 64 the CoL must investigate every disclosure referred to it for investigation by the Ombudsman under section 63(b).

The Principal Officer will appoint an investigator to carry out the investigation. The investigator may be a person from within an organisation or a consultant engaged for the purpose.

The objectives of an investigation are to:

- collate information relating to the allegation as quickly as possible, which may involve taking steps to protect or preserve documents, materials and equipment;
- consider the information collected and to draw conclusions objectively and impartially; and
- maintain procedural fairness in the treatment of witnesses and generally to all parties involved in the disclosure.

13.2 Matters that do not have to be investigated

Before starting an investigation, the Principal Officer or Public Interest Disclosure Officer must first consider whether the disclosed matter needs to be investigated. Section 64 specifies certain circumstances under which a public body may legitimately decide not to investigate. Use the disclosure assessment template at Attachment 1 to assist in assessing whether any of the grounds in section 64 apply.

Any decision not to proceed with an investigation on a ground specified in section 64 must be made by the Principal Officer.

If it is decided that the disclosed matter is not to be investigated, written notice must be given within 14 days of this decision to both the Ombudsman and (except in the case of an uncontactable anonymous discloser) the person who made the disclosure. Reasons for the decision must accompany the notice. Use the notification template at Attachment 3 to provide notice to the Ombudsman.

The Ombudsman will review the decision. If the Ombudsman agrees that the disclosure should not be investigated, the matter does not need to be dealt with under the Act. Importantly, the discloser still retains the protections. The Principal Officer, or the Public Interest Disclosure Officer in consultation with the Principal Officer, will decide how the matter should be dealt with.

If the Ombudsman determines that the disclosure should be investigated, they will advise the Principal Officer.

Section 64 may be reconsidered at a later time during the investigation.

13.3 Appointment of investigator and framing of terms of reference

The Principal Officer – not a Public Interest Disclosure Officer – will determine who is to carry out the investigation.

The investigator will be given formal terms of reference, signed by the Principal Officer. The terms of reference will specify:

- the matters to be investigated;
- the date by which the investigation is to be concluded;
- the requirement for regular reports to be made to the Principal Officer, including details of compliance with any measures identified in the risk assessment; and
- the resources available to the investigator for the purposes of the investigation.

The completion date should be as soon as practicable but, in any event, not more than six months from the date of the determination that the disclosure is a public interest disclosure under section 77A(1). If at any stage before or during the investigation it appears that the investigation cannot be completed within six months, the CoL may apply to the Ombudsman for an extension of up to a further six months.

13.4 Investigation plan

The investigator should prepare an investigation plan for approval by the Principal Officer. The plan should list the issues which are to be investigated and describe the steps which the investigator intends to take when investigating each of those issues. The risk assessment should be considered as part of the investigation planning and appropriate steps taken to reduce identified risks during the investigation.

The plan should be updated as necessary during the course of the investigation.

13.5 Procedural fairness

The principles of procedural fairness must be carefully observed in the course of the investigation, with respect to all parties involved. These principles are referred to as natural justice in the Act.

The principles are a set of procedural standards which need to be met in order to satisfy a person's right to a fair hearing. If natural justice is not provided, the investigation findings may be questionable and could be challenged.

The CoL will comply with the following requirements in ensuring that procedural fairness is accorded to all parties involved.

No one is to be involved in the investigation:

- who is known to be biased against any person who is potentially subject to an adverse finding;
- who is known to hold any biases which are relevant to the subject matter of the investigation; or
- against whom there are reasonable grounds for apprehending or suspecting bias.¹⁴

If the investigator is aware of any reason why they may be susceptible to an allegation of bias on the basis of these principles, they should immediately inform the Principal Officer. It is best to err on the side of caution and to consider an external investigator if there might be a perception of bias over the investigation.

¹⁴ The test for establishing the existence of apprehended bias is whether a fair minded lay observer, taking into account all relevant circumstances, might reasonably apprehend that the decision-maker might not bring an impartial mind to the resolution of the questions that they are required to decide.

Any person who is potentially subject to an adverse finding or comment must be told of:

- the allegations made against them, or which have arisen against them as a result of the investigation
- all of the information which is adverse to their interests and which is, on an objective basis, credible, relevant and significant to the investigation; and
- the potential findings in view, and their possible consequences.

This must be done before any final conclusions are formed by the investigator. The person subject to the potential adverse finding must be given a reasonable time to respond.

Despite the above, there is no requirement to inform the person who is subject to the disclosure as soon as it is received, or as soon as the investigation has commenced.

The final investigation report should be drafted in a way that demonstrates that procedural fairness has been afforded. For instance, it should record and deal with all submissions and evidence which a person has put in their defence.

13.6 Conduct of the investigation

The Integrity Commission's Guide to Managing Misconduct in the Tasmanian Public Sector¹⁵ is a useful guide on the conduct of a public interest disclosure investigation.

The investigator should make contemporaneous notes of all discussions and phone calls, and audio recordings of significant interviews with witnesses should be made where possible.

All information gathered in the course of the investigation must be securely stored. Interviews should be conducted in private, and the investigator should take all reasonable steps to protect the identity of the discloser. The name of the discloser or any particulars which might identify that person must not be revealed unless necessary and then only with the discloser's knowledge.

13.7 Referral of an investigation to the ombudsman

Under section 68 of the Act, a public body may refer the investigation of a public interest disclosure to the Ombudsman where the public body considers that its own investigation is being obstructed or that it is otherwise not within the capacity of the public body to complete the investigation. An investigation can also be referred to the Ombudsman if evidence of possible criminal conduct is found, to enable the Ombudsman to refer the matter to Tasmania Police for investigation (see [Referral of criminal conduct to the Commissioner of Police](#) above for more detail).

Any decision as to whether the investigation should be referred to the Ombudsman will be made by the Principal Officer.

¹⁵ Accessible at <https://www.integrity.tas.gov.au/publications/prevention-resources/guides>.

13.8 Provision of information about the investigation

The Principal Officer or the Public Interest Disclosure Officer must ensure that the discloser is kept regularly informed concerning the handling of their protected disclosure and any investigation.

Section 74 of the Act requires a public body, at the request of the Ombudsman or the person who made the disclosure, to give the Ombudsman or that person reasonable information about the investigation. The information must be given within 28 days of the request.

As provided by section 74(3), however, such information does not have to be given to the discloser if:

- it has already been given to the person; or
- the giving of the information would endanger the safety of another or may prejudice the conduct of the investigation.

14 Action taken after an investigation

14.1 Investigator's final report

At the conclusion of the investigation, the investigator must submit a written report of their findings to the Principal Officer. The report should contain:

- the allegation/s;
- a description of the manner in which the investigation was conducted, with sufficient detail to demonstrate that procedural fairness was observed;
- an account of all relevant information received;
- details of the evidence and submissions supplied by any person against whom an adverse finding is made, and the evaluation of that material by the investigator; and
- the findings made and conclusions reached, and the basis for them.

Note in particular that the report should not include any comment adverse to any person unless that person has been given an opportunity to be heard on the matter and their defence is fairly set out in the report. A public body must take action, under section 75 of the Act, to redress any improper conduct found and try to prevent its recurrence. Accordingly, if the investigator has found that the alleged improper conduct has occurred, the investigator may wish to include recommendations as to:

- any steps that need to be taken by the CoL to prevent the conduct from continuing or occurring in the future; and
- any action that should be taken by the CoL to remedy any harm or loss arising from that conduct.

The steps to be taken may include bringing disciplinary proceedings against the person responsible for the conduct, and referring the matter to an appropriate authority for further consideration. For example, if the investigation has revealed conduct that may constitute a criminal offence, consideration should be given to whether the matter should be referred to Tasmania Police, unless this has previously occurred.

The internal investigation report must be accompanied by:

- the transcript or other record of any oral evidence taken, including audio or video recordings; and
- all documents, statements or other exhibits received by the investigator and accepted as evidence during the course of the investigation.

14.2 Action to be taken

If the investigation makes a finding that a public officer has engaged, is engaging or proposes to engage in improper conduct, the CoL must, in accordance with section 75, take all reasonable steps to prevent the conduct from continuing or occurring in the future and may take action to remedy any loss or harm arising from the conduct. The Principal Officer should take into consideration any recommendations in the investigator's report, but can take different or broader action if appropriate.

The Principal Officer will provide a written report to Minister for Local Government, or the Council of the CoL and the Ombudsman, setting out the findings of the investigation and any remedial steps taken. The report must not disclose particulars likely to lead to the identification of the discloser. The Ombudsman will also be provided with the full internal investigation report and accompanying evidence. See the notification template at Attachment 3.

As required by section 77 of the Act, the Principal Officer will also inform the discloser of the findings of the investigation and of any steps taken under section 75 as a result of those findings having been made.

Where the investigation concludes that the disclosed conduct did not occur, the Principal Officer will report that finding to the Ombudsman, in accordance with the notification template at Attachment 3, and to the discloser.

15 Managing the welfare of the discloser

15.1 Support for the discloser

The Principal Officer or the Public Interest Disclosure Officer must appoint a Welfare Manager to support all persons who have made a protected disclosure. This must occur within five working days of the protected disclosure being received.

The welfare manager must contact the discloser as soon as possible and not more than five working days after being appointed.

A discloser who believes that they are being subjected to detrimental action in reprisal for having made the disclosure should report it to the Principal Officer or a Public Interest Disclosure Officer, as this can be a potential further protected disclosure. If they believe that the reprisal is not being effectively dealt with by the CoL, they may report the matter to the Ombudsman.

15.2 Keeping the discloser informed

The Principal Officer or the Public Interest Disclosure Officer must ensure that the discloser is kept informed of action taken in relation to his or her disclosure, and the time frames that apply. The discloser must be informed of the objectives of any investigation that takes place, the findings of the investigation, and the steps taken by the CoL to address any improper conduct that has been found to have occurred.

The discloser must be given reasons for all decisions made by the CoL in relation to a disclosure. All communication with the discloser must be in plain English.

15.3 Occurrence of detrimental action

If a discloser reports an incident of detrimental action allegedly taken in reprisal for the making of a disclosure, the Welfare Manager should:

- record details of the incident;
- advise the discloser of their rights under the Act; and
- assist the discloser to advise a Public Interest Disclosure Officer or the Principal Officer of the detrimental action.

The taking of detrimental action in reprisal for the making of a disclosure can be an offence under the Act as well as grounds for making a further disclosure. Where such detrimental action is reported, the Public Interest Disclosure Officer or the Principal Officer will assess the report as a new disclosure under the Act and it will be dealt with accordingly.

15.4 Discloser implicated in improper conduct

Where a person who makes a disclosure is implicated in misconduct, the CoL will handle the disclosure and protect the discloser from reprisals in accordance with the Act, the Ombudsman's guidelines and these procedures. At the same time the CoL acknowledges that the act of disclosing should not shield disclosers from the reasonable consequences flowing from any involvement in improper conduct. Section 18 of the Act specifically provides that a person's liability for his or her own conduct is not affected by the person's disclosure of that conduct under the Act. However, in some circumstances, an admission may be a mitigating factor when considering disciplinary or other action.

The Principal Officer will make the final decision as to whether disciplinary or other action will be taken against a discloser. Where disciplinary or other action relates to conduct that is the subject of the person's disclosure, the disciplinary or other action will only be taken after the disclosed matter has been appropriately dealt with.

In all cases where disciplinary or other action is being contemplated, the Principal Officer must be satisfied that it has been clearly demonstrated that:

- the intention to proceed with disciplinary action is not because of the making of the disclosure (as opposed to the content of the disclosure or other available information);
- there are good and sufficient grounds that would fully justify action against any non-discloser in the same circumstances; and
- there are good and sufficient grounds that justify exercising any discretion to institute disciplinary or other action.

The Public Interest Disclosure Officer or Principal Officer will thoroughly document the process, including recording the reasons why the disciplinary or other action is being taken and the reasons why the action is not in retribution for the making of the disclosure. The Public Interest Disclosure Officer or Principal Officer will clearly advise the discloser of the proposed action to be taken, and of any mitigating

factors that have been taken into account. They should advise the discloser that they can raise any concerns about the action taken being a potential reprisal with the Ombudsman.

16 Management of the person against whom a disclosure has been made

The CoL recognises that employees against whom disclosures are made must also be supported during the handling and investigation of disclosures. When a person who is the subject of the disclosure is made aware of the allegations or of an investigation, they should be provided with an appropriate contact person to whom to direct queries. Information about employee assistance programs or other supports should also be provided, if appropriate.

The CoL will take all reasonable steps to ensure the confidentiality of the person who is the subject of the disclosure during the assessment and investigation process. Where an investigation does not substantiate a disclosure, the fact that the investigation has been carried out, the results of the investigation, and the identity of the person who is the subject of the disclosure will remain confidential.

The Public Interest Disclosure Officer or Principal Officer will ensure that the person who is the subject of any disclosure investigated by or on behalf of the CoL is afforded [procedural fairness](#) in accordance with these procedures.

Where the allegations in a disclosure have been investigated, and the person who is the subject of the disclosure is aware of the allegations or of the investigation, the Public Interest Disclosure Officer or Principal Officer will formally advise the person who is the subject of the disclosure of the outcome of the investigation.

The CoL will give its full support to a person who is the subject of a disclosure where the allegations contained in a disclosure are clearly wrong or unsubstantiated. If the matter has been publicly disclosed, the Principal Officer of the CoL will consider any request by that person to issue a statement of support setting out that the allegations were wrong or unsubstantiated.

17 Publishing statistics

Section 86 of the Act requires the CoL to include in its annual report:

- the number and types of disclosures made to the CoL during the year, and the number of disclosures determined to be a public interest disclosure;
 - the number of disclosures determined by the CoL to be public interest disclosures that it investigated during the year;
 - the number and types of disclosed matters referred to the CoL by the Ombudsman for investigation;
 - the number and types of disclosures referred by the CoL to the Ombudsman for investigation;
 - the number and types of investigations taken over from the CoL by the Ombudsman;
 - the number and types of disclosed matters that the CoL has declined to investigate;
-

- the number and types of disclosed matters that were substantiated upon investigation and the action taken on completion of the investigation; and
- any recommendations made by the Ombudsman that relate to the CoL.

18 Offences

The CoL will ensure officers appointed to handle protected disclosures and all other employees are aware of the following offences created by the Act:

- **Protection from reprisal - Section 19(1)**

This provision makes it an offence for a person to take detrimental action against a person in reprisal for a protected disclosure being made. The section provides for a maximum penalty of a fine of 240 penalty units or two years imprisonment, or both.

- **Offence to reveal confidential information - Section 23(1)**

This provision makes it an offence for a person to disclose, except under specified circumstances, information which they have obtained or received in the course of or as a result of a protected disclosure or the investigation of a disclosed matter under the Act. The section provides for a maximum penalty of 60 penalty units or six months imprisonment, or both.

- **Obstruction - Section 54**

This section creates various offences relating to obstructing the work of the Ombudsman under the Act, including offences relating to misleading the Ombudsman. The section provides for a maximum penalty of 240 penalty units or two years imprisonment, or both.

- **Offence to make false disclosure**

- **Section 87(1)**

This provision makes it an offence for a person to knowingly provide false information under the Act to certain officers (including the Ombudsman) with the intention that it be acted on as a disclosed matter. The provision provides for a maximum penalty of 240 penalty units or two years imprisonment, or both.

- **Section 87(2)**

This section makes it an offence for a person to knowingly provide false information to a person conducting an investigation under the Act. The provision provides for a maximum penalty of 240 penalty units or two years imprisonment, or both.

The value of a penalty unit varies from time to time in accordance with movements in the Consumer Price Index. For more information, see the [Department of Justice website](#).¹⁶

¹⁶ www.justice.tas.gov.au/about/legislation/value_of_indexed_units_in_legislation

19 Approval and review of these procedures

These procedures were approved by the Ombudsman under section 60(3) of the Act on 23 August 2024.

The procedures will be submitted to the Ombudsman for review at least once every three years to ensure they meet the objectives of the Act and accord with the Guidelines and Standards published by the Ombudsman under section 38(1)(c).

The date by which the procedures must be submitted to the Ombudsman for review is 23 August 2027.

Attachment 1

Assessment of disclosure form

Public Interest Disclosures Act 2002 (Tas)

File number:

Date of assessment:

Name of assessing officer:

Summary of disclosure:

Include details of how the disclosure was received, the subject of the disclosure and details of the allegations.

An assessment of disclosure form will usually need to be completed for each disclosure. This means, for example, that if a discloser is complaining about three different public officers, this constitutes three disclosures and three assessments may be required.

Part 1: Is the disclosure a protected disclosure?

Question 1: Is the discloser a public officer?

The discloser needs to be a current public officer. See s4(2) and s4(4) of the Act for the definition of a public officer. If the discloser is anonymous, it is enough to be satisfied that the discloser is a public officer. If the discloser is a contractor, member of the public or no longer a public officer at the time the disclosure is made, refer them to the Ombudsman or Integrity Commission.

Yes No

Please provide details if relevant:

Question 2: Is the disclosure about a public officer?

A disclosure can be made even if the discloser cannot identify the public officer – see s9 of the Act. If a disclosure is about the principal officer or the public body itself, refer the discloser to the Ombudsman or Integrity Commission.

Yes No

Question 3: Has the disclosure been made to the right person or body?

See s7 of the Act and reg 8 of the Public Interest Disclosures Regulations 2013.

Yes No

Please provide details:

Question 4: Does the discloser believe that a public officer has, is or proposes to engage in improper conduct?

Yes No

If no, provide details:

Question 5: Does the disclosure relate to improper conduct?

Is the disclosure about conduct that could objectively fall within one of the categories of improper conduct, i.e:

- conduct that constitutes an illegal or unlawful activity; or
- corrupt conduct; or
- conduct that constitutes maladministration; or
- conduct that constitutes professional misconduct; or
- conduct that constitutes a waste of public resources; or
- conduct that constitutes a danger to public health or safety or to both public health and safety; or
- conduct that constitutes a danger to the environment; or
- misconduct, including breaches of applicable codes of conduct; or
- conduct that constitutes detrimental action against a person who makes a public interest disclosure under this Act –

that is serious or significant as determined in accordance with guidelines issued by the Ombudsman?

For example, a discloser may believe that taking a non-confidential work file home is serious or significant improper conduct but it may not objectively fall within that definition.

Yes No

Please provide details:

Question 6: Does the disclosure concern conduct that occurred on or after 1 January 2001?

This is the only time limitation that is relevant when assessing if a disclosure is a protected disclosure. Delays in making a disclosure any time on or after 1 January 2001 can be relevant when deciding whether to investigate a public interest disclosure under s64 of the Act.

Yes No

Assessment of Answers to Part 1 Questions

If ALL the answers to the above are yes, the disclosure is a protected disclosure. The discloser should be notified as soon as possible, if the disclosure is a protected disclosure and the assessment of whether it is a public interest disclosure has not been undertaken simultaneously.

If ANY of the answers to the above are no, the disclosure is not protected and the Act does not apply. Refer the discloser to the appropriate body and/or handle the matter under complaint or grievance policies.

In either case, the discloser should be given reasons in writing. A copy of the assessment should be given to the Principal Officer without delay, where the person who carried out the assessment is not the Principal Officer.

Part 2: Should the protected disclosure be referred to the Integrity Commission?
Does the disclosure relate to misconduct, as defined in the *Integrity Commission Act 2009*?

Yes No

If yes, should the disclosure be referred to the Integrity Commission under section 29B of the Act?

Yes No

If yes, please provide details:

If the disclosure is referred, the assessment process is complete after the discloser is notified of the referral.

Part 3: Is the protected disclosure a public interest disclosure?

Are you satisfied that the protected disclosure shows, or tends to show, that the public officer to whom the disclosure relates –

- a) **has engaged, is engaged or proposes to engage in improper conduct in his or her capacity as a public officer; or**
- b) **has taken, is taking or proposes to take detrimental action in contravention of s 19 of the Act?**

A mere allegation without substantiation is not sufficient – the disclosure must contain evidence or point to its existence (name documents, refer to potential witnesses etc.) that shows or tends to show that the public officer is, has, or is proposing to engage in improper conduct.

This determination under s33 of the Act must be made within 45 days of the disclosure being received.

Yes No

Provide reasons for your decision and attach evidence if available:

Next steps

Notify the discloser and the Ombudsman of the assessment determination. Use the notification template attached to the public interest disclosure procedures when notifying the Ombudsman.

If the answer is no, the assessment is complete and Part 4 does not need to be completed. The Ombudsman will review the determination. If the answer is yes, the public interest disclosure must be investigated unless a ground exists not to under s64 of the Act.

Part 4 - Is there a ground under s64 not to investigate the public interest disclosure?

Question 1: Is the public interest disclosure trivial, vexatious, misconceived or lacking in substance?

Yes No

If yes, provide details. Compelling reasons will be required to justify not investigating on this ground:

Question 2: Has the subject matter of the public interest disclosure already been adequately dealt with by the Ombudsman or a public body, statutory authority, Commonwealth statutory authority, commission, court or tribunal?

Yes No

If yes, please provide details:

Question 3: Has the discloser commenced proceedings in a commission, court or tribunal in relation to the same matter, and does that commission, court or tribunal have power to order remedies similar to those available under this Act?

Yes No

If yes, please provide details:

Question 4: Did the discloser:

- have knowledge for more than 12 months of the public interest disclosure matter before making the disclosure; and
- fail to give a satisfactory explanation for the delay in making the disclosure?

Yes No

If yes, provide details of this issue being put to the discloser and analysis concerning why any explanation provided was not satisfactory:

Question 5: Does the public interest disclosure relate solely to the personal interests of the discloser?

Yes No

Most disclosures will contain some element of personal interest. This should only be used as a basis to not investigate in clear circumstances.

If yes, please provide details:

Question 6: Is the public interest disclosure based on false or misleading information?

Yes No

If yes, please provide details and consider whether an offence may have been committed under s87 of the Act:

Question 7: Has the matter the subject of the public interest disclosure already been determined AND this additional disclosure fails to provide significant or substantial new information?

Yes No

If yes, please provide details:

Assessment of Answers to Part 4 Questions

If the answers to ALL the questions in Part 4 are no, the disclosure must be investigated in accordance with the public interest disclosure procedures. Referral to the Ombudsman can occur if internal investigation is not possible or appropriate.

If the answer is yes to one or more of the above questions, will the public interest disclosure be investigated? *Although the public interest disclosure may not need to be investigated if an answer to any of the Part 4 questions is yes, it may still be appropriate to investigate in some circumstances.*

Yes No

Provide reasons for your decision:

Notify the discloser and the Ombudsman if it is decided not to investigate. The Ombudsman will review the decision. Use the notification template attached to the public interest disclosure procedures when notifying the Ombudsman.

Summary

Part	Question	Answer
Part 1	Is the disclosure a protected disclosure?	
Part 2	Should the protected disclosure be referred to the Integrity Commission?	
Part 3	Is the protected disclosure a public interest disclosure?	
Part 4	Should the public interest disclosure be investigated?	

Approval

Approved by:

Name of Public Interest Disclosure Officer or Principal Officer:

Date of approval:

Attachment 2

Risk assessment template

Public Interest Disclosures Act 2002 (Tas)

File number: Date of assessment: Name of assessing officer:

Risk assessed to:

Please select all relevant options -

- Discloser Other employees including potential witnesses
- Your public body Other (e.g. Tasmanian Government, the general public)
- The subject of the disclosure

Type of risk / possible harm

Such as:

- Adverse employment action
- Workplace injury
- Physical violence
- Verbal abuse
- Stress
- Untenable work environment
- Withdrawal of cooperation due to fear of reprisal/lack of support
- Reputational damage
- Risk to public safety
- Misuse of public funds
- Disruption to functioning of public body

Please provide details:

Likelihood risk/s will occur

- Unlikely
- Possible
- Likely

Considerations:

- Can confidentiality be maintained?
- Is the discloser (or others) concerned about reprisals?
- How many public officers are involved in the alleged improper conduct?
- What is their level of seniority?
- What is the seriousness of the alleged conduct?
- Is there a history of conflict in the workplace?

Please provide your reasons:

Seriousness of consequences if risk/s occurs

- Minor
- Moderate
- Major

Considerations:

- What is the potential impact if the risk occurs?
- Will the impact be limited, with the person able to readily deal with it?
- Will the impact have consequences which will affect the person’s work or their personal and home life?
- Will the consequences be short-term, medium-term or long-term?

Please provide your reasons:

Evaluation of level of risk

Risk occurrence	Minor consequence	Moderate consequence	Major consequence
Unlikely	Low	Low	Medium
Possible	Low	Medium	High
Likely	Medium	High	High

Determine your level of risk:

Steps needed to mitigate risk

Consult with discloser and other parties as required. Possible strategies include:

- maintaining confidentiality as much as possible
- ensuring all parties are aware of their obligations
- when the identity of the discloser will be known or guessed by the subject of the disclosure and/or associates, proactively identifying the discloser (with their written permission) and advising relevant parties of the consequences of taking reprisal action and that their actions are being monitored
- altering reporting structures
- increasing monitoring of the work environment
- standing down the subject of the disclosure
- temporarily relocating the subject of the disclosure or the discloser to a different location/ role
- independently verifying the work performance of the discloser
- providing access to specialist support services if required

- making a statement to all staff or the media to address concerns

Please provide details:

Action to be taken

Considerations:

- risk rating
- ease or difficulty of mitigating risk
- financial cost of taking action consequences of not taking action should risk occur

Please provide details of your risk action plan:

Approval

Approved by: _____ Date of approval:
Public Interest Disclosure Officer or Principal Officer – Type Name

Risk assessment review

Risk assessment to be reviewed on (date) _____ or when (event) _____ occurs.

Name of reviewing officer: _____ Date of assessment: _____

Notes on changes to risk since last assessment

Review outcome

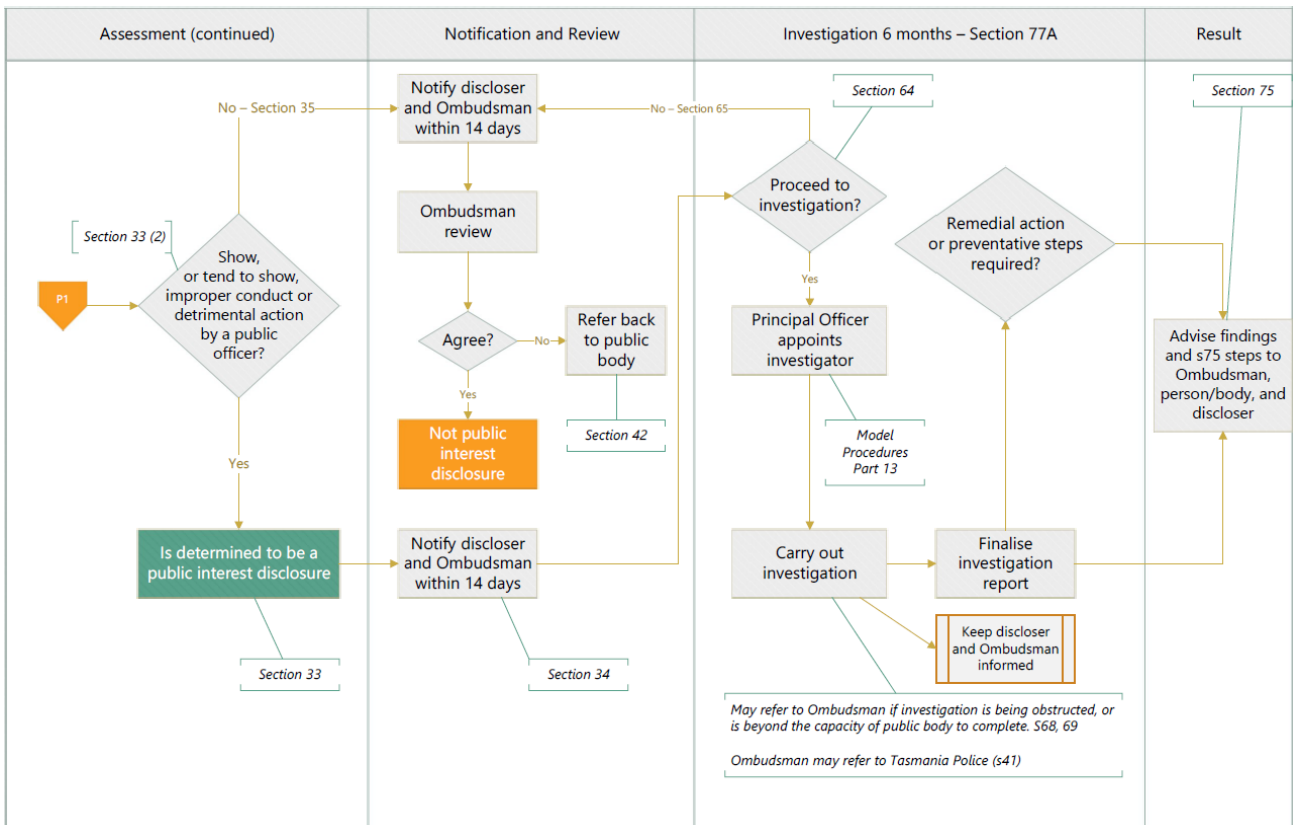
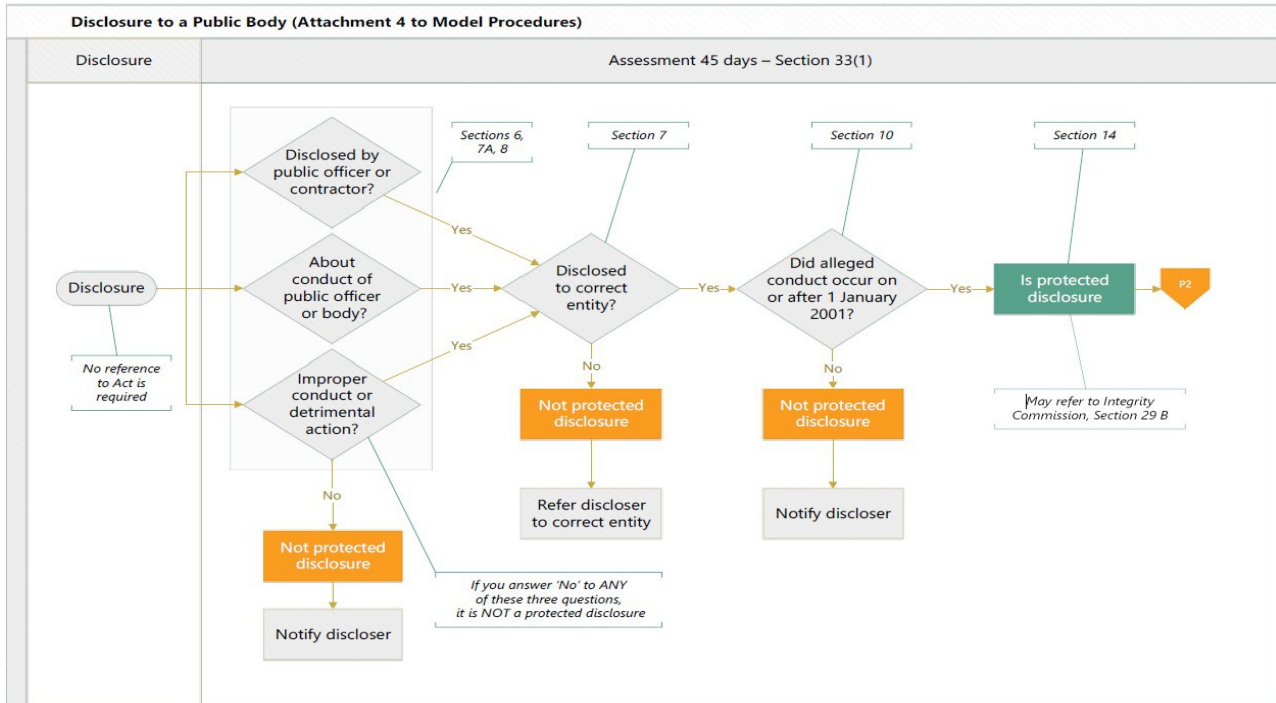
- No change to action plan
- Further action required

Please provide details:

Thank you to the Queensland Ombudsman for the use of some of its risk assessment materials in this template.

Attachment 4

Flowchart - disclosure to a public



2. notes that approval has been provided by the Ombudsman on 23 August 2024 to the making of the Procedures.

CARRIED 9:0

FOR VOTE: Mayor Councillor M K Garwood, Deputy Mayor Councillor D H McKenzie, Councillor A E Dawkins, Councillor A G Harris, Councillor T G Walker, Councillor Prof G Razay, Councillor J J Pentridge, Councillor L M McMahon and Councillor S Cai
AGAINST VOTE: Nil

20.4. Monthly Financial Performance Report

FILE NO: SF7694

AUTHOR: Zakia Afroz (Team Leader Accounting)

APPROVER: Nathan Williams (Acting General Manager Organisational Services Network)

DECISION STATEMENT:

To consider the October 2024 Capital and Operational financial reports against budget.

RELEVANT LEGISLATION:

Local Government Act 1993 (Tas)

RECOMMENDATION:

That Council:

1. notes the report outlining both Capital and Operational results to the period ending 30 October 2024.
-

Samuel Kelty (Manager Finance) was in attendance to answer questions in respect of this item.

DECISION: 28 November 2024

MOTION

Moved Councillor A G Harris, seconded Deputy Mayor Councillor D H McKenzie.

That Council:

1. notes the report outlining both Capital and Operational results to the period ending 30 October 2024.

CARRIED 9:0

FOR VOTE: Mayor Councillor M K Garwood, Deputy Mayor Councillor D H McKenzie, Councillor A E Dawkins, Councillor A G Harris, Councillor T G Walker, Councillor Prof G Razay, Councillor J J Pentridge, Councillor L M McMahon and Councillor S Cai

AGAINST VOTE: Nil

20.5. 2025 Council Meeting Schedule and Update of Council Meetings Policy (Frequency and Commencement Time) (14-PI-001)

FILE NO: SF0975, SF0098

AUTHOR: Kelsey Hartland (Team Leader Governance)

APPROVER: Nathan Williams (Acting General Manager Organisational Services Network)

DECISION STATEMENT:

To consider the 2025 schedule of Council Meetings and Workshops and changes to Council Meetings Policy (Frequency and Commencement Time) (14-PI-001), to accommodate moving to monthly Council Meetings.

As per Regulation 6(1) of the Local Government (Meetings Procedures) Regulations 2015, Recommendation 2 require an absolute majority of Council.

RELEVANT LEGISLATION:

Local Government Act 1993 (Tas)

PREVIOUS COUNCIL CONSIDERATION:

Workshop – 7 November 2024 – Future Council Meeting Dates

RECOMMENDATION:

That Council:

- notes the 2025 schedule of Council Meetings and Workshops as per the table below:

DAY	DATE	MEETING	TIME
Council in Recess from 13 December 2024 to 15 January 2025			
JANUARY			
Thursday	16-Jan	Workshop	9.30am
Thursday	23-Jan	Council	1.00pm
FEBRUARY			
Thursday	13-Feb	Workshop	9.30am
Thursday	20-Feb	Council	1.00pm
Thursday	27-Feb	Workshop	9.30am
MARCH			
Thursday	13-Mar	Workshop	9.30am
Thursday	20-Mar	Council	1.00pm
Thursday	27-Mar	Workshop	9.30am

APRIL			
Thursday	10-Apr	Workshop	9.30am
Thursday	17-Apr	Council	1.00pm
Thursday	24-Apr	Workshop	9.30am
MAY			
Thursday	8-May	Workshop	9.30am
Thursday	15-May	Council	1.00pm
Thursday	22-May	Workshop	9.30am
JUNE			
Thursday	12-Jun	Workshop	9.30am
Thursday	19-Jun	Council	1.00pm
Thursday	26-Jun	Workshop	9.30am
JULY			
Thursday	10-Jul	Workshop	9.30am
Thursday	17-Jul	Council	1.00pm
Thursday	24-Jul	Workshop	9.30am
AUGUST			
Thursday	14-Aug	Workshop	9.30am
Thursday	21-Aug	Council	1.00pm
Thursday	28-Aug	Workshop	9.30am
SEPTEMBER			
Thursday	11-Sep	Workshop	9.30am
Thursday	18-Sep	Council	1.00pm
Thursday	25-Sep	Workshop	9.30am
OCTOBER			
Thursday	9-Oct	Public Holiday	-
Thursday	16-Oct	Council	1.00pm
Thursday	23-Oct	Workshop	9.30am
NOVEMBER			
Thursday	13-Nov	Workshop	9.30am
Thursday	20-Nov	Council	1.00pm
Thursday	27-Nov	Workshop	9.30am
DECEMBER			
Thursday	4-Dec	Annual General Meeting	5.30pm
Thursday	11-Dec	Council	1.00pm

- notes and approves the wording of the Council Meetings Policy (Frequency and Commencement Time) (14-PI-001), updated to reflect the move to monthly meetings, as detailed below:

Council Meetings Policy (Frequency and Commencement Time)

PURPOSE

The purpose of this policy is to set the:

- commencement times of Council and Council Committee Meetings;
- frequency of Council Meetings; and
- the start time and day of Council's Annual General Meeting.

SCOPE

This policy applies to Council Meetings, Council Committee Meetings and the Annual General Meeting.

POLICY

1. Council Meetings

- 1.1 The first meeting of the calendar year will be a Council Meeting held on the fourth Thursday in January.
- 1.2 Subsequent Council Meetings will be held on the third Thursday of each month. .
- 1.3 If the Council Meeting falls on a Thursday that is a public holiday, the Council Meeting will be held on the Wednesday of the same week as the public holiday.
- 1.4 The final scheduled Council Meeting will be on the second Thursday in December, to avoid having a meeting close to the holiday period.
- 1.5 Council Meetings commence at 1.00pm.

2. Council Committee Meetings

- 2.1 The first meeting of a Council Committee will be convened on a day and time to be determined by Council by an absolute majority.
- 2.2 The day and time of subsequent Council Committee Meetings will be determined by
by
the Council Committee by simple majority.

3. Annual General Meeting

- 3.1 The Annual General Meeting will be held on the first Thursday in December commencing at 5.30pm.

PRINCIPLES

The Council's organisational values apply to all activities.

RELATED POLICIES & PROCEDURES

Council Meeting and Workshop Schedule (14-Rfx-009)

RELATED LEGISLATION

Local Government Act 1993 (Tas)

Local Government (Meeting Procedures) Regulations 2015

REFERENCES

Not applicable.

DEFINITIONS

Not applicable.

REVIEW

This policy will be reviewed after each ordinary Council election, as required by the *Local Government (Meeting Procedures) Regulations 2015*.

Matt Morgan (Acting Manager Governance) was in attendance to answer questions in respect of this item.

DECISION: 28 November 2024

MOTION 1

Moved Councillor A G Harris, seconded Councillor J J Pentridge.

That Council:

- notes and approves the 2025 schedule of Council Meetings and Workshops as per the table below:

DAY	DATE	MEETING	TIME
Council in Recess from 13 December 2024 to 15 January 2025			
JANUARY			
Thursday	16-Jan	Workshop	9.30am
Thursday	23-Jan	Council	1.00pm
FEBRUARY			
Thursday	13-Feb	Workshop	9.30am
Thursday	20-Feb	Council	1.00pm
Thursday	27-Feb	Workshop	9.30am
MARCH			
Thursday	13-Mar	Workshop	9.30am
Thursday	20-Mar	Council	1.00pm
Thursday	27-Mar	Workshop	9.30am
APRIL			
Thursday	10-Apr	Workshop	9.30am
Thursday	17-Apr	Council	1.00pm
Thursday	24-Apr	Workshop	9.30am

MAY			
Thursday	8-May	Workshop	9.30am
Thursday	15-May	Council	1.00pm
Thursday	22-May	Workshop	9.30am
JUNE			
Thursday	12-Jun	Workshop	9.30am
Thursday	19-Jun	Council	1.00pm
Thursday	26-Jun	Workshop	9.30am
JULY			
Thursday	10-Jul	Workshop	9.30am
Thursday	17-Jul	Council	1.00pm
Thursday	24-Jul	Workshop	9.30am
AUGUST			
Thursday	14-Aug	Workshop	9.30am
Thursday	21-Aug	Council	1.00pm
Thursday	28-Aug	Workshop	9.30am
SEPTEMBER			
Thursday	11-Sep	Workshop	9.30am
Thursday	18-Sep	Council	1.00pm
Thursday	25-Sep	Workshop	9.30am
OCTOBER			
Thursday	9-Oct	Public Holiday	-
Thursday	16-Oct	Council	1.00pm
Thursday	23-Oct	Workshop	9.30am
NOVEMBER			
Thursday	13-Nov	Workshop	9.30am
Thursday	20-Nov	Council	1.00pm
Thursday	27-Nov	Workshop	9.30am
DECEMBER			
Thursday	4-Dec	Annual General Meeting	5.30pm
Thursday	11-Dec	Council	1.00pm

2. pursuant to regulation 6(1) of the *Local Government (Meeting Procedures) Regulations 2015* notes and approves by absolute majority the wording of the Council Meetings Policy (Frequency and Commencement Time) (14-PI-001), updated to reflect the move to monthly meetings, as detailed below:

Council Meetings Policy (Frequency and Commencement Time)

PURPOSE

The purpose of this policy is to set the:

- commencement times of Council and Council Committee Meetings;
- frequency of Council Meetings; and
- the start time and day of Council's Annual General Meeting.

SCOPE

This policy applies to Council Meetings, Council Committee Meetings and the Annual General Meeting.

POLICY

1. Council Meetings

1.1 The first meeting of the calendar year will be a Council Meeting held on the fourth Thursday in January.

1.2 Subsequent Council Meetings will be held on the third Thursday of each month. .

1.3 If the Council Meeting falls on a Thursday that is a public holiday, the Council Meeting will be held on the Wednesday of the same week as the public holiday.

1.4 The final scheduled Council Meeting will be on the second Thursday in December, to avoid having a meeting close to the holiday period.

1.5 Council Meetings commence at 1.00pm.

2. Council Committee Meetings

2.1 The first meeting of a Council Committee will be convened on a day and time to be determined by Council by an absolute majority.

2.2 The day and time of subsequent Council Committee Meetings will be determined by the Council Committee by simple majority.

3. Annual General Meeting

3.1 The Annual General Meeting will be held on the first Thursday in December commencing at 5.30pm.

PRINCIPLES

The Council's organisational values apply to all activities.

RELATED POLICIES & PROCEDURES

Council Meeting and Workshop Schedule (14-Rfx-009)

RELATED LEGISLATION

Local Government Act 1993 (Tas)
Local Government (Meeting Procedures) Regulations 2015

REFERENCES

Not applicable.

DEFINITIONS

Not applicable.

REVIEW

This policy will be reviewed after each ordinary Council election, as required by the *Local Government (Meeting Procedures) Regulations 2015*.

LOST 4:5

FOR VOTE: Mayor Councillor M K Garwood, Councillor A E Dawkins, Councillor J J Pentridge and Councillor L M McMahon

AGAINST VOTE: Deputy Mayor Councillor D H McKenzie, Councillor A G Harris, Councillor T G Walker, Councillor Prof G Razay and Councillor S Cai

DECISION: 28 November 2024

MOTION 2

Moved Councillor A G Harris, seconded Deputy Mayor Councillor D H McKenzie.

That Council:

1. notes and approves the 2025 schedule of Council Meetings and Workshops as per the table below:

DAY	DATE	MEETING	TIME
Council in Recess from 15 December 2024 to 15 January 2025			
JANUARY			
Thursday	23 January	Council	1.00pm
Thursday	30 January	Workshop	9.30am
FEBRUARY			
Thursday	6 February	Workshop	9.30am
Thursday	13 February	Council	1.00pm
Thursday	20 February	Workshop	9.30am
Thursday	27 February	Workshop	9.30am

MARCH			
Thursday	6 March	Council	1.00pm
Thursday	13 March	Workshop	9.30am
Thursday	20 March	Workshop	9.30am
Thursday	27 March	Council	1.00pm
APRIL			
Thursday	3 April	Workshop	9.30am
Thursday	10 April	Workshop	9.30am
Thursday	17 April	Council	1.00pm
Thursday	24 April	Workshop	9.30am
MAY			
Thursday	1 May	Workshop	9.30am
Thursday	8 May	Council	1.00pm
Thursday	15 May	Workshop	9.30am
Thursday	22 May	Workshop	9.30am
Thursday	29 May	Council	1.00pm
JUNE			
Thursday	5 June	Workshop	9.30am
Thursday	12 June	Workshop	9.30am
Thursday	19 June	Council	1.00pm
Thursday	26 June	Workshop	9.30am
JULY			
Thursday	3 July	Workshop	9.30am
Thursday	10 July	Council	1.00pm
Thursday	17 July	Workshop	9.30am
Thursday	24 July	Workshop	9.30am
Thursday	31 July	Council	1.00pm
AUGUST			
Thursday	7 August	Workshop	9.30am
Thursday	14 August	Workshop	9.30am
Thursday	21 August	Council	1.00pm
Thursday	28 August	Workshop	9.30am
SEPTEMBER			
Thursday	4 September	Workshop	9.30am
Thursday	11 September	Council	1.00pm
Thursday	18 September	Workshop	9.30am
Thursday	25 September	Workshop	9.30am
OCTOBER			
Thursday	2 October	Council	1.00pm
Thursday	9 October	PUBLIC HOLIDAY	-
Thursday	16 October	Workshop	9.30am
Thursday	23 October	Council	1.00pm
Thursday	30 October	Workshop	9.30am

NOVEMBER			
Thursday	6 November	Workshop	9.30am
Thursday	13 November	Council	1.00pm
Thursday	20 November	Workshop	9.30am
Thursday	27 November	Workshop	9.30am
DECEMBER			
Thursday	4 December	Workshop	9:30am
Thursday	4 December	Annual General Meeting	5.30pm
Thursday	11 December	Council	1:00pm

2. pursuant to Regulation 6(1) of the Local Government (Meeting Procedures) Regulations 2015 approves by absolute majority, the Council Meetings Policy (Frequency and Commencement Time) (14-PI-001), noting that Council Meetings will start at 1pm and updated to reflect the move to three weekly Council meetings, as detailed below:

Council Meetings Policy (Frequency and Commencement Time)

PURPOSE

The purpose of this policy is to set the:

- commencement times of Council and Council Committee Meetings;
- frequency of Council Meetings; and
- the start time and day of Council's Annual General Meeting.

SCOPE

This policy applies to Council Meetings, Council Committee Meetings and the Annual General Meeting.

POLICY

1. Council Meetings

1.1 The first meeting of the calendar year will be a Council Meeting held on the fourth Thursday in January.

1.2 Subsequent Council Meetings will be held three weekly on a Thursday.

1.3 If the Council Meeting falls on a Thursday that is a public holiday, the Council Meeting will be held on the Wednesday of the same week as the public holiday.

1.4 The final scheduled Council Meeting will be on the second Thursday in December, to avoid having a meeting close to the holiday period.

1.5 Council Meetings commence at 1.00pm.

2. Council Committee Meetings

2.1 The first meeting of a Council Committee will be convened on a day and time to be determined by Council by an absolute majority.

2.2 The day and time of subsequent Council Committee Meetings will be determined by the Council Committee by simple majority.

3. Annual General Meeting

3.1 The Annual General Meeting will be held on the first Thursday in December commencing at 5.30pm.

PRINCIPLES

The Council's organisational values apply to all activities.

RELATED POLICIES & PROCEDURES

Council Meeting and Workshop Schedule (14-Rfx-009)

RELATED LEGISLATION

Local Government Act 1993 (Tas)

Local Government (Meeting Procedures) Regulations 2015

REFERENCES

Not applicable.

DEFINITIONS

Not applicable.

REVIEW

This policy will be reviewed after each ordinary Council election, as required by the *Local Government (Meeting Procedures) Regulations 2015*.

CARRIED BY ABSOLUTE MAJORITY 8:1

FOR VOTE: Mayor Councillor M K Garwood, Deputy Mayor Councillor D H McKenzie, Councillor A E Dawkins, Councillor A G Harris, Councillor Prof G Razay, Councillor J J Pentridge, Councillor L M McMahon and Councillor S Cai
AGAINST VOTE: Councillor T G Walker

21. CHIEF EXECUTIVE OFFICER NETWORK

No items have been identified as part of this Agenda

22. LATE ITEMS

22.1. Acceptance of Urgent Late Item: Committee Report Chief Executive Officer Contract and Performance Review Committee (CPRC)

AUTHOR: Mayor Councillor M K Garwood

DECISION STATEMENT:

To consider accepting an urgent, late item regarding the Committee Report from the Chief Executive Officer Contract and Performance Review Committee (CPRC).

RELEVANT LEGISLATION:

Local Government (Meeting Procedures) Regulations 2015

RECOMMENDATION(S):

That Council:

1. by absolute majority and pursuant to Regulation 8(6) of the *Local Government (Meeting Procedures) Regulations 2015* (Tas), determines to deal with Item 22.2 Committee Report - Chief Executive Officer Contract and Performance Review Committee (CPRC);
 2. by absolute majority and;
 - a) pursuant to Regulation 8(6) of the *Local Government (Meeting Procedures) Regulations 2015* (Tas), determines to deal with item 23.2 Chief Executive Officer's Contract and Performance Review Committee Recommendations; and
 - b) pursuant to regulation 15(2)(a) determines to consider this item in closed session as it relates to personnel matters, including complaints against an employee of the council and industrial relations matters; and
 3. notes the advice from the Chief Executive Officer in respect of the reason it was not possible to include this matter in the agenda, that the matter is urgent, that advice having been provided to Councillor's by email on 26 November 2024 and in the report attached to this Agenda Item.
-

DECISION: 28 November 2024

MOTION

Moved Deputy Mayor Councillor D H McKenzie, seconded Councillor A G Harris.

That Council:

1. by absolute majority and pursuant to Regulation 8(6) of the *Local Government (Meeting Procedures) Regulations 2015* (Tas), determines to deal with Item 22.2 Committee Report - Chief Executive Officer Contract and Performance Review Committee (CPRC);
2. by absolute majority and;
 - a) pursuant to Regulation 8(6) of the *Local Government (Meeting Procedures) Regulations 2015* (Tas), determines to deal with item 23.2 Chief Executive Officer's Contract and Performance Review Committee Recommendations; and
 - b) pursuant to regulation 15(2)(a) determines to consider this item in closed session as it relates to personnel matters, including complaints against an employee of the council and industrial relations matters; and
3. notes the advice from the Chief Executive Officer in respect of the reason it was not possible to include this matter in the agenda, that the matter is urgent, that advice having been provided to Councillor's by email on 26 November 2024 and in the report attached to this Agenda Item.

CARRIED BY ABSOLUTE MAJORITY 9:0

FOR VOTE: Mayor Councillor M K Garwood, Deputy Mayor Councillor D H McKenzie, Councillor A E Dawkins, Councillor A G Harris, Councillor T G Walker, Councillor Prof G Razay, Councillor J J Pentridge, Councillor L M McMahon and Councillor S Cai

AGAINST VOTE: Nil

22.2. Committee Report - Chief Executive Officer Contract and Performance Review Committee (CPRC)

FILE NO: SF5695

AUTHOR: Helen Lever (Director Recruitment, LG Services Group)

APPROVER: Mayor Councillor M K Garwood

DECISION STATEMENT:

To receive a report from the CEO Contract and Performance Review Committee (CPRC).

RECOMMENDATION:

That Council

1. notes the activity of the CEO Contract and Performance Review Committee (CPRC); and
 2. notes that specific outcomes will be considered in closed session at Agenda Item 23.2 Chief Executive Officer's Contract and Performance Review Committee Recommendations.
-

DECISION: 28 November 2024

MOTION

Moved Deputy Mayor Councillor D H McKenzie, seconded Councillor A E Dawkins.

That Council

1. **notes the activity of the CEO Contract and Performance Review Committee (CPRC); and**
2. **notes that specific outcomes will be considered in closed session at Agenda Item 23.2 Chief Executive Officer's Contract and Performance Review Committee Recommendations.**

CARRIED 9:0

FOR VOTE: Mayor Councillor M K Garwood, Deputy Mayor Councillor D H McKenzie, Councillor A E Dawkins, Councillor A G Harris, Councillor T G Walker, Councillor Prof G Razay, Councillor J J Pentridge, Councillor L M McMahon and Councillor S Cai

AGAINST VOTE: Nil

23. CLOSED COUNCIL

This decision requires an absolute majority of Council

RECOMMENDATION:

That Council moves into Closed Session to consider the following matters:

23.1. Confirmation of the Minutes

REASON FOR CLOSED COUNCIL:

Regulation 35(6) of the Local Government (Meeting Procedures) Regulations 2015 states that at the next closed meeting, the minutes of a closed meeting, after any necessary correction, are to be confirmed as the true record by the council or council committee and signed by the chairperson of the closed meeting.

23.2. Chief Executive Officer's Contract and Performance Review Committee Recommendations

REASON FOR CLOSED COUNCIL:

This item is **CONFIDENTIAL** in accordance with regulation 15(2) (a) of the *Local Government (Meeting Procedures) Regulations 2015*, which permits the meeting to be closed to the public for business relating to the following:

- (a) personnel matters, including complaints against an employee of the council and industrial relations matters.

23.3. End of Closed Session

DECISION: 28 November 2024

MOTION

Moved Councillor A G Harris, seconded Councillor J J Pentridge.

That Council moves into Closed Session.

CARRIED BY ABSOLUTE MAJORITY 9:0

FOR VOTE: Mayor Councillor M K Garwood, Deputy Mayor Councillor D H McKenzie, Councillor A E Dawkins, Councillor A G Harris, Councillor T G Walker, Councillor Prof G Razay, Councillor J J Pentridge, Councillor L M McMahon and Councillor S Cai

AGAINST VOTE: Nil

Council moved into Closed Session at 2.46pm.
Council returned to Open Session at 3.03pm.

23.3. End of Closed Session

DECISION: 28 November 2024

MOTION

Moved Councillor A G Harris, seconded Councillor J J Pentridge.

That Council:

1. pursuant to Regulation 34(1)(b) of the *Local Government (Meeting Procedures) Regulations 2015*, resolves to report in Open Session that it has considered the following matters in Closed Session:

Minutes Item	Matter	Brief Description
23.1	<i>Closed Council Minutes – 14 November 2024.</i>	<i>Confirmation of the Minutes of the Closed Meeting of the City of Launceston Council held on 14 November 2024.</i>
23.2	<i>Chief Executive Officer's Contract and Performance Review Committee Recommendations</i>	<i>Endorsed the Chief Executive Officer's Contract and Performance Review Committee Recommendations</i>

CARRIED 9:0

FOR VOTE: Mayor Councillor M K Garwood, Deputy Mayor Councillor D H McKenzie, Councillor A E Dawkins, Councillor A G Harris, Councillor T G Walker, Councillor Prof G Razay, Councillor J J Pentridge, Councillor L M McMahon and Councillor S Cai

AGAINST VOTE: Nil

24. MEETING CLOSURE

The Mayor, Councillor M K Garwood, closed the Meeting at 3.03pm.

25. NEXT COUNCIL MEETING DATE

The next Ordinary Meeting of Council will be held at 1.00pm on 12 December 2024 at the Council Chambers, Town Hall, 18-28 St John Street, Launceston.