

ORDINARY COUNCIL - 28 November 2024 Attachments

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

FILE NO: DA0402/2024

AUTHOR: Duncan Payton (Town Planner)

ACTING GENERAL MANAGER: Michelle Ogulin (Community and Place Network)

ATTACHMENT ONE:

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

3. PLANNING SCHEME REQUIREMENTS

3.1 Zone Purpose

8.0 General Residential Zone

The purpose of the General Residential Zone is:

8.0.1 To provide for residential use or development that accommodates a range of dwelling types where full infrastructure services are available or can be provided.

8.0.2 To provide for the efficient utilisation of available social, transport and other service infrastructure.

8.0.3 To provide for non-residential use that:

(a) primarily serves the local community; and

(b) does not cause an unreasonable loss of amenity through scale, intensity, noise, activity outside of business hours, traffic generation and movement, or other off site impacts.

8.0.4 To provide for Visitor Accommodation that is compatible with residential character.

Consistent

The proposal is consistent with the purpose of the zone to provide for Visitor Accommodation that is compatible with residential character. The character of Bedford Street is predominately residential, with existing Visitor Accommodation use interspersed and commercial uses at either end.

The proposal will add an additional Visitor Accommodation use interspersed with the dominant residential use and retain the commercial use at either end of the street. Of the 15 dwellings in the street 80% will remain residential.

8.3.2 Visitor Accommodation

That Visitor Accommodation:

<p>(a) is compatible with the character and use of the area;</p> <p>(b) does not cause an unreasonable loss of residential amenity; and</p> <p>(c) does not impact the safety and efficiency of local roads or rights of way.</p>
<p>Consistent</p> <p>The character of the area is predominately residential and includes existing Visitor Accommodation uses interspersed with the existing dwellings. The introduction of an additional Visitor Accommodation use will remain compatible with the existing uses. It is not considered that there will be an unreasonable loss of residential amenity, with 80% of the existing dwellings remaining in Residential use. The change of use of one property from residential to Visitor Accommodation is not considered to have an adverse impact on the safety and efficiency of the local roads.</p>
<p>A1 Visitor Accommodation must:</p> <p>(a) accommodate guests in existing habitable buildings; and</p> <p>(b) have a gross floor area of not more than 200m² per lot.</p>
<p>Complies</p> <p>The proposed Visitor Accommodation use will be in the existing dwelling at 24 Bedford Street, with a gross floor area of less than 200m², at some 78m².</p>
<p>A2 Visitor Accommodation is not for a strata lot that is part of a strata scheme where another strata lot within that strata scheme is used for a residential use.</p>
<p>Relies on Performance Criteria</p> <p>The subject site is part of a strata scheme encompassing 24, 26, 28 and 30 Bedford Street. Performance criteria are relied upon.</p>
<p>P2 Visitor Accommodation within a strata scheme must not cause an unreasonable loss of residential amenity to long term residents occupying other strata lots within the strata scheme, having regard to:</p> <p>(a) the privacy of residents;</p> <p>(b) any likely increase in noise;</p> <p>(c) the residential function of the strata scheme;</p> <p>(d) the location and layout of the strata lots;</p> <p>(e) the extent and nature of any other non-residential uses; and</p> <p>(f) any impact on shared access and common property.</p>
<p>Complies</p> <p>Having regard to the following, the proposed Visitor Accommodation use of the existing dwelling at 24 Bedford Street, the eastern-most lot within the strata scheme, will not cause an unreasonable loss of residential amenity to long term residents occupying other strata lots within the strata scheme, given the linear layout of the strata lots, effectively presenting as four dwellings, in two conjoined pairs, on four individual lots.</p> <p>(a) No change to the existing dwelling is proposed and there will be no change to the existing privacy of the adjoining dwelling.</p> <p>(b) Notwithstanding that, like with long term residents, there may be times when occupants make additional noise, with an average occupancy for short term stays in Launceston of around 58%, there will be frequent nights when the property is vacant and there is no noise. It is likely that the overall noise from the site will be less than that reasonably expected from long term residents.</p> <p>(c) The existing strata scheme consists of four dwellings in two conjoined pairs. The proposal will result in one of each pair remaining Residential and the other being for Visitor Accommodation. The conversion of a property from the provision of long-term accommodation to the provision of short or medium-term accommodation results, in essence, in very little change to the residential function of the property and therefore the apparent residential function of the strata scheme.</p>

- (d) The strata lots are laid out in a linear row consistent with the presentation of the street as individual residential properties. This will not change.
- (e) Two existing Visitor Accommodation sites are interspersed within the cluster of what presents as 15 Residential properties that set the character of the street. There is a mix of commercial uses at either end of Bedford Street.
- (f) There are no shared accesses or common property within the strata scheme. Notwithstanding this, all four properties have a right of way over the adjoining public park to the rear of the site. It is not proposed to use this right of way in conjunction with the visitor accommodation use.

It is considered that the performance criteria are satisfied.

C2.0 Parking and Sustainable Transport Code

The purpose of the Parking and Sustainable Transport Code is:

C2.1.1 To ensure that an appropriate level of parking facilities is provided to service use and development.

C2.1.2 To ensure that cycling, walking and public transport are encouraged as a means of transport in urban areas.

C2.1.3 To ensure that access for pedestrians, vehicles and cyclists is safe and adequate.

C2.1.4 To ensure that parking does not cause an unreasonable loss of amenity to the surrounding area.

C2.1.5 To ensure that parking spaces and accesses meet appropriate standards.

C2.1.6 To provide for parking precincts and pedestrian priority streets.

Consistent

Given that the existing dwelling relies on on-street parking or alternative transport and that short-term residents are unlikely to create a greater parking demand than long-term residents, the proposal is compatible with the purpose of the zone to ensure appropriate parking, and encourage walking and alternative transport.

C2.5.1 Car parking numbers

That an appropriate level of car parking spaces are provided to meet the needs of the use

Consistent

A1 The number of on-site car parking spaces must be no less than the number specified in Table C2.1, less the number of car parking spaces that cannot be provided due to the site including container refund scheme space, excluding if:

- (a) the site is subject to a parking plan for the area adopted by council, in which case parking provision (spaces or cash-in-lieu) must be in accordance with that plan;
- (b) the site is contained within a parking precinct plan and subject to Clause C2.7;
- (c) the site is subject to Clause C2.5.5; or
- (d) it relates to an intensification of an existing use or development or a change of use where:
 - (i) the number of on-site car parking spaces for the existing use or development specified in Table C2.1 is greater than the number of car parking spaces specified in Table C2.1 for the proposed use or development, in which case no additional on-site car parking is required; or
 - (ii) the number of on-site car parking spaces for the existing use or development specified in Table C2.1 is less than the number of car parking spaces specified in Table C2.1 for the proposed use or development, in which case on-site car parking must be calculated as follows:
 - $N = A + (C - B)$
 - N = Number of on-site car parking spaces required
 - A = Number of existing on site car parking spaces

<p>B = Number of on-site car parking spaces required for the existing use or development specified in Table C2.1 C= Number of on-site car parking spaces required for the proposed use or development specified in Table C2.1.</p>
<p>Complies The Acceptable Solution requires the provision of on-site parking spaces in accordance with Table C2.1, unless: ...</p> <p>(d) it relates to an intensification of an existing use or development or a change of use where: (i) the number of on-site car parking spaces for the existing use or development specified in Table C2.1 is greater than the number of car parking spaces specified in Table C2.1 for the proposed use or development, in which case no additional on-site car parking is required.</p> <p>The proposal satisfies this clause as:</p> <ul style="list-style-type: none"> • The proposal is for a change of use; • The existing use is Residential and Table C2.1 requires 2 car parking spaces; • The proposed use is Visitor Accommodation and Table C2.1 requires 1 car parking space. <p>The rationale for this is that as Visitor Accommodation requires less car parking than the Residential use, there will, therefore, be less demand for parking and therefore less impact on the surrounding area. Compliance with the Table C2.1 is not required.</p>

C2.5.2 Bicycle parking numbers

That an appropriate level of bicycle parking spaces are provided to meet the needs of the use.
Consistent
A1 Bicycle parking spaces must: (a) be provided on the site or within 50m of the site; and (b) be no less than the number specified in Table C2.1.
Complies There is no requirement for bicycle parking for the Visitor Accommodation use class.

C2.5.3 Motorcycle parking numbers

That the appropriate level of motorcycle parking is provided to meet the needs of the use.
Consistent
A1 The number of on-site motorcycle parking spaces for all uses must: (a) be no less than the number specified in Table C2.4; and (b) if an existing use or development is extended or intensified, the number of on-site motorcycle parking spaces must be based on the proposed extension or intensification, provided the existing number of motorcycle parking spaces is maintained.
Complies There is no requirement for motorcycle parking applicable to this proposal.

C2.6.3 Number of accesses for vehicles

That:
(a) access to land is provided which is safe and efficient for users of the land and all road network users, including but not limited to drivers, passengers, pedestrians and cyclists by minimising the number of vehicle accesses;
(b) accesses do not cause an unreasonable loss of amenity of adjoining uses; and

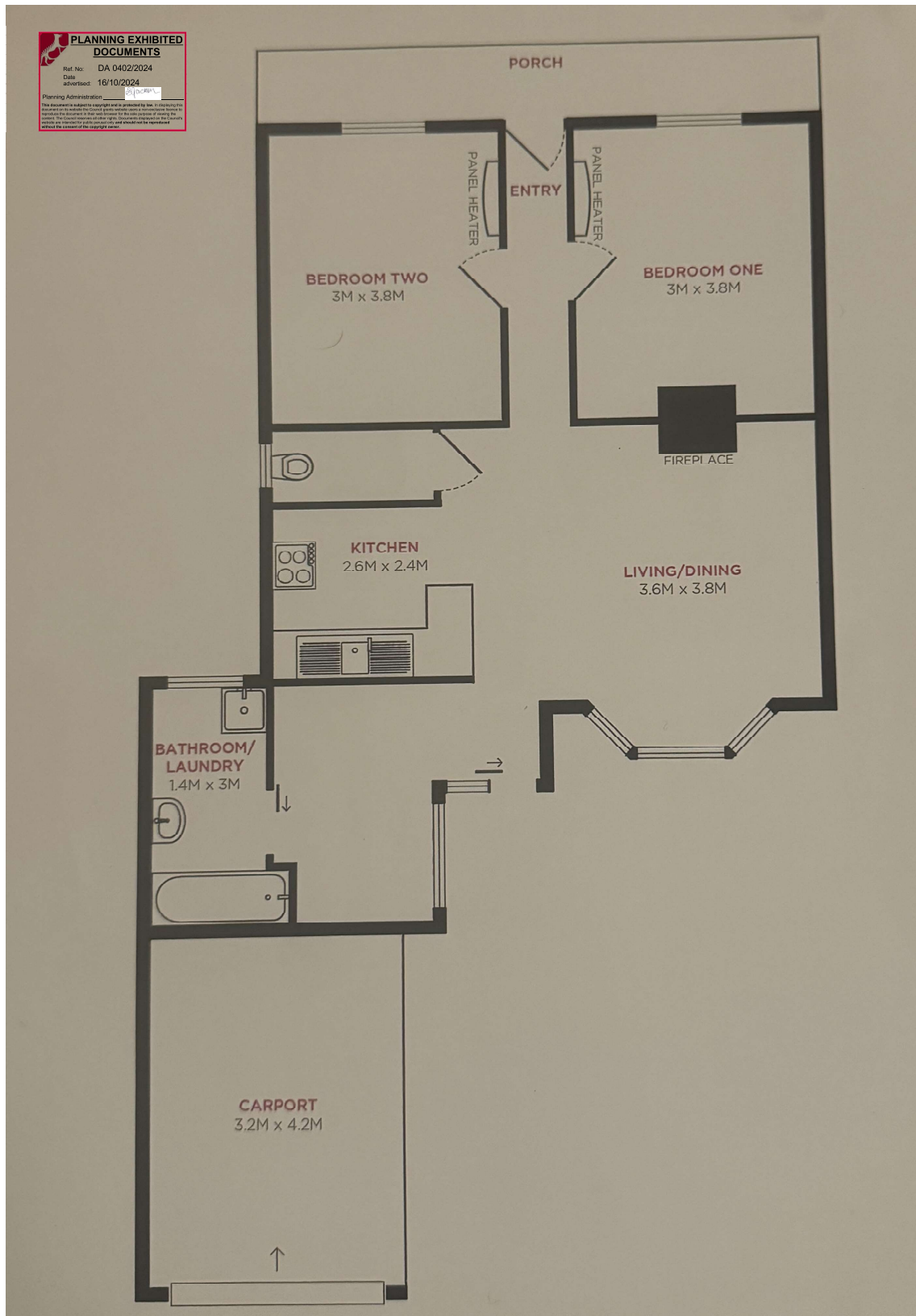
(c) the number of accesses minimise impacts on the streetscape.
Consistent
A1 The number of accesses provided for each frontage must: (a) be no more than 1; or (b) no more than the existing number of accesses, whichever is the greater.
Complies
The site does not have access for vehicles from Bedford Street and no new access is proposed.

LAU-S10.0 Invermay/Inveresk Flood Inundation Specific Area Plan

The purpose of the Invermay/Inveresk Flood Inundation Specific Area Plan is: LAU-S10.1.1 To reduce risks and hazards from flooding in the Invermay/Inveresk flood inundation area. LAU-S10.1.2 To require that new development is sited and designed to minimise the impact of flooding. LAU- S10.1.3 To require the consideration of the siting, design and emergency response capability of new development on land subject to flood inundation.
Consistent

LAU-S10.6 Use Standards

To prevent unacceptable uses from establishing in areas subject to, or isolated by, flood inundation.
Consistent
A1 Use, must not be for: (a) Education and Occasional Care, excluding in the Inveresk Cultural Precinct; (b) Emergency Services; or (c) Hospital Services.
Complies
The proposed use is Visitor Accommodation.
A2 Use must not be for Residential use, excluding: (a) a single dwelling in the Invermay Residential or Inveresk Residential precincts; (b) a multiple dwelling in the Invermay Residential Precinct; or (c) associated with and supporting the educational activities within the Inveresk Cultural Precinct.
Complies
The proposal is for Visitor Accommodation which is not within the Residential use class.
A3 Use must not be for Community Meeting and Entertainment in the Riveredge Industrial or Inveresk Residential precincts, excluding a museum in the Riveredge Industrial Precinct; and located in the Light Industrial Zone or Commercial Zone.
Complies
The proposed use is Visitor Accommodation.



File No: N/A

Your Ref: DAPBILL2024_V1

8 November 2024

State Planning Office
Department of Premier and Cabinet
GPO Box 123
HOBART TAS 7001

CC: yoursay.planning@dpac.tas.gov.au

Dear Sir/Madam,

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

The City of Launceston welcomes the opportunity to provide feedback on the draft *Land Use Planning and Approvals (Development Assessment Panels) Bill 2024*. We acknowledge that this bill has been prepared following a review of submissions received during the exhibition of a Position Paper on the proposed Development Assessment Panel (DAP) framework in late 2023.

It is acknowledged and appreciated that the majority of the concerns raised in Council's written feedback on the Position Paper have been discussed in the Report on Consultation, however non-support for the proposed DAP framework remains. Below are comments on existing concerns raised by Council, as well as some additional concerns identified with changes that have been made following the preparation of the draft DAP Bill.

Please note that the following comments are Council officer level only as an extension of time to allow Council to consider and endorse a formal submission at its general meeting on 14 November was not granted by the Minister.

Role of Council as a planning authority

As noted in our previous feedback, City of Launceston's elected councillors are fully aware of their responsibilities as a planning authority and have performed effectively in this role for many years.

It is acknowledged that there may be some situations where the democratic pretension of a Council can override their role as a planning authority, however existing appeal pathways are available, in the form of TasCAT or the Tasmanian Planning Commission, to review and amend certain planning decisions if determined necessary.

Applicable development applications

It is acknowledged and appreciated that an eligibility criterion for development applications has been outlined in the draft DAP Bill, with a combination of development types, uses, financial thresholds and where conflicts of interest are identified. However, concern remains with the opportunity for an applicant to directly request the Minister assess an application through DAP if they consider the application to be of local or state significance or likely to be controversial.

'Significance' and 'controversial' are both subjective terms that are not clearly defined in the draft DAP Bill, leaving the potential for conflicted interpretations between applicant, local council or State government. As a result, the proposed DAP framework may provide the most contentious applications with a greater opportunity to circumvent the adopted planning direction of councils, resulting in the local community needs and views to not be appropriately considered.

Appeal rights

It is acknowledged that the State Planning Office's (SPO) position is that the DAP framework would be a robust, legally sound process that "obeys the rules of natural justice", and the opportunity for a right of appeal would only introduce unnecessary time delays and costs to the community.

Although it is appreciated that this is the intention of the DAP framework, we are of the view that determinations made by DAP should be subject to a TasCAT (or a higher independent body) appeal rights to ensure that there is a recourse for errors or oversights made through the process.

Referral process and timeframes for DAP

It is acknowledged that amendments have been made to the assessment timeframe for varying DAP applications, however concern remains that these assessment times are still too long and are counter-intuitive to 'speeding up' development approvals. Concern also remains the proposed timing on when a development application can be referred to DAP for consideration. As noted in our previous feedback, development applications that are to be considered by a DAP should occur at the commencement of the process to ensure resources are being effectively used and to provide transparency to all stakeholders.

Ministerial direction to initiate a planning scheme amendment

It is acknowledged that Section 40C of the *Land Use and Planning Act 1993* (the Act) currently permits the Minister to direct a planning authority to initiate a draft planning scheme amendment relating to specific criteria.

It remains unclear as to the intention of amending Section 40C of the Act as part of the draft DAP Bill, as there seems to be no substantive connection between the opportunity and operation of a DAP and the proposed Ministerial Direction. It is noted that consideration of the proposed Ministerial Direction for planning scheme amendments should be undertaken as a separate consultation and implementation process with stronger justification than what is currently provided.

In summary, we remain opposed to the proposed DAP framework in its current form. Notwithstanding, we welcome the opportunity to provide further feedback during the proposed fee arrangement process and/or any additional feedback relating planning matters if required. Any comments in relation to this letter can be directed to Michelle Ogulin, Acting General Manager - Community and Place.

Yours sincerely



**Sam Johnson OAM GAICD
Chief Executive Officer**



Quarterly Report - July to September 2024

In accordance with the Rule 26 of the *Launceston Flood Authority Rules, April 2020* the Authority must submit a report to Council for the periods ending March, June, September and December. This report is for the period ending 30 September 2024.

Key priorities for the coming quarter

- Finalise and submit 5 year comprehensive reporting.
- Undertake closure exercise of Taroona Street Flood Gate (KG2) at Riverbend Park.
- Finalise preparation for Hart Street Gate road resealing.
- Organise next quarterly levee inspections.
- Prepare and complete levee flood patroller training.
- Progression and submission of Flood Mitigation Strategy to Councillors.
- Completion of Track Safety Awareness for staff involved in railways gates (EG2/3).

Operational and Compliance Activities

Following on from physical inspections of all levees in June, full defect reporting was provided by the expert consultant pitt&sherry. This documentation enabled analysis and prioritisation of defects and the timelines for remediation. It forms a major part of the 5 year comprehensive report, which is currently being collated and is expected to be submitted to the regulator, NRE Tas, by the end of the year.

The next quarterly physical inspection of the levees is expected to be completed by December due to the comprehensive nature of the June inspections, and availability of levee patrollers for training.

Current Works

Invermay Levee Reinstatement

The Invermay Levee reinstatement was completed on site in April 2024. The final construction quality assurance (CQA) reporting has been accepted by the regulator, NRE Tas, confirming completion of dam permit works.

Re-establishment of grass cover on the levee has progressed well with rainfall in recent months providing the necessary conditions. Low cutting of all reinstated sections has now occurred, delayed initially due to soft ground conditions. The weeds have been managed through targeted herbicide, with regular monitoring ongoing for any defects during the contractor's 12 months defects period.

Monthly level survey continues, with no significant settlement observed post works.



Quarterly Report - July to September 2024



View along Invermay Levee towards Tamar St

Rectification Works - City Levee (Willis Street / Boland Street)

While rectification works for the damaged section of City Levee in the vicinity of Willis Street / Boland Street were completed in July, grass reestablishment has been challenging. Due to weather conditions and pedestrian traffic, grass re-establishment is an ongoing problem which the contractor, Fairbrother, is managing. They have committed to returning to site once the weather starts warming to re-dress and re-seed. CoL erected some protective barriers in September which greatly improved regrowth until re-dressing occurs.

With respect to ongoing management of this levee, the presence of patches of unstable clay and the depth of gravel raises questions about the section of levee between this site and the Charles Street Bridge. Consideration is being given to the benefits of detailed investigations of this levee section.

Tamar Estuary River Health Action Plan (TERHAP)

Progress continues on the TERHAP projects that are targeted at improving the health of the kanamaluka/Tamar estuary.

On the Ti Tree Bend Covered Storage Project, the extensive Mass Soil Mixing works have been completed, and piling works are underway to form the foundation for the future 10 megalitre-covered storage tank.

At the New Margaret Street Pump Station, the second sewage screen has been installed, the electrical switchboards are fully commissioned, ensuring the pump station is ready to support the new pipeline and future emergency storage tank.

Pressure testing on the last section of the new pipeline at Trevallyn is now completed, along with works to reinstate the ground, and lay new asphalt on the impacted public pathways.



Quarterly Report - July to September 2024

Emergency Management

Severe Weather Event Aug/Sept

High winds, tides and rainfall from 31 August to 3 September prompted the mobilisation of an Incident Management Team (IMT) to coordinate a response. The high tides caused intermittent road closures, while wind gusts of up to 120 km/h resulted in debris and fallen trees, impacting road access, public safety, and causing traffic signal outages. Significant power outages were experienced across the City and Invermay, taking the Willis Street and Racecourse Crescent pump stations offline, necessitating the deployment of mobile pumps to reduce water levels in these areas following rainfall. Moderate flooding occurred on the North Esk River, peaking on the afternoon 2 September. Six penstocks were closed in Newstead, Invermay, and East Launceston, and were reopened as the tides and flooding receded. A third mobile pump was deployed to Newstead to extract water out of penstock chambers. This also provided an opportunity to test a new staging location at NP4, which connects to the Birch Avenue Detention Basin. This basin had experienced significant inundation during the October 2022 flood.

A review of the event was conducted, highlighting nine key areas and identified lessons. These include:

- Redundancy of infrastructure systems during elongated power outages and business continuity planning.
- Development of a QVMAG Disaster Management Plan.
- External communications to community during elongated power outages to circumnavigate social media.
- Staff fatigue and safety.
- Improvements to technology and systems including the Grafana flood gauge dashboard.

Gate, penstock and tide flap closures

As part of as part of routine maintenance and emergency preparedness, closure and monitoring of flood gates, penstocks and tideflaps is in progress. In July, 11 of the 13 sliding gates and 3 of the 6 Bauer gates were closed and defects identified. The excluded gates, the two Railways gates (EG2/3) and the Charles Street Bridge Gates (IG1/CG2), are not due for closure until next year.

Overall, the gates performed well, with a small number of defects identified. While several defects were resolved on-site, some require greater consideration which we will work to resolve over the coming months. These exercises were an effective way to prepare and train gate crews in closure procedures while conducting annual maintenance and inspections. The remaining gates, Tarooma Street Gate (KG2) at the entrance to Riverbend Park and Newstead Gate (NG1) on Hart Street will be closed in the coming months with exact dates yet to be confirmed.

Penstock and tide flap monitoring is also underway. Safety concerns over accessing tide flaps at the back of QVMAG have been raised. Due to the depth and distance from shore the mud presents a safety risk and challenging conditions. Discussions are in progress as to possible re-designs of these tide flaps. In light of these risks, we are utilising drones to perform initial inspections of all tide flaps, which may then prompt further physical inspections.



Quarterly Report - July to September 2024



Closure of the Glebe Farm Gate (EG1). The length and weight of this log is of concern and is planned for rectification



Closure exercise of Holbrook Street Gate/ Telstra gate (IG2), placing one of the logs in place



Quarterly Report - July to September 2024



Image capture from drone footage of tide flap taken 24 July 2024, front view



Image capture from drone footage of tide flap taken 24 July 2024, top view



Quarterly Report - July to September 2024

Incident Management Team Training

Internal training for both the IMT and Evacuation Centre teams was conducted in July and August.

Council have completed the development of internal Training material (in line with AIIMS) for all functional roles in the Incident Management Team. Training has been rolled out to the Operations, Planning, Logistics and Incident Controller functions. In total 25 council officers have undertaken training.

An Evacuation Centre Activation Exercise was conducted on 7 August with 28 centre staff. The aim of the exercise was to provide a safe environment where Evacuation Centre staff can practise the activation process and familiarise themselves with the physical set up of a centre. This was a scenario-based exercise where teams were asked to open a centre within a restricted timeframe. It was the first time a large proportion of the team had done any form of evacuation centre exercise training.

Disaster Ready Fund - Flood Intelligence & Early Warning Detection

City of Launceston staff are progressing the Disaster Ready Fund project, specifically the installation of additional CCTV to monitor flood conditions across the floodplain and upgrades to the river level sensors minimise outages during a flood event.

After some delays, the cameras at the Silos Hotel are likely to be installed during mid-November. An installation team has been selected and they are currently fabricating the mounting brackets ready for the installation.

A site visit occurred on 16th of August to scope a stationary camera overlooking the low points on Henry St. The installation and implementation of the camera has been advertised to the market with installation timeframes and requirements to be confirmed when a vendor is selected. It is currently on target to be installed before the end of the year.

Focus for the coming months will be to undertake further consideration of the North Esk catchment response to inform additional gauge locations and/or emergency management plans.

SES Community Flood Guides

SES has recently released the public facing Levee Protected Area community flood guides for:

- Invermay
- Newstead
- Launceston (Margaret Street area)
- Launceston City and East Launceston

This guide is to help the community understand flood risk in their particular areas and provide information on what the community can do to prepare for, respond and recover from a major flood.

These are available on the SES website, on the CoL website and at the physical Emergency Management Hub in CoL customer service.



Quarterly Report - July to September 2024

SES website <https://www.ses.tas.gov.au/plan-prepare/flood-plan/>

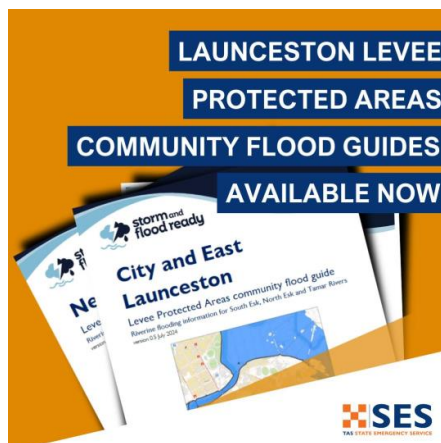


Image Shared on the SES Facebook Page accompanying the release of the documents - 22 July 2024

Financial Performance as at 30 September 2024

- Revenue for the period is \$7,930 favourable, as a result of reimbursements from UTAS for Boland Street rectifications work.
- Expenditure for the period is \$66,426 favourable as a result of:
 - Labour unfavourable variance of \$5,624.
 - Materials and Services favourable variance of \$98,074 due to operational projects being under budget year to date, this is a timing difference and is expected to correct through the year.
 - Contribution income from City of Launceston unfavourable variance of \$47,042 due to timing difference, this will correct through the year.
 - Other expenses total favourable variance of \$15,394
- Including depreciation and full cost attribution, there is overall favourable variance is \$68,733, resulting in a net surplus of \$198,622. This is expected to be expended through the rest of the year.

A handwritten signature in blue ink, appearing to read 'Greg Preece'.

Greg Preece, Chair
Launceston Flood Authority

From: "Ombudsman" <Ombudsman@ombudsman.tas.gov.au>
Sent: Fri, 23 Aug 2024 12:44:19 +1000
To: "Contact Us" <contactus@launceston.tas.gov.au>
Subject: Ombudsman 2024 Review of Public Interest Disclosure procedures - City of Launceston
Attachments: City of Launceston PID review approval 230824.pdf

You don't often get email from ombudsman@ombudsman.tas.gov.au. [Learn why this is important](#)

Good afternoon,

Please find attached our letter from the Ombudsman regarding the 2024 review of your Public Interest Disclosure Procedures.

Kind regards,
Carmen



Carmen Charlier
Senior Investigation Officer (Public Interest Disclosures)
Office of the Ombudsman

p 1800 001 170 or (03) 616 64566
w www.ombudsman.tas.gov.au
Level 6, 86 Collins St, Hobart, TAS 7000 | GPO Box 960 Hobart TAS 7001

The Office of the Ombudsman and Health Complaints Commissioner (Tasmania) acknowledges the traditional owners of country throughout Australia and their continuing connection to land, culture and community. We pay our respects to elders past and present.

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Ombudsman Tasmania

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Email: ombudsman@ombudsman.tas.gov.au
Web: www.ombudsman.tas.gov.au



23 August 2024

Mr Sam Johnson
Chief Executive Officer
City of Launceston

By email: contactus@launceston.tas.gov.au

Dear Mr Johnson,

Public Interest Disclosure procedures approval – 2024 review

Thank you for forwarding a copy of the City of Launceston's draft *Public Interest Disclosures Procedures* for my review.

I approve the procedures, subject to the comments below. Please note that the procedures need to be reviewed in three years' time and diarise this date accordingly. The date of this letter and the due date for review should be inserted in Section 19 on page 24 of your procedures.

- In Section 7.1(i) Improper Conduct on page 9, please move to a new line the words "*that is serious or significant as determined in accordance with guidelines issued by the Ombudsman.*" This wording applies to all the conduct listed from (a) to (i).
- Please amend reference no 4 at the bottom of page 9 to *Guideline One: Serious or Significant Improper Conduct*.
- Please amend references to Attachment 3 (not 4) on pages 15, 16, 18 and 21

I note your comments that you are presently appointing new PID officers and will update your procedures to reflect the new contact details once known. Council may consider establishing a dedicated email address to accept disclosures, accessible only to the Principal Officer and PID officers appointed from time to time into the positions outlined in the procedures. This would assist in maintaining up to date contact details for disclosures and ensure the procedures remain up to date.

Please do not hesitate to contact me or Carmen Charlier, Senior Investigation Officer, if you have any questions.

Yours sincerely

Richard Connock
OMBUDSMAN

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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
- ~~General Manager Organisational Services Network – Louise Foster~~
- ~~Manager People and Culture – Roxanne Chugg~~
- ~~Manager Governance – Leanne Purchase~~

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17 PUBLISHING STATISTICS	2423	Field Code Changed
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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.

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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 respect.
- In the case of investigation by the Ombudsman, it gives the Ombudsman the power to provide

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.

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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 1-4 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.

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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"; ~~and~~
- 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 her²;
- 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 ~~from within the public body employed by CoL~~ or a consultant engaged for that purpose. ~~They must not be responsible for assessing or investigating the~~

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

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[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:

- 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;

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

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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
- 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

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

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- 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	Person to whom <u>Where</u> 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
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

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Officer or public body to which the disclosure relates	Person to whom Where the disclosure may be made
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 Oqulin, Manager Liveable Communities - Community and Place Network](#)
- [Julie Clements, Leader Business Support \(QVMAG\) - Creative and Cultural Services Network](#)
- ~~General Manager Organisational Services Network~~
- [Roxanne Chugg, Manager People and Culture - Organisational Services Network](#)
- ~~Manager Governance~~

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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.oqulin@launceston.tas.gov.au

julie.clements@launceston.tas.gov.au

louise.foster@launceston.tas.gov.au

leanne.purchase@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

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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)

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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:

~~Tasmanian~~ 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

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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.

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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

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- 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 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

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?](#)

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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 ~~3-1~~ 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

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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 34;
- 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 34; 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

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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

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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 3-1 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 3-4 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.

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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

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.

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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.

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 ~~his or her~~^{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

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

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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 [34](#).

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

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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);

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- 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;

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- 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~~ 13 April 2021.

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

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

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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. 12 April 2024.~~

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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

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- 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.

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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

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- 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?	

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Part	Question	Answer
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:

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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

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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:

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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.

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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:

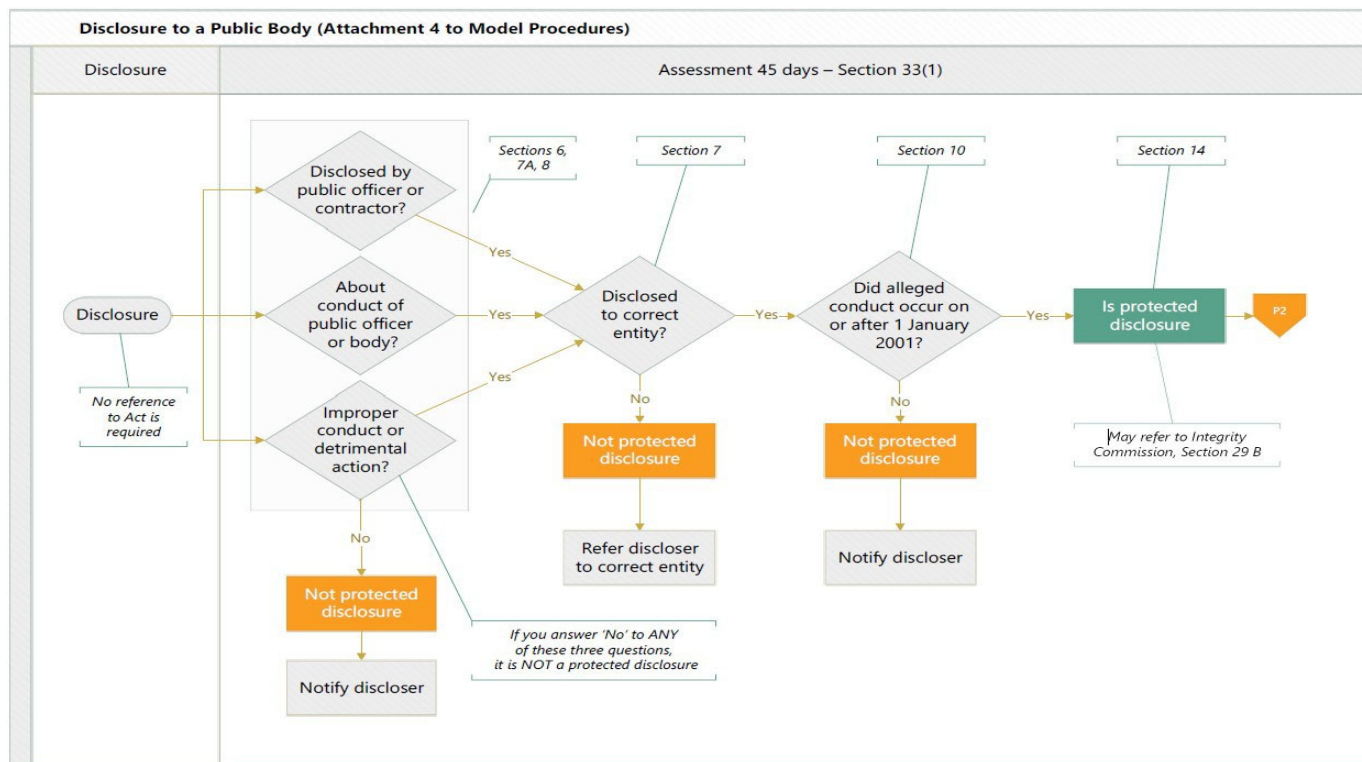
- Section 34 – Determination that disclosure is a public interest disclosure
Notification to be made within 14 days of decision
- Section 35 – Determination that disclosure is not a public interest disclosure
Notification to be made within 14 days of decision
- Section 65 – Decision not to investigate 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:

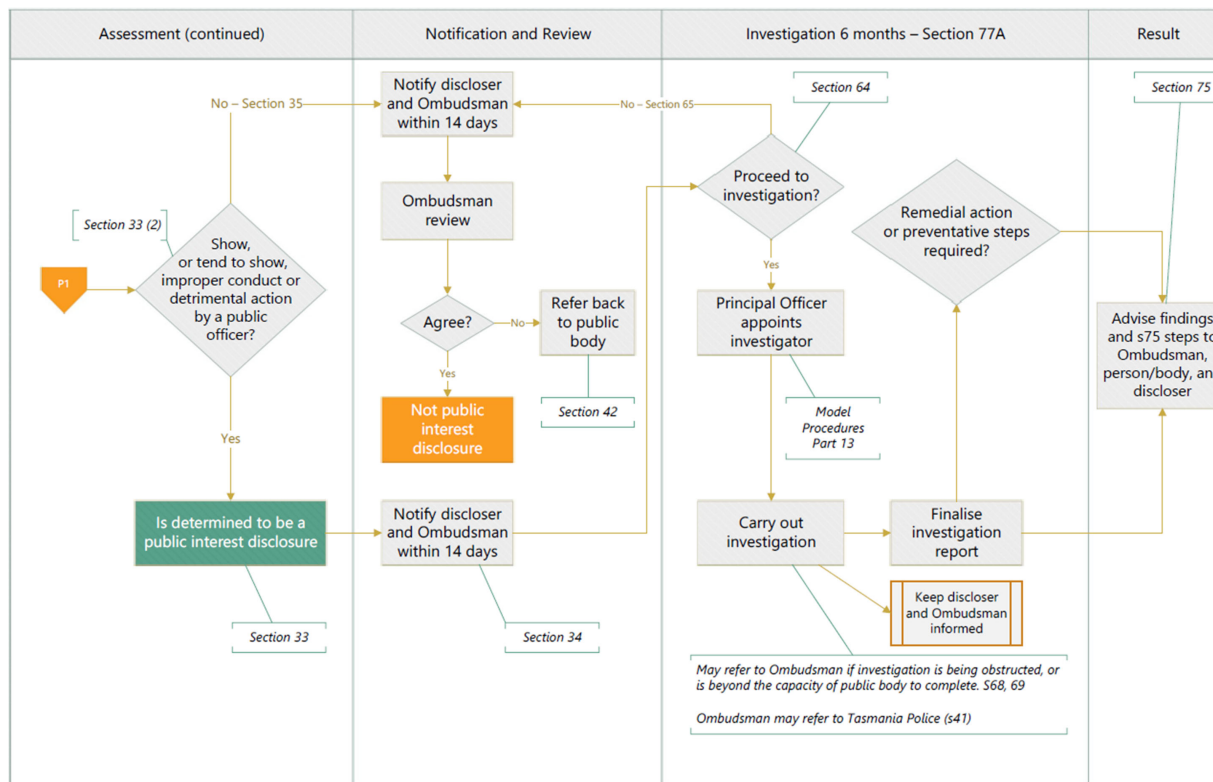
- Copy of original disclosure or record of oral disclosure
- Disclosure assessment
- Risk assessment/s
- Investigation report including:
 - the transcript or other record of any oral evidence taken, including audio or video recordings; and
 - all documents, statements or other exhibits received by the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

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Attachment 4
Flowchart - Disclosure to a Public Body



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CITY OF LAUNCESTON – Public Interest Disclosure Procedure

DOCUMENT INFORMATION

Reference number	14-HLPix-005
Version	13/4/2024
Review	12/04/2024
Key function	Governance
Document type	High Level Procedure
Responsible Network	Organisational Services Network
Approved by	Ombudsman then Council
Action Officer	Leanne Purchase
Text search key words	public interest disclosure improper corrupt conduct detrimental action whistleblower principal officer

To be communicated to (To be identified by Approver) (Insert ✓ in relevant row)	Department/Area only
	Network via General Manager and Team Managers
	Specific Areas:
	<input type="checkbox"/> Chief Executive Officer <input checked="" type="checkbox"/> General Manager Organisational Services Network <input type="checkbox"/> Manager Governance <input type="checkbox"/> Manager People and Culture
	<input checked="" type="checkbox"/> Organisation-wide
	<input checked="" type="checkbox"/> Website
Intranet (via a link)	
External notification e.g. Department Premier and Cabinet, Director Public Health, Tasmania Police	
<input type="checkbox"/>	

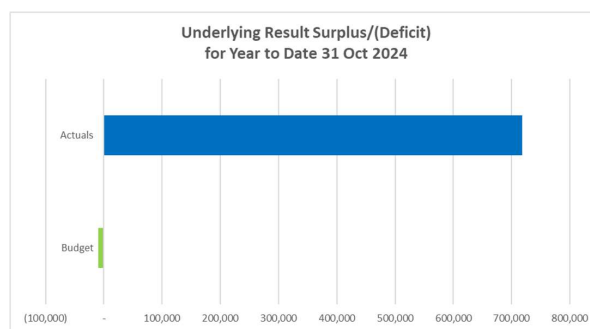
Hard copy distribution	Councillors
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NOTE: Always check to ensure you have the latest version of the document. Document Information Page 1 of 1
Printed: 09/01/2022

CITY OF LAUNCESTON
Statement of Comprehensive Income
For Year to Date 31 October 2024



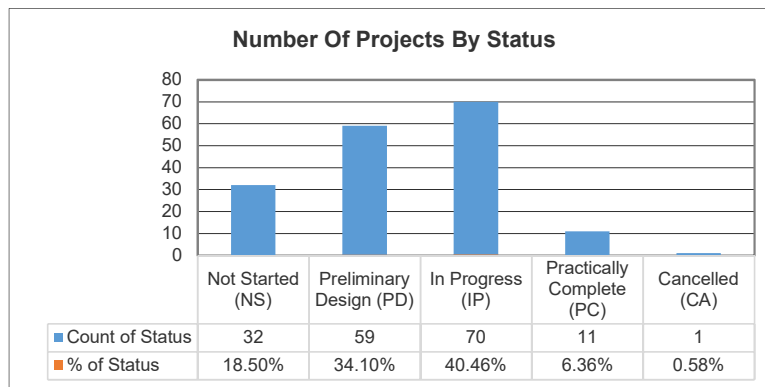
	2024/25 YTD \$ Actual	2024/25 YTD \$ Budget	Variance YTD \$ Fav/(Unfav)
REVENUES FROM ORDINARY ACTIVITIES			
Rates	29,217,193	29,397,176	(179,983)
User Fees & Charges	9,606,725	9,264,308	342,417
Statutory Fees & Charges	2,346,902	2,090,512	256,389
Capital Grants	6,957,247	6,827,247	130,000
Financial Assistance Grants	214,764	214,764	-
Other Operational Grants	2,279,259	2,958,983	(679,724)
Contributions	133,267	48,592	84,675
Interest	1,445,439	1,845,758	(400,319)
Investment Revenue	780,028	1,067,200	(287,172)
Other Income	921,004	766,647	154,357
	<u>53,901,827</u>	<u>54,481,187</u>	<u>(579,360)</u>
EXPENSES FROM ORDINARY ACTIVITIES			
Employee Benefits	17,595,618	18,149,179	553,561
Materials and Services	15,818,741	16,569,299	750,558
Impairment of Debts	-	3,833	3,833
Finance Costs	33,332	66,067	32,735
Depreciation	8,837,014	8,763,754	(73,260)
State Government Fire Service Levy	2,304,659	2,304,659	-
State Government Landfill Levy	1,323,262	1,510,639	187,377
Rate Remissions and Abatements	314,279	295,589	(18,690)
Loss on Disposal of Fixed Assets	7,223	231,667	224,444
	<u>46,234,128</u>	<u>47,894,686</u>	<u>1,660,558</u>
Comprehensive Result Surplus/(Deficit)	<u>7,667,699</u>	<u>6,586,502</u>	<u>1,081,198</u>
Loss on Disposal of Fixed Assets	(7,223)	(231,667)	224,444
Capital Grants	6,957,247	6,827,247	130,000
TERHAP Contribution	-	-	-
	<u>6,950,024</u>	<u>6,595,580</u>	<u>354,444</u>
Underlying Result Surplus/(Deficit)	<u>717,675</u>	<u>(9,079)</u>	<u>726,754</u>



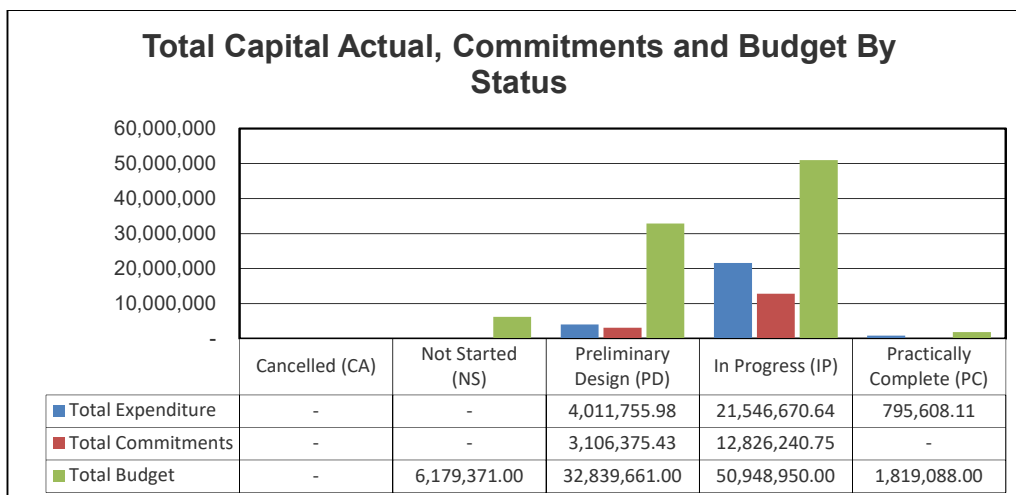
Monthly Capital Expenditure Report - October 2024

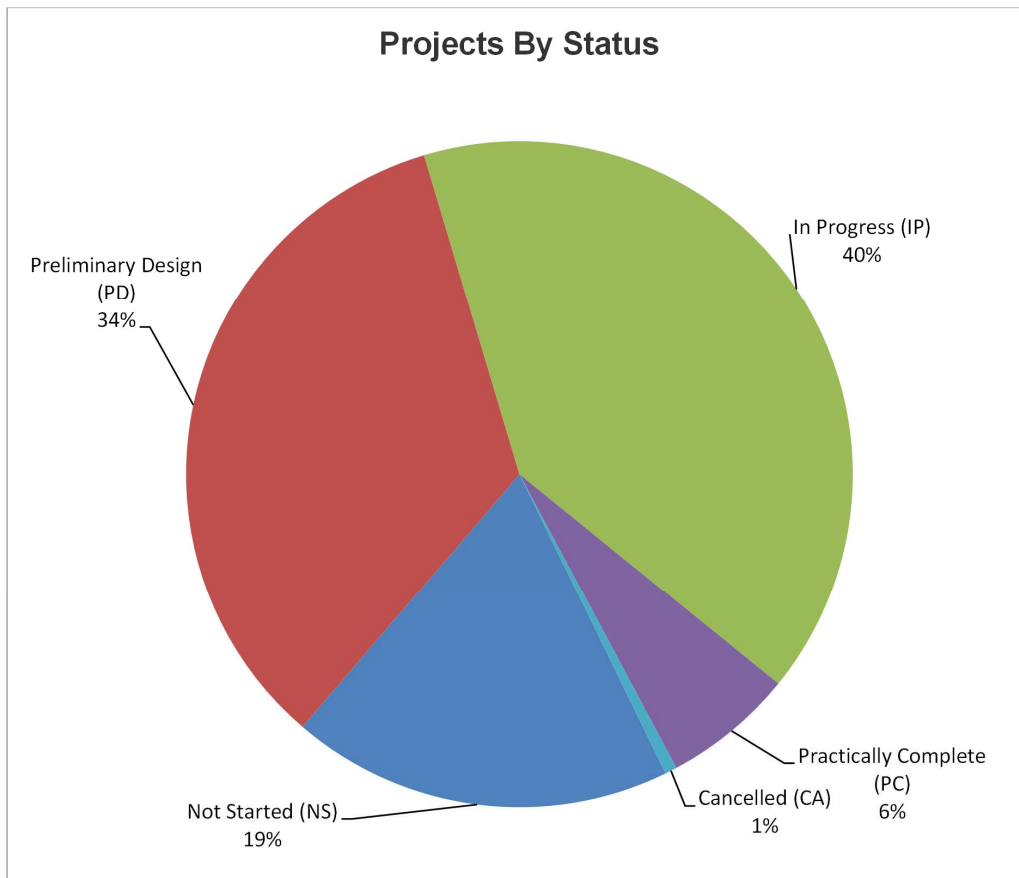
City of Launceston - Capital Expenditure Report								
Summary by Network								
For the Period to : 31 October 2024								
PROJECT DESCRIPTION	Funds	Actual Expenditure			Projected Expenditure			
	TOTAL ESTIMATE	W.I.P. JULY 1	ACCRUED ORDERS	YTD EXPEND.	TOTAL ACTUAL EXPEND.	COMMITTED COSTS	ACTUAL PLUS COMMITTED	PERCENT OF BUDGET
	\$	\$	\$	\$	\$	\$	\$	%
GRAND SUMMARY								
NETWORK								
Office of the Chief Executive	1,050,000	459,224	-	28,204	487,428	20,350	507,778	-
Organisational Services	2,188,189	367,580	15,822	385,581	768,983	295,066	1,064,049	49%
Creative Arts & Cultural Services	2,388,012	95,793	102,256	56,813	254,861	61,300	316,161	13%
Community and Place	4,171,150	320,082	1,601	193,718	515,401	655,109	1,170,510	28%
Infrastructure and Assets	75,989,719	15,466,432	26,009	8,701,128	24,193,569	14,890,791	39,084,360	51%
Land Sales (see analysis below)	6,000,000	123,238	-	10,555	133,793	-	133,793	2%
GRAND TOTAL	91,787,070	16,832,348	145,688	9,375,999	26,354,035	15,922,616	42,276,651	46%

Total capital expenditure budget for 2024/2025 is made up of carried forward budget funds of \$48,237,904, Current Year Council Funds of \$24,370,510 and External Funding of \$19,178,656 for a total budget of \$91,787,070.



Council currently has a total of 173 capital projects with 32 (18.5%) not started. This is a change from the September period where there were a total of 169 capital projects and 32 (18.93%) not started.





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. alternate Thursdays.
- 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 either the second or third 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*.

DOCUMENT INFORMATION

Reference number	14-Plx-001
Version	17/11/2022
Review	XX/10/2024 01/11/2026
Key function	Governance
System	
Document type	Policy
Responsible Directorate	Organisational Services
Approved by	Council
Action Officer	Leanne Purchase
Text search key words	Council meeting time commencement frequency

To be communicated to <i>(To be identified by Approver)</i> <i>(Insert ✓ in relevant row)</i>		Department/Area only
		Directorate via Director and Managers
		Specific Areas: •
	✓	Organisation-wide
	✓	Website
		Intranet (via a link)

Hard copy distribution	Councillor's Rooms
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Printed: 22/11/2024

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