



CITY OF HOBART

AGENDA

Finance and Governance Committee Meeting

Open Portion

Tuesday, 20 July 2021

**at 4:30 pm
Council Chamber, Town Hall**

THE MISSION

Working together to make Hobart a better place for the community.

THE VALUES

The Council is:

People	We care about people – our community, our customers and colleagues.
Teamwork	We collaborate both within the organisation and with external stakeholders drawing on skills and expertise for the benefit of our community.
Focus and Direction	We have clear goals and plans to achieve sustainable social, environmental and economic outcomes for the Hobart community.
Creativity and Innovation	We embrace new approaches and continuously improve to achieve better outcomes for our community.
Accountability	We are transparent, work to high ethical and professional standards and are accountable for delivering outcomes for our community.

ORDER OF BUSINESS

Business listed on the agenda is to be conducted in the order in which it is set out, unless the committee by simple majority determines otherwise.

APOLOGIES AND LEAVE OF ABSENCE

1. CO-OPTION OF A COMMITTEE MEMBER IN THE EVENT OF A VACANCY	4
2. CONFIRMATION OF MINUTES.....	4
3. CONSIDERATION OF SUPPLEMENTARY ITEMS	4
4. INDICATIONS OF PECUNIARY AND CONFLICTS OF INTEREST	5
5. TRANSFER OF AGENDA ITEMS.....	5
6. REPORTS	6
6.1 2021-22 Fees and Charges - Salamanca Market/Tasmania's Own Market - Public and Product Liability Insurance Levy.....	6
6.2 Midtown Precinct Upgrade - Parking Impact	9
6.3 Local Government Code of Conduct Framework - Public Consultation	13
7. COMMITTEE ACTION STATUS REPORT	29
7.1 Committee Actions - Status Report.....	29
8. QUESTIONS WITHOUT NOTICE	36
9. CLOSED PORTION OF THE MEETING.....	37

**Finance and Governance Committee Meeting (Open Portion) held
Tuesday, 20 July 2021 at 4:30 pm in the Council Chamber, Town Hall.**

This meeting of the Finance and Governance Committee is held in accordance with a Notice issued by the Premier on 3 April 2020 under section 18 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*.

The title Chief Executive Officer is a term of reference for the General Manager as appointed by Council pursuant s.61 of the *Local Government Act 1993* (Tas).

COMMITTEE MEMBERS

Zucco (Chairman)
Deputy Lord Mayor Burnet
Sexton
Thomas
Coats

Apologies:

Leave of Absence: Nil.

NON-MEMBERS

Lord Mayor Reynolds
Briscoe
Harvey
Behrakis
Dutta
Sherlock
Ewin

1. CO-OPTION OF A COMMITTEE MEMBER IN THE EVENT OF A VACANCY

2. CONFIRMATION OF MINUTES

The minutes of the Open Portion of the Finance and Governance Committee meeting held on [Wednesday, 16 June 2021](#), are submitted for confirming as an accurate record.

3. CONSIDERATION OF SUPPLEMENTARY ITEMS

Ref: Part 2, Regulation 8(6) of the *Local Government (Meeting Procedures) Regulations 2015*.

Recommendation

That the Committee resolve to deal with any supplementary items not appearing on the agenda, as reported by the Chief Executive Officer.

4. INDICATIONS OF PECUNIARY AND CONFLICTS OF INTEREST

Ref: Part 2, Regulation 8(7) of the *Local Government (Meeting Procedures) Regulations 2015*.

Members of the Committee are requested to indicate where they may have any pecuniary or conflict of interest in respect to any matter appearing on the agenda, or any supplementary item to the agenda, which the Committee has resolved to deal with.

5. TRANSFER OF AGENDA ITEMS

Regulation 15 of the *Local Government (Meeting Procedures) Regulations 2015*.

A Committee may close a part of a meeting to the public where a matter to be discussed falls within 15(2) of the above regulations.

In the event that the Committee transfer an item to the closed portion, the reasons for doing so should be stated.

Are there any items which should be transferred from this agenda to the closed portion of the agenda, or from the closed to the open portion of the agenda?

6. REPORTS

6.1 2021-22 Fees and Charges - Salamanca Market/Tasmania's Own Market - Public and Product Liability Insurance Levy File Ref: F21/60651; S33-060-02/38

Memorandum of the Senior Commercial Advisor Salamanca Market and
Director Community Life of 13 July 2021.

Delegation: Council



City of **HOBART**

MEMORANDUM: FINANCE AND GOVERNANCE COMMITTEE

2021-22 Fees and Charges - Salamanca Market/Tasmania's Own Market - Public and Product Liability Insurance Levy

The purpose of this memorandum is to vary the Public and Product Liability Insurance levy for Salamanca Market/Tasmania's Own Market.

The Council, at its meeting of 24 May 2021, resolved the schedule of fees and charges for Community Life Division be adopted for the 2021-22 financial year.

Public and Product Liability Insurance is taken out on behalf of stallholders and the fee charged to stallholders is set using a full cost recovery pricing method. The fee of \$6.73 (incl. GST) was calculated and approved based on previous years' actual amount charged by the insurer.

Recently it has become standard for insurers of the market to impose a \$1,000 excess on this policy type which is \$500 more than previous. This has resulted in a reduced premium, which should now be passed on to stallholders.

It is proposed that the Public and Product Liability Insurance levy be reduced from the previously approved amount of \$6.73 (incl. GST) to the lower fee of \$3.71 (incl. GST) per market day for 2021-22.

RECOMMENDATION

That the Public and Product Liability Insurance levy for Salamanca Market/Tasmania's Own Market of \$3.71 (incl. GST) per market day be adopted for the 2021-22 financial year superseding the amount of \$6.73 approved by Council on 24 May 2021.

As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.



Taryn Townsend
SENIOR COMMERCIAL ADVISOR
SALAMANCA MARKET



Tim Short
DIRECTOR COMMUNITY LIFE

Date: 13 July 2021
File Reference: F21/60651; S33-060-02/38

6.2 Midtown Precinct Upgrade - Parking Impact
File Ref: F21/60486; 2017-0192-02

Memorandum of the Manager Smart and Sustainable City and Director
City Innovation of 14 July 2021.

Delegation: Committee



City of **HOBART**

MEMORANDUM: FINANCE AND GOVERNANCE COMMITTEE

Midtown Precinct Upgrade - Parking Impact

At its meeting held on 7 December 2020, the Council resolved inter alia that the following information be provided:

“A detailed report addressing the potential loss of car parking within the Elizabeth Street Precinct be referred to the Finance and Governance Committee at the appropriate time”.

Background

Outdoor/kerbside parklets were installed in the Elizabeth Street (Midtown) retail precinct between Melville and Brisbane Streets in the 2020-21 financial year. The installation of these parklets necessitated the removal of seven (7) parking bays and reduced on-street parking capacity from 18 to 11 parking bays.

Exclusive of the twelve (12) Melville Street spaces also removed in support of the UTAS build, the two (2)-block capacity surrounding this part of the precinct remains at 235, down from 242. Business hour occupancy for the two (2)-block area prior to the installation of the parklets was 60.7%. This indicated that capacity was within acceptable usage limits.

Officers note that a decision regarding a current UTAS proposal to further expand parklet activation along Melville Street between Elizabeth and Argyle Streets has yet to be resolved and is therefore excluded from this report.

Budget Impairment

Assuming that price increases for parking meter income and infringement revenue is correlated with Consumer Price Index (CPI) movements, the long-term operational budget impairment related to the seven (7) parking bays is:

METER	BAY	REVENUE	STORAGE	1YR	5YR	10YR
VAR	1377	\$ 5,375.01	\$ 25.00	\$ 5,503.95	\$ 28,580.83	\$ 59,856.94
	1378	\$ 5,984.87	\$ 25.00	\$ 6,125.55	\$ 31,808.66	\$ 66,616.99
	1379	\$ 5,169.50	\$ 25.00	\$ 5,294.49	\$ 27,493.12	\$ 57,578.94
	1380	\$ 4,624.62	\$ 25.00	\$ 4,739.12	\$ 24,609.22	\$ 51,539.17
	1381	\$ 6,090.78	\$ 25.00	\$ 6,233.50	\$ 32,369.22	\$ 67,790.96
	1301	\$ 8,816.32	\$ 25.00	\$ 9,011.50	\$ 46,794.78	\$ 98,002.47
	1302	\$ 7,416.58	\$ 25.00	\$ 7,584.82	\$ 39,386.33	\$ 82,486.92
				\$ 44,492.93	\$ 231,042.17	\$ 483,872.39

Table 1. Yearly revenue per bay projected against CPI.

Financial calculations have used actual per bay annual income prior to parklet installation and assumed CPI for 1, 5 and 10 years consistent with the Hobart All Groups Quarterly Index projections from the Australian Bureau of Statistics (1.92%, 9.52% and 18.49%). Transportation and storage of the infrastructure is based on a current yearly storage and maintenance estimation of \$300 per m² and \$25 per sensor with corresponding increases in line with CPI.

Asset Impairment

Asset impairment of the parking infrastructure is based on acquisition cost plus labour value of \$8,500 per colour meter, \$6,490 per monochrome meter and \$480 per sensor. This asset impairment calculation assumes that the removed infrastructure will not be redeployed into other income generating uses (nor the cost of relocation and reinstallation) and therefore constitutes a write-off of the value.

Any future use of the written-off asset would require the infrastructure write-off be reversed to the lower of i) cost or ii) net realisable value. The immediate asset impairment associated with the seven (7) parking bays is as follows:

METER	BAY	WRITE-OFF VALUE
VAR	1377	\$ 480.00
	1378	\$ 480.00
	1379	\$ 480.00
	1380	\$ 480.00
	1381	\$ 480.00
	1301	\$ 480.00
	1302	\$ 480.00
		\$ 3,360.00

Table 2. Asset impairment value of removed assets.

The opportunity cost from the removal of the one (1) meter and seven (7) sensors associated with seven (7) parking bays in support of the Midtown Precinct Upgrade, is therefore:

IMMEDIATE	1YR	5YR	10YR
\$ 3,360.00	\$ 48,158.71	\$ 235,989.99	\$ 490,557.76

Table 3. Opportunity cost inclusive of Day 1 write-off value and CPI projections of revenue foregone.

Additional Factors

Sections of the UTAS Melville Street off-street car park are operated by the City of Hobart as a 3P Voucher Parking Area, offering parking at \$2 per hour. Since the installation of the parklets, there has been a 30.8% increase in usage. This has substantially (93%) offset the *immediate* lost revenue from the installation of parklets (\$3,359 vs \$3,623).

RECOMMENDATION

That the information be received and noted.

As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.



Peter Carr
DIRECTOR CITY INNOVATION



Robert Stevenson
**MANAGER SMART & SUSTAINABLE
CITY**

Date: 14 July 2021
File Reference: F21/60486; 2017-0192-02

**6.3 Local Government Code of Conduct Framework - Public
Consultation**
File Ref: F21/67041; 15/130

Memorandum of the Manager Legal and Governance of 15 July 2021
and attachment.

Delegation: Council



City of **HOBART**

MEMORANDUM: FINANCE AND GOVERNANCE COMMITTEE

Local Government Code of Conduct Framework - Public Consultation

The Minister for Local Government wrote to the Lord Mayor on 7 July 2021 informing her of the commencement of consultation on the Local Government Code of Conduct Framework. This correspondence was circulated to Elected Members on the Hub on 8 July 2021.

The correspondence seeks feedback on potential targeted legislative changes to the Code of Conduct Framework which follows on from regional forums conducted by the Local Government Division with councils in October 2020.

Attachment A to this report is the Discussion Paper on which feedback is sought.

There have been a number of motions adopted by the Local Government Association of Tasmania (LGAT) in relation to the code of conduct framework. The current open motions are listed below:

- December 2020 – Moved Kingborough:
That the Local Government Association Tasmania declares it has no confidence in the Local Government Code of Conduct process and calls on the Minister for Local Government to urgently take a more active role in resolving the issues.
- December 2020 – Moved Huon
That LGAT call on the State Government to include mandatory conciliation or mediation by an appropriately qualified arbitrator to be funded by the Local Government Division in the first instance of the code of conduct process.
- September 2020 – Moved Hobart
That LGAT call on the State Government to conduct a full review of the entire Code of Conduct process, including the Code.

Additionally, LGAT is seeking feedback on the discussion paper in order to provide a sectorial response. It is proposed that the Council ought to provide a response in its own right as well as contributing to the response from LGAT.

Feedback is sought on four considerations. These have been provided below and a draft position in relation to each of them follows.

Consideration 1 - Further strengthening and clarifying the grounds for the Initial Assessor to dismiss complaints at the initial assessment stage

- The Initial Assessor can dismiss complaints if they believe the complaint was not made in good faith or if the complaint is vexatious or trivial.
- Use of a public interest test would provide the Initial Assessor with a tool to assess if a complaint should or should not continue to an investigation based on a more holistic analysis of a variety of matters relevant to the circumstances of each complaint.
- A public interest test may include assessing complaints for seriousness, the availability of evidence, the level of public concern, demonstrated actions taken to deal with the matter, and whether the matter may be a sign of more widespread or systemic problems.
- Ensuring that the legislation clearly establishes an expectation that complainants must utilise council dispute resolution processes.

Draft Position

Broadly, this consideration can be supported. It would provide more tools for the disposal, at an early stage, of inappropriate complaints which reduces the exposure to stress and anxiety for elected members as well as managing costs implications for councils.

The requirement that complainants must utilise council dispute resolution processes is appropriate, however this will likely have cost implications. It would not be appropriate for this to be delivered internally by councils and therefore require engagement of external parties. This could be managed appropriately were LGAT to lead this for the sector, which it is understood is the proposal. It is recognised that while that approach would create efficiencies the costs would still ultimately be borne by the councils.

Consideration 2 - Removing a perceived conflict of interest for the Code of Conduct Panel Chairperson and providing consistency in relation to the initial assessment process

- Code of Conduct Panel members, including the Chairperson get paid for the time they spend on each complaint. It could be considered a conflict of interest if the Chairperson deciding that a complaint should be investigated remains on the Panel for that investigation. The conflict arises because the Chairperson receives a financial benefit if they choose to investigate the complaint.
- Removing potential perceived conflicts of interest for the Panel Chairperson will promote consistency in decisions made during the initial assessment of the complaint and promote confidence in the decision-making process.

Draft Position

This consideration could be supported. While this hasn't been explicitly recognised by this council as being an issue, it is recognised that the proposed changes would address the issue.

Consideration 3 - Wherever practicable, improve confidentiality requirements in relation to the Code of Conduct complaints process

- The Code of Conduct Panel's final determination report is confidential however, there have been multiple instances of draft reports (or findings) being disclosed to third parties before they have been tabled at a council meeting.
- Providing clarification about when information from Code of Conduct complaints must be kept confidential will help protect all parties involved in a complaint.

Draft Position

This consideration could be supported. It will be necessary to monitor any proposed legislative changes to ensure that any confidentiality requirements do not hinder appropriate passage of information between affected parties and the council and/or the Chief Executive Officer.

Consideration 4 – Implementation of council dispute resolution policies

- While the Government's view is that the implementation and design of council dispute resolution policies should be a matter for LGAT and councils to administer, it is considered essential for complainants to have alternative means to resolve conduct related grievances, before submitting a Code of Conduct complaint.
- A dispute resolution policy may not always be appropriate for every grievance. However, a failure to attempt to resolve a grievance by utilising such policies (where appropriate) may be considered in the context of identifying vexatious complainants.
- In many circumstances, an opportunity to resolve grievances in a less adversarial environment may provide an avenue for a more genuine, lasting and cost effective resolution and further, improve long-term community relations for councillors.

Draft Position

This consideration could be supported, but it will come at a cost which would be required to be borne by councils.

It is proposed that the Council determine its position with respect to each of the four considerations contained in the discussion paper and make a submission directly to the Division in addition to LGAT.

RECOMMENDATION

That the Council make a submission in response to the Discussion Paper – Local Government Code of Conduct Framework to both the Local Government Division and Local Government Association of Tasmania in accordance with the draft positions outlined in this report.

As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.



Paul Jackson
**MANAGER LEGAL AND
GOVERNANCE**

Date: 15 July 2021
File Reference: F21/67041; 15/130

Attachment A: Discussion Paper - Local Government Code of Conduct
Framework ↴ 

Discussion Paper - Local Government Code of Conduct Framework

July 2021



Author
Local Government Division
GPO Box 123
Hobart TAS, 7001

Publisher
Local Government Division

ISBN 978-1-925906-24-0
Date July 2021

© Crown in Right of the State of Tasmania July 2021

Contents

Contents	3
How to Make a Submission	4
Local Government Code of Conduct Framework.....	5
Background.....	5
Recent scrutiny of the framework	5
Immediate policy response – Initial Assessment Guidelines	5
Further proposed reforms.....	6
Targeted changes to the legislation	6
Council Dispute Resolution Policies.....	8
Your feedback.....	9



How to Make a Submission

The Discussion Paper includes information to help you provide feedback on potential targeted legislative changes to the Code of Conduct Framework. Comment is welcome on any aspect relating to this paper, but you are encouraged to review the considerations and principles in the Your Feedback section to inform your feedback.

Please provide your name and contact details with your submission which will be published on the Department of Premier and Cabinet's Local Government Division's website.

Exceptions to publication only exist when it is not in the public interest to release the information: for example, to protect personal and other sensitive information (including that of a commercial nature) or where the submitter has requested that the submission be treated as confidential. If your submission is being provided confidentially, please clearly state this in your submission.

Any offensive or defamatory material will not be published.

Submissions close at midnight on 9 August 2021

1. Download the submission form at this link
https://www.dpac.tas.gov.au/divisions/local_government/local_government_code_of_conduct/code_of_conduct_framework_review
 - If you need help accessing the submission form please call the Local Government Division on 6232 7022
2. Email your completed submission form to: LGARReview@dpac.tas.gov.au with the email subject heading as Code of Conduct Framework feedback
or
Post your completed submission form to:
Attention: Code of Conduct Framework feedback
Local Government Division
Department of Premier and Cabinet
GPO Box 123
HOBART TAS 7001

If you have any questions about how to lodge a submission please contact the Local Government Division by phone on 6232 7022 or by email at LGARReview@dpac.tas.gov.au.



Local Government Code of Conduct Framework

Background

Tasmanians need to be confident that the councillors they elect to represent them will uphold and abide by certain standards of conduct and behaviour. The local government Code of Conduct Framework (the framework) plays an important role in supporting this outcome.

Following requests from the sector a statewide framework applying to all elected councillors first commenced on 13 April 2016. The framework was established through changes to the *Local Government Act 1993* (the Act) and replaced a patchwork of previous code of conduct arrangements that were in place at the individual council level.

The framework was developed through extensive consultation with the local government sector and the Integrity Commission, and provides for greater uniformity and enforceability than pre-2016 arrangements, which were widely seen as lacking consistency and credibility.

In early 2017, the then Government agreed to a request by the sector for a review of the framework. A number of changes were made to improve its operation in late 2018 and early 2019 following substantial consultation with the local government sector.

Recent scrutiny of the framework

Since October 2019, there has been significant public interest and commentary surrounding the Code of Conduct process, decisions and determinations.

Recent concerns include the types of complaints that have proceeded to investigation, the costs involved and whether some complaints could have been resolved between the parties, preventing the need for a Code of Conduct investigation.

As a result, the then Minister tasked the Local Government Division (the Division) with conducting further analysis and providing advice on potential administrative and legislative changes. In further understanding a number of the key issues, the Division led four regional forums with councils in October 2020. The forums aimed to update the sector on further policy measures which could support the framework, foreshadow potential targeted legislative changes, discuss options for council dispute resolution policies and better understand the concerns of councillors.

Immediate policy response – Initial Assessment Guidelines

In October 2020 the Code of Conduct Panel members accepted revised Initial Assessment Guidelines (the Guidelines) for the review of complaints. The endorsement of the Guidelines is representative of the ongoing commitment of Panel members to be responsive to feedback and provide a framework that is fair, measured and consistently applied.

The purpose of the Guidelines is to:

1. provide additional clarity and support to the Panel Chairperson during initial assessments of complaints;
2. ensure the consistent and appropriate use of provisions in the Act that limit instances when a complaint will proceed to investigation, such as limiting trivial, vexatious and frivolous complaints; and
3. empower the Panel Chairperson to liaise with the Solicitor-General's Office at their discretion if there is a question at law which requires clarification.

Further proposed reforms

The framework is important to promote public confidence in councillors as respected leaders in their local community. Equally however, it is important that complaints be made in good faith, and only where there are genuine and serious concerns about a councillor's behaviour.

Some people in the sector have been asking for a wholesale review of the framework. The Government's view is that the intent of the framework is sound and that most of the concerns being raised by the sector can be addressed in a progressive manner.

On this basis, and in considering feedback from the sector collected during forums, there is a clear benefit in:

1. the consideration of changes to the legislation; and
2. the sector developing alternative dispute resolution policies.

Changes to the legislation

The then Government committed to working with the sector to identify areas where the framework could be improved through legislative changes.

While a variety of issues have been raised by individual councillors from time to time, councillors have consistently raised issues with the nature of certain complaints that have proceeded to investigation, the absence of any awareness that their conduct had raised concerns with the complainant, that the complaints process may be inappropriately used against person/s involved in the complaint (or 'weaponised') and that the costs of an investigation are a significant expense for councils to incur.

It is proposed that the following legislative amendments will address these concerns and reinforce the administrative and policy improvements that have already been implemented through the Guidelines:

- I. **Further strengthening and clarifying the grounds for the Panel to dismiss complaints at the initial assessment stage.**
 - The current provisions within the Act provide a relatively rigid framework for the dismissal of complaints on initial assessment, including the following:
 - o the complaint is frivolous, vexatious or trivial;

- the complainant has not made reasonable effort to resolve the issue; and
 - the complaint does not substantially relate to a breach of the Code of Conduct.
 - It is proposed that a broader public interest test be included in the Act as part of the initial assessment process, to empower the Chairperson to consider a variety of other relevant factors and allow for a more holistic consideration of the impact of the alleged conduct and the subsequent complaint.
 - A public interest test would provide the Chairperson with greater flexibility in their assessment of the merits of a complaint and the impact of the alleged conduct on the functions and effectiveness of a council and its relationship with the community.
 - In addition to the introduction of a public interest test, it is also proposed that consideration be given to strengthening the requirement for the complainants to utilise the council administered dispute resolution processes, including mediations, before submitting a complaint.
- 2. Removing a perceived conflict of interest and empowering a legal member of the Panel to undertake the initial assessment process.**
- The Government recognises that the Code of Conduct Panel members undertake their functions with a high degree of integrity. However, the current framework exposes the member conducting the initial assessment to a perception of a conflict of interest in the investigation process – the Chairperson conducting an initial assessment of a complaint will financially benefit from their decision to proceed to a full investigation of the complaint (if the person who undertakes the initial assessment subsequently becomes the Chairperson of the Panel conducting the investigation process).
 - For each complaint, it is proposed that a member of the Code of Conduct Panel be appointed to undertake the initial assessment. Should that member determine to proceed to investigation, a panel will be convened to investigate, that will not include the person who undertook the initial assessment.
 - Currently, initial assessments are undertaken by a member of the Code of Conduct Panel, who is required to be a person experienced in matters of local government. Initial assessments may include the consideration of a range of legal and procedural matters. For this reason, and in keeping with the introduction of a new public interest test, it is also proposed that a legal member will undertake the initial assessment process.
- 3. Wherever practicable, improve confidentiality requirements in relation to the complaints process.**
- While there are existing requirements under the Act to maintain the confidentiality of determination reports before they are tabled at council meetings, there have been multiple instances of draft reports (or findings) being disclosed to third parties before they have been tabled.
 - It is proposed that additional legislative provisions be made to minimise the ability for people to inappropriately disclose information of this nature prior to it being made public.

Council dispute resolution policies

In the context of considering any targeted legislative changes, it is important to reiterate that the current framework provides that complaints should only proceed to investigation where there have first been reasonable efforts to resolve the issue that is the subject of the complaint.

The framework does not limit a council's ability to implement dispute resolution policies which provide an alternative method to resolve complaints. At this stage, the majority of councils have not implemented a dispute resolution process to provide any aggrieved person with an opportunity to resolve a dispute in advance of submitting a Code of Conduct complaint.

Following the regional forums conducted with the sector in October 2020, the Local Government Association of Tasmania (LGAT) confirmed that it is supportive of further work to develop relatively standardised dispute resolution policies that provide for the informal resolution of complaints lodged by any complainant. As the vast majority of Code of Conduct complaints are submitted by non-councillors, it is important that such policies are accessible to all complainants, including members of the public.

The Government's position is that the effectiveness of legislative changes will be strengthened by council dispute resolution policies. This will require changes driven by the sector. To maintain the confidence of all relevant parties, it is expected that the sector will ultimately design and implement an appropriately independent dispute resolution framework capable of resolving a broad range of conduct related disputes.

While dispute resolution will not be appropriate for every complaint, alternative dispute resolution would provide councils with a more economical, less adversarial and enduring resolution process for certain types of complaints.



Your Feedback

The Government wants to hear from members of the public, the local government sector and the broader community on the proposed legislative reforms. Your feedback will help the Government to refine the targeted legislative changes. In preparing a submission, you are encouraged to review the considerations below that outline some of the specific matters the Government wants to hear feedback on.

Public comment is welcome on any aspect relating to this reform proposal, but respondents are encouraged to review the following considerations and principles to inform their feedback.

Consideration 1 - Further strengthening and clarifying the grounds for the Initial Assessor to dismiss complaints at the initial assessment stage

- The Initial Assessor can dismiss complaints if they believe the complaint was not made in good faith or if the complaint is vexatious or trivial.
- Use of a public interest test would provide the Initial Assessor with a tool to assess if a complaint should or should not continue to an investigation based on a more holistic analysis of a variety of matters relevant to the circumstances of each complaint.
- A public interest test may include assessing complaints for seriousness, the availability of evidence, the level of public concern, demonstrated actions taken to deal with the matter, and whether the matter may be a sign of more widespread or systemic problems.
- Ensuring that the legislation clearly establishes an expectation that complainants must utilise council dispute resolution processes.

Consideration 2 - Removing a perceived conflict of interest for the Code of Conduct Panel Chairperson and providing consistency in relation to the initial assessment process

- Code of Conduct Panel members, including the Chairperson get paid for the time they spend on each complaint. It could be considered a conflict of interest if the Chairperson deciding that a complaint should be investigated remains on the Panel for that investigation. The conflict arises because the Chairperson receives a financial benefit if they choose to investigate the complaint.
- Removing potential perceived conflicts of interest for the Panel Chairperson will promote consistency in decisions made during the initial assessment of the complaint and promote confidence in the decision-making process.

Consideration 3 - Wherever practicable, improve confidentiality requirements in relation to the Code of Conduct complaints process

- The Code of Conduct Panel's final determination report is confidential however, there have been multiple instances of draft reports (or findings) being disclosed to third parties before they have been tabled at a council meeting.
- Providing clarification about when information from Code of Conduct complaints must be kept confidential will help protect all parties involved in a complaint.

Consideration 4 – Implementation of council dispute resolution policies

- While the Government's view is that the implementation and design of council dispute resolution policies should be a matter for LGAT and councils to administer, it is considered essential for complainants to have alternative means to resolve conduct related grievances, before submitting a Code of Conduct complaint.
- A dispute resolution policy may not always be appropriate for every grievance. However, a failure to attempt to resolve a grievance by utilising such policies (where appropriate) may be considered in the context of identifying vexatious complainants.
- In many circumstances, an opportunity to resolve grievances in a less adversarial environment may provide an avenue for a more genuine, lasting and cost effective resolution and further, improve long-term community relations for councillors.

||



Email: LGARReview@dpac.tas.gov.au

Post: Attention: Code of Conduct Framework feedback
Local Government Division
Department of Premier and Cabinet
GPO Box 123
HOBART TAS 7001

7. COMMITTEE ACTION STATUS REPORT

7.1 Committee Actions - Status Report

A report indicating the status of current decisions is attached for the information of Elected Members.

RECOMMENDATION

That the information be received and noted.

Delegation: Committee

Attachment A: Finance and Governance Committee Open Status Report

FINANCE AND GOVERNANCE COMMITTEE - STATUS REPORT
OPEN PORTION OF THE MEETING
July 2021

Ref	Title	Report / Action	Action Officer	Comments
1.	<p>NORTH HOBART PARKING OPERATIONAL POLICY CHANGES Council, 23/11/2020 Item 15</p> <p>NOTICE OF MOTION CONDELL PLACE CAR PARK - REDEVELOPMENT Council, 23/9/2019 Item 17</p> <p>CONDELL PLACE CAR PARK - DEVELOPMENT OPPORTUNITIES AND EOI REQUEST Council, 23/7/2018 Item 17</p>	<p>That:</p> <p>9. A further report be provided in June 2021 providing an operational update on the outcomes arising from implementation of new parking controls in North Hobart.</p> <p>10. A further report be provided in June 2021 that considers that money raised from North Hobart parking charges be reinvested into amenity upgrades to the area of North Hobart.</p>	Director City Innovation	A report will be provided to the August 2021 Committee meeting.

Ref	Title	Report / Action	Action Officer	Comments
2.	<p>2019-20 FEES AND CHARGES – PARKING OPERATIONS</p> <p>Finance and Governance Committee, 13/08/2019 Item 6.3</p> <p>Council, 20/05/2019 Item 27</p>	<p>That.</p> <ol style="list-style-type: none"> Investigations be undertaken with appropriate hotel and accommodation establishments for the use of the Council's off street parking facilities outside of normal business hours. The Finance and Governance Committee note the following nine topical areas to be reviewed by officers within the City Innovation Division, and report back to Council: <ul style="list-style-type: none"> (b) Pensioner voucher parking scheme; (g) Peripheral parking (commuter shuttle service); (h) Commuter parking in inner city areas; and (i) Off-street, off-peak parking demand management solutions to encourage the spread of shopping and trade, including late night trading and night-shift worker safety. 	Director City Innovation	<p>A memorandum addressing clause 1 of the resolution is attached to this agenda.</p> <p>A further report will be provided to the August 2021 meeting regarding clause b).</p> <p>Clauses 2 g), h) and i) are part of a broader access parking policy being undertaken by the Manager City Mobility.</p>
3.	<p>INVESTIGATION OF ASSET HOLDINGS</p> <p>Council, 26/10/2020 Item 11</p>	<p>That:</p> <ol style="list-style-type: none"> The General Manager provide a report with a proposal, including an estimation of costs, to the extent that it is needed to engage an external consultant to undertake and complete an analysis of better strategic use of or possible asset sales and/or the potential to allow council assets of all types to provide support as collateral security to reduce debt levels without having to sell the assets for consideration by the Council when developing a post COVID-19 recovery and resilience plan. The following commercial attributes are to be addressed as part of the analysis: <ul style="list-style-type: none"> (a) Current and potential use to value; (b) Commercial value to commercial return; (c) Rent return to capital return. 	CEO	<p>KPMG have been engaged to assist with this analysis. A report is expected for a Committee meeting in the second half of 2021.</p>

Ref	Title	Report / Action	Action Officer	Comments
4.	EV CHARGING STATION AND PRICING Council, 23/11/2020 Item 14	A further report be provided in June 2021, detailing actual usage and costs associated with operation of the Dunn Place EV park and charge service.	Director City Innovation	A report will be provided to the August 2021 Committee meeting.
5.	REINVESTMENT OF PARKING REVENUE IN THE CBD Council, 7/12/2020 Item 12	<ol style="list-style-type: none"> 1. A report be prepared that a percentage of CBD parking revenue be reinvested in the CBD. <ol style="list-style-type: none"> i) The report be prepared consistent with the Council's decision of 23 November 2020 requesting a report considering North Hobart parking charges being reinvested into amenity upgrades to the area of North Hobart. ii) The Parking Benefit District Policy be developed in line with the General Manager's advice. 2. The report also give consideration for all precinct shopping strips and centres within the City. 	Director City Innovation	Officers are actioning the decision and a report will be provided to Committee in the second half of 2021.
6.	POLICY FOR LOBBYISTS AND DEVELOPERS Council, 22/02/2021 Item 14	<p>That:</p> <ol style="list-style-type: none"> 1. The Council endorse a holistic statewide approach to the registration of lobbyist and developer contact. 2. The Council write to the Minister for Local Government in regard to developing a statewide legislative approach for the registration of local government lobbyists and developers for elected members during the consultation process for the Draft Local Government Bill. 3. A report be provided to the Council on the outcome, at the appropriate time. 	CEO	Correspondence has been sent to the Minister for Local Government and we are currently awaiting a response. COMPLETE

Ref	Title	Report / Action	Action Officer	Comments
7.	PARKING INFRASTRUCTURE Council, 22/02/2021 Item 11	<p>That Council:</p> <ol style="list-style-type: none"> Note the work being undertaken under the Hobart City Deal to improve public transport infrastructure within Greater Hobart, and continue to work with the State Government to expedite the implementation of policies to improve public transport services within the City; Note that the choice to work to improve public transport services and road/parking infrastructure are not mutually exclusive solutions to improving the commute of Hobartians, and that a combination of policies are required; Investigates locations within the municipality which could be utilised as full day park and ride facilities. 	Director City Innovation	Officers are investigating the matter and a report will be provided to Committee in the second half of 2021.
8.	RONALD MCDONALD HOUSE CHARITY - PARKING SPACES IN ARGYLE STREET CAR PARK - LONG TERM PROVISION Council, 22/02/2021 Item 13 Council, 12/10/2020 Item 11	<p>That:</p> <ol style="list-style-type: none"> The provision of seven (7) free parking spaces to Ronald McDonald House Charity in the Argyle Street Car Park be discontinued, on the provision of 30-days written notice, following the conclusion of the initial 3-month period on 3rd February 2021. A new Patient Assisted Travel Scheme rate of \$5 per day, or other similar contribution, be established to replace the Special Circumstances Rate of \$8 per day. A simple process be implemented by Council officers to provide Ronald McDonald House Charity guests with access to the new Patient Assisted Travel Scheme rate of \$5 per day equalling a total annual benefit of approximately \$10,757. 	Director City Innovation	<p>Action expected to be resolved (new policies and procedures in place) by 30 June 2021.</p> <p>A report will be provided to the August Committee meeting.</p>

Ref	Title	Report / Action	Action Officer	Comments
9.	YOUTH ARC - DANCE STUDIO AND OFFICE/MEETING ROOM LEASE - EXPRESSION OF INTEREST PROCESS Council, 26/04/2021 Item 12	That: 1. The Council approve the commencement of an Expression of Interest process to identify a new tenant for the upper level of the Youth ARC facility (also known as the City Hall Supper Room) for a two-year lease period. 2. A further report detailing the outcomes of the Expression of Interest process be presented to the Council in due course.	Director Community Life	A memorandum report on this matter is included on the July agenda.
10.	LEASE OF PART OF THE LEVEL 4 COUNCIL CENTRE Council, 24/05/2021 Item 23	That: 1. The Culturally Diverse Alliance Tasmania be granted a one year lease with a further one year option, with such option to be exercisable by both parties, at the nominal rent of fifty dollars (\$50.00) per annum for that part of the fourth floor of the Council Centre enclosed in red on the plan (marked as Attachment C to item 6.8 of the Open Finance and Governance Committee agenda of 18 May 2021) on the condition that CDAT bear the costs associated with installing the partition to enclose the lease area, and provides evidence of appropriate insurance policies and any other requirements of the Hobart City Council's lease agreement. 2. The Chief Executive Officer be authorised to finalise the terms of the lease. 3. The reduction in rent be recorded in the Council's Annual Report in accordance with the Council's Policy for Leases to Non-Profit Organisations. 4. A further report be provided on appropriate Expression of Interest processes in respect to community organisations leasing temporary office space in the Hobart Council Centre.	CEO	Part 1, 2 and 3 have been completed. A further report will be provided in relation to part 4 of the resolution prior to any further non-profit leases in the Council Centre building being considered.

Ref	Title	Report / Action	Action Officer	Comments
11.	BUDGET ESTIMATES 2021-22 Council, 22/06/2021 Item xx	That: 14. Council officers review the level of the current interest rate applied to unpaid rates as stated in clause 6 of the recommendation considering: <ul style="list-style-type: none">(i) Whether discounts can be provided at the discretion of the Chief Executive Officer; and(ii) Consistency with interest applied to other unpaid fees and charges. The findings be reported to a future Finance and Governance Committee meeting.	CEO	Officers are investigating the matter and a report will be provided to Committee in the coming months.

8. QUESTIONS WITHOUT NOTICE

Section 29 of the *Local Government (Meeting Procedures) Regulations 2015*.
File Ref: 13-1-10

An Elected Member may ask a question without notice of the Chairman, another Elected Member, the Chief Executive Officer or the Chief Executive Officer's representative, in line with the following procedures:

1. The Chairman will refuse to accept a question without notice if it does not relate to the Terms of Reference of the Council committee at which it is asked.
2. In putting a question without notice, an Elected Member must not:
 - (i) offer an argument or opinion; or
 - (ii) draw any inferences or make any imputations – except so far as may be necessary to explain the question.
3. The Chairman must not permit any debate of a question without notice or its answer.
4. The Chairman, Elected Members, Chief Executive Officer or Chief Executive Officer's representative who is asked a question may decline to answer the question, if in the opinion of the respondent it is considered inappropriate due to its being unclear, insulting or improper.
5. The Chairman may require a question to be put in writing.
6. Where a question without notice is asked and answered at a meeting, both the question and the response will be recorded in the minutes of that meeting.
7. Where a response is not able to be provided at the meeting, the question will be taken on notice and
 - (i) the minutes of the meeting at which the question is asked will record the question and the fact that it has been taken on notice.
 - (ii) a written response will be provided to all Elected Members, at the appropriate time.
 - (iii) upon the answer to the question being circulated to Elected Members, both the question and the answer will be listed on the agenda for the next available ordinary meeting of the committee at which it was asked, where it will be listed for noting purposes only.

9. CLOSED PORTION OF THE MEETING

RECOMMENDATION

That the Committee resolve by majority that the meeting be closed to the public pursuant to regulation 15(1) of the *Local Government (Meeting Procedures) Regulations 2015* because the items included on the closed agenda contain the following matters:

- Minutes of a closed meeting
- Information of a commercial nature
- Information relating to disposal of land
- Information of a confidential nature

The following items are listed for discussion:-

- | | |
|--------------|---|
| Item No. 1 | Minutes of the last meeting of the Closed Portion of the Committee Meeting |
| Item No. 2 | Consideration of supplementary items to the agenda |
| Item No. 3 | Indications of pecuniary and conflicts of interest |
| Item No. 4 | Reports |
| Item No. 4.1 | Grant of Easement Over Council Land - 36 Burnett Street
LG(MP)R 15(2)(b) and (f) |
| Item No. 4.2 | Youth ARC Upper Level Leases
LG(MP)R 15(2)(c)(i) |
| Item No. 4.3 | Financial Hardship - Rates Remission Request
LG(MP)R 15(2)(j) |
| Item No. 5 | Committee Action Status Report |
| Item No. 5.1 | Committee Actions - Status Report
LG(MP)R 15(2)(b), (c)(i), (f) and (g) |
| Item No. 6 | Questions Without Notice |