

Governance Framework



October 2014

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1. Background

Local Government in Tasmania is established under the *Local Government Act 1993* and is the third sphere of government in Australia. Local government has legislative responsibility for many functions and activities that are relevant to a local community.

Because Local Government makes decisions about so many things that affect our everyday lives and is the sphere of government that is closest to the people, it is often described as the “grass roots” form of government.

Each local government is a body corporate. All power to do things for the local community is vested in this legal entity.

In order to consider the issues of good governance in local government, it is also necessary to consider the role and functions of local government.

Local government includes a Council consisting of Councillors, the General Manager and Employees.

Council	Councillor	General Manager
Develop and monitor the implementation of Strategic Plans and budgets	To represent the community	Implement the policies, plans and programs of the Council as well the decisions of Council
Determine and monitor the application of policies, plans and programs for a. the efficient and effective provision of services and facilities; and b. the efficient and effective management of assets; and c. the fair and equitable treatment of employees of the Council	To act in the best interests of the community	Manage the day-to-day operations
Facilitate and encourage the planning and development of the municipal area in the best interests of the community	To facilitate communication by the council with the community	Provide advice and reports to the council on the exercise and performance of its powers and functions
To appoint and monitor the performance of the General Manager	To participate in the activities of the council	Assist in the preparation of the strategic plan, annual plan, annual report and assessment of the council's performance against the plans
To determine and review Councils resource allocation and expenditure activities	To undertake duties and responsibilities as authorised by the council	Coordinate proposals for the development of objectives, policies and programs for the consideration of the council
To monitor the manner in which services are provided by the Council		To liaise with the Mayor on the affairs of the council and performance of its functions
Mayor to liaise with the General Manager and preside at Council Meetings		To manage the resources and assets of the council

2. Introduction

This document sets the governance framework for the Council and Councillors in undertaking the roles and functions for the good governance for the Huon Valley municipal area.

This Framework has been developed with reference to decisions of the Council and documents previously approved by Council regarding the concept and practice of good governance, as listed:-

- Councillors Interactions Policy 2012
- Councillor Portfolio Protocols
- Allocation of Portfolios Procedure
- Appointment of Councillor to external bodies Procedure
- Public question Time and Deputation Procedures

This Governance Framework supersedes all the above decisions and documents.

3. Definitions

Term	Meaning
Act	Means the <i>Local Government Act 1993</i>
General Manager	Means the General Manager appointed by the Council in accordance with section 61 of the Act.
Council	The Councillors sitting formally and collectively as a Council under the Act
Councillor	A person elected to the Council and includes the Mayor and Deputy Mayor.
Council Committee	A formal committee of Councillors established under section 23 of the Act
Council Meeting	The Councillors meeting formally in accordance with the Act and Meeting Procedures Regulations
Executive Managers	The senior positions in the Council overseeing a Department and directly responsible to the General Manager
Employee	A person employed by the Council under section 63 of the Act including casual or contract employees and Executive Managers
Mayor	A person elected by the community to hold the position as Mayor of the Council under the Act.
Meeting Procedures Regulations	Means the <i>Local Government (Meeting Procedures) Regulations 2005</i> .
Special Committee	A formal committee of members established under section 24 of the Act.

4. Governance in Local Government

4.1 Definition of Governance

Governance is the process by which decisions are made and implemented, the process by which organisations go about achieving their goals and producing their outputs and the process by which organisations are directed, controlled and held to account.

It encompasses:

- Authority
- Accountability
- Stewardship
- Leadership
- Ethics and Values
- Culture

The practice of good governance in local government can make a significant contribution to improving community life. When local governments practice good governance, their communities are more connected and engaged, better services are provided and more efficient use is made of resources. In meeting the highest standards of accountability and transparency, good governance produces better outcomes.

4.2 Local Government Act 1993

The Huon Valley Council is Council responsible for a municipal area under the Act.

Section 20 of the Act sets out the following broad functions of councils:

- to provide for the health, safety and welfare of the community;
- to represent and promote the interests of the community;
- to provide for the peace, order and good government of the municipal area.

In performing these roles and functions council is required to consult, involve and be accountable to the community. It must take into account the diverse needs of the local community in its decision making, set and monitor strategic objectives and ensure resources are managed in a responsible manner.

Overall, the Act is intended to provide excellence in governance through:

- Better decision-making by Councils.
- Greater community participation in the decisions and affairs of Councils.
- Greater accountability of Councils to their communities.
- More efficient and effective local government sector generally.

To allow Councils better decision-making, greater accountability and to be more efficient and effective, the Act provides a number of ways of achieving these objectives through delegations, by-laws and policies.

4.3 Delegations

Council derives functions and powers from the Act and a large number of other Acts and regulations

While these functions and powers are vested in Council it is not practical or efficient that the Council as a whole acts as a decision maker in respect of all functions and powers.

Provision is therefore made in legislation for the Council to delegate various functions and powers to the General Manager, Committees or other specified Officers.

Therefore Delegations are a part of the Council's decision-making approach. They represent the policy of the Council to entrust certain types of decisions to the General Manager or Committees. All delegations should be in the context of Council policy that provides guidance to the delegated Officer to make decisions.

The rationale behind delegated authority is focused on:

- improving responsiveness to customer needs and customer service;
- streamlining the administrative activities of Council;
- improving the efficiency and productivity of Council;
- ensuring legislative compliance, and;
- allowing Council at a Council meeting to concentrate specifically on policy and strategic matters.

This will be the basis for Council's decisions to grant the delegation of authority.

Delegations will be generally reviewed at least once every year and in response to any changes to, or the introduction of new, legislation for which Council is responsible for administering.

4.4 By-Laws

Under Section 145 of the Act Council may make By-laws in respect of any Act, matter or thing for which the Council has a function or power under any Act.

It is the Council's practice to undertake its role and functions under existing legislation (Acts and Regulations) where this is provided.

Where there is a deficiency of legislation (ie. matters not properly covered) or where there are particular management or governance issues the Council will consider the making of By-laws to deal with these matters.

In preparing a By-law due regard will be given to the provisions within existing relevant legislation and the need to ensure that the By-law does not duplicate or conflict with those statutory provisions rather the focus will be to complement existing legislation.

Due regard will also be given to the reduction of administrative burden. To that end the intent of any By-law will be to keep regulation to a necessary minimum.

4.5 Meeting Procedures

Huon Valley Council meetings are governed by the Act and the Meeting Procedures Regulations.

Regulation 37 of the Meeting Procedures Regulations provides Council with the power to determine any procedures relating to a meeting of the Council (that are not otherwise provided within the regulations) it considers appropriate.

The following policy and procedures are determined for that purpose:

4.5.1 Questions Without Notice Policy

Pursuant to regulation 29 of the Meeting Procedures Regulations, questions without notice may be asked by a Councillor of, or through, the Chairperson at any time during a meeting for the purposes of discussion on an Agenda Item.

Time will also be set aside at an ordinary meeting of the Council as an item on the Agenda for that meeting to allow a Councillor to ask general questions without notice both in open and closed Council if necessary.

4.5.2 Public Question Time Policy and Procedure

Pursuant to Regulation 31 of the Meeting Procedures Regulations the Chairperson may address questions on notice submitted by members of the public and invite any member of the public present at an ordinary meeting to ask questions relating to the activities of the Council.

The Chairperson at an ordinary meeting of Council must ensure that, if required, at least 15 minutes of that meeting is made available for questions by members of the public.

For that purpose time will be set aside at an ordinary meeting of the Council as an item on the Agenda for public questions time which will be in accordance with the following Policy and Procedure:

- 1) A person seeking to ask a question must first stand and identify himself or herself.
- 2) No person will be entitled to ask more than 2 questions, and will only be entitled to ask a second question after all other persons who wish to ask a question have asked one question each and the 15 minute period referred to in sub-clause (1) has not elapsed.
- 3) The Chairperson may refuse to accept a question in Public Question Time that:
 - does not relate to the activities of the Council
 - relates to an item listed on the agenda for the Council meeting
 - relates to any matter which would normally be discussed in the closed section of the Council Meeting pursuant to Regulation 15 of the Meeting Procedures Regulations.
 - in the opinion of the Chairperson contains an insult, makes a personal reflection on a Councillor or an employee of Council or imputes an improper motive on a Councillor or employee of Council.

4.5.3 Deputations Policy and Procedure

Pursuant to Regulation 38 of the Meeting Procedures Regulations the Chairperson may invite a person to address a meeting and to make statements or deliver reports.

Such invitation may be at the initiation of the Council and others by request from members of the public or from other third parties.

Time will be set aside at an ordinary meeting of the Council as an item on the Agenda for the purpose of receiving Deputations to the Council in open Council, and where necessary may also be in Closed Council and requests for a deputation to the Council will be in accordance with the following Policy and Procedure:

- 1) A person who intends or wishes to comprise a deputation to the Council or any Council committee is to:-
 - make a written request to the Chairperson setting out the likely members of the deputation;
 - the purpose of the request; and
 - the nature of the matter or matters intended to be placed before the Council or Council committee.
- 2) The chairperson is to decide whether or not the deputation is to be received.
- 3) If the chairperson decides that the deputation is to be received, the Chairperson is to inform the General Manager to note the item on the appropriate agenda.
- 4) If the Chairperson decides that the deputation is not to be received, any person who intends to comprise the deputation may appeal that decision in writing to the General Manager who is to list this appeal on the agenda of the next ordinary meeting of Council.
- 5) The Council may by absolute majority uphold the appeal and if an appeal is upheld the deputation is to proceed in accordance with the Regulation 38 of the Local Government (Meeting Procedures) Regulations 2005 and this Policy and Procedure.
- 6) A deputation -
 - is not to exceed 3 persons; and
 - is not to be permitted to continue in attendance on the Council or committee for a longer period than 15 minutes.
- 7) Unless the Council or committee decides otherwise, the recommendation, request or other matter placed before the Council or Council committee from a deputation is not to be considered until the deputation has withdrawn.
- 8) The Council or committee may by resolution invite a person to address the meeting and to make statements or deliver reports.

4.6 Code of Conduct

Section 28E of the Act requires the Council to adopt a code relating to the conduct of Councillors which is to be consistent with the Act, address any prescribed matters and be reviewed within 12 months of an ordinary election.

The Council will adopt and review a Code of Conduct for Councillors in accordance with the Act.

4.7 Audit Panel

The Council has established an Audit Panel in accordance with Division 4 of Part 8 of the Act to oversee and advise the Council on matters of internal and external audit and risk management and compliance functions of the Council.

Members of the Audit Panel are expected to:

- Act in the best interests of the council;
- Apply sound analytical skills, objectivity and judgement;
- Express opinions constructively and openly, raise issues that relate to the Audit Panels's functions and pursue independent lines of enquiry; and
- Contribute to the time required to review the papers provided; and
- Comply with the Councils *Code of Conduct for Councillors* policy.

Members of the Audit Panel will appointed in accordance with the Panel's Charter.

4.8 Community Engagement

Community engagement provides guidance to Council in order to make well informed, acceptable and sustainable decisions; supporting the final decision making power of the Council.

Council recognises that community engagement is a two way interactive process that provides opportunities for the Council and community to clarify information raise issues and discuss ideas and options. Engagement is an important dimension that informs and enhances Council's decision-making process.

A Community Engagement Framework has been adopted by the Council to assist in the decision making process.

4.9 How the Council Practices Good Governance

The Huon Valley Council demonstrates good governance by:

Driven by a Clear Vision	The Council's Strategic Plan defines the priorities and aspirations of the community and enables Council to ensure the best interests of the community are at the centre of the decision-making process
Effective And Efficient	Council strives to implement decisions and follow processes that make the best use of the available people, resources and time to ensure the best possible results for their community
Equitable And Inclusive	A community's wellbeing results from all of its members feeling their interests have been considered by Council in the decision-making process
Engagement	Council believes it is important to consider the views of a community when making decisions about projects and resources that affect their local area. The Council is committed to ensuring that it works with communities and does this utilising the Council's Community Engagement Framework
Follows The Rule Of Law	This means that decisions are consistent with relevant legislation or common law and are within the powers of Council. Relevant legislation includes, but is not limited to, the Act
Accountable	Accountability is a fundamental requirement of good governance. Local government has an obligation to report, explain and be answerable for the consequences of decisions it has made on behalf of the community it represents
Transparent	People should be able to follow and understand the decision-making process. This means that information, advice and consultation, which council considers, as well as any legislative requirements council follows, should be readily available for reference subject only to necessary legal, privacy and confidentiality considerations.

4.10 Strategic Planning Framework

The Council's planning tools are a suite of planning documents which are all intricately interlinked. Each document is informed by the others but has its own focus. This ensures at every level of planning the council is working towards achieving the community's long term vision for the Huon Valley as set out in the Council's Strategic Plan.

The Act regulates the activities of all councils and how they plan and subsequently report on their activities. The Act requires councils to plan for, develop and manage municipal areas in the interests of their communities.

This is done through a series of plans and reports required under Part 7 of the Act as follows:

- Strategic Plan
- Long Term Financial Plan
- Financial Management Strategies
- Long Term Strategic Asset Management Plans
- Asset Management Policies
- Asset Management Strategies
- Annual Plan
- Annual Report

Within these plans and reports Council is required to review the documents and minimum requirements are prescribed under the Act. The Council will comply with its requirements under the Act.

Further the Council is established as a Planning Authority under the Land Use Planning and Approvals Act 1993 (LUPAA).

Under LUPAA it is the responsibility of the Council to prepare and implement a Planning Scheme for the municipal area and assess proposed use and development in accordance with the Planning Scheme.

A Planning Scheme is a key strategic document for the Council which guides use and development in the municipal area that must have regard to the Council’s Strategic Plan along with furthering the objectives of the resource management system, consistently applying state policies and making provisions relating to the use, development, protection or conservation of any land in the area.

The diagram below sets out the requirement of all Councils under the Act.



5 Operational Framework

5.1 Communication Protocols

5.1.1 Requests for Information

Any Councillor seeking information on policy issues or on day to day matters in the exercise of their statutory role as a member of the Council, are to contact the General Manager. The General Manager may refer the Councillor to an Executive Manager to liaise and discuss the matter.

The General Manager may provide permission to allow for Councillors to directly liaise with an Executive Manager or a Council Officer in accordance with protocols determined by the General Manager including portfolio holder interactions.

Formal access to information is otherwise to be in accordance with section 28A of the Act.

5.1.2 Councillor Interactions with Council Officers during Council and committee meetings

All interactions between Councillors, the General Manager and Employees at Council or committee meetings will be in accordance with the Act, Meeting Procedures Regulations and the Code relating to the Conduct of Councillors.

Councillors may be required to liaise directly with a Council Officer in carrying out their duties as chair of a Council appointed committee.

5.2 Council Meetings

A Councillor's most important function as part of the governing body of Council is to attend and participate in the decision-making processes of Council.

The decisions made by Councillors at formal Council meetings provide the direction and authority for the ongoing operation of the Council. The decisions of the Council give direction to the General Manager to act.

The Council can only make decisions by resolution, that is, a motion has to be put to a properly convened meeting and passed by the required majority.

Council meetings are formal meetings required to be held by the Council under section 18 of the Act.

Council meetings will be conducted in accordance with the Meeting Procedures Regulations and will be open to the public however a meeting will be closed when considering a number of matters set out in regulation 15(9) of the regulations.

Any discussions, decisions, reports or documents relating to a closed meeting are to be kept confidential. The Council will consider authorising information from a closed meeting to be released to the public by the person authorised by the Council, after considering privacy and confidentiality issues. The authorised person is usually the Mayor or the General Manager.

5.3 Councillor Workshops

Councillor workshops will be held on a regular basis.

Workshops will be utilised to provide information to Councillors on relevant issues, to seek direction from Councillors on policy matters or for them to receive presentations from internal and external organisations on matters of interest.

5.4 Communication to Councillors

Communication will be provided to Councillors on an as required basis by available means such as by briefing notes and emails to convey information on relevant issues as they arise.

5.5 Council Committees

Section 23 of the Act enables the Council to establish of Council Committees which consists of Councillors only. The Committee meetings are subject to the Meeting Procedures Regulations and Terms of Reference as determined by the Council from time to time.

Establishment of a Council Committee will be considered by the Council where appropriate.

5.6 Special Committees of Council

A Council may establish Special Committees of Council on such terms and for such purposes as it thinks fits in accordance with Section 24 of the Act. Special Committees of Council are not governed by the Meeting Procedures Regulations.

Members of the committees will be appointed in accordance with the approved Terms of Reference for each committee.

The Council has established three different types of Special Committees set out below:-

- Special Councillor Committees
- Advisory Committees
- Management Committees

5.6.1 Special Councillor Committees

The Council has established a Governance Committee made of solely Councillors. Members of the Governance Committee will be appointed in accordance with the Committee's Terms of Reference.

The Committee meetings are not open to the public. The Committees may make recommendations to Council, and have no specific delegation in their own right unless otherwise provided by the Council from time to time for a specific purpose.

The Minutes from the Committee meetings will be publicly available as an attachment to the Council Agenda when considered at an Ordinary Council Meeting.

5.6.2 Advisory Committees

The Council has established a suite of Advisory Committees that are usually “program area” focussed. These Committees are chaired by the relevant Council portfolio holder and comprise of either community members or representatives of identified bodies.

These Committees are generally strategic in nature and may be involved in the provision of advice to Council in the subject area of the Committee, development of a specific strategy or the implementation of a Council approved strategy. These Committees may make recommendations to Council, and have no specific delegation in their own right unless otherwise provided by the Council from time to time for a specific purpose.

5.6.3 Management Committees

The Council has established Management Committees to assume responsibility for specific community facilities. The Committees comprise solely of community members and work with a high degree of autonomy. The Council has specific Terms of Reference for each of the Committees and provide them with an annual financial allocation to assist with the operation costs of the facility. The Committees may hold delegations from the Council in respect of their management responsibilities.

The Council will undertake an annual audit of the accounts of each of the Committees and a summary of their financial situation will be included in the Council’s Annual Financial Statement. Each of the Committees will hold an Annual General Meeting and the appointment of office bearers elected at each of the AGMs will be subsequently endorsed by the Council.

5.7 Portfolio System

Council will operate a Portfolio system aligned with Council's Strategic Plan program areas as follows:

- Aged Care & Housing
- Children's Services & Education
- Community & Cultural Development
- Community Relations & Customer Service
- Development Services
- Economic Development
- Emergency Management & Community Safety
- Environmental Management
- Finance & Risk
- Information Technology
- Parks & Property Maintenance
- Recreation
- Rural Health
- Stormwater
- Tourism Promotion
- Transportation
- Waste Management
- Youth Services

Portfolio Holders are expected to:

- Take a particular interest in the subject for which they hold the portfolio and familiarise themselves with media articles and publications about the subject matter.
- Chair the meetings held of associated committees
- Speak to any reports tabled at the committee meetings or at Council meetings
- Participate in discussions and involvement to focus at the strategic (rather than operational) level
- Represent the Council when needed in relation to portfolio related matters
- Participate as Council's representative on Local Government and External Bodies and are the "Council Face" on the issue

Portfolio holders may issue media releases on behalf of the Council only if the content of those releases complies with the following:

- Directly relates to the Councillors Portfolio area
- Is consistent with Council Policy and Council decisions
- The Mayor is advised of all such releases to be provided to the media and agrees to the release
- Contact with the media is through arrangements approved by the Mayor and the General Manager

Portfolio holders:

- cannot direct Employees
- have no specific delegation
- must abide by and promote Council decisions
- must abide by Council policies

The portfolio allocation process is:

- i. Councillors are invited to lodge an expression of interest within 7 days, addressing the selection criteria for portfolio(s).
- ii. The Mayor prepares a Portfolio Recommendations Report evaluating applications and makes a recommendation portfolio allocations to the Governance Committee

- iii. The Governance Committee reviews the Portfolio Recommendations Report and may make amendments, resulting in a Portfolio Recommendations Summary
- iv. The Portfolio Recommendations Summary from the Governance Committee is presented to Council.

Councillors are to address each of the following selection criteria for portfolios (to a maximum of 200 words each criteria):

- i. Ability to work as a team with public, staff and in particular the General Manager and Executive Managers.
- ii. Availability to undertake the necessary functions required within the portfolio area
- iii. Interest or skills relevant to the portfolio area

Portfolio allocations will also take into consideration the alignment of service delivery areas, equity in workload and responsibility, and involvement of a maximum of two Executive Managers with any one Councillor's portfolios. Each Councillor is to be allocated at least one portfolio.

In the absence of an allocated portfolio holder the Mayor may appoint a Councillor to undertake the functions relevant to a portfolio including but not limited to chairing of committee meetings or attending at representative bodies for a specified period.

5.8 Representation on Local Government Bodies

The Council is a member of the Local Government Association of Tasmania which is established under Part 16 of the Act to represent the interests of Local Government in the State.

The Council is also a member of 2 joint authorities that have been established pursuant to Division 4 of Part 3 of the Act as follows:

- Southern Tasmanian Councils Authority (Think South) which is a representative body generally of the 12 Southern Councils.
- Southern Waste Strategy Authority which is a representative body of 11 of the Southern Councils for the purposes of addressing waste issues in the South of the State.

The Council is also a shareholder owner in the Tasmanian Water and Sewerage Corporation (TasWater) which has been established to deliver statewide water and sewerage services which were formerly delivered by Councils.

The Council will appoint representatives to represent the Council at meetings and relevant functions etc as follows:

LOCAL GOVERNMENT BODY	COUNCIL REPRESENTATION
Local Government Association of Tasmania	Mayor Proxy Deputy Mayor
Southern Tasmanian Councils Authority (Think South)	Mayor Proxy Deputy Mayor
Southern Waste Strategy Board	Portfolio holder for Waste Management Proxy Deputy Mayor
Tas Water Shareholders and Owners	Mayor Proxy Deputy Mayor

5.9 External Committee / Board representation

From time to time the Council, but its own volition or by invitation, will take up membership or representation on various bodies external to the Council.

Such representation or membership will be reviewed from time to time considering the circumstances of the case and relevance to the Council's strategic plan.

The Council will appoint representatives to represent the Council at meetings and relevant functions etc as follows:

EXTERNAL BODY	COUNCIL REPRESENTATION
Huon Valley / Kingborough Tourism Steering Committee	Portfolio holder for Tourism Promotion Proxy Portfolio holder for Economic Development <i>(formerly Economic Development/ Tourism)</i> General Manager to appoint an Officer representative
Coming Out Proud Community Liaison Committee Kingborough/Huon Valley	Portfolio holder for Community Relations and Customer Service <i>(formerly Community Consultation and Relationships)</i> Proxy to be appointed
Southern Regional Natural Resource Management Association (NRM South)	Portfolio holder for Environmental Management <i>(formerly Natural Resource Management)</i> No Proxy
Primary Industry Biosecurity Action Alliance (PIBAA)	Deputy Mayor Proxy Mayor
Huon Stronger Communities Partnership	Portfolio holder for Emergency Management and Community Safety No Proxy
Huon Valley PCYC Inc Management Committee	Portfolio holder for Finance & Risk Proxy Portfolio holder for Recreation
Huon FM Management Committee	Portfolio holder for Economic Development No Proxy

5.10 Code of Conduct Panel appointment Process

Section 28G of the Act requires the Council to establish a Code of Conduct Panel to hear and determine complaints in respect of the alleged failure of a Councillor to comply with a provision of the code relating to the conduct of Councillors.

The Council will appoint a person of good standing in the community as the chairperson of the code of conduct panel.

In accordance with section 28G(4) the Council will, at the first ordinary meeting after a Council election, nominate 3 Councillors, other than the Mayor, as members of the Code of Conduct panel.