

# CITY OF CLARENCE SUBMISSION

## DISCUSSION PAPER – REFORMS TO COUNCILLOR NUMBERS AND ALLOWANCES

Proposed Reform	Question response
<p data-bbox="203 309 577 344"><b>Quorum management</b></p> <p data-bbox="203 389 1061 488"><b>Question – Should the Government consider any strategies/guidance for council decision making where a quorum cannot be maintained?</b></p> <p data-bbox="203 533 1099 1279">For councils with five councillors, maintaining quorums may occasionally be challenging if multiple councillors are absent, but proposed reforms like flexible meeting attendance aim to ensure effective decision-making. While there have been no observable issues in five or six councillor councils in other jurisdictions, a quorum may still be impacted in rare instances where there are a number of absences and/or conflicts of interest which preclude voting on a matter. It is noted the Government’s broader reform agenda seeks to make council attendance more flexible and accessible, which should limit or reduce absences. However, it is also noted that section 67 of the Victorian Local Government Act 2020 allows councils to make decisions in an ‘alternative manner’ where a quorum cannot be maintained due to a number of councillors having a conflict of interest in a matter. This includes: · resolving to split the matter into 2 or more separate parts, so that a quorum can be maintained for each separate part · making prior decisions on component parts of the matter at a meeting for which a quorum can be maintained, before deciding the overall matter at a meeting for which a quorum can be maintained. Feedback is sought on whether a similar provision should be included in Tasmania’s Local Government Act, where the broader numbers and allowances reform proposal proceeds.</p>	<p data-bbox="1126 341 1391 370"><b>Council’s response</b></p> <p data-bbox="1126 376 1912 405">Council is content with Regulations 13(2) and 13(7) as drafted.</p> <p data-bbox="1126 450 1509 478">In respect to Regulation 13(5):</p> <ul data-bbox="1178 523 2033 1279" style="list-style-type: none"> <li data-bbox="1178 523 2033 625">• Irrespective of whether a council has 5, 7 or 9 councillors, for simplicity, the same rules should apply to all councils in respect to maintenance of a quorum.</li> <li data-bbox="1178 670 2033 842">• We suggest that the regulation be amended to allow the Chair of the meeting to permit a councillor to remain in order to maintain a quorum, in circumstances where a particular agenda item lacks a quorum (rather than the entire meeting lacking a quorum).</li> <li data-bbox="1178 887 2033 1168">• Within the context of the above, council supports the notion that a councillor with a declared conflict of interest be permitted by the Chair to remain in the meeting in order to maintain a quorum in respect to a particular agenda item, but not permitted to participate in debate on the relevant item or vote on that item. However, council also notes that the mere presence of a councillor with a conflict while an item is debated may be enough to cause concern as to improper influence.</li> <li data-bbox="1178 1212 1906 1279">• Noting the above concern, there are two other options available:</li> </ul> <ol data-bbox="1218 1321 1995 1386" style="list-style-type: none"> <li data-bbox="1218 1321 1995 1386">1. A council may, within its delegations framework, establish delegations that enable council officers to make time</li> </ol>

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	<p>dependent decisions, in accordance with report recommendations, in circumstances where a council meeting lacks a quorum. For example, in relation to planning, legal and tendering decisions; or</p> <ol style="list-style-type: none"><li>2. A council could exercise a procedural motion to defer a non-time dependant item to a future meeting.</li></ol> <ul style="list-style-type: none"><li>• Within the context of the legislative framework, providing councils with a choice of methods (as set out above) would allow councils to choose a best or preferred method to manage quorum issues in consideration of circumstances and/or preferences.</li></ul>

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<p data-bbox="206 240 479 272"><b>Superannuation</b></p> <p data-bbox="206 320 1081 453"><b>Question – Should the Local Government Act 1993 be amended to require councils to pay a 12% superannuation equivalent payment from allowances into a councillor’s nominated superannuation fund?</b></p> <p data-bbox="206 536 1099 991">Councillors are not regarded as employees for taxation and superannuation purposes. This means councils are not obliged to pay superannuation contributions on behalf of councillors. It is currently an option open to councillors (or indeed councils by resolution) to self-manage any voluntary contributions, should they wish to. Since 2004, Tasmanian councillors have received a 9% superannuation equivalent payment as part of their allowances (increased to 12% from June 2025). However, there is no requirement for this amount to be paid into a superannuation fund (even though councillors can make voluntary contributions). This has led to a general misunderstanding that councillors do not receive any allowances in lieu of super, which would be mitigated by the requirement for the equivalent amount to be paid into a fund.</p>	<p data-bbox="1135 276 1391 304"><b>Council’s response</b></p> <p data-bbox="1135 347 1995 445">A majority of councillors are supportive of a comprehensive review of councillor entitlements including adjustments for superannuation equivalent payments.</p> <p data-bbox="1135 491 2029 767">A majority of councillors do not consider the current situation (superannuation being included as a part of the current allowance) as equitable or fair on the basis that many councillors were not aware that superannuation is considered to be included within their allowance and therefore do not elect to make a specific allocation to superannuation. This means, in effect, that councillors are treated differently from all other categories of worker (including directors and state and federal politicians).</p> <p data-bbox="1135 815 2024 1091">A majority of councillors consider that councillors should have a legislated superannuation entitlement, paid in the same way that company directors, at the SGC rate. That is, that councillors should be ‘deemed’ to be employees for superannuation purposes. Council considers that this change could be legislated within the Local Government Act requirements. Such a change would further assist to recognise the important role that councillors play and assist to improve the compensation paid.</p> <p data-bbox="1135 1139 2018 1272">Additionally, a majority of councillors consider that they should be able to ‘opt out’ of receiving a superannuation payment, should they wish to do so. In this circumstance, the superannuation component would not then be added to the councillor allowance.</p>

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## Setting the foundation for future reviews

**Question – Should the methodology and ongoing review framework for councillor allowances and numbers be embedded in legislation to provide certainty and transparency to the sector and community?**

There are deficiencies with the current processes for reviewing councillor numbers and allowances - including a lack of structure and transparency around the scope, timing and conduct of regular reviews. The framework proposed in this paper provides the opportunity to provide certainty around future reviews and transparency into how they are to occur. The Government is considering changes to the Act to include the methodology and establish a mandatory schedule for regular reviews (for example, once every term of council). This would see the re-application of the methodology to councils on a regular basis, ensuring council numbers and allowances remain fair and equitable on an absolute and relative basis over time in response to demographic and other changes.

## Council's response

Council supports the timing and methodology for future reviews of councillor allowances and numbers being embedded within the Act.

Setting a review process within the legislation would assist to address any suggestion that councillors are involved in the process and assist to manage the resources involved in the process.

In terms of the setting of councillor allowances, an independent review mechanism similar to that applicable to state politicians is suggested.

In terms of timing, councillors considers that a 4 yearly review should be conducted at the beginning of each term of council, with any changes to take effect from a date declared as a part of the review.

Following the 4 yearly review, councillor allowances should be indexed annually by the Hobart CPI rate, as is currently the case.