

Department of Premier and Cabinet

Director of Local Government

George Town Council Elector Petition

Report to the Minister for Local Government

December 2013

George Town Council Elector Petition Report to the Minister for Local Government

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I. Executive Summary

In May 2013, the Minister for Local Government, the Hon. Bryan Green MP, received a petition signed by over 20 per cent of the electors in the George Town municipal area requesting a review of the operations of the George Town Council (the Council) by the Local Government Board (the Board).

Following receipt of the petition, the Minister requested that the Director of Local Government (the Director) undertake enquiries in relation to the matters raised in the petition statement and covering letter, and to provide recommendations to the Minister regarding the most appropriate course of action. The main components of the electors' petition focussed on the operations of the Council and the relationship between the Council and the general manager.

Consistent with the electors' petition, this report addresses issues relating to the governance and operations of the Council, including financial and asset management, human resource management, community satisfaction and regulatory functions. A range of issues outlined in submissions was examined in relation to the general manager and councillors.

Evaluation of the governance arrangements and operations of the Council involved a thorough assessment of Council procedures, plans, policies and practices as well as interviews with the Council, councillors, council staff and electors of George Town.

On balance, the Council is performing at a satisfactory level; while in some operational areas it is exceeding expectations. This conclusion should be viewed within the context of the limited resources often experienced by many councils of a similar size to George Town. However, there are a number of issues which have been identified that need to be addressed in the short to medium term. While the recommendations outlined below are not onerous they do underline the need to bring a number of the Council's policies and processes up to an acceptable standard.

With regard to matters related to the general manager, most have been referred to the appropriate authorities for investigation and I do not intend to comment in detail on the matters or processes currently underway.

Clearly there is considerable antagonism towards the Council from a relatively small number of vocal ratepayers, a number of whom actively participate in the George Town Residents and Ratepayers Association (the Association). For some individuals, the negativity towards the Council stretches back some time and has been recently exacerbated by events surrounding the Regent Square development. While an active ratepayers association is a bonus in any local community, the actions of some closely associated with, or members of, the Association could be seen as counter-productive. Nonetheless, the electors' petition highlighted a number of crucial issues that needed to be addressed. Hopefully the recommendations in this report will go some way to restoring a respectful working relationship between the Council and the Association.

Overall, the Council is operating reasonably well. With the exception of a number of human resource issues, there are no significant shortcomings in the governance and operations of the Council. Further, there is no clear evidence that the Council has failed its community, nor its obligations under the legislation. Additionally, a number of important matters that arose during these enquiries are now being dealt with by the relevant authorities. Consequently, there is no need for the Local Government Board to conduct a review of the Council.

Recommendations

It is recommended the Council consider:

Governance

- Strengthening the current strategic plan, incorporating comments from the community following a thorough consultation process. A new 10 year strategic plan should more extensively document the mechanisms or strategies the Council proposes to use to meet its long-term objectives;
- Dedicating resources to the review of major policies and the development of new policies within an appropriate timeframe;
- Changing the order of business of council meetings, so that the Council can conduct its other business prior to the public being able to address the Council; and
- Expediting the purchase of a recording and public announcement (PA) system for the Council chambers. The system purchased should have the capacity to record meetings, and potentially stream meetings live to the internet, or record podcasts that may be downloaded from the Council website.

Operations

- Reviewing any policies, practices or guidelines with respect to management of capital works projects to ensure they are both current and consistent with national best practice.

Regulatory functions

- Prioritising the completion and adoption of a new planning scheme. This includes assisting the Tasmanian Planning Commission (TPC), where possible, during the planning scheme assessment process, and thoroughly consulting with the community over the newly adopted interim planning scheme.

Financial and asset management

- Developing a timeframe for the development and adoption of:
 - a 10 year financial management plan;
 - a 10 year strategic asset management plan;
 - a financial management strategy;

- an asset management strategy; and
 - an asset management policy.
- Developing and implementing new strategies to address the poor anti-fraud culture around the Council. This should include, as a minimum, training and education of staff to recognise and identify fraudulent activity.

Human resource management

- Undertaking a regular staff satisfaction survey, with the results presented to the Council for consideration; and
- Undertaking a review of all policies and procedures in place for management of staff grievances and internal complaints.

Matters concerning the general manager

- Developing a new performance review procedure for the general manager that is transparent, thorough and rigorous; and
- Developing a more comprehensive and rigorous appointment process for the position of general manager.



Phillip Hoysted
Director of Local Government
8 December 2013

2. Electors' Petition and Enquiry Process

In May 2013, the Minister for Local Government, Bryan Green MP, received a petition signed by over 20 per cent of the electors in the George Town municipal area requesting a review by the Local Government Board of the operations of George Town Council. Under section 214 of the *Local Government Act 1993*, the Minister may instigate a review of a council by the Local Government Board on receipt of a petition from at least 20 per cent of the electors in the municipal area.

Following receipt of the petition, the Minister requested that the Director of Local Government undertake enquiries in relation to the matters raised in the petition statement and covering letter, and to provide recommendations to the Minister regarding the most appropriate course of action. This report provides a detailed analysis of relevant issues associated with the electors' petition and makes a number of recommendations for consideration by the Council.

This report contains an assessment of a number of fundamental aspects, central to the structure and function of the Council. Consistent with the electors' petition, the report addresses issues relating to the governance and operations of the Council, its' financial and asset management, human resource management, community satisfaction and regulatory functions.

The process adopted for an evaluation of the current governance and operations of the Council involved an assessment of the Council's procedures, plans, policies and practices (see section 5.2.7), as well as interviews with the elected members of the Council, as-a-whole and with councillors individually, council staff and electors of George Town.

The array of documentation (Council procedures, plans, policies and practices) considered during the enquiries are summarised in subsection 4.2.7.

Initial discussions were conducted at the George Town Council Chambers on 10 July 2013. The Council as-a-whole (including the general manager and the Council's Director Corporate and Community Services) met with the Director, before councillors were offered the opportunity to raise any issues in private and in confidence.

Following discussions with the Council, an opportunity was given to George Town electors to raise concerns and provide verbal and written submissions to the Director. Subsequent meetings were conducted with a group of George Town electors, in particular those responsible for organising the petition.

At the beginning of each discussion, it was clearly outlined that it was not a formal review, but that enquiries were being undertaken to determine an appropriate course of action to address the concerns of George Town electors as outlined in the electors' petition.

It was also clearly stated to interviewees that the following information was to be considered:

- Any verifiable information relevant to the governance and operations of the Council and the role of the general manager as outlined in the petition statement;
- Reliable information pertaining to the financial viability of the Council, compliance with the legislative and regulatory requirements of the *Local Government Act 1993* and other relevant legislation, Council policies, and other relevant practices and procedures; and,
- Complaints that have not already been responded to by the Director.

Information that would not be considered included:

- Any issues associated with legal cases currently before the Courts;
- Any matters addressed in the Integrity Commission's Investigators Report, January 2013;
- Hearsay, rumour, and irrelevant information; and
- Defamatory, unprofessional or abusive comments.

Submissions in both verbal and written form were invited from present and past employees, councillors and electors up until 31 August 2013. All submissions were summarised and analysed to determine their content, relevance to the petition and legislation, seriousness and validity. More weight was placed on complaints that could be substantiated with documentation, were reported from several independent witnesses and consisted of firsthand accounts of the allegations. Preference was given for written submissions.

Further information on a number of issues was sought from the Council on two occasions.

3. Background

3.1 History of George Town

The George Town area is located on the northern coast of Tasmania. For at least 35,000 years, the Palawa tribal groups lived in the area by the River the Tamar, where both George Town and Launceston were later established. The bands within this North Midlands tribe were known as the Leterremairrener, Panninher and Tyerremotepanner peoples, although it is believed that the Leterremairrener people were the predominate band north of Port Dalrymple. The Panninher people predominately inhabited the areas around Norfolk Plains and the Tyerremotepanner people inhabited Campbell Town and surrounds (Ryan 1943, ABS 2013).

The complexity of changes in the social, cultural and territorial structures of the Tasmanian Aborigines over time is largely unknown, although it is believed that individual bands had a specific home range with elaborate rites of entry required of visitors. Despite these specific territories, the Aboriginal Tasmanians were primarily nomadic people who lived in adjoining territories, moving based on seasonal changes in food supplies such as seafood, land mammals and native vegetables and berries. As a result, interaction, socialisation and altercations between the the Leterremairrener, Panninher and Tyerremotepanner bands were likely common (Ryan 1943, ABS 2013).

European explorers first visited George Town in 1798 when George Bass and Matthew Flinders discovered and partially explored northern Tasmania's Tamar River. However, it was not until 4 November 1804, when Lieutenant Colonel William Paterson and his fleet of ships, the HMS Buffalo, the HMS Lady Nelson, the Francis and the Integrity, entered the Tamar Heads with a party of 181 (including 74 convicts) and was blown ashore at Low Head, onto Lagoon Beach, that the town was first established (Branagan 1980).

The settlement, originally named Outer Cove, was renamed George Town in 1811 by Governor Macquarie who had plans for its use as the northern administrative capital. For 16 years, debate raged between Launceston and George Town as to which was most suitable for a northern capital city; Launceston boasting an abundance of freshwater, and George Town argued that with Britain being at war with the French, a military garrison at the head of the river would provide the best protection for the new colony from the French. It was eventually decided Launceston would become the northern capital, while George Town was to be maintained as a small military garrison.

Although Macquarie's orders to move headquarters to George Town were never realised, the town continued as an administrative post and today has the distinction of being the oldest town in Australia (Branagan 1980).

From 1828 to 1888, George Town was a Police District, covering both sides of the River Tamar the whole of the North East coast as far as George's Bay (now St Helens), and had official control of the Bass Strait Islands (Furneaux Group). During this time, the local public works were cared for by a Road Trust.

In 1889, George Town became a Municipal District, but the Road Trust continued in operation until 1906 when, under the (then) Local Government Act a Municipal Council, with widely extended powers, was elected.

Today George Town remains an administrative centre for the district, which has an area of 652.60 square kilometres extending from the Tamar River, north-east as far as Little Pipers River and south as far as Mount Direction.

3.2 The George Town Council

The George Town Council was officially created on 2 April 1993, following the review of local government boundaries in Tasmania, and the subsequent change of local government authorities from 'municipalities' to 'councils'. The Council was tasked with managing the affairs of the same municipal area as the previous Municipality of George Town (Figure 1).

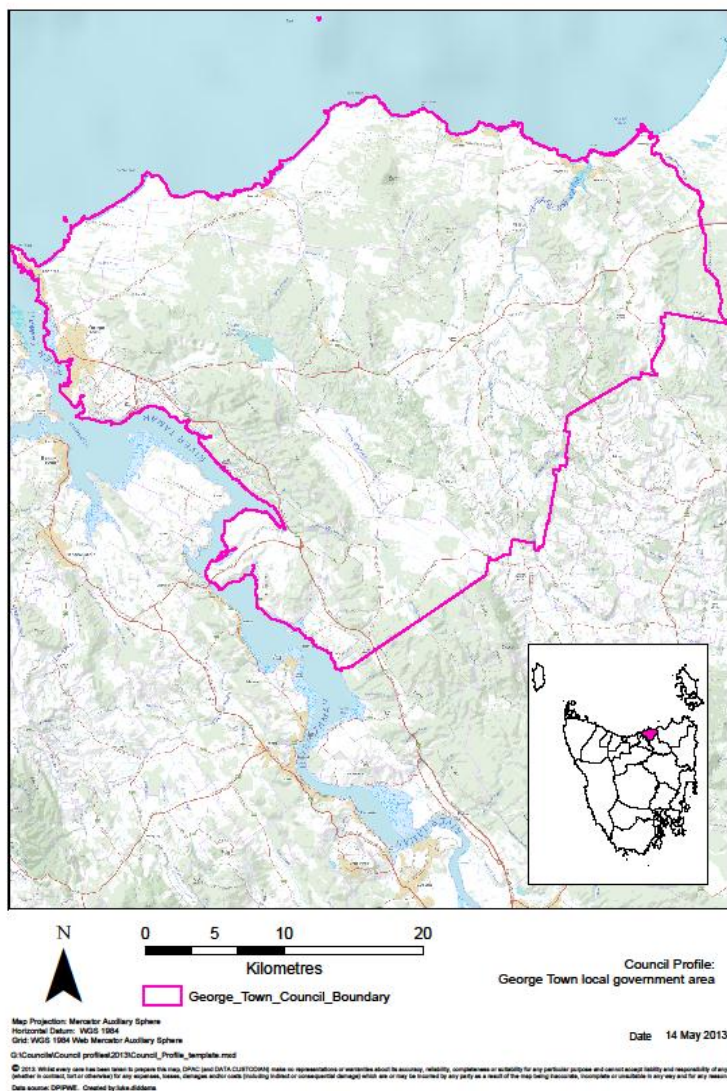


Figure 1. Map of George Town local government area.

The George Town area covers 652.60 square kilometres and has a population of just over 6 900 people.

The local economy relies heavily upon the fortunes of companies in the heavy industrial zone and deep-water port of Bell Bay, immediately to the south. In 1955, the Comalco Aluminium smelter (now Rio Tinto) began operation at Bell Bay, becoming one of Tasmania's major employers. The smelter today directly employs approximately 550 people and a number of contractors, many of whom have also made Bell Bay their base.

The BHP Billiton TEMCO ferro-alloy processing plant was first established at Bell Bay in 1962 and provides another major source of employment for the area. Other industries within the municipality include Ecka Granules aluminium powder plant, the George Town Seafood processing factory, SVP Industries and woodchip mills, as well as a number of service and light industry businesses that support the larger industries. The deep water port at Bell Bay is operated by Tasports and provides important freight access to Tasmania.

The Council is a significant employer in the area with 56 staff at the time of this enquiry.

The current council consists of nine councillors:

- Cr Roger Broomhall (Mayor), Chairman;
- Cr Bridget Archer (Deputy Mayor);
- Cr Heather Barwick;
- Cr Jacqui Burt;
- Cr Tim Cory;
- Cr Stephen Geale;
- Cr Dean Gibbons;
- Cr George O'Sign; and
- Cr Tim Parish.

The Council's mission statement is *"to develop and maintain a proud, prosperous and vibrant area by planning our future and promoting our strengths"*. As such, the Council is dedicated to supporting local businesses within the community and has a key focus of ensuring doing business with the Council is as easy and accessible as possible. Recent changes to the *Local Government Act 1993* mean that all current councillor positions will expire in October 2014.

3.3 The Regent Square development

Regent Square in George Town was an important part of the original plan of Governor Lachlan Macquarie, who visited the site on 18 December 1811 during his first visit to Van Diemen's Land. He had decided to build a new town near the mouth of the Tamar River to replace Launceston as the centre of government in the North. He named it George Town and the inlet it lay beside was called York Cove. Accompanying Governor Macquarie was James Meehan, the Acting Government Surveyor. He had journeyed with Governor Macquarie the year before, when they had together planned six new towns to the west of Sydney. Regent Square may be the oldest public park in Australia.

In its 200 year history, Regent Square has undergone a variety of changes. In 1879, the square was declared a recreation ground and in 1882, a quarter acre of the square was designated as a tennis court. Regent Square was formally declared a recreation area in 1891 under the (then) *Public Recreation Grounds Act 1888*.

A cricket/football ground was then placed in the north-western quarter of the Square and a 'Town Hall' was erected on Macquarie Street. The Town Hall was deconstructed in the late 1950s and a new 'Memorial Hall' erected in its place in the early 1960s. The Memorial Hall is currently listed on the Tasmanian Heritage Register for its unique butterfly roof.

Regent Square was gazetted as a Public Reserve in December 1922 and according to Cox (2013) "...a plan of the reserve shows a small hall and tennis court on the Macquarie Street frontage, diagonal footpaths across the Square linking the opposite corners. The north - south footpath was bordered by an avenue of trees, and the entire Square was bounded by a hawthorn hedge".

In 1935 a proportion of the square along Macquarie Street was reclaimed for use as car parking. The car park remains today and it is used consistently by locals and visitors alike.

In October 2010, the TPC approved Amendment 2/2010 for a site specific provision to make the use of the class of 'Civic Building' discretionary on a portion of Regent Square, subject to considerations for external appearance, adequate access and parking, and the physical relationship to other buildings on the Square.

In August 2011, the Council received an application from the Department of Education requesting a permit to be issued to allow the building of centralised 'hub' for several community service centres on the car park of the Town's Regent Square. The proposed building is to house a Learning and Information Centre (LINC), a Service Tasmania Centre or office, a Child and Family Centre and a Centrelink office. In addition, part of the proposal involves the construction of a new bus shelter and bus parking area.

The application was placed on public exhibition for two weeks between 27 August and 10 September 2011. In response to representations received during this period the proposal was placed on public exhibition for a further period of two weeks in late September.

The Council received a total of 25 representations in the first 14 day advertising period and a further six in the second advertising period – a total of 31. One representation was in support of the development. The remaining representations were broadly opposed to the granting of the planning permit, for the following reasons:

- Potential impact on the historical integrity of the site. The central square design, planned by Governor Macquarie, was seen as significant and the development was seen to undermine this. Some representations also stated their view that development should not occur on the site pending the determination of an application for Tasmanian Heritage listing.
- The proposed building design itself was considered to be inconsistent with the character of the existing Memorial Hall.
- The site was inappropriate for the proposed development. Representations suggested that such a building should have been placed closer to Port Dalrymple School.
- It was inconsistent with the planning scheme.

On 20 October 2011, the Council issued a planning permit pursuant to Section 57 of the *Land Use Planning and Approvals Act 1993* (LUPAA) in respect of the development. The permit authorised the construction, development and use of a *“single storey civic building incorporating a learning information network centre, Service Tasmania, child family centre and utility services (major) – bus shelter”*.

Dissatisfied with the Council’s decision, a number of electors convened a public meeting of up to 200 people in George Town in late December 2011. The majority of attendees voted to oppose the State Government’s proposal and to retain the Square as ‘open space’. Shortly after this meeting, two respondents appealed to the Resource Management and Planning Appeal Tribunal (RMPAT), with the decision brought down on 2 March 2012. In so doing, the appellants raised a number of issues including: that the classification of parts of the proposal were inconsistent with the zoning under the planning scheme; European historical cultural heritage; impacts upon visual amenity; and parking for vehicles.

RMPAT upheld the appeal on the basis that part of the proposed building would, upon construction and use, not properly meet the description of ‘Civic Building’ in terms of the (then) George Town Planning Scheme 1991.

However, RMPAT noted that the proposal was not without merit. RMPAT stated in handing down its decision – *“In fact, in the Tribunal’s view, the proposal and its location are very admirable and the case made for combining the various services and locating them all under the one roof on the site proposed in Regent Square is a very good one indeed”*. Nonetheless, the appeal was upheld the technical grounds that the use was not properly classified as a ‘civic building’ and could not be approved.

Shortly after this appeal, the George Town Council released a draft interim planning scheme for public comment that showed Regent Square as zoned for two different purposes, with

40 per cent of the square defined as a 'community use'. Previously, Regent Square was wholly zoned as public open space, and development of a 'hub' in such a zone was prohibited as indicated by the RMPAT decision. By rezoning the area in part to community use, the approvals process for the Regent Square development would be more accommodating of the proposed 'hub' but quite different to the planning scheme then in place (the 1991 scheme).

On 12 October 2012, the Council received a new planning application for part of Regent Square from the Department of Education in conjunction with a request to amend the 1991 planning scheme to make specific provision for the Regent Square development. This amendment constituted a specified departure from the normal controls of the planning scheme for the public open space zone in this specific location.

LUPAA provides for the concurrent assessment of a development application and an amendment to facilitate that development under s.43A. The application was considered and approved on 17 October 2012 by the Council but was subject to final approval by the TPC because it involved an amendment to the planning scheme. Further appeals by electors to the TPC regarding the rezoning and the accompanying development application were heard by the delegated panel and ultimately dismissed.

This resulted in the planning scheme being amended to make specific provision for the development and a planning permit being issued accordingly.

In parallel to the planning processes was consideration by the Tasmanian Heritage Council of a proposed listing of Regent Square on the Tasmanian Heritage Register. The heritage values of the site are technically a discrete matter to the planning issues, but were considered as a relevant consideration by the TPC in its decision on the basis that the Square was provisionally listed with development guidelines. The Tasmanian Heritage Council agreed to a full listing of the site on the basis that the values be not unduly compromised by development in line with the development guidelines. The Council were fully supportive of the Heritage listing.

The delegates of the TPC concluded that the heritage significance of the Square would not be affected by the construction of the hub to the extent that rejection of the draft amendment is warranted.

A number of submissions focussed on the decision making around the approval of the Regent Square proposed development. Of particular concern was a perceived failure to recognise the heritage value of the site and to properly consider the views of the Heritage Council; the alleged undue haste with which the Council approved the application, including the rezoning of the area; the alleged lack of adequate community consultation; the internal process adopted by the Council in assessing the applications and a number of miscellaneous matters.

While it could be argued that a more consultative process may have led to increased community support, it is not the intention to revisit these issues within this report. The Regent Square development has been thoroughly assessed and approved by the relevant

planning and heritage authorities. However, while it is not within the Director's statutory powers to review such decisions, expert advice was sought on a number of specific issues raised by submissions related to the Council's internal planning approval processes for Regent Square. Based on the information provided, there is no evidence of illegal activity or processes which are inconsistent with regulatory planning requirements.

There is little doubt that the development of a community 'hub' on Regent Square has been the catalyst for considerable opposition, and in some cases, anger from sections of the local community. The issue has galvanised a number of electors to oppose the Council on a range of matters.

3.4 Previous Enquiries and Complaints

There have been a number of reviews, a Board of Inquiry and complaints lodged into the George Town Council over the last 20 years. This section examines the reports and complaints, primarily to help identify any common themes or specific issues that may be evident over that same period.

3.4.1 Board of Inquiry 1994

In May 1994, the then Minister for Local Government, the Hon. John Cleary MP, suspended George Town councillors, appointed an Administrator and established a Board of Inquiry to investigate the instability that had plagued the Council for some time.

There are a number of explanations as to why the Council had effectively become dysfunctional in its decision making. These include:

- A downturn in the local economy and uncertainty regarding the future of Comalco at Bell Bay;
- Pressure on the Council to cut rates in order to attract development and residents to the area resulting in a divide council on the matter;
- Collapse in the relationship between the general manager and a sizeable proportion of councillors over a number of issues;
- Creation of the precursor to the George Town Ratepayers Association and its disruptive and negative efforts to undermine the Council;
- Appointment and performance of the general manager; and
- Internal and public criticism of the decisions of council by at least two sitting members of the Council.

The net result was that in the space of a few months, George Town had witnessed five changes in Mayor, incessant and very public debates between councillors and between the Council and the newly formed Ratepayers Association, and sustained attacks on the general manager.

As noted above, the 1994 Board of Inquiry resulted in a complete overhaul of the Council. Councillors were suspended and an Administrator appointed. Among a range of activities, the Administrator commissioned a comprehensive review of the organisational structure and administrative operations of the Council. Public meetings were held to gauge community views on current issues and future directions for the district. The development of a strategic plan for the municipality was expedited. The net result was a more cohesive and strategic Council with more appropriate governance and administrative structures in place.

Caution should be adopted when trying to draw specific comparisons between the circumstances and outcomes surrounding the 1994 Board of Inquiry and the current situation with regard to the Council. At a more general level there appears to be some major differences. The current Council is not 'split' along personal or political lines; it is not dysfunctional and its decision making processes are, by and large, sound. The general manager is well regarded by most councillors and the organisation's financial situation is sustainable. While some updating is required, the Council has a reasonably comprehensive policy framework. Virtually none of this situation existed in 1994.

What is obvious in terms of a common denominator between then and now is the ongoing role played by some individuals and, at times, the George Town Residents and Ratepayers Association.

In finalising its 1994 report, the Board of Inquiry made the following observation:

"It is without doubt that the formulation of the George Town Landlords Group, and its successor the George Town Ratepayers Association, were the major factors in creating and maintaining the instability that developed within the Council in the lead up to the 1994 elections. The issues generated by this group also continued after the election and were pivotal in shaping the events that led to the suspension of the elected members of office."

The report goes on to highlight the adverse impact of the Association on the Council through a modus operandi of making allegations, statements, generalisations and assertions with very little supporting evidence; so much so, the Board of Inquiry noted:

"In our view some of the content of this [Association's] material verges on the irresponsible in aiming only to create community concern but in a way which does not allow an effective and objective response. It has been claimed that the level of media coverage of the activities of the Association gave it a level of influence out of proportion to the size of its membership. Again, the Board of Inquiry has some sympathy with those claims."

While there are obviously genuine and important matters raised by the Association and others over the last two decades, there continues to be what could only be described as a 'campaign of attrition' against the Council. Relatively minor complaints are made either to the Council or to the Director of Local Government, council meetings are disrupted, there are instances of council staff being harassed, accusations and statements are being made

without hard evidence, and perennial 'no confidence' motions are being moved at the Council's Annual General Meetings (AGMs). It is difficult to gauge what positive outcomes those participating in such a campaign hope to achieve.

3.4.2 Local Government Board Review 2005

The most recent review of the Council by the Local Government Board was conducted in 2005. Until recently, under section 8(1)(a) of the Local Government Act, the Board was responsible for undertaking general reviews of councils at least once every eight years. The Board would make recommendations stemming from the findings of each review to help improve the functionality and efficacy of council business and operations.

During the review, 10 written and 12 verbal submissions were received from members of the public. Of those that provided a submission to the 2005 review, four also provided submissions to the current enquiry that forms the basis for this report to the Minister (see section 4.2).

The 2005 review did not identify any serious systematic problems with the governance and operations of the Council. In conducting the review, the Board made a total of 15 recommendations across the areas of governance (5), human resource and council management (1), asset management (6) and financial matters (3).

The majority of recommendations related to the need to improve financial and asset management; a situation that applied to most councils at the time. It was not until 2007 when a national initiative to implement long-term financial and asset management planning in local government was adopted, and progressively implemented in Tasmania, that these issues were adequately addressed. The recent passage of the Local Government (Miscellaneous Amendments) Act 2013 through Parliament is the culmination of the national initiative that began six years ago. Although asset management documentation needs updating, the Council's asset management position was a reasonably healthy one at the time of the 2005 review.

A key aspect of the 2005 Board review was that there was no indication of systematic failure by the Council to fulfil its obligations to the community and its electors. The outcome of the review clearly indicated that the Council was performing as well as, if not better than, most other Tasmanian councils of similar size and structure.

3.4.3 Previous complaints

Over the last few years, there have been a number of complaints made to the Director alleging that the Council, councillors or general manager have breached the Local Government Act or the associated *Local Government (Meeting Procedures) Regulations 2005* (the Regulations). These complaints are outlined in Table 1.

Since 2009, a total of 38 complaints have been received (average of 9.5 per year). Seven of these can be regarded as alleged breaches of the Local Government Act, whilst the

remainder of the allegations are in respect to breaches of the Regulations. This number of complaints is high in comparison with other Tasmanian councils of a similar size.

The pattern in these complaints suggests that issues with the Council have existed for a number of years and concern a number of repeat complainants. This suggests that on-going issues between the Council and electors have not been adequately addressed.

This report uses the number and substance of previous complaints only to set the context for this enquiry and as background information in to the lead up to the electors' petition. As stated above, while Table 1 outlines the complaints against the Council since 2009, only a small percentage are considered alleged breaches of the Act. Of the 38 complaints, 7 were made by councillors, while the remaining 31 complaints against the Council have been lodged by only 14 electors.

It should be noted that a number of complaints have also been submitted regarding the behaviour of the public gallery at Council meetings, and specifically section 41(1) of the Regulations – hindering and disrupting a meeting. On a number of occasions, the Chair has required the assistance of police to remove members of the public gallery under section 41(4) of the Regulations. Such behaviour is not acceptable and should not be condoned.

Submissions to this enquiry indicate that the abrasive relationship between some electors and the Council has become personal. It could be argued that there is currently an ongoing campaign by a small number of electors aimed at unsettling the Council. This observation has some substance, as evidenced by the number and nature of complaints filed with the Council, and with the Director, combined with the unruly behaviour of some members of the public during public question time at council meetings.

This is not to say that other complainants or those who signed the electors' petition are not genuine in their concerns. The Council could have adopted a different approach, at times, throughout the Regent Square development; in fact, a number of recommendations in this report are aimed at improving council operations so as to minimise this kind of community concern.

Table I. Summary statistics of all complaints in relation to the Council received by LGD and the Minister for Local Government since 2009.

Complaint type	Number	Number Resolved
Complaints by electors against councillors		
Rating methodology	11	11
Breach of <i>Local Government (Meeting Procedures) Regulations 2005</i> – public question time	12	12
Breach of <i>Local Government (Meeting Procedures) Regulations 2005</i> – meeting procedures and closed session items	4	4
Breach of <i>Local Government Act 1993</i> - disclosure of information	1	1
Breach of <i>Local Government Act 1993</i> - failure to consult community on Strategic Plan development	1	1
Votes of 'no confidence' at AGM	2	2
Complaints by Council/councillors against councillors		
Breach of <i>Local Government Act 1993</i> - disclosure of information	3	3
Breach of <i>Local Government Act 1993</i> - failure to declare pecuniary interest	2	2
Complaints by Council/ councillors against electors (public gallery)		
Breach of <i>Local Government (Meeting Procedures) Regulations 2005</i> – hindering and disrupting a meeting	2	1 (1 still current)
TOTAL	38	37

4. Enquiry Process

4.1 Scope of enquiry

The primary foci of this report are the issues raised in the electors' petition. The electors' petition is also consistent with motions of 'no confidence' passed at the Council's AGM in both 2011 and 2012.

Issues that were raised in the electors' petition statement and accompanying covering letter (Appendix A) defined the scope of this report. The petition raises concerns in two distinct areas.

Firstly, the petition requests *"the Local Government Board, established under section 210 of the Local Government Act 1993, to carry out a specific review of **the governance and operations of the Council**, in accordance with section 214, 214A(a) and 214(m) of the Local Government Act"*.

Section 214 of the Local Government Act enables the initiation of a Board review of a council. Specifically, section 214(2) provides that the Minister may require the Board to undertake a specific review of a council 'at any time', 'at the request of a council' or 'on a petition proposed in accordance with section 57(2) of at least 20 per cent of the electors in a municipal area'.

It must also be noted that section 215 of the Local Government Act provides that the Minister may also establish a Board of Inquiry to investigate a council, single authority or joint authority or any matter relating to the administration of this Act if the Minister is 'satisfied that a matter justifies its establishment'. However, given that the petition refers explicitly to a review by the Local Government Board, and that a Board of Inquiry should only be established to investigate the most serious of allegations, this report has been limited to the necessity or otherwise of conducting a review by the Board.

A council review by the Board based on an electors' petition is very rare and Board reviews now focus on strategic issues such as proposed amalgamations and reductions in councillor numbers. Typically, such reviews are fundamentally supported by the councils involved. A Board review based on concerns from electors should only be based on very serious and legitimate concerns supported by verifiable evidence.

The second element of the petition and the supporting documentation refers to the activities of the general manager and his relationship with the councillors. The specific intent of this element of the petition is ambiguous, and requests that *"the review is to have special regard to any absence of impartiality towards the general manager by Councillors, and/or any subservience and/or acquiescence by councillors in relation to any formulation of policy, caused by the general manager"*.

Given the two elements to the petition, the focus of the Director's enquiries has centred on the governance and operations of the Council and the role played by the general manager and his relationship with Council and councillors.

4.1.1 General review of the governance and operations of the Council

The first paragraph in the petition statement seeks a specific review of the governance and operations of the Council by the Board, in accordance with Section 214A(a) of the Local Government Act.

Although this request is quite broad, such a review of governance and operations of any council should include, as a minimum, an assessment of the Council's planning processes, policies and policy development procedures, financial and asset management and human resource management practices, particularly staff turnover and mechanisms employed by the Council to address grievances. Consideration should also be given to the operations and services of the Council and mechanisms in place to monitor and ensure quality is maintained in service provision.

While no guidelines for determining whether a review is necessary are contained in the Local Government Act, it is reasonable to expect that credible evidence of systemic shortcomings such as maladministration, dysfunctional decision making or policy development or lack of financial sustainability would need to be provided before recommending a review by the Board.

The criteria used to broadly assess this aspect of the Director's enquiries included:

- Section 20 of the Act, which defines the functions and powers of councils;
- Section 27 and 28 of the Act, which defines the functions of mayors and deputy mayors, and councillors respectively;
- Compliance with the Council's Code of Conduct (as required by section 28E of the Act);
- Compliance with the Act and Local Government (Meeting Procedures) Regulations 2005; and
- Comparisons with other similar sized councils in respect to operations, services and governance, more specifically:
 - policy development procedures and practices
 - human resource management practices
 - financial and asset management policies and practices
 - community consultation
 - compliance with regulatory functions, particularly planning and development applications

4.1.2 Matters concerning the general manager

The second aspect of the petition pertains to the general manager and the relationship he has with Councillors. The specific wording in the petition includes “*absence of impartiality*” by councillors towards the general manager. This was interpreted to mean undue favouritism or bias towards the general manager by councillors. The assumption is presumably that such favouritism clouds the judgement of councillors in undertaking their core functions and impacts on their objectivity when making decisions that are in the interests of the Council and local community.

It has also been alleged in the petition and supporting documentation that the general manager has made councillors acquiescent in the development of policies. The specific wording used in the petition is a “*lack of independence and acquiescence by councillors in relation to any formation of policy caused by the general manager*”. Further clarification was sought and it would appear that the intent of this statement was the general manager ‘caused’ councillors to be acquiescent to policies formulated by the general manager and that councillors show a lack of independence when adopting such policies.

In this case, the second element of the petition is as much a criticism of the Council and councillors as it is a criticism of the general manager. Section 28 of the Local Government Act describes the functions of councillors and the Council’s Code of Conduct (as required to be in place by section 28E of the Act) defines the parameters of how councillors are expected to behave.

Assessing the capacity of councillors to undertake their roles and responsibilities is a difficult task. Serious matters that could warrant a Board review include a pattern of Code of Conduct violations, councillors regularly ignoring meeting procedures and regulations, endemic bullying and harassment of staff and/or councillors, pecuniary interest violations, non-compliance with the Local Government Act, and failure to meet their fiduciary duties. Each of these roles and responsibilities has been examined with a particular focus on Section 28 of the Act, and the Council’s Code of Conduct as a measure of the performance of the Council and in particular, the councillors.

As mentioned, the second element of the petition reflects on the role of the general manager and his relationship with councillors. The functions and powers of the general manager, as defined by section 62 of the Local Government Act, were used as criteria for assessing the general manager’s performance as well as any relevant information included in submissions for the enquiry. An examination was also undertaken of the general manager’s contract and performance reviews.

4.1.3 Matters outside the scope of enquiries

While the initial scope of the enquiry focussed on those matters outlined in sections 4.1.1 and 4.1.2, other systemic issues outside of this scope were raised during interviews and in written submissions. These issues included allegations of bullying and harassment of Council staff, potential misconduct by a public officer and failure of the Council to provide a safe

working environment. Other issues involve allegations that the general manager interferes with council processes, particularly planning processes for reasons that are inappropriate.

While some of the allegations do not necessarily involve a breach of the Local Government Act, the allegations with respect to of bullying, harassment, or discrimination, on a *prima facie* basis, warrant investigation by other relevant statutory authorities. Accordingly, on receipt of these complaints, the Director forwarded allegations of bullying and harassment to WorkSafe Tasmania, and allegations of Discrimination to the Anti-Discrimination Commissioner.

4.2 Submissions and review material

4.2.1 Electors

The electors of George Town submitted the most information for consideration. Six groups of electors were interviewed, along with a number of individuals. All those interviewed were invited to provide a written submission, particularly if there was further evidence to support the issues raised. Of the six groups interviewed, four provided written submissions to reinforce their claims made during the interviews.

It must be noted that this was not a formal inquiry; submissions were not invited from the broader community. The enquiry provided the opportunity for those electors responsible for the lodgement of the petition, along with those most vocal in the affairs of the Council (regular attendees at council meetings) to voice their concerns and provide context around the allegations raised in the petition and supporting documentation. The submissions from the electors were therefore treated as such; as a contextual representation of concerns from some members of the community and an indicator of issues to be addressed in the Director's enquiries. As stated previously, councillors and council staff were also given the opportunity to make submissions.

Submissions from electors are summarised in Table 2. It must be reiterated that these are solely allegations from electors and in the interests of fairness to those subject to the claims; no conclusions should be drawn on the accuracy of these allegations. Of the submissions, little information was of a nature that indicated systematic operational failures by the Council and even less material is considered serious enough to warrant a formal review of the Council by the Board.

The majority of submissions point to the Regent Square assessment and decision making process as a catalyst for the current level of discontent between the community and the Council. Every community member who provided a submission complained about the development assessment process for the Square. The primary concern of these submissions was that the community was allegedly not consulted on the development.

Table 2. Summary of submissions (allegations) received by local electors of the George Town Council. Denotation: GM = general manager, RTI = Right to Information, AGM = Annual General Meeting.

Area	Allegation category	Summary of allegations	Verbal submissions	Written submissions	Comment/analysis
General Governance	non-transparency in provision of information to electors	<ul style="list-style-type: none"> • council reports are misleading and inaccurate • requests for information at meetings are ignored • cost figures are not included or changed in documents 	6	3	<ul style="list-style-type: none"> • substance relates to Regent Square development as a catalyst (Section 3.3) • relates to the RTI request that was dealt with by the Integrity Commission (outside scope of enquiry) • discussed in subsection 5.2.6
	lack of community consultation	<ul style="list-style-type: none"> • no public consultation on strategic plan • no public consultation on Regent Square development • generally community aren't informed of council decisions, developments and projects • motions and/or questions are not directly answered or ignored 	9	4	<ul style="list-style-type: none"> • substance relates to Regent Square development as a catalyst (Section 3.3) • discussed in subsection 5.2.6 Community consultation
	elected members have failed in their obligations to the community	<ul style="list-style-type: none"> • councillors have failed to performance manage the GM • councillors have failed to act objectively 	2	1	<ul style="list-style-type: none"> • discussed in subsection 5.2.5
Meeting procedures	poor and unprofessional conduct of Councillors at meetings	<ul style="list-style-type: none"> • mayor fails to chair meetings appropriately • electors have been ridiculed 	5	8	<ul style="list-style-type: none"> • discussed in subsections 5.2.4 and 5.2.5

		and belittled during meetings			
	unprofessional treatment of the deputy mayor	<ul style="list-style-type: none"> deputy mayor is denied access to information needed to carry out duties deputy mayor is belittled in public forum 	0	2	<ul style="list-style-type: none"> discussed in subsections 5.2.4 and 5.2.5
	the Council ignored 'no confidence' motions at AGM	<ul style="list-style-type: none"> both 'no confidence' motions made at AGM's in 2011 and 2012 were ignored by council and not acted upon 	4	1	<ul style="list-style-type: none"> discussed in subsections 5.2.4 and 5.2.5
	meeting minutes	<ul style="list-style-type: none"> minutes are inaccurate and contain omissions minutes are not a true reflection of the meeting 	1	1	<ul style="list-style-type: none"> discussed in subsection 5.2.4.1
	public question time	<ul style="list-style-type: none"> not enough time to ask questions questions to be asked have to be provided on notice questions are not always answered 	2	4	<ul style="list-style-type: none"> discussed in subsection 5.2.4.2
Planning and development	flawed planning and development application processes	<ul style="list-style-type: none"> professional advice is ignored councillors are lobbied by staff to vote on particular development applications and conditions 	3	4	<ul style="list-style-type: none"> discussed in sections 5.4 and 5.7
	onerous permit conditions placed on developers for dishonest reasons	<ul style="list-style-type: none"> inappropriate conditions on development permits permit conditions placed on permits used to pay for council infrastructure 	3	2	<ul style="list-style-type: none"> discussed in sections 5.4 and 5.7

		<ul style="list-style-type: none"> RMPAT has often overturned conditions on appeal 			
	developers refuse to operate within the municipality due to the 'reputation of the GM'	<ul style="list-style-type: none"> many large developers have refused to develop in George Town 	2	2	<ul style="list-style-type: none"> discussed in sections 5.4
Operations	council failed to respond to or acknowledge receipt of correspondence	<ul style="list-style-type: none"> questions on notice at meetings not responded to letters from electors to council not responded to 	4	1	<ul style="list-style-type: none"> discussed in subsection 5.2.6
	unexplained expenses	<ul style="list-style-type: none"> alleged monies provided by Gunn's to acquire a property in George Town 	1	0	<ul style="list-style-type: none"> discussed in sections 5.4 and 5.7
	failure in policy development and compliance	<ul style="list-style-type: none"> staff fail to abide by Council policies 	2	1	<ul style="list-style-type: none"> discussed in subsection 5.2.7 and section 5.7
Human resource management	bullying and harassment of staff members	<ul style="list-style-type: none"> staff have approached electors alleging they have been bullied electors allege that ex-staff members have resigned due to alleged bullying and/or harassment 	2	5	<ul style="list-style-type: none"> discussed in subsection 4.1.7 s and sections 4.5 and 4.6
	appointment and review process of the GM	<ul style="list-style-type: none"> GM's appointment process was 'dubious' 	2	1	<ul style="list-style-type: none"> discussed in subsection 5.2.7 and 5.7

4.2.2 Mayor

At interview, the mayor stated he was disappointed that the petition and the resulting enquiries had come about. He noted that the negative publicity the Council had received in the media has been damaging to staff morale and the public perception of the Council.

The mayor indicated that the petition did not necessarily represent the views of the broader community but acknowledged the need to improve both communications and engagement with some sectors of the local community. To help overcome some of the negative perceptions of the Council by a vocal minority of electors, he indicated that the Council needed to promote more 'good news stories' of the Council's achievements and successes. This approach was already underway with the production of a number of leaflets, newsletters and newspaper clippings, demonstrating the new approach to inform the community. While only recently introduced, he hoped that the positive media would instil a greater sense of pride in the George Town community.

The mayor raised the issue of several community members continually disrupting and hindering council meetings, specifically referring to an incident that occurred on 15 May 2013, where the police had to be called to remove a community member during a meeting.

4.2.3 Deputy mayor

The deputy mayor provided submissions to these enquiries that were at odds with the other councillors. While the deputy mayor stated that much of the Council's business is conducted effectively and the Council has been responsible for some worthwhile outcomes for the community, she raised issues that supported aspects of the petition and the covering letter.

The deputy mayor provided a number of second-hand accounts of potential issues around the Council and, in particular, the management of council staff. All of the deputy mayor's submissions pertaining to these issues were validated by first-hand accounts from past and present council staff and are therefore discussed elsewhere in this report.

Other aspects of the deputy mayor's submission included:

- Issues around meeting procedures, including public question time and, on occasions, inaccurate meeting minutes.
- Staff issues with respect to grievances and turnover, particularly of manager-level staff.
- Inappropriate use of workshops to disseminate information, particularly the fact that councillors are not permitted to take material away from workshops.
- On a number of occasions, agenda items for discussion were listed for closed session meetings that, in the opinion of the deputy mayor, ought to have been discussed in an open forum. It was also stated that valid reasoning for placing items

in closed session (a requirement under the Regulations) was not normally forthcoming.

- Concerns over the Council not being adequately informed regarding significant overspends such as the new waste management transfer centre.

A number of these issues have been dealt with in other sections of the report and by appropriate authorities. The listing of agenda items, provision of detailed financial information and the use of workshops should be discussed with the mayor and if necessary be referred to the Council.

4.2.4 Councillors

As mentioned earlier, the Director met with the Council as a whole and subsequently with individual councillors to discuss the decision making processes of the Council and the role of the general manager and his relationship with councillors.

Meeting with the councillors, both together and individually provided the impression the Council was largely united. Most Councillors appeared to have a healthy respect for their fellow elected members and towards the general manager. Councillors noted that, as a group, they had achieved and realised a number of key targets and goals over their time as elected members. The general sense around the Council was that of pride in their achievements since the last election and the consensus was that the George Town municipal area was thriving, in part because of the hard work of the Council and councillors.

The majority of councillors expressed surprise at the petition statement. Almost all councillors asserted that the appointment of the current general manager was done with transparency and procedural fairness. Furthermore, councillors believed that the policy process adopted by the Council, and the manner in which it conducted business, was rigorous and in the best interests of the community.

There was a general consensus of the councillors that the Council conducted its business with professionalism and integrity. Councillors did not always agree on all issues put to them, but believed council debate was both open and robust. It was noted that the group were not always unanimous in their decision making and voting, but outcomes were always devised from healthy debate on issues by the independent Council members.

Individual interviews with some councillors reinforced the views put forward in the meeting of the whole Council. Most councillors were supportive of the mayor and the general manager, and stated that they were not aware of any substance to the claims made in the petition.

In their individual interviews, several councillors stated that the accusations raised against the Council were misguided and represented only a small number of electors. A clear majority of councillors believe that a group of the same electors habitually undermine the Council and its activities.

All councillors pointed to the Regent Square development as the probable catalyst of current community division. They also believe the decision to approve the community hub began as a relatively minor issue but community concern had grown substantially with some acknowledging the approval process could have been handled differently.

The final issue raised by the councillors was the manner in which the petition was collected. Most councillors allege that they received reports from community members that they were 'pushed' into signing the petition. These second hand accounts indicated that signatures, in some instances, may have been gathered in an inappropriate manner. All of the claims made by the councillors were second or third hand accounts and therefore are not discussed any further here. However, it should be noted that the substance of their claims were supported by some firsthand accounts in relation to how the petition was collected (refer to section 5.1).

4.2.5 General manager

As a major component of the petition and covering letter related to the general manager, and his relationship to councillors, the views of the general manager were sought during initial interviews with the Council and by email at a later date. The general manager either declined, or did not respond on the issue, of providing a submission.

Nonetheless, an important aspect of the Director's enquiries relates to the general manager's performance and his relationship to the councillors. In carrying out the assessment, focus has been on the general manager's annual performance reviews and the functions and powers of the general manager, as defined by section 62 of the Local Government Act. Any other relevant information from submissions was also considered.

4.2.6 Council employees – past and present

Although not actively sought, a number of current and past employees made submissions as part of the Director's enquiries. Submissions were made both orally and in writing and are summarised in Table 3. As with submissions from electors and other councillors, it must be reiterated that these are allegations and in the interests of fairness to those subject to the claims, no conclusions should be drawn on the accuracy of these allegations.

The vast majority of the issues raised by the past and current employees were directly related to the general manager. The more serious allegations related to bullying and harassment, misconduct and failure of the Council to provide a safe working environment. A number of accusations were made regarding the general manager's role in the development approval process adopted by the Council.

The information provided by current employees, and to a lesser extent, former staff members, was sufficient to establish *a prima facie* case that an investigation by the appropriate authority was warranted.

Table 3. Summary of submissions from current and previous staff of the Council

Area	Allegation category	Summary of allegations	Comment/analysis
Planning and development	staff interfere in DA processes	<ul style="list-style-type: none"> professional advice is often ignored 	<ul style="list-style-type: none"> discussed in sections 5.4 and 5.7
	onerous permit conditions placed on developers without justification	<ul style="list-style-type: none"> unrealistic conditions on development permits permit conditions placed on permits used to pay for council infrastructure many appeals at RMPAT have overturned conditions 	<ul style="list-style-type: none"> discussed in sections 5.4 and 5.7
Human resource management	bullying and harassment of staff members	<ul style="list-style-type: none"> internal staff bullying and harassment not addressed staff do not abide by Council policies ex-staff members have resigned due to bullying and/or harassment allegations of discrimination 	<ul style="list-style-type: none"> discussed in sections 5.7, 5.2.7 and 5.6

4.2.7 Other information

Documentation from a variety of sources was analysed to assess the Council's performance, validate submissions and allegations and to compare policies and procedures used at George Town in comparison to other similar councils around Tasmania. A summary of documentation used in these preliminary enquiries is compiled in Table 4.

Table 4. Documentation and the source used in the preliminary enquiries. Other reference material cited in this report can be found in the Bibliography.

Category of review	Document	Source
Overall	<i>Local Government Act 1993</i>	www.thelaw.tas.gov.au
	Board of Enquiry into George Town Council 1993	Council upon request
	Local Government Board Review - George Town Council 2005	State Library
	<i>Local Government (Meeting Procedures) Regulations 2005</i>	www.thelaw.tas.gov.au
	Petition to save Regent Square – summary and comments page.	http://tasmaniantimes.com/index.php?weblog/article/petition-to-save-george-towns-historic-regent-square/show_comments
Governance	All Council policies	http://georgetown.tas.gov.au
	All Council meeting minutes 2012-2013	http://georgetown.tas.gov.au
	Speakers forum notice of intention to speak	http://georgetown.tas.gov.au
	Public Question Time Procedures	http://georgetown.tas.gov.au
Operations	George Town Council Annual Plan 2012 -2013	http://georgetown.tas.gov.au
	George Town Council Annual Report 2011-2012	http://georgetown.tas.gov.au
Regulatory Functions	RMPS Objectives	http://www.planning.tas.gov.au/the_planning_system/state_planning
	<i>Land Use and Planning Approvals Act 1993</i>	www.thelaw.tas.gov.au
	George Town Planning Scheme	http://georgetown.tas.gov.au
	RMPAT Decision - TASRMPAT 40	http://www.austlii.edu.au/au/cases/tas/TASRMPAT/2012/
	TPC Decision George Town Planning Scheme 1991 Draft amendment 1/2012 Permit 2012/80	http://www.planning.tas.gov.au/_data/assets/pdf_file/0005/262445/George_Town_draft_amendment_1-2012_Delegates_decision.pdf
	George Town Council Strategy & Planning Report	http://georgetown.tas.gov.au/planning-scheme
Financial and asset management	Council Policy 32 - Asset Management Policy	http://georgetown.tas.gov.au
	Council Policy 31 - Financial Policy	http://georgetown.tas.gov.au
Human resource management	Council Policy 24 - Grievance Procedure Policy	http://georgetown.tas.gov.au
	Council Policy 06 - Work Health and Safety Policy	http://georgetown.tas.gov.au
	Council Policy 01 - Employment Policy	http://georgetown.tas.gov.au
	George Town Council Enterprise Bargaining Agreement	Council upon request
Matters concerning the General manager	General manager Annual Performance Review 2012	Council upon request
	General manager Annual Performance Review 2013	Council upon request
	Council Policy 37 - Anti Discrimination Harassment	http://georgetown.tas.gov.au

5. Analysis and findings

5.1 The petition

Several submissions to enquiries questioned the manner in which signatories were collected for the electors' petition, as well as raising questions regarding a petition on the Regent Square development.

The concerns were that petitions were being signed without the signatories being fully aware of the focus of the respective petitions. Moreover, it was alleged that approximately 40 per cent of the signatures on the Regent Square petition were from non-residents of the municipal area. In other words, almost half of those people who signed the Regent Square petition had no direct vested interest in the matter and their signatures were used to inappropriately bolster the number of names on the petition.

A statutory declaration was provided on the manner in which members of the George Town community were approached and invited to sign a petition. The employee stated that many members of the public were unsure as to whether the petition they were asked to sign was the one for Regent Square or the petition as subject of this review. It should be noted the petition was not accompanied by a 'list of claims'.

The staff member stated that community members were asked if they were happy with their council. If they answered no (for whatever reason) they were then encouraged to sign the petition. The employee stated that they felt members of the community were signing the petition for reasons other than what would eventually be included in the 'list of claims' submitted with the petition statement.

Although checks were made, with the time available for these enquiries, validation of all signatories on either petition was not feasible. Irrespective of the 'valid' number of signatories on the electors' petition, the fact is that over 1000 electors of George Town requested the Minister to intervene in the affairs of the Council. This is a not an insignificant percentage of the local population and given the Minister's broad powers under the Local Government Act to establish a review, their request cannot be readily dismissed.

5.2 Governance

5.2.1 Annual report

The Council's annual report for the 2011-12 and 2012-13 financial year provides details of the Council's operations and performance compared to the objectives outlined in its strategic and annual plans. The annual reports are sufficient and meet all the requirements under the Local Government Act, specifically section 72 and the Regulations.

The reports (as with previous years) were made available to the public prior to its AGM and are considered an objective appraisal of the past years' achievements and challenges of the Council.

5.2.2 Annual plan

The Council's 2011-12 annual plan provides details of the programs and services the Council intends to deliver throughout that year. The objectives of the annual plan are to provide an analysis of financial resource allocation, outline strategies to be adopted to address strategic planning objectives, provide a list of operational targets to be achieved and support the budget process. All councils are required to prepare an annual plan for the municipal area for each financial year under section 71 of the Local Government Act.

The annual plan is to –

- Be consistent with the strategic plan;
- Include a statement of the manner in which council is to meet the goals and objectives of the strategic plan;
- Include a summary of the estimates adopted under Section 82; and
- Include a summary of the major strategies to be used in relation to council's public health goals and objectives.

Moreover, following adoption of the annual plan, the general manager is to make a copy of the annual plan available for public inspection at the council offices during ordinary business hours and provide the Director of Local Government and the Director of Public Health with a copy of the Plan.

The Council's annual plan meets all of these requirements. It is consistent with the strategic plan and articulates sufficiently how the council will achieve its goals and objectives outlined in the strategic plan.

5.2.3 Strategic plan

In accordance with section 66 of the Local Government Act, the council is to prepare a strategic plan in respect of a minimum five year period for the municipal area. Under this same section of the Act, the council is to consult with the community (and other relevant authorities) in the development of the plan. It should also be noted that under section 69 of the Act, the general manager of the council is to provide a copy of the newly adopted strategic plan to the Director of Local Government, in addition to making a copy available for public inspection in the council offices.

The 2012-2017 strategic plan appears to be deficient, containing merely an 'overview' of the Council's goals and lacking the fundamental details of how each of the Council's strategies are likely to achieve their goals. The new plan is deficient in comparison to the Council's 2007-2012 strategic plan, and is also lacking in comparison to that of several other Tasmanian councils of similar size.

With respect to the provisions of the Local Government Act relating to consultation on the strategic plan, the Council has fulfilled its obligations. Community consultation on the plan was invited through advertisement in *The Examiner* newspaper during June 2012 and on the Council's website. From the Council's meeting minutes, it can be determined that this consultation was also supplemented with a public meeting on 2 July 2012 in which a number of electors were invited to present their own perception of the strategic direction of the Council for the next five year period. As stated by the Council, the 'majority of suggestions' from the public meeting were incorporated into the plan, and the revised plan was adopted by an absolute majority of the Council at a special meeting of the Council on 6 July 2012.

A number of submissions from electors stated that the community was not adequately consulted during the development of the strategic plan, and that their comments were not considered thoroughly. As far as can be determined from the meeting minutes and additional information provided by the Council upon request from the Director, consultation on the plan was undertaken in the manner consistent with that of other Tasmanian councils.

5.2.4 Meeting Procedures

The *Local Government (Meeting Procedures) Regulations 2005* (the Regulations) specify the minimum requirements and procedures that must be followed by councils during their meetings. The Regulations outline and prescribe how meetings are to be conducted, how debate is to be carried out, how voting is to occur, how interaction with the public is to occur and how minutes of the meeting are to be taken. The Regulations also contain a number of offences, violations of which are prosecutable.

5.2.4.1 Minutes

Division 5 of the Regulations provide for matters and requirements of councils with respect to council minutes. Specifically, council minutes are to accurately reflect the attendees and the activities and discussion undertaken at the meeting. The Regulations also require minutes to be circulated and confirmed at least at the next ordinary meeting of a council.

A single submission from a community member alleges the minutes are both insufficient and inaccurate, at least on occasions. This view was supported in part by submissions from a councillor, stating that on occasion the minutes did not accurately reflect the debate and decision making of the Council.

The minutes of council meetings are not required to represent a verbatim account of discussion and decision making of a meeting, but they must be an accurate reflection of those discussions and decisions. An inspection of the minutes from the Council's 2012 and 2013 meetings indicates that they are thorough and comprehensive. It is the role of the councillors to confirm minutes and the council may debate the accuracy of the minutes.

5.2.4.2 Public question time

One of the major sources of public complaints towards the Council has been meeting procedures, and particularly public question time. The Director has received 11 formal complaints dating back to 2009 regarding the Council's public question time procedures. The majority of these complaints allege the current public question time is inconsistent with the Regulations.

Until recently, the Council had developed and amended its public question time to address concerns of George Town electors and provide a forum for public contribution at Council meetings. A recent approach was to hold a 'speaker's forum' in which members of the public could speak freely on matters regarding Council business. A period of 15 minutes, if required, was set aside at the beginning of each ordinary Council meeting to conduct the forum. The speaker's forum has only recently been removed from the Council's meeting procedures, ostensibly as a result of a request from the community.

The Council also has public question time to enable members of the public to ask questions on Council related matters, as required by the Regulations.

Under section 31 of the Regulations, councils may develop additional procedures in relation to public question time. The Council had developed additional procedures for public question time and these were available on the Council website. However, recently the Council reverted back to the same public question time procedures from a number of years ago. Copies of the previous and current procedures can be found appended to this report (Appendix B).

As mentioned above, a number of complaints against the Council in previous years have alleged that these procedures are not consistent with section 31 of the Regulations. An assessment of the latest procedures on the Council's website suggests that the Council procedures for public question time are in accordance with the Regulations.

An assessment of the public question time procedures of the Council reveals that George Town electors have been provided with more opportunity to ask questions and raise their concerns than in other similar sized councils around the State (refer to Table 5). Moreover, the Council received the highest number of questions, providing an answer to over 80 per cent of these questions at the time they were asked.

Table 5. Comparisons of council public question time procedures.

Council	Speaker's forum	Public question time	Position on agenda	Ave No. Question	Prop. ans.	Prop. taken on notice	Prop. inadmissible
George Town	✓	✓	1	8.4	81%	17%	2%
Council A	x	✓	1	0.8	25%	75%	0%
Council B	x	✓	4	0.2	100%	0%	0%
Council C	x	✓	2	2	80%	20%	0%
Council D	x	✓	1	5.6	93%	7%	0%

From this analysis, it appears the Council's question time procedures satisfy the requirements of the relevant regulations and provide the George Town public with ample opportunity to have a voice on council issues and business, arguably more so than other similar sized Tasmanian councils.

It was stated in submissions that on some occasions, questions from the public are not answered directly, or dismissed for erroneous reasons. Moreover, it is alleged that there have been numerous occasions when a question taken on notice has never been answered. This may reflect a common misunderstanding that questions have to be answered in a manner that is satisfactory to the person seeking a response. Recommendations are included in section 5.2.8 to address this issue.

5.2.4.3 Behaviour of some electors in the public gallery

Submissions from councillors identified several community members who consistently interrupt, hinder and disrespectfully belittle councillors whilst in the public gallery of Council meetings. Allegedly, such behaviour is commonplace at ordinary Council meetings.

Additionally, there have been a number of incidences recorded in the minutes of several Council meetings between 2012 and 2013 where members of the public gallery have been asked to leave the council chambers and deemed by the Chair to be in breach of the meeting Regulations by hindering or disrupting a meeting. Moreover, several occasions have involved the Chair suspending the meeting and requesting the presence of police to assist in the removal of a community member from the public gallery.

The disruption of council meetings by certain members of the public is not only unlawful but clearly undermines debate and the flow of information and adversely impacts on morale within the Council and staff. A number of complaints regarding the behaviour of some electors in the public gallery have been referred to the Director of Local Government, and these are currently being considered for investigation under section 41(4) of the Regulations.

Councils should not be subjected to haranguing or any other form of disruption from the public gallery, and a level of decorum and respect should be maintained by all parties in attendance at any meeting. It is also incumbent on all councillors to ensure appropriate behaviour and respect is shown to those participating in public question time. A number of submissions from the community expressed concern at the behaviour of some councillors at council meetings. This issue is further addressed in section 5.2.8.

5.2.5 Councillor performance

Section 28 of the Local Government Act details the roles and functions of councillors. The functions of individual councillors focus specifically on representing and acting in the best interests of the community, and to facilitate community engagement and participation in council activities. Section 28(2) specifies the roles and functions the council as a whole are

collectively responsible for policy development, financial and asset management, and facilitation of planning and development in the interests of the community.

Evidence of poor performance of councillors could include poor attendance records at council meetings, successful formal complaints lodged against a councillor, failure to confirm meeting minutes, lack of a quorum during meetings as well as breaches of other general roles and responsibilities identified under the Act.

A basic assessment of the performance of the Council and councillors suggests the Council is operating effectively and councillors are meeting their obligations under the Act.

Councillor attendance at meetings has been exemplary (refer to Table 6). All councillors, with one exception, attended all Council meetings in 2011-12 financial year. For the 2012-13 financial year, three councillors missed a total of five meetings between them from a total of 15 held throughout the year.

Table 6. Councillor attendance at meetings for 2011-12 financial year.

Councillor	2011-12 financial year				2012-13 financial year		
	Ordinary meetings	Special meetings	AGM	Total meeting attendance	Number of meetings held	Number attended	Number not attended
Cr Roger Broomhall	12	2	1	15/15	15	15	0
Cr Bridget Archer	12	2	1	15/15	15	15	0
Cr Heather Barwick	12	2	1	15/15	15	12	3
Cr Jacqui Burt *	8	1	1	10/10*	15	15	0
Cr Tim Cory	12	2	1	15/15	15	15	0
Cr Stephen Geale *	8	1	Apol ogy	9/10*	15	14	1
Cr Dean Gibbons *	8	1	1	10/10*	15	15	0
Cr George O'Sign	12	2	1	15/15	15	14	1
Cr Tim Parish	12	2	1	15/15	15	15	0

Denotation: * = Councillors for only part of the 2011-12 year.

An indication of a poorly performing council could be inferred from voting patterns that reflect 'political' or personality-based support as opposed to consideration of the merits of the proposal being debated. An assessment of the Council's minutes from the first six months of 2013 indicates no such pattern to be demonstrated within the Council.

Many of the issues voted on by the Council have been passed unanimously. Motions have been moved and seconded by several councillors and where there is disagreement, it is recorded.

During discussions with the Council, some councillors stated that there is a public perception that issues are voted and passed without serious thought and deliberation. This

was strongly disputed by councillors. They indicated that there was often vigorous discussion at meetings and that there were also opportunities for robust debate at workshops. Some councillors were adamant that the 'perceived' lack of robust discussion at ordinary meetings of Council, fails to take into account the work done in the numerous workshops undertaken by the Council.

Several submissions suggest that motions have 'dried up' during Council meetings and that the meetings have become a 'tick and flick' exercise. This is not the case; the number of motions councillors moved and voted on at meetings has declined only slightly over the last two years.

Inspection of the minutes from Council meetings of 2013 indicates that there are slightly fewer motions moved at meetings than in 2012. It should be noted that the increasing level of interruptions from the public gallery may partly explain the slight situation. These 'diversions' have impacted on the effectiveness of the Council meetings.

5.2.6 Community consultation

It is evident from the complaints, submissions, interviews and petitions, that a lack of consultation is one of the most significant concerns of the community. A number of electors believe they do not have ample opportunity to provide input into Council decisions and that they are not informed about activities, decisions and projects impacting on the community. As with public question time, this perception may, in part, reflect a common misunderstanding that any Council decision that is contrary to the wishes of an individual or group, must be due to a lack of consultation.

There are a number of observations that can be made. Firstly, councillors are elected by the community to speak, act and make decisions on behalf of the community. If electors have a specific concern pertaining to a matter of council business, it is their responsibility to lobby councillors to take up their concerns and debate these issues with other councillors.

Secondly, George Town electors have an opportunity to voice their concerns through public question time and, until recently, the speaker's forum. It has been previously highlighted that these opportunities for feedback are consistent, and in fact go beyond, the requirements of the *Local Government Act 1993* and associated Regulations.

Thirdly, the Council recently introduced a number of consultation mechanisms, some of which are quite innovative, to get more information out to the community. Most of these mechanisms have been aimed at releasing 'good news' stories to inform the public of positive programs and projects, and to improve the relationships between the council and electors. Moreover, the Council has appointed a media liaison officer to enhance the quality of information and appropriately address negative publicity with respect to the Council.

The communication mechanisms the Council now uses to engage with the community include:

- Monthly Council News advertisements in the Examiner Newspaper;

- Normal public feedback on policies, strategies and programs;
- The Council website: www.georgetown.tas.gov.au;
- True North – George Town Council Community Newsletter;
- Radio, television and print media statements and interviews conducted primarily by the Mayor on topical issues;
- Public meetings held on topical issues as identified by Councillors, or as required by petition from the community under the provisions of the Local Government Act;
- Ordinary meetings of Council which are open to the public and for which a free copy of the Agenda is available prior to the meeting;
- Council's Annual General Meeting; and
- Attendance by Councillors and staff at meetings of community and regional committees.

5.2.7 Policy development

Policy development within the Council compares favourably to other councils around the State, particularly those of a similar size (Table 7). According to the Council's website, it has developed and adopted at least 38 policies; a significant number and comparable to a number of other councils. Moreover, the Council has most of those policies freely available on their website (see Table 7).

A number of specific policies are required under the Local Government Act. The Act outlines the timeframe for the review and implementation of these policies. The George Town Council's compliance with the Act was compared to a four other Tasmanian councils of a similar size (Table 8).

The George Town Council's compliance with Act compares favourably to the other councils; in fact, the Council fully complied with all requirements of the Local Government Act with respect to the statutory required policies and plans.

Overall, the policy development culture of the Council appears relatively strong. However, close inspection of all the Council's policies reveals that some are in need of review and updating (Table 7). Twenty-one (60 per cent) of the policies on the Council's website were adopted or amended more than five years ago. This is not a situation that is unique to the Council; many councils throughout the State have a significant percentage of policies in need of review and updating.

While it is acknowledged that array of policies available on a council's website is by no means an exhaustive list of all policies adopted by a council, it is an indicative measure of a councils governance and policy development culture. The number and wide-ranging nature of policies available on George Town Council's website is indicative of a healthy policy development culture and a willingness on behalf of councillors to take their responsibilities seriously. However, the number of polices requiring review indicates the requirement for the Council to put in place a regular timeframe and process for review of its policies; such

documents provide direction and information for those seeking it. It is crucial that they are up to date, effective and relevant.

Table 7. Policies available on the George Town Council's website. Denotation: N/A = not available

Policy	Currency (date adopted or amended)	Adoption voting (for:against)
Tree Management Policy	Jul-13	unanimous for
Anti-Discrimination and Harassment Policy	May-12	8:1
Youth Policy	Mar-04	N/A
Dog Management Policy	Jun-07	N/A
Signs etc Footpath Policy	Dec-02	N/A
Risk Management Policy 2013	Mar-13	unanimous for
Asset Management Policy	Aug-02	N/A
Financial Policy	Sep-08	N/A
Development Incentive Policy	Mar-13	unanimous for
Right to Information Policy	Nov-11	unanimous for
Code for Tenders and Contracts Policy	Sep-11	unanimous for
Provision of Community Services Policy	May-98	N/A
Use of Seal Policy	Dec-05	N/A
Grievance Procedure Policy	Sep-07	N/A
Excavation and Filling of Land Policy	Mar-07	N/A
Urban Design Policy	Sep-99	N/A
Code of Conduct Policy	May-12	7:2
Acknowledgement of Death of Councillor Policy	Mar-07	N/A
Tasmania and Australia Day's and George Town Merit Awards Policy	Dec-95	N/A
Disability Access Policy	Jul-06	N/A
Car Parking Policy - Cash in Lieu Policy	Sep-95	N/A
Write Off of Bad Debt Policy	Sep-06	N/A
Road Hierarchy and Municipal Map Policy	Aug-95	N/A
Community Consultation Policy	Oct-08	N/A
Recognition of Service Policy	Sep-12	7:1
Professional Organisation Membership Policy	Jun-95	N/A
Community Grants Assistance Policy	Sep-08	N/A
Customer Service Charter Policy	Feb-13	unanimous for
Special Committees Policy	Feb-06	N/A
Work Health and Safety Policy	Jul-13	unanimous for
Councillor Allowances Policy	Nov-12	unanimous for
Purchasing Policy	Sep-11	unanimous for
Rates and Charges Policy	Jul-13	unanimous for
Personal Information Protection Policy	Sep-06	N/A
Employment and Recruitment Policy	May-12	unanimous for

Table 8. Compliance of the George Town Council with respect to having in place policies, plans and reports required under the Act. Four other similar size councils are included for comparison.

		George Town	Council A	Council B	Council C	Council D
Number of policies available on website		38	33	73	7	25
Policies required under the Local Government Act						
28E	Code of Conduct	✓	✓	✓	✓	✓
333B(1)	Code for tenders and contracts	✓	✓	✓	✓	✓
333B(2)(d)	Code for tenders and contracts reviewed at least every 4 years	✓	✓	✓	✓	✓
339F (1)	Customer services charter	✓	✓	✓	✓	✓
339F(4)	Customer services charter reviewed at least every 2 years	✓	✓	✓	✓	✓
Schedule 5	Council to adopt expenses policy by 1 Jan 2006	✓	✓	✓	✓	✓
86B	Council to adopt a rating and charging policy by 31 August 2012	✓	✗(not on website)	✓	✓	✓
Reports and Plans required under the Local Government Act						
66	Strategic plan	✓	✓	✓	✓	✓
69(b)	Strategic plan provided to the Director	✓	✓	✓	✓	✓
71	Annual plan	✓	✓	✓	✓	✓
71(3)(b)	Annual plan provided to the Director	✓	✓	✓	✓	✓
72	Annual report	✓	✓	✓	✓	✓
72(2)(a)	Annual report provided to the Director	✓	✓	✓	✓	✓

5.2.8 Recommendations (Governance)

With regard to the governance arrangements of the Council, an examination of the Council's policies, processes and documentation, as well as consideration of submissions, indicates that Council's decision making is far from dysfunctional, as claimed by some, and there does not appear to be any deficiencies in the Council's decision making processes.

The majority of public submissions in relation to governance point to the Regent Square assessment and decision as a catalyst for discontent between some sections of the community and the Council. The primary concern of these submissions was that the community was allegedly not consulted on the rezoning of the development. According to the submissions, the Regent Square rezoning application was processed in undue haste, with unwarranted pressure placed on council staff, important information not considered and it is alleged there was a failure to adequately consult with the broader community.

As stated previously, while it could be argued that a more consultative process may have led to increased community support; the Regent Square development, including the rezoning, has been conducted according to the procedural and time requirements of the planning legislation and has been thoroughly assessed and approved by the relevant planning authorities. Nonetheless, the Council needs to put in place an appropriate community consultation process, particularly for major developments on public land, that provide the public with ample time and opportunity to participate in the decision making process for developments that the Council is involved in as the land owner.

To further strengthen governance arrangements at the Council, the following recommendations should be considered:

- Strengthening the current strategic plan, incorporating comments from the community following a thorough consultation process. A new 10 year strategic plan should more extensively document the mechanisms or strategies the Council proposes to use to meet its long-term objectives;
- Changing the order of business of council meetings, so that the Council can conduct its other business prior to the public being able to address the Council;
- Dedicating resources to the review of major policies and the development of new policies within an appropriate timeframe; and
- Expediting the purchase of a recording and public announcement (PA) system for the Council chambers. The system purchased should have the capacity to record meetings, and potentially stream meetings live to the internet, or record podcasts that may be downloaded from the Council website.

5.3 Operations

According to the electors' petition and issues raised by a number of electors, there is a view that the level of community service and the Council's operational performance has declined in recent years.

A comprehensive list of Council operations for the 2011-12 and 2012-13 financial years can be found in the Council's annual reports. Consequently, a detailed summary of all Council operations are not included in this report; rather a summary of the overall key operational areas is included.

5.3.1 Capital works

An assessment of the Council's past and most recent annual reports, suggests the Council continues to provide services at a high quality and has achieved some very positive outcomes for the George Town municipal area. Council's 2011-12 new Capital Works budget was \$3.3 million. Combined with additional capital funding brought forward from the previous financial year, significant new infrastructure has been provided while extending the life of key existing assets.

The 2012-13 financial year saw major capital investment in the reconstruction of the 32 year-old timber bridge at Egg Island Creek, Hillwood. The project was predominantly funded by Council and supported by Federal funding through the Roads to Recovery Program. The total capital works budget for this project was \$1.336million in 2012-13.

The Council was also awarded funding of \$62 000 from the Department of Economic Development, Tourism and the Arts for upgrading of the playing surface at the George Town Soccer Club to improve drainage and surface grading. In 2012-13 the Council allocated an additional \$124 000 in its capital works budget to complete the works.

Work to upgrade the Sea Boat Ramp at Weymouth commenced in the second half of 2012-13 with the placement of rock to the sea wall. The Council was also successful in its application for funding from Marine and Safety Tasmania and works will continue into 2013-14.

5.3.2 Key operational projects

In 2011-12, a \$100 000 capital works allocation was provided for the replacement of concrete footpaths within the George Town urban area. The initial step was to conduct a condition assessment of all footpaths within the township. A further \$100 000 for new and upgraded footpaths within the George Town urban area was also allocated.

The 2011-12 financial year saw the development of the Council's kerb and channel renewal program, in which the Council undertook inspections and identified and prioritised works for future improvements in the town's kerbing and channel. This project continued in 2012-13, where a budget of \$20 000 was allocated for renewal of concrete kerb and

channel in George Town urban areas in response to prioritisation of the renewal of Council's kerb and channel assets conducted in preceding years.

In 2011-12, Federal and State Government funding was secured by the Council for development of a shared recreational trails at York Cove. The Council allocated \$350 000 to the project to continue the path to Elizabeth Street. When completed, the trail will provide a link between the southern end of the Low Head trail at Wellington Street to the south side of York Cove.

In 2008-09, the Council was awarded funding of \$750 000 from the Federal Department of Health and Aging towards the construction of a shared recreational trail between George Town and Low Head. In 2011-12, the Council designated a further \$250 000 following the receipt of additional State Government funding. Construction was extended to the vicinity of Lagoon Beach Road with the next stages of work planned to continue beyond Lagoon Beach to the Pilot Station. The Council have indicated that the completed sections of the trail are attracting significant recreational use by both residents and visitors to the municipality.

The Council has also made substantial progress on upgrading the playing surface and facilities at the George Town Soccer Club.

5.3.3 Roadworks

In the 2011-12 financial year, the total expenditure on maintaining and improving Council's road network was \$1.85million with \$600 000 being expended on capital works. Budget appropriation for capital works was directed to the following main areas:

- Gravel road resheeting was undertaken on Industry Road, Soldier Settlement Road, Craighum Road, Archers Road, Breens Road and Terry's Road.
- Bitumen resealing on the Weymouth Road, Old Bangor Tram Road, Baxters Road, Seascape Drive, Boobyalla Drive, Arnold Street, Arthur Street and Gilham Avenue.
- Asphalt overlays was applied to Low Head Road to correct pavement deformation and improve the ride quality for the vehicles that travel to Low Head.

Work has continued to improve road pavements on major routes. These roads included Old Aerodrome Road, Industry Road, The Glen Road, East Arm Road and Big Hill Road.

Expenditure on maintaining and improving Council's roads was \$1.8million with 54 per cent spent on capital works for the 2012-13 financial year. Budget appropriation for capital works was directed to the following main areas:

- Gravel road re-sheeting to improve and maintain the condition of existing gravel roads was completed on East Arm Road, The Glen Road, Industry Road, Den Road, Back Creek Road, Smiths Gully Road and Hall Road; and
- Bitumen resealing work to reseal existing roads was completed on Howard Street Bellingham, Weymouth Road, Shaw Street, Beechford Road and Pipers Brook Road.

5.3.4 Routine community services

During 2011-12, in addition to normal routine works in maintaining the Council's Parks and Reserves a comprehensive program of fire hazard reduction and vegetation management was undertaken along rural roads leading up to the summer fire period.

Kerbside collection service throughout the 2011-12 year was based on a weekly collection of garbage, mainly from 140 litre capacity mobile garbage bins, and a fortnightly collection of recyclables from 140 litre bins.

The Council also provided a free hard waste collection immediately after Easter in 2012 to the residents of the coastal villages, George Town and Hillwood. A free green waste collection service was also provided following the long weekend in November 2012.

In 2012-13, the Council's Works Depot carried out routine inspections and maintenance of town and rural roads throughout the year. The Council's workforce continued to respond to customer requests and to emergency situations such as flooding and tree failure.

The comprehensive program of fire hazard reduction and vegetation management undertaken in 2011-12 continued in 2012-13, particularly along rural roads in the lead up to the summer fire period. One significant fire was experienced at Lefroy during the 2012-13 fire season.

The Council also concentrated effort on maintaining trees in and around the municipal area during 2012-13 in order to carry out maintenance and reduce risks to personal and property safety. According to the Council's 2012-13 annual report, the most significant tree maintenance work was undertaken at Lagoon Beach, Hillwood Road and East Arm Road.

The Council's kerbside collection service went out for tender in the second half of 2012-13 and a new contract awarded to Toxfree Pty Ltd (previously Jones Enviro Services Pty Ltd) for an initial period of 12 months. The weekly mobile garbage bin and fortnightly recycle bin collection service continued throughout 2012-13 with minimal disruptions. Also similar to 2011-12, a free hard waste collection service was provided to residents of the municipal area following Easter in 2012-13, which was allegedly well received and well utilised.

5.3.5 Recommendations (Operations)

As far as council services and operations are concerned, it is evident that the Council has continued to perform reasonably well. The Council has continued to provide standard services, and has also been active in seeking out additional grant funding for significant projects that will benefit George Town residents and visitors to the area.

Of all the submissions provided, the only aspects relating to the ongoing operations of the Council pertained to alleged over-spends on some capital works projects. If indeed there is a culture of constantly overspending on major infrastructure projects, one would expect it to be evident in the financial and asset management practices of the Council, which is not the case. Nonetheless, it is imperative that any council has in place the best protocols and procedures to ensure that Council projects are funded efficiently and are in the best

interests of the electors. Consequently, it is recommended that the Council review any policies, practices or guidelines with respect to management of capital works projects to ensure they are both current and consistent with national best practice.

5.4 Regulatory Functions

5.4.1 Planning Scheme

Part of any council's role is to act as a planning authority in accordance with the council's planning scheme. Planning schemes are prepared under the LUPAA and under this legislation a planning scheme must be consistent with the objectives of the Resource Management and Planning System (RMPS).

According to the Tasmanian Planning Commission (TPC 2013), a robust planning scheme has two parts:

- The 'plan,' which divides the council area into different land use zones and shows the overlays where additional controls may apply; and
- A written document (the 'ordinance') which sets out the conditions under which use and development can take place in different zones and overlay areas.

Until very recently, development and land use in the municipal area was managed within the George Town Planning Scheme 1991 which came into effect in June 1993. According to the Council's own Strategy and Planning Report, the scheme needed revising as it:

- Was incompatible with the LUPPA and State Policies;
- Had areas inappropriately zoned;
- Was not linked to the Council's Strategic Plan;
- Included an ordinance which is difficult to administer because of a lack of development schedules (controls), little description about objectives and intent and no expected outcomes when discretion is exercised; and
- Was not in accord with the State template.

Planning reform has been a Tasmanian Government's priority for a number of years. The State Government has provided over \$6 million to local government to prepare regional land use strategies and new planning schemes for all 29 Tasmanian Councils.

A new process based on standard templates has been put in place to help achieve up-to-date and consistent planning schemes across all councils within the State. Councils prepare and submit draft interim planning schemes to the Minister for Planning. The Minister then decides whether to declare the draft an interim planning scheme. If the Minister makes a declaration then the interim planning scheme takes effect and the existing planning scheme ceases to operate. The interim planning scheme then undergoes a rigorous and formal assessment process that lead to the finalisation of planning schemes.

The George Town Council has recently had its interim planning scheme approved by the Minister for Planning on 9 October 2013 and the scheme was in effect as of 14 October 2013.

The declaration of the George Town Interim Planning Scheme 2013 meant that the existing George Town Planning Scheme 1991 was replaced and the formal assessment process was initiated, beginning with the public exhibition of the interim planning scheme and the invitation for representations from the public.

5.4.2 Development applications

The number of building approvals submitted to the George Town Council in 2011-12 was approximately 27 per cent lower than the previous financial year, with the monetary value of the approvals also down by a fifth on the previous year. The downturn continued in the first half of 2012, being 65 per cent lower than the last half of 2011.

According to the Council's annual report for 2012-13, a total of 86 building approvals were granted valued at a total \$7.27million during that financial year. This represented an 8 per cent decrease from the 93 building approvals and a 26 per cent decrease in the monetary value of those approvals compared to the 2011-12 financial year.

The number of planning approvals in 2012-13 (97 approvals) was a slight increase on the previous year, but the majority of applications were for dwellings and minor residential works which, by nature, are at the lower end of the scale in terms of monetary value compared to commercial applications.

The Council has argued that the sharp decline in applications is a reflection of the severity of the Global Financial Crisis. The Council also pointed out that with the completion of projects funded under the Federal stimulus package, building approvals are returning to a more 'normal' level.

The Council's development approval process was heavily criticised. A number of submissions stressed that future developments were viewed as an opportunity to upgrade council infrastructure at the expense of the developer/applicant through the placement of onerous conditions on the planning permit.

According to some, dealing with the Council is 'too onerous, expensive and time-consuming' and that permit conditions are ostensibly determined on the basis of the relationship between the Council and the proponent.

Development or building approvals in George Town have declined, as they have in most of Tasmania's municipal areas. Building approvals across the State are down by nearly one fifth. Other councils similar in size to George Town have also experienced a similar decline in approvals, for example, building approvals in the Tasman, Glamorgan Spring-Bay, and Break O'Day Councils were down 60 per cent, 20 per cent and 11 per cent respectively in 2011-12 compared to 2010-11. The Dorset Council is the only one of the small northern councils that has experienced an improvement.

The allegations concerning excessive or onerous conditions being placed on permits are potentially quite serious, particularly if it is motivated by personal reasons. However, while examples were provided of what ratepayers consider to be onerous permit conditions placed on planning permits by the general manager, even if they were confirmed, they do not constitute illegal activity.

While general managers tend not actively involve themselves in the development application process, the lack of professional staff and adequate resources, particularly for smaller councils, may result in general managers participating in the approval process, including recommending conditions on permits. Such involvement is not illegal; however, it is not considered best practice and should be discouraged.

It must also be kept in mind that the permits are actually approved by the Council on recommendation and the elected body has the capacity to amend conditions or determine a matter contrary to professional advice.

If there is indeed a pattern in proponents/applications having excessive or onerous planning permit conditions, it is not reflected in the RMPAT appeals and discussions; although it is possible that onerous conditions are addressed during mediation prior to a hearing of an appeal in the Tribunal. A brief examination of the RMPAT records suggests there is no evidence that George Town Council's planning decisions are appealed disproportionately to any other council.

5.4.3 Recommendations (Regulatory functions)

Given that planning, and particularly the proposed Regent Square development, has been a major source of community dissatisfaction, it is considered prudent for the Council to address a number of elements of planning and development within the municipal area. Specifically, it is recommended the Council consider:

- Prioritising the completion and adoption of a new planning scheme. This includes assisting the Tasmanian Planning Commission, where possible, during the planning scheme assessment process, and thoroughly consulting with the community over the newly adopted interim planning scheme.

5.5 Financial and Asset Management

5.5.1 Financial and asset management documents

It is obligatory for all Tasmanian councils to undertake long-term financial and asset management, including the development and adoption of an array of financial and asset management plans, strategies and policies designed to maintain council's strategic viability. This approach has been considered best practice nationally for quite some time (IPWEA 2009). Councils that have taken initial steps to develop a financial and asset management

framework, suggests a responsible and strategic approach to maintaining the long term viability of the council's asset base.

The George Town Council's website contains both financial and asset management policies. However, the policies were adopted in 2008 and 2002 respectively and are in need of review, particularly given the new requirements under the Act.

The current asset management policy provides a framework and philosophy for the management of the Council's assets. The policy addresses the management of assets in their entirety and, consequently, does not provide a strategy for the management of individual assets.

There is little doubt that the George Town Council has been judicious and effective in the management of its assets. According to the Auditor-General's report on the Financial Statements of the State entities, the Council has developed an existing asset management plan (albeit named a long-term infrastructure management plan) but it is only in draft form. Similarly, the Council has a draft financial management plan (TAO 2013a).

5.5.2 Financial performance

In summary, the financial position of the Council in 2011-12 was:

- The Council generated a Net Operating Surplus of \$0.386million (2010-11, deficit \$0.651million) mainly due to lower operating costs and an 11.8 per cent increase in rates revenue.
- The Council budgeted for a Net Operating Surplus and achieved a Net Surplus of \$1.549million (2010-11, \$0.438million) and a Comprehensive Surplus of \$9.662million (2010-11, \$2.278million). The surplus included the net impacts of non-current asset fair value revaluations of \$7.987million and a gain in the Council's interest in Ben Lomond Water by \$0.126million.
- Consistent with the Comprehensive Surplus of \$9.662million, the Council's Net Assets increased to \$112.632million, (2010-11, \$102.970million).
- As at 30 June 2012, the Council had Net Working Capital of \$5.338million, (\$3.763m in 2011), due mainly to increased cash and financial assets of \$1.647million.

At the time of drafting this report, the 2013 report from the Auditor-General was not complete and therefore the financial affairs of the Council for the 2012-13 financial year were devised from the financial statements included in the Council's 2012-13 annual report. However, the values from the annual report were cross-checked with a draft report from the Auditor General, which confirmed their accuracy. The Council's 2012-13 financial position was as follows.

- The Council generated a Net Operating Deficit of -\$0.301million (2011-12, surplus \$0.386million), mainly due to lower income from asset fair value revaluations and an increase in the Council's investment in Ben Lomond Water.

- The Council achieved a Net Surplus of \$2.405million (2011-12, \$1.549million) and a Comprehensive Surplus of \$4.857million (2011-12, \$9.662million) at the end of the financial year. This result was mainly achieved by early payment by the Australian Government of the first two instalments of the Federal Assistance Grants for 2013-14 and fair values of asset recognition and transfers of land under the Crown Land Assessment and Classification project.
- The Council's Net Assets increased to \$117.490million, (2011-12, \$112.633million).
- As at 30 June 2013, Council had Cash position of \$4.452million, (2011-12, \$5.710million) down mainly due to the reconstruction of the Egg Island Creek Bridge.

While the current financial state of affairs of the Council appears strong, the financial position of a council can fluctuate annually depending on council projects and asset renewal commitments. It is acknowledged that operation and governance of a council, particularly with respect to its financials, cannot be fully determined by assessing a snapshot of a two-year period and must consider trends of cash flow and investment over a number of years.

5.5.3 Financial sustainability

According to the Auditor-General's report on the Financial Statements of the State entities 2013 (George Town excerpt included in appendix E), the Council's asset renewal funding ratio was 100 per cent, as at 30 June 2012, for its infrastructure assets, which is in accordance with the Auditor-General's 90-100 per cent benchmark (TAO 2013a).

On the basis of all financial and asset sustainability indicators used by the Auditor-General, the Council is on an upward trend in most areas. The Council recorded an operating surplus in the current year, but averaged a slight deficit of \$0.054 million over the previous four year period.

The asset sustainability ratio indicated the Council averaged 107 per cent for the last four years, which was above the Auditor-General's 100 per cent benchmark. This indicates that the Council maintained its investment in existing assets above the accepted benchmark.

A potential concern is the downward trend in this ratio over recent years. This suggests that capital investment is decreasing while at the same time asset depreciation is increasing. The trend in the ratio should be considered in the development of the Council's financial and asset management plans, and addressed in the near future.

The Council's road consumption ratio remains above 70 per cent over the four year period, indicating its road infrastructure assets were at low sustainability risk. The Council's asset renewal funding ratio of 100 per cent indicates an intention to fund capital renewal requirements identified in its draft infrastructure asset management plan.

The Council's net financial liabilities ratio was positive, indicating its liquidity was sound and it has the capacity to borrow should the need arise.

Based on these ratios and governance arrangements, the Auditor-General concluded that, as at 30 June 2012, the Council was at moderate sustainability risk from a governance and operating perspective and at low risk in all other respects. Overall, it is considered that the financial performance of the Council is currently sound and does not indicate any shortcomings in the management of financial resources.

5.5.4 Unexplained expenses

Electors raised a number of concerns regarding the finances of the Council, and a number of submissions contained allegations of Council funds being allocated inappropriately. The specific allegations included:

- Monies provided to the Council from Gunns Pty. Ltd. for the transfer of title to a community member. The agreement between Gunns and the community member arose from other negotiations around the outfall pipeline route for the proposed pulp mill at Bell Bay. It is alleged the Council was responsible for assisting in the transfer and the money allocated was for lawyer fees.
- Allocation of monies to a proposed fishing competition that has never been undertaken.
- Payment for a coffee machine.

Responses were sought from the Council with respect to each of these allegations. In two cases, the Council's response was considered satisfactory and there is no requirement to further investigate those allegations. In the case of Gunns' payment, the matter is being dealt with by the Council who is currently seeking further legal advice. With regard to the fishing competition the allocation was rolled over to the next year. At the time of writing, the provision of a coffee machine is being further investigated.

5.5.5 Anti-fraud culture and controls

The Auditor General highlighted in a recent special report that fraud is an unfortunate 'fact of life' for many commercial organisations and despite being a public sector authority, local government councils are not immune to potential fraudulent activity. According to the Auditor General's report, organisations lose five per cent of their annual revenue on average, to fraudulent activity, equating to potentially \$0.6m per year for a council the size of George Town (TAO 2013b).

The Auditor-General noted that an organisation's ability to detect and prevent fraud is underpinned by two distinct elements; good systems of internal control and the implementation and maintenance of a sound ethical culture. The recent audit conducted by the Auditor-General assessed the George Town Council with respect to both of these both of these components, while auditing the following business systems:

- Assets;
- Contracts;
- Receipts;

- Payments;
- Payroll; and
- Information technology (IT).

With respect to internal controls, the Council was given a score of three out of four stars which is quite satisfactory. This score indicates that the Council consistently applies current and comprehensive policies and procedures targeted at sound financial management.

The Auditor-General stated that there were some controls that had consistently low rates of implementation, but these controls were lacking across all Councils assessed as part of the report. The controls included:

- Registers for portable and attractive items;
- Declaring and recording conflicts of interest or gifts;
- Stocktakes; and
- Reviews of changes to supplier master files.

On the other hand, the Council received a score of only one out of four indicating that the anti-fraud culture of the Council is quite poor. The Auditor-General indicated that anti-fraud culture is a more recent concept and has understandably received less attention in the past than internal controls. Irrespective of this, the Council had a lower than expected level of implementation, with many of the tested elements being completely absent. Common omissions included:

- Fraud Control Plan (reviewed within the last two years);
- Fraud Control Officer (adequately resourced) and defined roles and accountabilities;
- Regular training provided in respect of fraud awareness;
- Statement of compliance with Code of Conduct and fraud policies signed annually;
- Fraud control incorporated into performance management system;
- Fraud Control Officer or alternate line of reporting; and
- Enforced leave and job rotation.

These matters will need to be addressed by the Council in the near future.

5.5.6 Recommendations (Financial and asset management)

From a financial and asset management perspective, the George Town Council appears to be performing well. The Council is meeting, or exceeding, most financial and asset management benchmarks. However, there are two recommendations for the Council to consider in improving their financial sustainability.

- The Auditor-General concluded that at 30 June 2012, that the Council was at moderate sustainability risk from a governance and operating perspective and at low risk in all other respects. In order to minimise such risk and with the passage of the Local Government (Miscellaneous Amendments) Bill through Parliament, the Council should develop a timeframe for the development and adoption of:

- a 10 year financial management plan;
- a 10 year strategic asset management plan;
- a financial management strategy;
- an asset management strategy; and
- an asset management policy.
- Implement new strategies or policies to address the poor anti-fraud culture around the Council. This should include training and education of staff to recognise and identify fraudulent activity.

5.6 Human Resource Management

5.6.1 Grievances and policies and procedures

Section 63(2) of the Local Government Act prescribes that the general manager of a council is to develop human resource practices and procedures in accordance with policies of the council to ensure employees of the council receive fair and equitable treatment without discrimination.

Of the policies on the Council website, four were identified as having particular relevance for Council staff. These documents include:

- Grievance Procedure Policy;
- Work Health and Safety Policy;
- Employment Policy; and
- Anti-Discrimination and Harassment Policy

In addition to these policies, Council employees are contracted under the George Town Council Enterprise Bargaining Agreement 2012 (EBA), which according to the Council was ostensibly contained the guidelines and procedures by which council staff were managed.

The Work Health and Safety and the Employment and Recruitment Policies are both up-to-date and relevant. The Work Health and Safety Policy was developed in accordance with the *Work Health and Safety Act 2012*. The Policy ensures, as far as is reasonably practicable, that the health and safety of Council workers, councillors and other persons is protected while in the workplace. The Policy also discusses the management of hazards and where possible, ensures they are mitigated. The Policy is current, applicable and available to the Council's employees.

As pointed out in the Employment and Recruitment policy, *“Effective employee selection and management of employees is crucial to the successful operation of Council and the services it provides to the Community. This success depends on the Council's ability to attract highly skilled and motivated employees who will aim to meet agreed objectives and performance improvement goals.”* This Policy is also current and applicable to the current employees of the Council.

The Grievance Policy was adopted in 1997, and is now out-dated and of limited relevance to staff. When any internal policies that address internal grievances were requested, the Council stated that provisions for staff to lodge grievances (and the associated process when doing so) were outlined in their EBA.

The Council's Anti-Discrimination and Harassment Policy was developed to outline the process that should be used to handle internal complaints made by council staff with respect to harassment and discrimination. The Policy is attached at appendix D. Given that serious allegations of bullying and harassment have arisen from these preliminary enquiries, the relevance and substance of this Policy must be considered.

At a first glance, the Anti-Discrimination and Harassment Policy appears to be clear and provide avenues for staff members to access the grievance procedure. However, closer examination reveals that the Policy provides no clear process for when the complaint is raised in respect of the general manager.

The current process outlined in the Policy means that all complaints/grievances are eventually submitted to the general manager, although the initial complaint is submitted to the respective employee's direct manager. This process is not necessarily problematic; however, the Policy also states that *"...If the complainant alleges that the general manager is the person that the complaint has been raised against the procedure will remain the same. However, the report of harassment, if not dealt with to the satisfaction of the complainant by the informal process, must then be reported to the Mayor by the general manager in conjunction with the responsible Officer to be resolved"*. The channelling of all complaints/grievances against the general manager through the general manager is a major deficiency in the Council's Anti-Discrimination and Harassment Policy.

As previously mentioned, the Council indicated that avenues for staff to file internal grievances were outlined in the EBA. This process differs with a number of other councils who have developed their own internal grievance procedure (refer to Table 9). Moreover, all other councils assessed in this area all have a clearly outlined independent procedure when the particular grievance pertains to the general manager.

5.6.2 Grievances

The number of internal grievances at the George Town Council was not noticeably higher than any other council examined in this area (refer to Table 9). However, the deficiencies in the Council's grievance policies and procedures, as previously highlighted, may have contributed to this outcome.

Table 9. Comparison of internal grievance procedures available to council staff from George Town Council with other Tasmanian Councils.

	George Town	Council A	Council B	Council C	Council D
Grievances					
Internal grievance policy	yes (provision in staff member's Enterprise Bargaining Agreement)	Yes	Yes (covered in other policies)	Yes	no
Number of grievances 2010-2013	2	0	0	3	2
Provision for when a complaint is made against GM	Complaint ultimately submitted to the GM. GM then liaises with Mayor.	Reported directly to the Mayor	Reported to the Mayor	Mayor notified external investigator appointed whole council to review reports	Reported to the Mayor

Nonetheless, staff in any organisation have external complaint mechanisms available to them to address grievances within the workplace, for example WorkSafe Standards Tasmania, the Ombudsman, the Integrity Commission and the Anti-Discrimination Commission.

5.6.3 Staff turnover/renewal

A possible measure of an organisation's ability to attract and retain quality staff is the staff annual turnover rate. A number of submissions to this enquiry suggested that staff turnover may be as high as 50 per cent for George Town Council, although an analysis of the actual staff turnover shows that this is an overestimate (refer to Table 10).

Finding a suitable benchmark for staff turnover rate that is relevant to the Tasmanian context is a difficult task. Most specialists in the area of staff recruitment and management suggest that relatively high turnover of poor performing and damaging staff and low turnover of high performers is indicative of a strong organisation with good staff retention. Whilst there is no 'optimum figure' for staff turnover rates in a small organisation (such as a rural local council), consensus from a number of articles on the issue of staff turnover indicates that an overall staff turnover of 12-15 per cent is indicative of a satisfactorily performing organisation.

However, as previously mentioned, specialists in the area state that high turnover of high performing permanent full time staff is more damaging to an organisation than turnover of short-term casual or part-time staff. Any estimate of overall staff turnover must be interpreted with a degree of caution. Ideally, a strong and high performing agency would have a staff turnover of zero with respect to its best performing employees. However, an

average estimate of staff turnover of a strong organisation (of between 50 – 75 employees) is approximately 5-7 per cent of full time, permanent and high performing employees.

Irrespective of these benchmarks, the Council is performing relatively poorly in the area of staff turnover, when compared to other Tasmanian Councils of similar size. The annual staff turnover at the Council is 25 per cent overall, and 21 per cent on a full time equivalent (FTE) basis, which is higher than average turnover of staff on both an overall and an FTE basis (Table 10). The FTE measure is more representative, as it accounts for the respective time that all employees work, irrespective of whether they are casual, full time or part time. The average of the four other comparison councils is only 10.5 per cent (FTE), less than half of that of George Town. The one council with a higher turnover rate than George Town has recently undergone major restructuring, with a significant loss of staff.

Staff turnover is an expensive exercise, as new staff have to be recruited and trained. Replacing a full-time worker costs, at a bare minimum, 25% of his or her total annual compensation based on estimates from the Employment Policy Foundation (US). High staff turnover impacts on productivity, team morale and a sense of discontinuity arises in the workplace, unsettling managers and employees.

Based on the above figures, the staff turnover of the Council is considered excessively high, arguably double what it should be.

5.6.4 Recommendations (Human resource management)

With respect to the human resource management, the Council should consider:

- Undertaking a regular staff satisfaction survey, with the results presented to the Council for consideration; and
- Undertaking a review of all policies and procedures in place for management of staff grievances and internal complaints.

Table 10. Summary of staff turnover from George Town and 4 other similar sized councils for comparison.

	George Town	Council A	Council B	Council C	Council D	Average
Staff management						
No. of staff as of Sept 2013	56	61	27	60	40	47
No. staff leaving 2010-11						
fulltime	5	3	1	7	2	3.25
part-time	3	0	1	0	2	0.75
casual	2	5	0	5	0	2.5
No. staff leaving 2011-12						
fulltime	6	3	2	15	3	5.75
part-time	0	0	2	4	2	2
casual	3	2	1	7	0	2.5
No. staff leaving 2012-13						
fulltime	6	1	2	4	3	2.5
part-time	1	3	0	3	3	2.25
casual	7	0	0	4	0	1
average staff turnover rate 2010 - 2013	25%	9%	11%	27%	10%	14.25%
average FTE turnover rate 2010 - 2012	21%	6%	8%	20%	8%	10.5%

5.7 Matters Concerning the General Manager

5.7.1 Complaints against the general manager

The majority of complaints contained in submissions pertained to the activities and behaviour of the general manager.

At a *prima facie* level, many of the allegations relating to bullying and harassment are of a nature that warrants investigation by the appropriate authorities. At the time of finalising this report, the Council, with advice and support from WorkSafe Tasmania, has employed a professional consultant to undertake an appropriate investigation.

5.7.2 Appointment and performance management of the general manager

A key function of a council under section 28(2) of the Local Government Act is to appoint and monitor the performance of the general manager. The appointment of the Council's current general manager was conducted in a manner consistent with the Act and that of a number of other Tasmanian councils of similar size. Applicants for the position were shortlisted using a recruitment agency and the whole council sat on the interview panel.

The manner in which the Council conducts the general manager's annual review needs to be reviewed with a more robust process adopted in the future. Approaches to performance management of general managers by other councils are outlined in Table 12. The assessment criteria for the Council are drawn up by the mayor in the lead up to a review. Councillors are not provided with the general manager's contract and the whole council sits on the review panel. In a number of other councils, the general manager's contract is provided to councillors, a sub-committee of the council acts as the assessment panel, and the criteria for assessment are usually derived from the general manager's contract.

It is apparent from the information provided that the review process does not thoroughly assess the performance of the general manager. This position is based on the following:

- Using the whole council as an assessment panel and allowing all members to 'score' a general manager's performance ostensibly means that performance scores are moderated to an average. This means that high scores for particular criteria may go unnoticed, but more importantly, very low scores by individual councillors will not be picked up either. Review panels should comprise of 3-4 members that can thoroughly assess the general manager's performance independently;
- Using criteria set by the mayor to assess the general manager's performance may mean that the general manager's performance is not assessed in accordance with the specific roles outlined in the local Government Act, or the general manager's contract; and
- Not providing a copy of the general manager's contract to the review panel makes it difficult to have a benchmark for which to compare. Members of the review panel may therefore assess the general manager's performance against the Mayor's criteria on the basis of arbitrary personal values rather than key performance ratings or indicators.

The annual review process of the general manager as followed by the George Town Council is relatively simplistic. It is evident that the process requires an overhaul to reinvigorate its efficacy and accountability.

5.7.3 Recommendations (Matters concerning the general manager)

Given that most allegations against the Council's general manager were outside the scope of this report, the following recommendations only relate to the appointment and performance review processes for the general manager. It is recommended that the Council develop:

- A new performance review procedure for the general manager that is transparent, thorough and rigorous; and
- A more comprehensive and rigorous appointment process for the position of general manager.

Table 12. Comparison of the procedures used by some Tasmanian Councils in appointing and monitoring the performance of their respective general managers.

	George Town	Council A	Council B	Council C	Council D
Appointment of the GM					
Shortlisting	<ul style="list-style-type: none"> recruitment agency /consultant 	<ul style="list-style-type: none"> recruitment agency/consultant sub-set of council 	<ul style="list-style-type: none"> recruitment agency/consultant sub-set of council 	<ul style="list-style-type: none"> recruitment agency/consultant full council interview 	<ul style="list-style-type: none"> recruitment agency/consultant full council interview
Panel	<ul style="list-style-type: none"> full council 	<ul style="list-style-type: none"> recruitment agency/consultant sub-set of council 	<ul style="list-style-type: none"> recruitment agency/consultant sub-set of council 	<ul style="list-style-type: none"> full council 	<ul style="list-style-type: none"> full council
Annual review of the GM					
Personnel on annual review panel	full council	Mayor and Deputy Mayor	Council sub-committee	Council sub-committee and senior managers	Miscellaneous - external body plus the Mayor
Contract provision for review	no	yes	yes	yes	yes
Criteria	criteria formulated by Mayor	contract	contract	strategic plan	contract

6. Conclusions

The process adopted for an evaluation of the governance arrangements and operations of the Council, involved a thorough assessment of the Council's procedures, plans, policies and practices as well as interviews with the Council, councillors, council staff and electors of George Town.

On balance, the George Town Council is performing at a satisfactory level; while in some operational areas it is exceeding expectations. This conclusion should be viewed within the context of the limited resources often experienced by many councils of a similar size to George Town. This is not to say that there are no significant issues that need addressing in the short to medium term. While the recommendations outlined in this report are not onerous they do underline the need to bring a number of the Council's policies and processes up to an acceptable standard.

With regard to matters related to the general manager, most have been referred to the appropriate authorities for investigation and comment will not be made on the matters or the processes currently underway.

Clearly there is considerable antagonism towards the Council from a relatively small number of ratepayers, some of whom actively participate in the George Town Residents and Ratepayers Association. For some individuals, the negativity towards the Council stretches back some time and has been recently exacerbated by events surrounding the Regent Square development. While an active ratepayers association is a bonus in any local community, the actions of some community members could be seen as counter-productive. Nonetheless, the electors' petition, and hopefully the outcomes of this report, will go some way to restoring a respectful working relationship between the Council and the Association.

Overall, the Council is operating reasonably well. With the exception of a number of human resource issues, there are no significant shortcomings in the governance and operations of the Council. There is no clear evidence that the Council has failed its community, nor its obligations under the legislation. Additionally, a number of important matters that arose during these enquiries are now being dealt with by the relevant authorities.

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8. Appendix A - Petition covering letter and statement

4 Ridge Street
Hillwood
TAS 7252

22 May 2013

Hon Bryan Green MHA
80B Wilson Street
Burnie
TAS 7320

Dear Mr Green

PETITION TO THE MINISTER FOR LOCAL GOVERNMENT

It is with some sadness that we as the community of the Municipality of George Town have been left with no alternative but to petition you to initiate an independent review of the governance and management of the George Town Council.

Many efforts have been made by members of the public over several years to secure greater transparency, accountability and consultation with their council in regards to its operations and management. In my opinion these difficulties stem from an alleged 'dubious' appointment of the then council employee, Stephen Brown to the position of General Manager.

Recent community efforts were made through motions passed at the last AGM December 2012, unfortunately without any satisfactory action being taken by the council. The AGM motions passed were, to paraphrase, motions of no confidence in the Councillors and Stephen Brown and a motion requesting that Stephen Brown take accrued leave whilst the Council conducted its own independent review of its operations and management. No action has been taken by the Council.

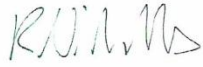
Further in light of the Integrity Commission's recent findings that documents, the subject of a Rights to Information Request, had been modified by the Council we urge you to instruct the Director of Local Government to exercise their power and place Stephen Brown on accrued leave at once. In my view the serious nature of the alleged documentation modification must have been actioned by Stephen Brown or with his full knowledge and under his direct instruction. To not take this action evidently runs the risk that further documentation may be modified or 'misplaced' during the period of notice leading up to a review.

Whatever the action initiated by yourself on receipt of this Petition it is clear that a very significant proportion of the electorate have serious concerns and that they have reached a level of utter dissatisfaction. The Mayor has publicly stated that the public criticism was that of a 'small minority'. This is clearly not the case.

We urge you to initiate a review. One that is sincere in its intent; to establish the realities of the governance and management by means of a detailed and comprehensive investigation. At the very least the review should include private and confidential discourse with all recent and current councillors and employees. Though I suggest that the review should also allow submissions and representations from the wider community.

The community awaits with much anticipation to hear how you propose to address the collective concerns of the people of George Town. We trust that you as the Minister for Local Government will exercise your powers and discharge your responsibilities and instruct the Director of Local Government to initiate a long overdue independent review of the George Council.

Yours sincerely



Richard Nicholls RAlA

For and on behalf of the signatories of the petition and the wider George Town community

t: +61.3 6394 8357 | m: +61.4 1864 0824 | e: rn@richardnichollsarchitect.com

cc.

ABC

MLC

MHA

MHA

Senator

Ms Emily Bryan

Ivan Dean

Peter Gutwein

Kim Booth

Peter Whish-Wilson

enc.

Petition Statement

Petition Signatories

**Petition to the Minister for Local Government in accordance with Part 6, Section 57(2)
(Local Government Act 1993)**

PETITION STATEMENT

Following motions passed at the George Town Council's AGM, 10th December 2012, and the subsequent nature of the action being taken by the Council in relation to those motions, we the undersigned electors of the Municipality of George Town, hereby Petition the Minister for Local Government, Hon Bryan Green MHA, to require the Local Government Board, established under section 210 of the Local Government Act 1993, to carry out a specific review of the governance and operations of George Town Council, in accordance with section 214, 214A(a) and 214A(m) of the Local Government Act 1993.

In particular the review is to have special regard to any absence of impartiality towards the General Manager by councillors, and/or any subservience and/or acquiescence by councillors in relation to any formulation of policy, caused by the General Manager.

Please find attached a petition addressed to the Minister for Local Government, Hon Bryan Green MHA in respect of the above subject.

The petition is signed by (1096)
ONE THOUSAND AND NINE HUNDRED AND SIXTY SIX signatories
(specify number)

Signed 
(signature of person lodging the petition)

Name RICHARD A. NICHOLLS
(print full name of person lodging the petition)

Address 4 RIDGE STREET
HILLWOOD TAS 7252
(print full address of person lodging the petition)

Telephone Contact Details h. 03 63948357
w. _____
m. 0418 640824

*The information provided will only be used for the lodgement of this petition under the Local Government Act 1993

9. Appendix B - Public question time procedures

PUBLIC QUESTION TIME PROCEDURE – since September 2013

In accordance with the Local Government (Meeting Procedures) Regulations 2005, the Council Conducts Public Question Time to enable members of the public to ask questions on Council related matters.

At Council's Ordinary Council meeting dated 13th November 2013 it was resolved (Minute 349/13) "Draft Guidelines for Public Question Time" will come into effect from the first Ordinary Council meeting in December 2013:

Public Question Time Guidelines

1. At least 30 minutes of each ordinary meeting of Council is made available for questions by members of the public.
2. The Chairperson shall provide equal opportunity for all members of the public to ask questions by limiting the number of questions to 3 per person and time to 2 minutes per question.
3. Questions asked and answers provided may be summarised in the minutes of the meeting.
4. The provisions of the Local Government (Meeting Procedures) Regulations 2005 shall apply.

PUBLIC QUESTION TIME PROCEDURE – prior to September 2013

In accordance with the Local Government (Meeting Procedures) Regulations 2005, the Council conducts Public Question Time to enable members of the public to ask questions on Council related matters.

A period of at least 15 minutes, if required, will be set aside at the beginning of each ordinary Council meeting following the Speakers Forum, to conduct Public Question Time.

The Chairperson may invite any member of the public, having given written notice to the General Manager at least 7 days before an ordinary meeting of Council, to ask the nominated question(s) relating to the activities of the Council, subject to the following provisions:

- (a) Once Question time commences, the Chairperson will determine the order in which the questions are heard with priority being given to those written questions provided 7 days before the ordinary meeting of Council.

(b) The Chairperson may then invite any member of the public present, having submitted a written copy of their question(s) on the required form to the General Manager immediately before the commencement of the ordinary meeting of Council; to ask the nominated question(s) relating to the activities of the Council.

(c) A maximum of three questions from individual members of the public will be received for any one meeting and variation from the written question(s) will not be permitted.

(d) Questions may relate to any business of the Council capable of being discussed in the open portion of the meeting.

(e) Members of the public proposing a question are required to be present at the Council meeting at which their question is to be read. Where a person submits a question for Public Question time but fails to attend the meeting, the question will be treated as general correspondence.

(f) Public Question Time will be at least 15 minutes, if required, and will be declared closed following that time or where all valid questions have been dealt with, whichever is the sooner.

(g) Proposed questions unable to be dealt with within Public Question time will be treated as general correspondence.

(h) A person asking a question, when called upon by the Chairperson is requested to:

- Stand
- State their name and place of abode
- Read out their question in accordance with the protocol.

(i) The Chairperson retains the right to accept or decline questions, and determine if the question is to be answered at the meeting and by whom; or taken on notice. The decision to take the question on notice may also be made by an employee to whom the question is directed. Questions taken on notice will be answered at a later meeting.

(j) The Chairperson may rule a question inappropriate and thus inadmissible, if in his or her opinion it has already been asked, is unclear, irrelevant, insulting, improper or relates to any matter which would normally be discussed in the closed portion of the meeting as defined in the Local Government (Meeting Procedures) Regulations 2005.

(k) Each question as submitted in writing is to be asked by the proponent who will be allowed a maximum of three minutes in which to put the question.

(l) The Chairperson will not allow any discussion or debate on either the question or the response.

(m) Where a person proposes more than one question during public question time, and a number of persons have lodged questions, the Chairperson may elect to take the questions in such order so as to hear as many members of the public as possible during the time allocated.

(n) A summary of each question asked by members of the public and the response given will be provided in the minutes of the Council meeting.

(o) Members of the public are advised that no reliance should be placed on any verbal answer given during public question time and that before relying on any answer; members of the public are required to receive a response in writing from the Council.

SPEAKERS FORUM – up until September 2013 (no longer exists)

In accordance with the Local Government (Meeting Procedures) Regulations 2005, the Council conducts a Speakers Forum to enable members of the public to speak on matters regarding Council business.

A period of 15 minutes, if required, will be set aside at the beginning of each ordinary Council meeting to conduct a speaker's forum.

The Chairperson may invite any person having registered their intention to speak, to address Council for a maximum time of two minutes on their nominated topic, subject to the following provisions:

(a) Persons intending to speak must register their intention to speak on the form provided before the meeting starts.

(b) Once the speaking forum commences, the Chairperson will determine the order in which the speakers are heard.

(c) Persons may speak on topics relating to any business of the Council capable of being discussed in the open portion of the meeting, including items listed for consideration on the agenda.

(d) Persons invited to speak, when called upon by the Chairperson are requested to:

- Stand
- State their name and place of abode
- Make their address in accordance with the protocol.

(e) The Chairperson retains the right to accept or decline a notice of intention to speak, and may rule an address inappropriate and thus inadmissible, if in his or her opinion the topic has already been canvassed, is unclear, irrelevant, insulting, improper or relates to any matter which would normally be discussed in the closed portion of the meeting as defined in the Local Government (Meeting Procedures) Regulations 2005.

10. Appendix C - Excerpt from Auditor-General's Report – George Town Council's financial performance 2011-2012.

GEORGE TOWN COUNCIL

AUDIT OF THE 2011-12 FINANCIAL STATEMENTS

Signed financial statements were received on 15 August 2012 and an unqualified audit report was issued on 28 September 2012.

KEY FINDINGS AND DEVELOPMENTS

Validity of rates

In August 2011, applications were made to the Supreme Court against Council seeking judicial review of the rates resolution made for the 2011-12 financial year.

On 8 August 2012, the Court determined that the applications against Council were dismissed and orders were made requiring the applicants to pay Council's legal costs. Council's lawyers are pursuing execution of costs orders in this matter with the Court and the other party's solicitors. Council are hopeful the costs will be recovered during the 2012-13 financial year.

The audit was completed satisfactorily with no major items outstanding

FINANCIAL RESULTS

Council generated a Net Operating Surplus of \$0.386m this year (2010-11, Deficit \$0.651m). The 2011-12 result is particularly encouraging due, in the main, to lower operating costs and an 11.8% increase in rates revenue. It was also pleasing to note Council budgeted for a Net Operating Surplus.

Council achieved a Net Surplus of \$1.549m (2010-11, \$0.438m) and a Comprehensive Surplus of \$9.662m (\$2.278m). The Comprehensive Surplus included the net impacts of non-current asset fair value revaluations of \$7.987m and a gain in Council's interest in Ben Lomond Water by \$0.126m.

Consistent with the Comprehensive Surplus of \$9.662m, Council's Net Assets increased to \$112.632m, up from \$102.970m the previous year. As at 30 June 2012, Council had Net Working Capital of \$5.338m, up from \$3.763m in 2011, due mainly to increased Cash and financial assets of \$1.647m.

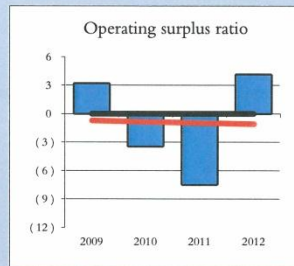
Assessment of financial sustainability

Our assessment of financial sustainability is based on a review of relevant ratios and selected internal governance arrangements.

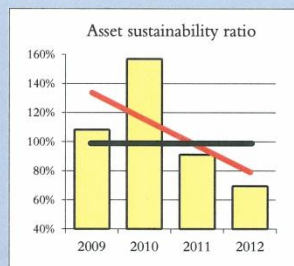
Relevant financial sustainability ratios

The following four graphs, along with our discussion of the Asset renewal funding ratio, summarise key ratios highlighting important aspects of Council's financial performance over the past four years. In each of the graphs the black line (where applicable) represents the benchmark for the ratio and the red line is the actual four-year trend.

In general, the ratios indicate:



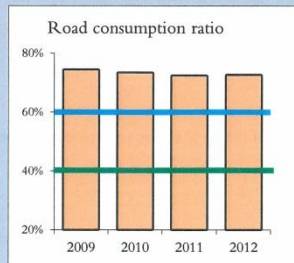
Council recorded an average Operating surplus ratio of 0.90% (average deficit, \$0.054m) in the four years under review. Overall, negative Operating surplus ratios indicate Council did not generate sufficient revenue to fulfil its operating requirements, including depreciation charges. However, the result in 2011-12 was positive and it was encouraging to see Council budgeted for an operating surplus this year.



Asset sustainability ratio was below benchmark in the past two of the years under review. Over the four year period, Council's average ratio was 107% indicating it maintained its investment in existing assets at benchmark levels. However, capital expenditure appears to be trending down, against depreciation expenses that are increasing.

Asset renewal funding ratio

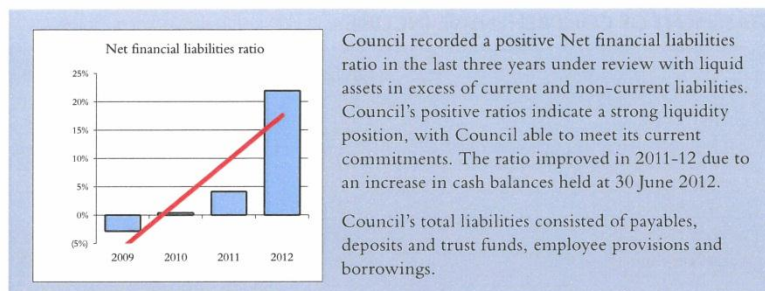
Council's long-term asset management plan indicated the asset renewal funding ratio was 100%, in line with our 90%-100% benchmark, at 30 June 2012 for its infrastructure assets. This is based on planned asset replacement expenditure and asset replacement expenditure actually required and was taken from Council's draft long-term asset management plan for the period 2013 to 2022.



The ratio represents Council's utilisation of road infrastructure assets. Data above the blue line benchmark indicates a low risk rating, data below the green line a high risk rating with data between the two lines representing a moderate risk rating.

The graph shows that at 30 June 2012 Council had used (consumed) approximately 27% of the service potential of its road infrastructure assets. This indicates a low financial sustainability risk in relation to road assets. The strong ratios are primarily due to Council's valuation method that incorporates

a regular review of useful lives and utilisation of residual values in the calculation of depreciation, which results in a lower accumulated depreciation balance indicating road assets have a longer useful life. Overall, at 30 June 2012, Council's road infrastructure assets had sufficient capacity to continue to provide service to ratepayers.



Governance

A review of Council's governance arrangements indicated it does not have an audit committee or internal audit function.

Council does have a draft infrastructure asset management plan covering all infrastructure assets for the period 2012-22 and a draft a financial management plan covering the same period. However, steps are needed to formalise these draft arrangements.

Conclusion as to financial sustainability

From a financial operating perspective, Council recorded an operating surplus in the current year, but averaged a deficit of \$0.054m over the four year period.

Asset sustainability ratio shows Council averaged 107%, which was above our 100% benchmark. This indicates Council maintained its investment in existing assets at, on average, above benchmark. Council's Road consumption ratio remained above 70% over the four year period, indicating its road infrastructure assets were at low sustainability risk. Its Asset renewal funding ratio of 100% indicates Council intends to fund its capital renewal requirements identified in its draft infrastructure asset management plan.

Council's Net financial liabilities ratio was positive indicating its liquidity was sound and it had the capacity to borrow should the need arise.

From a governance perspective, Council does not have an audit committee although it did have a long-term infrastructure management plan and a long-term financial management plan but these were still in draft form.

Based on these ratios and governance arrangements we have concluded that at 30 June 2012, Council was at moderate sustainability risk from a governance and operating perspective and at low risk in all other respects.

Management comments on this assessment of its financial sustainability

Council was offered the opportunity to comment and it advised that it did not have any comment to make.

STATEMENT OF COMPREHENSIVE INCOME

	2011-12 Estimate*	2011-12 Actual	2010-11 Actual	2009-10 Actual
	\$'000s	\$'000s	\$'000s	\$'000s
Rates	6 396	6 425	5 746	5 681
Fees and charges	666	517	610	622
Grants **	1 266	1 690	1 637	1 600
Other revenue	528	412	495	386
Total Revenue	8 856	9 044	8 488	8 289
Employee costs	3 161	3 152	3 027	2 547
Depreciation	1 868	2 047	1 868	1 808
Other expenses	3 669	3 514	4 253	4 130
Total Expenses	8 698	8 713	9 148	8 485
Net Operating Surplus (Deficit) before	158	331	(660)	(196)
Finance costs	(184)	(179)	(173)	(239)
Interest revenue	150	234	182	143
Net Operating Surplus (Deficit)	124	386	(651)	(292)
Capital grants	241	691	625	1 336
Financial assistance grant received in advance **	0	849	415	409
Offset Financial assistance grant in advance **	0	(415)	(409)	(394)
Insurance recovery - misappropriation	0	0	390	0
Misappropriation loss	0	0	0	(186)
Insurance recovery - Hillwood Football Club building	0	38	250	0
Write off - Hillwood Football Club building	0	0	(182)	0
Net Surplus	365	1 549	438	873
Other Comprehensive Income				
Fair value revaluation of non-current assets	0	7 987	2 584	8 558
Fair value initial adjustment Ben Lomond Water	0	0	0	(8 069)
Fair value adjustment arising from change in allocation order	0	0	(975)	0
Current year fair value adjustment Ben Lomond Water	0	126	231	0
Total comprehensive income items	0	8 113	1 840	489
Comprehensive Surplus	365	9 662	2 278	1 362

* The Estimate represents Council's final estimate for the year. This is provided for comparison only and was not subject to audit.

** Grants received in advance have been shown separately after Net Operating Surplus.

The Offset figures enable the above table to balance with Council's own Statement of Comprehensive Income.

Comment

In 2011-12 Council recorded a Net Operating Surplus before net financing revenues of \$0.331m, compared to a deficit of \$0.660m in 2010-11. The increase of \$0.991m was predominantly due to:

- higher rate revenue of \$0.679m, mainly due to an 8% increase in the general rate (excluding varied rates), supplementary rates on new properties and an increase in rates received in advance
- a reduction in Other expenses of \$0.739m, due mainly to Council reducing the number of contractors and consultants employed during the current year without increasing employee costs significantly, partially offset by
- higher Employee costs of \$0.125m
- an increase in Depreciation of \$0.179m mainly due to the impact of asset revaluations.

Council budgeted for a Net Operating Surplus of \$0.124m, which was \$0.262m lower than the actual Net Operating Surplus of \$0.386m. The improved result from budget included additional revenue from grants, \$0.424m, and interest, \$0.084m, offset by lower fees and charges and Other revenue, \$0.265m.

After accounting for Interest revenue, Council recorded a Net Operating Surplus of \$0.386m (2010-11, deficit \$0.651m). Council's Interest revenue exceeded its Finance costs in each of the past two financial years.

After Capital grants, Insurance recoveries and the impact of Financial assistance grants received in advance, Council recorded a Net Surplus of \$1.549m in 2011-12, compared with \$0.438m in 2010-11. The result was mainly due to Council's improved operating surplus in 2011-12. Increased Financial assistance grants in advance of \$0.434m, were offset by insurance recoveries in 2010-11.

Capital grants totalled \$0.691m for 2011-12, an increase of \$0.066m from 2010-11. These grants included:

- Australian Government Roads to Recovery Fund, \$0.241m (2010-11, \$0.241m)
- NBN Digital Funding, \$0.244m, to develop on-line service applications between Council and ratepayers.

Other Comprehensive income totalled \$8.113m and included:

- fair value revaluation of Council's roads, drainage, bridges, jetties and pontoons totalling \$7.987m
- an increase in Council's investment in Ben Lomond Water of \$0.126m, being its 4.3% interest in the increase in the net assets of the Corporation.

STATEMENT OF FINANCIAL POSITION

	2012	2011	2010
	\$'000s	\$'000s	\$'000s
Cash and financial assets	5 710	4 063	3 375
Receivables	265	254	610
Non-current assets held for sale	707	704	699
Other	41	48	91
Total Current Assets	6 723	5 069	4 775
Payables	384	624	713
Borrowings	159	54	51
Provisions - employee benefits	458	447	281
Other	384	181	191
Total Current Liabilities	1 385	1 306	1 236
Net Working Capital	5 338	3 763	3 539
Property, plant and equipment	88 523	80 660	77 926
Investment in Ben Lomond Water	21 325	21 199	21 943
Total Non-Current Assets	109 848	101 859	99 869
Borrowings	2 363	2 522	2 576
Provisions - employee benefits	191	130	140
Total Non-Current Liabilities	2 554	2 652	2 716
Net Assets	112 632	102 970	100 692
Reserves	66 339	56 793	53 154
Accumulated surpluses	46 293	46 177	47 538
Total Equity	112 632	102 970	100 692

Comment

As detailed in the Statement of Comprehensive Income section of this Chapter, Total Equity increased by \$9.662m during 2011-12. Net Assets increased by the same amount to \$112.632m. Major line item movements included:

- higher Cash and financial assets of \$1.647m which is discussed further in the Statement of Cash Flows section of this Chapter
- decreased Payables of \$0.240m due to the 2011 balance including significant creditor balances relating to the Low Head Walkway
- increased Property, plant and equipment of \$7.863m due to:
 - revaluation increments, \$7.987m
 - additions, \$1.931m, offset by
 - depreciation expense, \$2.047m
- increased investment in Ben Lomond Water of \$0.126m, as discussed in the Statement of Comprehensive Income section of this Chapter.

STATEMENT OF CASH FLOWS

	2011-12	2010-11	2009-10
	\$'000s	\$'000s	\$'000s
Receipts from customers	7 907	8 257	6 875
Cash flows from government	2 124	1 643	1 614
Payments to suppliers and employees	(7 326)	(7 769)	(7 010)
Interest received	234	182	144
Finance costs	(179)	(173)	(239)
Misappropriation loss	0	0	(186)
Cash from operations	2 760	2 140	1 198
Capital grants and contributions	691	625	1 336
Payments for property, plant and equipment	(1 934)	(2 199)	(2 939)
Proceeds from sale of property, plant and equipment	8	0	23
Distributions received - Ben Lomond Water	176	173	152
Cash (used in) investing activities	(1 059)	(1 401)	(1 428)
Proceeds from borrowings	0	0	0
Repayment of borrowings	(54)	(51)	(48)
Cash (used in) financing activities	(54)	(51)	(48)
Net increase (decrease) in cash	1 647	688	(278)
Cash at the beginning of the year	4 063	3 375	3 653
Cash at end of the year	5 710	4 063	3 375

Comment

At 30 June 2012, Council's total cash balance of \$5.710m comprised cash at bank, on hand and short-term investments. Its cash position improved by \$1.647m, with Cash from operations of \$2.760m and Capital grants and contributions \$0.691m being more than sufficient to fund Payments for property, plant and equipment of \$1.934m and the Repayment of borrowings, \$0.054m.

Cash was held by Council in relation to restricted funds for Deposits and trust funds, \$0.383m, provisions, \$0.649m, and Reserves, \$3.441m. Cash also included Financial Assistance Grants received in advance, \$0.849m.

Movements in operating cash flows reflect comments made in previous sections of this Chapter. In summary, Cash from operations increased by \$0.620m to \$2.760m which included:

- Council's operating surplus of \$0.386m, adjusted for depreciation of \$2.047m, a non-cash item, providing \$2.433m in operating cash inflows
- the net impact of Financial assistance grants in advance, \$0.434m, recorded as Cash from operations but excluded from the net operating surplus, offset by
- cash inflows from Ben Lomond Water, \$0.176m, recorded as an investing activity for cash flow purposes.

Payments for Property, plant and equipment of \$1.931m included:

- Low Head Walkway, \$0.324m
- Egg Island Creek bridge reconstruction, \$0.287m
- York Cove walkway paving and safety fencing, \$0.214m
- bitumen resealing, \$0.297m
- purchase of plant and equipment, \$0.192m.

FINANCIAL ANALYSIS

	Bench Mark	2011-12	2010-11	2009-10	2008-09
Financial ratios					
Profitability					
Operating surplus (deficit) (\$'000s)		386	(651)	(292)	341
Operating surplus ratio *	> 0	4.16	(7.51)	(3.46)	3.22
Asset management					
Asset sustainability ratio*	>100%	70%	91%	157%	108%
Asset renewal funding ratio**	90%-100%	100%	n/a	n/a	n/a
Road asset consumption ratio *	>60%	72.7%	72.4%	73.4%	74.4%
Liquidity					
Net financial assets (liabilities) (\$'000s)		2 036	359	33	(298)
Net financial liabilities ratio ***	0% - (50%)	21.9%	4.1%	0.4%	(2.8%)
Operational efficiency					
Liquidity ratio	2:1	6.45	5.03	4.17	6.01
Current ratio	1:1	4.85	3.88	3.86	4.84
Interest Coverage		14.42	11.37	4.01	13.01
Asset investment ratio	>100%	94%	118%	163%	123%
Self financing ratio		29.7%	24.7%	14.2%	26.5%
Own source revenue		81.8%	81.1%	81.0%	81.5%
Debt collection	30 days	14	15	35	14
Creditor turnover	30 days	14	13	32	7
Rates per capita (\$)		930	834	832	1 002
Rates to operating revenue		69.2%	66.3%	67.4%	63.7%
Rates per rateable property (\$)		1 469	1 330	1 326	1 577
Operating cost to rateable property (\$)		2 033	2 157	2 037	2 395
Employee costs expensed (\$'000s)		3 152	3 027	2 547	2 992
Employee costs capitalised (\$'000s)		390	293	278	190
Total employee costs (\$'000s)		3 542	3 320	2 825	3 182
Employee costs as a % of operating expenses		35%	32%	29%	29%
Staff numbers (FTEs)		45	44	39	46
Average staff costs (\$'000s)		79	75	73	69
Average leave balance per FTE (\$'000s)		14	13	11	12
* For commentary on these indicators refer to the Financial Results section of this chapter.					
** New ratio included in 2011-12. Information not obtained or unavailable to calculate prior year ratios.					
*** This benchmark between 0 - (50%) is anticipating a situation where total liabilities should not be greater than 50% of operating revenue.					
Where the ratio is positive, as is the case with George Town Council, liquid assets exceed total liabilities.					

Comment

Financial ratios relating to Profitability, Asset management and Liquidity were discussed in the Financial Results section of this Chapter. This section will focus on Operation efficiency matters.

Liquidity and Current ratios were above benchmark in all years under review indicating an ability to meet short-term commitments. This was due mainly to the large cash investments held at each year end.

Interest coverage ratio reflects Council's relatively low level of borrowings. The ratio continued to improve in 2011-12 in line with stronger net cash flows from operations.

Asset investment ratio was below benchmark in 2011-12 indicating a reduction in the level of capital expenditure in the period. This is due to delays in commencement/finalisation of capital works projects planned for 2011-12. These projects should be completed in 2012-2013. However, over the four year period the average ratio was 124%, which is well above benchmark.

Self financing ratio remained relatively consistent across all years under review. The decrease in 2009-10 was attributable to lower cash flows as water and sewerage operations were transferred to Ben Lomond Water. Own source revenue was also constant over the period, with Council generating the majority of its operating revenue from its own sources. In 2011-12, it was reliant on grant funding to the extent of 18% (2010-11, 19%).

Rates per capita and rateable property are trending upward and correspond with rate increases over the period under review. Its Council's rate statistics and ratios all decreased in 2009-10 primarily due to water and sewerage rates no longer being raised.

Employee costs as a percentage of operating costs gradually increased over the four year period under review in line with annual enterprise agreement pay rises and movement in staff numbers. The increase in 2011-12 was also affected by a general decrease in other operating costs.

Average staff cost increased over the period in line with general Enterprise Agreement increments. In the past two years, employees received 4.2% and 3.9% in increases.

II. Appendix D - George Town Council's Anti-Discrimination and Harassment Policy



George Town Council

ANTI-DISCRIMINATION AND HARASSMENT

Policy No. 37 - Version 1

Adopted	16 th May 2012	Minute Ref: 116/12
Amended		
Next Review Date	As required	
Statutory Authority	Anti-Discrimination Act 1998	

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Introduction

This Policy establishes and implements awareness for all Council employees, Councillors, Contractors and Council agents in their obligations and responsibilities in creating a working environment that is free from discrimination and harassment.

Policy Statement

George Town Council is committed to ensuring that it provides a working environment which is free from unlawful discrimination and harassment in all forms and will not tolerate workplace discrimination and harassment under any circumstances.

Council is committed to compliance with the provisions of the *Anti-Discrimination Act 1998* (Tas), the anti-discrimination provisions of relevant legislative instruments and the provisions of Section 63 (2) of the *Local Government Act 1993* (Tas) which states:

The general manager is to develop human resource practices and procedures in accordance with policies of the council to ensure employees of the council receive fair and equitable treatment without discrimination.

Council will ensure that all Council employees, Contractors, Councillors and Council agents do not engage in behaviour that unlawfully discriminates against other persons, either directly or indirectly in the workplace or work related environment, on the grounds of any of the following attributes: - age; breastfeeding; disability; family responsibilities; gender/sex; industrial activity; irrelevant criminal record; irrelevant medical record; lawful sexual activity; marital status; relationship status; parental status; political activity; political belief or affiliation; pregnancy; race; religious activity; religious belief or affiliation, sexual orientation or association with a person who has, or is believed to have, any of these attributes or identities.

Council will not tolerate:

- Any bullying or harassment in the form of conduct which offends, humiliates, intimidates, insults or ridicules another person on the basis of any of the above attributes;
- Sexual harassment;
- Victimisation of a person making an harassment or discrimination complaint or providing information in connection with possible disciplinary processes that might arise from such a complaint; and
- Inciting hatred by a public act contrary to Section 19 of the *Anti-Discrimination Act 1998* (Tas).

Statement of Principles

In committing to this policy, Council aims to:

- Create a working environment which is free from discrimination and harassment and where all employees are treated with dignity, courtesy and respect;
- Implement training and awareness raising strategies to ensure that all employees know their rights and responsibilities;
- Encourage the reporting of behaviour which breaches this policy;
- Provide an effective procedure for complaints based on the principles of natural justice;
- Treat all complaints in a sensitive, fair, timely and confidential manner;
- Protect employees from victimisation and reprisals for making complaints; and
- Promote appropriate standards of conduct at all times.

Link to Strategic Plan

Key Area 2 - Corporate

Objective: Provide a safe workplace free from discrimination and recruit staff on merit.

Legislation

The following legislation should be considered in conjunction with this policy:

- *Local Government Act 1993 (Tasmania) in particular section 63 (1) and (2)*
- *Fair Work Australia Act 2009 (Commonwealth)*
- *Anti-Discrimination Act 1998 (Tasmania)*
- *Equal Employment Opportunity Act 1984 (Commonwealth)*
- *Sex Discrimination Act 1984 (Commonwealth)*
- *Racial Discrimination Act 1975 (Commonwealth)*
- *Human Rights and Equal Opportunity Commission Act 1986 (Commonwealth)*
- *Workplace Health & Safety Act 1995 (Tasmania)*
- *Work Health and Safety Act 2010*
- *Workplace Relations Act 1996 (Commonwealth)*
- *Disability Discrimination Act 1992*
- *Age Discrimination Act 2004*
- *Equal Opportunity for Women in the Workplace Act 1999 (Commonwealth)*
- *Industrial Relations Act 1984 (Tasmania)*
- *Workers Rehabilitation and Compensation Act 1988 (Tasmania)*

Definitions

Discrimination

Discrimination means either direct discrimination or indirect discrimination.

Direct Discrimination

Treating an individual or group of people less favourably than another because of differences which are not relevant to the situation.

Indirect Discrimination

When an individual or group of people are disadvantaged by a requirement, rule or condition that, on the surface, appears to be the same for everyone but has an effect or result that is unequal and unreasonable on the individual group.

For indirect discrimination to be unlawful it must relate to a prescribed ground or attribute under the legislation.

For indirect discrimination to take place, it is not necessary that the person who discriminates is aware that the condition, requirements or practice disadvantages the person or group of people.

Workplace discrimination can occur in connection with (*but not limited to*):

- Recruitment (including advertising) and selection for employment;
- Conditions of employment;
- Termination of employment;
- Commission of agents;
- Contract workers;
- Partnerships;
- The selection, nomination and allocation of training opportunities; or
- Who is considered and selected for transfer, promotion or retrenchment.

Harassment

Harassment is a form of discrimination and includes a wide range of behaviour, which is unwanted, unwelcomed or uninvited and makes a person feel humiliated, intimidated, insulted, ridiculed or offended. It is generally any type or recurring behaviour that:

- The person does not want and does not return;
- Targets people because of their individual differences;
- Consists of verbal or physical forms of bullying; and
- May be sexual or non-sexual in nature.

The test for harassment is a behaviour, which a reasonable person, having regard to all circumstances, knew or would have anticipated, would offend, humiliate or intimidate the person concerned.

Sexual Harassment

Sexual harassment is a legally recognised form of sex discrimination. Sexual harassment is harassment (an uninvited or unwelcomed action) of a sexual nature, be it physical, verbal or written. It can include physical contact, verbal comments, jokes, propositions, the display of offensive material, or any other behaviour, which creates a hostile working environment (i.e. a sexually charged work environment).

Bullying

Bullying is unreasonable behaviour that is directed against an individual or group by another individual or group and is derived from the misuse of power over the target behaviour. This may include:

- Spreading misinformation and rumours;
- Unfair and excessive criticism;
- Offensive messages on e-mail or telephone including SMS and text messages;
- Undervaluing a person's work or contribution;
- Verbal abuse, swearing, shouting, derogatory comments;
- Excluding or isolating behaviour;
- Deliberately withholding information that is vital for effective work performance;
- Giving employees impossible assignments.

Victimisation

Under the *Anti-Discrimination Act 1998* (Tas), “*victimisation*” has a special meaning in Anti-Discrimination law. Section 18 of the Act, states that:

A person must not victimise another person because that other person:

- a) made, or intends to make, a complaint under this Act; or
- b) gave, or intends to give, evidence or information in connection with any proceedings under this Act; or
- c) alleged, or intends to allege, that any person has committed an act which would amount to a contravention of this Act; or
- d) refused or intends to refuse to do anything that would amount to a contravention of this Act; or
- e) has done anything in relation to any person under or by reference to this Act.

Victimisation takes place if a person subjects, or threatens to subject, another person or an associate of that other person to any detriment.

Scope of Policy

This policy covers all Council employees, Councillors, Contractors, Council agents and applicants for employment.

Application of Policy - Employer & Employee Responsibilities

The Councillors, Managers and Supervisors of George Town Council have a responsibility to:

- Monitor the work environment to ensure that acceptable standards of conduct are observed at all times;
- Display appropriate behaviour themselves;
- Maintain adherence and promote this policy within their work area;
- Ensure all employees receive training to assist with the identification of potential workplace discrimination and harassment situations and the procedure to be observed for the treatment of such complaints;
- Receive complaints and help resolve issues;
- Treat all complaints seriously and take immediate action to investigate and resolve the matter;
- Prevent harassment and discrimination not only during working hours or in the workplace itself, but also in any work-related context, including but not limited to conferences, work functions, office Christmas parties and business field trips;
- Ensure people who make complaints, or witnesses, are not victimised in any way; and
- Maintain an awareness of current Anti-Discrimination Law and ensure action is taken to reflect any changes in the law in this policy.

All employees have a responsibility to:

- Comply with this policy;
- Not to participate in discriminatory or harassing behaviour in the workplace or in connection with employment;
- Take all steps possible to prevent discrimination and harassment in the workplace or work related environment;
- Offer support to an employee who is being discriminated or harassed and let them know where they can get help and advice;
- Maintain complete confidentiality if they provide information during the investigation of a complaint;
- Show a duty of care to fellow employees and report any incidents of discrimination they have observed/witnessed; and
- Respect the rights of other employees in the implementation of this policy and associated procedures.

All Councillors have a responsibility to:

- Comply with this policy;
- Model appropriate behaviour;
- Keep abreast of relevant legislation in this area to assist with the identification of potential discrimination and harassment situations and the process to be observed for the treatment of complaints;
- Refer enquiries to Contact Officer providing assistance to aggrieved parties;
- Not participate in discriminatory or harassing behaviour in the workplace in connection with the employee of any person;
- Refer anyone who is being discriminated or harassed to an appropriate source of help and advice. Councillors who spread gossip or rumours or otherwise involve themselves in complaints may expose themselves to an action in defamation; and
- Maintain complete confidentiality if they provide information during the investigation of a complaint.

Application of Policy - Investigation and Remedies for Breaches of this Policy

Any reports of work place violence, discrimination or harassment will be treated in accordance to the nature of the complaint, and will be investigated thoroughly in a manner consistent with natural justice and procedural fairness. The General Manager will ensure that a responsible Contact Officer is appointed to receive complaints of discrimination or harassment. That Officer may, having regard to the nature of the seriousness of the complaint and with the agreement of the complainant, conduct an informal investigation of the circumstances of the alleged workplace discrimination or harassment.

That Officer may, having regard to the nature of the seriousness of the complaint and with the agreement of the complainant, conduct an informal investigation of the circumstances of the alleged work place discrimination or harassment. If the complainant does not agree to informal investigation of the alleged discrimination or harassment, or the Officer reasonably believes that the information investigation is inappropriate, the circumstances giving rise to the complaint must be communicated to the General Manager for the determination of who may appropriately investigate the complaint on Council's behalf. In receiving, undertaking informal investigations and reporting to the General Manager, the responsible Officer must keep the substance of the complaint, the identification of the investigation of the complaint confidential.

Upon the determination of any investigation of the complaint alleging discrimination or harassment, the General Manager may determine that it is appropriate for disciplinary measures to be taken or imposed against any employee or any person found to be guilty of work place discrimination or harassment or of making a malicious or frivolous complaint.

The General Manager may impose disciplinary measures having regard to the severity of the discrimination or harassment so found and the disciplinary measures may include the requirement for an apology, the attendance of a course of counselling, transfer, Council's dispute/grievance procedures, dismissal or demotion of an employee.

The General Manager will take disciplinary action against any person who victimises or retaliates against a complainant of discrimination or harassment.

If the complainant alleges that the General Manager is the person that the complaint has been raised against the procedure will remain the same. However, the report of harassment if not dealt with to the satisfaction of the complainant by the informal process must then be reported to the Mayor by the General Manager in conjunction with the responsible Officer to be resolved.

If the General Manager after investigation has been identified by Council as discriminating or harassing the complainant, Council may impose disciplinary measures having regard to the severity of the discrimination or harassment so found in accordance with the provisions of the General Managers contract of employment.

Where a contractor or agent is accused of workplace violence, discrimination or harassment, the matter will be reported to the Anti-Discrimination Commission.

Where a Councillor is accused of workplace violence, discrimination or harassment, conciliation will, in the first instance, be referred to the General Manager (who may in turn refer the matter to the Contact Officer) for an informal investigation in an effort to resolve the matter. Where the matter cannot be resolved it will be referred to the Mayor (or Deputy Mayor if the complaint involves the Mayor) and in the first instance dealt with as a "breach of the Code of Conduct". Where the complaint involves the General Manager, the matter is to be referred and resolved by the Mayor.

Application of Policy - Workplace Support Contact Officer

George Town Council provides an Anti-Discrimination Contact Officer who can assist with providing confidential information and support to address discrimination, harassment and/or bullying in the workplace.

Application of Policy - Training

Council will, on a regular basis, arrange for the appropriate training of all employees, the Contact Officer and Councillors to ensure that, as far as possible, all parties are aware of:

- This policy;
- Relevant anti-discrimination legislation;
- Potential workplace bullying, workplace discrimination and harassment situations and the processes to be observed for the treatment of complaints; and
- Their own responsibilities, obligations and rights under this policy and the legislation generally.

The Council will also ensure that appropriate training in the areas above is provided to new employees and Councillors as part of their induction procedure.

Implementation of Policy

This Policy will become effective upon approval by Council. It will be reviewed in July 2013.

All employees will be provided with a copy of this policy and sign-off form as part of their induction package and will have access to the policy through Council's electronic record management system (Dataworks).

All elected members will be provided with a copy of this policy and sign-off form as part of their induction package and will have access to the policy through individual policy manuals provided to them.

Audience

The Anti-Discrimination and Harassment Policy applies to all employees, Councillors, Contractors and agents of George Town Council.

Related Internal Documents

- Employment and Recruitment Policy
- Code of Practice for Councillors and Staff

Acknowledgement - Anti-Discrimination and Harassment Policy

I have read, understand and agree to comply with the foregoing policy, rules, guidelines and conditions in respect of any form of unlawful discrimination and harassment in the workplace. I understand that any violation of this policy may subject me to disciplinary action, including termination from my employment and/or legal action. I further understand that I have a personal responsibility to ensure a working environment which is free from discrimination and harassment.

Furthermore, I understand that this policy can be amended at any time and that any amendment/s will be communicated accordingly.

I confirm that I have had time to read and fully understand the above policy. I hereby agree to the above conditions.

Name: _____
(*please print name*)

Signature: _____

Date: ____/____/____



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