

TASMANIA

**LOCAL GOVERNMENT (APPOINTMENT AND
PERFORMANCE OF GENERAL MANAGERS)
ORDER 2024**

STATUTORY RULES 2024, No. 33

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**LOCAL GOVERNMENT (APPOINTMENT AND
PERFORMANCE OF GENERAL MANAGERS)
ORDER 2024**

I make the following order under the *Local Government Act 1993*.

Dated 11 July 2024.

N. STREET
Minister for Local Government

1. Short title

This order may be cited as the *Local Government (Appointment and Performance of General Managers) Order 2024*.

2. Commencement

This order takes effect on the day on which its making is notified in the *Gazette*.

3. Interpretation

(1) In this order –

Act means the *Local Government Act 1993*;

(2) The *Acts Interpretation Act 1931* applies to the interpretation of this order as if it were by-laws.

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4. Principles governing selection of general managers

For the purposes of section 61A(1)(a) of the Act, the following principles governing the selection of a general manager are specified:

- (a) the principles of integrity, accountability and transparency;
- (b) all applicants are to be treated fairly and equitably, without discrimination;
- (c) all participants in the selection process are to manage any conflict of interest so as to ensure the integrity, accountability and transparency of the selection process.

5. Matters to be taken into account by councils when selecting, or reappointing, general managers

For the purposes of section 61A(1)(b) of the Act, the following matters, and classes of matters, that are to be taken into account when a council is selecting, or reappointing, a general manager are specified:

- (a) the content of the role description for the position of general manager and whether or not the role description requires updating;
- (b) the content of the selection criteria for the position of general manager and whether or not the selection criteria require updating;

- (c) the recommendations of the selection panel appointed for the purposes of selecting a general manager;
- (d) if a council is reappointing a general manager, the content of the general manager's most recent performance assessment.

6. Procedures to be followed by councils when appointing general managers

(1) In this clause –

relevant person means the following persons:

- (a) a person engaged by a council under subclause (2)(c) who is not also a selection panel member;
- (b) a person providing administrative assistance to –
 - (i) selection panel members;
or
 - (ii) a person referred to in paragraph (a);

selection panel members means the councillors, and other persons who are not councillors, who are appointed to a selection panel by a council under subclause (2)(b) or (c).

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- (2) For the purposes of section 61A(1)(c) of the Act, the procedures to be followed by a council in relation to appointing a general manager are specified as follows:
- (a) the council is to appoint a selection panel;
 - (b) a selection panel appointed by the council –
 - (i) must comprise councillors in the majority; and
 - (ii) may comprise one or more other persons, who are not councillors, who have relevant skills and experience;
 - (c) the council must engage at least one person, who is not a councillor and who may or may not also be appointed to a selection panel by the council, who can inform selection panel members on contemporary human resources practices and procedures due to the person so engaged –
 - (i) having experience in the recruitment of senior management personnel; and
 - (ii) holding appropriate qualifications in contemporary human resource practices and procedures;

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- (d) the mayor is to lead a selection panel;
- (e) throughout the appointment process selection panel members and relevant persons must –
 - (i) monitor the circumstances and identify any actual or potential conflict of interest; and
 - (ii) disclose, in writing, any identified conflict of interest to each selection panel member;
- (f) the selection panel members are to review a conflict of interest disclosed under paragraph (e)(ii) and are to decide whether or not the conflict of interest can be mitigated and the mitigation measures, if any, that are appropriate in the circumstances;
- (g) if a majority of selection panel members decide under paragraph (f) that a disclosed conflict of interest –
 - (i) can be mitigated, the selection panel member or relevant person who has the disclosed conflict of interest may continue to be a selection panel member or relevant person; or
 - (ii) cannot be mitigated, the selection panel members must refer the

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disclosed conflict of interest to
the council;

- (h) a majority of selection panel members for the purposes of paragraph (g) must include the decision of the mayor;
- (i) if a disclosed conflict of interest is referred to a council under paragraph (g)(ii), the council is to review the decision made by the selection panel members and is to make a determination in relation to whether or not –
 - (i) the disclosed conflict of interest can be mitigated and the mitigation measures, if any, that are appropriate; and
 - (ii) the person to whom the disclosed conflict of interest relates can continue to be a selection panel member or relevant person;
- (j) if a council determines under paragraph (i) that a person with a disclosed conflict of interest cannot continue –
 - (i) to be a selection panel member, the council –
 - (A) must replace the selection panel member if, without the replacement, councillors will no longer

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- form a majority of the selection panel members;
and
 - (B) may replace the selection panel member if, without the replacement, councillors will continue to form a majority of selection panel members;
and
 - (C) must replace the selection panel member if that member is also the mayor;
and
- (ii) to be engaged by a council under paragraph (c), the council –
- (A) must replace the person, if the person is the only person engaged under paragraph (c); and
 - (B) may replace the person, if the person is not the only person engaged under paragraph (c); and
- (iii) to provide administrative assistance to a selection panel member or to a person engaged by a council under paragraph (c), the selection panel member or the

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person so engaged may replace
the person;

- (k) a council is to provide the selection panel members with details of any –
 - (i) determination made by the council under paragraph (i); and
 - (ii) replacements made by the council under paragraph (j);
- (l) a selection panel must record details of any –
 - (i) conflict of interest disclosed to the selection panel under paragraph (e); and
 - (ii) decision made by the selection panel under paragraph (f); and
 - (iii) mitigation measures decided by the selection panel under paragraph (f); and
 - (iv) referral to the council under paragraph (g)(ii); and
 - (v) details provided by the council in accordance with paragraph (k);
- (m) a selection panel must record details of the process undertaken by the selection panel to recommend the appointment of a person as general manager, including any details recorded under paragraph (l) and

details of the selection panel's evaluation of each applicant against the role description, and selection criteria, for the position of general manager, and those details must be recorded in the minutes of a closed council meeting;

- (n) a selection panel is to make recommendations, in relation to the appointment of a person as general manager, and a report on the recommendations must be prepared and recorded in the minutes of an open or closed council meeting.

7. Processes and procedures to be followed by councils in monitoring performance of general managers

For the purposes of section 61A(1)(d) of the Act, the processes and procedures to be followed by a council in monitoring the performance of a general manager are specified as follows:

- (a) the council must undertake a written assessment of the performance of a general manager at least once in each 12-month period, commencing with the 12-month period from the day on which the general manager is appointed;
- (b) before the performance of a general manager is assessed, the general manager and the council are to agree on specified, clear and measurable criteria, that may include the current, and future,

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- remuneration of the general manager,
that will be used to evaluate and assess
the performance of the general manager;
- (c) the council is to ensure that the general manager is treated fairly, equitably and without discrimination;
 - (d) the council must obtain advice and information from any one or more other persons, who are not councillors, who are appropriately qualified in contemporary human resource practices and procedures due to the persons who are providing the advice and information –
 - (i) having experience in relation to the conduct of performance assessments for senior management, including the measurement and evaluation of performance against criteria; and
 - (ii) holding appropriate qualifications in contemporary human resource practices and procedures;
 - (e) all assessment reports on the performance of a general manager must be prepared and recorded in the minutes of an open or closed council meeting.

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Printed and numbered in accordance with the *Rules
Publication Act 1953*.

Notified in the *Gazette* on 24 July 2024.

This order is administered in the Department of Premier and
Cabinet.

EXPLANATORY NOTE

(This note is not part of the order)

This order specifies, and provides for, certain matters in
relation to the selection, appointment, reappointment and
performance of general managers for the purposes of section
61A of the *Local Government Act 1993*.