

TASMANIA

**GLENORCHY CITY COUNCIL (DISMISSAL OF
COUNCILLORS) BILL 2017**

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GLENORCHY CITY COUNCIL (DISMISSAL OF COUNCILLORS) BILL 2017

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*
31 October 2017

(Brought in by the Minister for Planning and Local Government, the Honourable Peter Carl Gutwein)

A BILL FOR

An Act to dismiss the councillors of the Glenorchy City Council, to make provision in relation to the election to be held, subsequent to that dismissal, under the *Local Government Act 1993*, to make provision in relation to commissioners, under that Act, in respect of that council, to ensure the conduct of the inquiry under that Act in respect of that council is not affected by this Act, and for related purposes

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Glenorchy City Council (Dismissal of Councillors) Act 2017*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

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3. Interpretation

In this Act, unless the contrary intention appears –

Board of Inquiry has the same meaning as in the *Local Government Act 1993*;

commencement day means the day on which this Act commences;

councillor means a person who is a councillor within the meaning of the *Local Government Act 1993*.

4. Certain by-elections, &c., not to be held

If, otherwise than by the operation of section 5, a vacancy in the office of a councillor for the Glenorchy City Council occurs in the period on and from 16 October 2017 to and including 16 January 2018 (*the relevant period*) –

- (a) sections 307 and 308 of the *Local Government Act 1993* do not apply in relation to that vacancy in that office; and
- (b) any action taken, in relation to such a vacancy, under or in relation to either of those sections during the relevant period is to be taken to be, and to always have been, void and of no effect.

5. Councillors of Glenorchy City Council dismissed

Despite any provision of the *Local Government Act 1993*, including section 226, the persons who are, immediately before the commencement day, councillors of the Glenorchy City Council are to be taken for all purposes to have been, on the commencement day, dismissed under that Act as councillors of the Glenorchy City Council.

6. Elections to be held on dismissal of councillors

Despite any provision of the *Local Government Act 1993* –

- (a) 16 January 2018 is taken to be fixed by the Governor, under section 268A(1A) of the *Local Government Act 1993*, as the closing day for the election, under that Act, in relation to the Glenorchy City Council, that is required under that Act to be held by virtue of the vacancies in all offices of councillors of that council, being the vacancies caused by the dismissal of the councillors under section 5 of this Act; and
- (b) Division 9 of Part 15 of the *Local Government Act 1993* does not apply in relation to any of the vacancies in the offices of councillors of that council caused by the dismissal of the councillors under section 5 of this Act.

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7. Dismissal and appointment of commissioners

- (1) On the commencement day, any appointment of a person, under section 230 of the *Local Government Act 1993*, as commissioner for the Glenorchy City Council is terminated.
- (2) Nothing in this Act is to be taken to prevent the exercise by the Governor of his or her powers under the *Local Government Act 1993* in relation to the Glenorchy City Council, a councillor of that council, or a commissioner.

8. Effect of dismissal on inquiry into Glenorchy City Council

- (1) If a report has been, before the commencement day, or is, after the commencement day, submitted to the Minister under section 224 of the *Local Government Act 1993* in relation to the Glenorchy City Council –
 - (a) the Minister is not required to issue a notice to any person or body under section 225(1) of that Act; and
 - (b) the Minister may issue a direction to a person or body under section 225(2) of that Act without considering any submissions under section 225 of that Act; and
 - (c) the Minister may consult with a commissioner appointed in relation to that council under section 231 of that Act; and

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- (d) the Minister may issue, to a commissioner appointed in relation to that council under section 231 of that Act, a direction that the commissioner –
 - (i) rectify or mitigate the effects of an action by the council; or
 - (ii) ensure an action of the council is discontinued; or
 - (iii) take any other step that the Minister specifies in the direction; or
 - (iv) notify the Minister, within a period specified in the direction, of the steps the commissioner has taken or proposes to take, or the reasons why the commissioner has not taken, or is not proposing to take, those steps.
- (2) A commissioner must comply with a direction given to the commissioner under subsection (1)(d).

9. Operation of this Act

- (1) If a provision of the *Local Government Act 1993* is inconsistent with a provision of this Act, the provision of this Act has effect to the extent of the inconsistency.
- (2) Nothing in this Act is to be taken to prevent or affect –

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- (a) the conduct, by a Board of Inquiry, of an inquiry under Part 13 of the *Local Government Act 1993*; or
- (b) the making of recommendations under the *Local Government Act 1993* by a Board of Inquiry; or
- (c) the submission by a Board of Inquiry of a report under section 224 of the *Local Government Act 1993* –

in relation to the Glenorchy City Council.

10. Application of certain laws

- (1) The rules of natural justice do not apply in relation to the taking of any action under this Act or the taking of any action, in accordance with this Act, under the *Local Government Act 1993*.
- (2) Despite any other Act or law, the Minister is not required to provide his or her reasons for making a decision, or taking any action, under or in accordance with, or for the purposes of, this Act.
- (3) The *Judicial Review Act 2000* does not apply in relation to a decision made by the Minister under this Act.

11. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

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- (a) the administration of this Act is assigned to the Minister for Planning and Local Government; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Premier and Cabinet.

12. Expiry of Act

This Act expires on 1 December 2018.