COUNCIL AGENDA
TUESDAY, 29 JANUARY 2019

GLENORCHY CITY COUNCIL

QUALIFIED PERSON CERTIFICATION

The General Manager certifies that, in accordance with section 65 of the *Local Government Act 1993*, any advice, information and recommendations contained in the reports related to this agenda have been prepared by persons who have the qualifications or experience necessary to give such advice, information and recommendations.

_____
David Ronaldson
Acting General Manager

23 January 2019

Hour: 6.00 p.m.

Present:

In attendance:

Leave of Absence:

Workshops held since last Council Meeting

Date: Monday, 14 January 2019

Purpose: To discuss:

- Catch up with Mayor

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1. APOLOGIES

2. CONFIRMATION OF MINUTES (OPEN MEETING)

That the minutes of the Council Meeting held on 17 December 2018 be confirmed.

3. ANNOUNCEMENTS BY THE CHAIR

4. PECUNIARY INTEREST NOTIFICATION

5. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

James Bryan, 14 England Avenue, Montrose
(from 26 November 2018 Council meeting)

Q. **Mr Bryan noted that the answer to a question he asked at the previous Council meeting (which was taken on notice) which was provided in a letter to him from the Mayor dated 20 November 2018 was not provided in the agenda and queried why it had been omitted.**

Do all Aldermen receive a copy of such correspondence as a matter of course?

A. Yes, Aldermen receive copies of correspondence sent in response to public questions through the same platform that they use to receive copies of Council agendas and minutes.

The answer to the question was mistakenly omitted from the agenda for the November Council meeting and was instead published in the agenda for the Council meeting on 17 December 2018.

Q: On Council's website, there is a list of facilities for hire such as halls or other venues. There is no mention of Moonah Arts Centre or the Derwent Entertainment Centre. Can these be included on the list of facilities available for hire on the website?

A: The fees and charges for the Derwent Entertainment Centre are listed on the DEC's website. Officers will update Council's website to include the DEC and MAC and will provide links to the DEC and MAC's websites.

Q: Additionally there is a Schedule of Fees and Charges for 2018/19 on the Website. The Facility Hire Charges schedule lists fees for both the MAC and DEC. With the MAC there is a sliding scale of charges depending on use and status of hirer (e.g. for the hire of the Performance/Screen Studio which seats about 140 people the daily charges range from $360 to $145 – Government Corporate Rate to Arts Volunteer Group or individual artists or arts project). However for the DEC on this list there is only one rate for hire, the Astley Room and Nostalgia Bar which, in theatre mode, has a capacity for 350 people has a daily charge of $550.

Earlier this year when I asked a question regarding hire charges in the Astley Room it had a three tier scale of charges, Corporate, Not for Profit and GCC.

Is the absence of a scale of charges an omission of error or has the policy changed regarding the support of community not for profit organisations including educational, religious, charitable, sporting groups. Does this mean these groups will pay the rates listed in this Schedule of Fees? If the policy has changed, who made the change and why has such a change of policy not been discussed and approved at a Council meeting? If it is an omission by error will be rectified promptly?

A: The absence of information on the Schedule of Fees and Charges regarding the scale of charges for the DEC facilities is an accidental omission. There is no policy associated with the determination of fees and changes for the Derwent Entertainment Centre. The DEC has three categories of charges; commercial, not-for-profit and GCC for the Astley Room, Seminar Suites, Boardroom and Devils Den.

Council's Schedule of Fees and Charges will be updated to incorporate the correct charges.

James Bryan, 14 England Avenue, Montrose
(from Council AGM, 3 December 2018)

Q: With reference to page 19 of the Annual Report does the partnership with the Hobart Chargers entail a signed Contract or a verbal agreement?

A: The agreement with the Hobart Charges was a signed contract

Q: Do the Chargers pay an amount to lease the DEC?

A: Yes

Q: If yes, is it a nominal amount or the scheduled fee for the lease of the DEC?

A: The venue hire fees payable by the Chargers are a commercial rate negotiated between the parties and incorporates venue hire fees, ticketing fees, and on-costs. It is neither a nominal amount, nor the scheduled lease fee for the DEC.

Q: Is the arrangement public or commercial-in-confidence?

A: All contractual arrangements between Council and organisations doing business with the DEC are commercial-in-confidence.

Q: Is the Mayor aware of Section 86B of the *Local Government Act 1993* which states:

> ***A Council must adopt a rates and charges policy*. (There is a schedule of Hire Charges for Council facilities on the Council Website.)**
>
> **Section 77 of the *Local Government Act 1993* states:**
>
> ***(1A) A benefit provided under subsection (1) may include-***
>
> ***(b) fully or partially reduced fees, rates or charges; and***
>
> ***(2) The details of any grant made or benefit provided are to be included in the annual report to council* ?**

A: Yes.

Q: Council Officers are obviously aware of this as on page 48 of the Annual Report there is an amount of $8,175 for waiver venue hire fees – MAC Partnership Projects. If the Chargers are receiving a benefit, why is that not contained in the Annual report as required under the Act?

A: A commercial arrangement entered into by Council in relation to significant business activity of Council (which the DEC is) is not a gift or benefit for the purposes of section 77 of the Act. A requirement that Council had to disclose these details would negate the commercial-in-confidence nature of transactions, and would make it impossible for the DEC to attract commercial clients and continue as a viable business.

James Bryan, 14 England Avenue, Montrose
(from 17 December 2018 Council meeting)

As a result of information I have received through Right to Information requests, and referring to the DEC Revenue information contained in the Annual Reports, I have the following questions:

Q: Why has there been a significant reduction in Revenue reported at the DEC totalling approximately $700,000 in the last two years? Revenue was $1,605,000 in 2016 compared to $1,294,000 in 2017 and $1,283,000 in 2018. This has occurred despite the 50% increase in attendances from 64,000 in 2015 to 96,000 in 2018.

A: An increase in the number of attendees at the DEC does not necessarily equate to an increase in revenue. For example, patrons attending the DEC for a passive event (e.g. a market or a craft fair) will not generate the same per-person equivalent revenue as a patron attending the DEC to see an international act perform. The former involves walk-up patrons while the latter requires ticket booking for which the DEC received a commission.

Referring to the figures above, when the revenue from the 2014 financial year is also considered for comparison purposes (which it is not in the above question), the totals are:

2014/15	$1.379 m
2015/16	$1.605 m
2016/17	$1.283 m
2017/18	$1.283 m

The above shows that 2015/2016 year had a higher than normal revenue. This was due to the DEC hosting to two major 'multi-show' events that year. These were Cirque du Soleil (six shows) and Cats (six shows). Accordingly, there was not a 'significant reduction' in revenue the following year, but rather the revenue returning to its normal level

Q: Why did the 'hire charges' income drop by $377,000 to $760,000 in the 2017 Annual Report when the attendances were 85,000 and the 2016 Hire Charges were $1,137,000 for the same 85,000 attendances?

A. In the 2015/16, there were two major 'multi-show' events held at the DEC that contributed a better return per person than one-off shows. These were Cirque du Soleil (six shows) and Cats (six shows).

Q: Why hasn't the reimbursement for food and beverage sales been included in the Annual Report for the last two years? The DEC Operational Expenditure shows $308,000 for the cost of Food and Beverages last financial year and where is the income from these Sales?

A A review of 'User Charges and Licences' categories for Note 5 of the Financial Statements in Council's annual report was undertaken at the end of the 2015/16 year. This resulted in a reduction from 33 categories to 9 categories. Since the 2015/16 onwards, the DEC's Food and Beverage Sales (which were previously reported separately in Note 5) have been reported as part of a single DEC figure.

Q: The 'reimbursement' amount at the DEC in 2017 Annual Report was $411,000 so why has there been no revenue for reimbursements at the Derwent Entertainment Centre recorded in the Annual Report 2017/2018?

A: From 2017/18, 'Reimbursements' are accounted for as part of the 'User Charges' figure for the DEC (see Note 38 to the financial statements).

Q: Why have the 'Recoverable other event' expense amounts of $112,504 in 2017 and $127,718 in 2018 not been correspondingly accounted for in the revenue (income) reported for the DEC in the last two years?

A: Amounts recorded as 'Recoverable other event' expenses form part of the financial settlement calculations performed after each event. The promoter receives ticket and merchandise sales net of DEC retention amounts (e.g. hire fees and recoveries). The retention then forms part of the DEC User Charges reported in the annual report

Doug Richardson, 30 Amiens Avenue, Moonah

Q: In the agenda, I note that my final question has not been published. That question invited one or more Aldermen to meet with me at Amiens Avenue. Why was it not included in the agenda?

A: The invitation to Aldermen to meet at Amiens Avenue was taken as a comment rather than a question for which an answer would be provided. Aldermen are aware of your invitation.

Janine Foley, 5 Bethune Street Chigwell
(from 17 December 2018 Council meeting)

1. Nature Strip Management

Q: Can council make comment about apparent 'targets' for nature strip and tree management set in the 'Annual Plan'?

Q: Does management / policy/procedure / guideline of the nature strip include identification, communication, mapping, embedding, frame working, capability and capacity around risk (including shared risk) management issues relating to the use of herbicides throughout the Glenorchy LGA by the GCC?

A: Answers to these questions will be tabled at the Council meeting.

2. Board of Inquiry Costs for 2018-2018

Q: Can Council detail amount recorded in 2017 for Board of Inquiry (BOI)?

A: The amount recorded for the BOI expense in 2016/17 was $791,104.00

Q: Can Council detail amount recorded in 2018 for BOI?

A: The amount recorded for the BOI expense in 2017/18 was $96,312.29

Q: Can Council detail amount recorded in 2017 for consultants?

A: The amount recorded for Consultants in 2016/17 was $1,929,697.07

Q: Can Council detail amount recorded in 2018 for consultants?

A: The amount recorded for Consultants in 2017/18 was $1,529,521.59

3. Register of Interests

Q: Where is the current register located?

A: Council's Corporate Governance section maintains the register of interests. It is stored on an electronic database and can be viewed by request.

Eddy Steenbergen, Rosetta
(from 17 December 2018 Council meeting)

Q: In relation to the enforcement of parking time limits in Glenorchy.

a) How much did it cost council in 2017 to enforce parking time limits, including staff time, equipment and other resources?

b) How many infringements did council staff issue in 2017? What income did those infringements generate?

A: Answers to these questions will be tabled at the Council meeting.

6. PUBLIC QUESTION TIME (15 MINUTES)

Please note:

- the Council Meeting is a formal meeting of the Aldermen elected by the Glenorchy community. It is chaired by the Mayor
- public question time is an opportunity in the formal meeting for the public to ask questions of their elected Council representatives about the matters that affect ratepayers and citizens
- question time is for asking questions and not making statements (brief explanations of the background to questions may be given for context but comments or statements about Council's activities are otherwise not permitted)
- the Chair may permit follow-up questions at the Chair's discretion, however answers to questions are not to be debated with Council
- the Chair may refuse to answer a question, or may direct a person to stop speaking if the Chair decides that the question is not appropriate or not in accordance with the above rules
- the Chair has the discretion to extend public question time if necessary.

Questions on Notice - Eddy Steenbergen, Rosetta

Q: In October last year council decided to reject an offer by Hydraplay for the DEC and "seek expressions of interest from prospective buyers on the open market." What steps has council taken since then towards disposal of the DEC?

A: Council officers have engaged KPMG to assist in the process of the DEC's potential sale. With KPMG's assistance, Council has drafted Request for Quotation (**RFQ**) documentation to engage a specialist real estate company to conduct the sale process. The RFQ documentation is currently being finalised is due for release in early February.

Q: In the interests of transparency and to allow electors to lobby, will Council publish the membership of each advisory committee on the council website, in particular, the aldermen, independent community members, and organizations represented?

A: Council will publish information about committee membership on its website in response to this request. However, Council will need to seek the consent of any community representatives on committees to have their names or contact information published, and will not publish any information without that consent.

Q: At the moment, anyone wishing to view all the documents for a planning permit application needs to visit the council. So that the documents for an application can be shared more easily and people do not need to physically visit the council, will council explore the feasibility of electronically publishing all the documents provided by an applicant for their application on its website (as the Hobart City Council does)?

A: Council would like to implement an online planning permit application system to allow such documents to be published online. However, the cost of establishing and maintaining such a system has, to date, been prohibitive. Council will re-examine the feasibility of implementing such a system in future budget years.

7. PETITIONS/DEPUTATIONS

A petition lodged by Janiece Bryan, 14 England Avenue, Montrose is to be tabled.

ENVIRONMENT

8. FOGO FOOD ORGANICS GARDEN ORGANICS COMMUNITY FEEDBACK REPORT

Author: Director, Infrastructure and Works (Ted Ross)

Qualified Person: Director, Infrastructure and Works (Ted Ross)

ECM File Reference: Waste Management

Community Plan Reference:

Open for Business

We will champion education, innovation and new technologies to stimulate creativity and to generate even more jobs for the future.

Leading our Community

The communities of Glenorchy will be confident that Council manages the community's assets soundly for the long-term benefit of the community.

Strategic or Annual Plan Reference:

Open for Business

2.1 Stimulate a prosperous economy.

2.1.2 Build relationships with government and the private sector that create job opportunities for our communities.

Leading our Community

4.1 Govern in the best interests of our community.

4.1.2 Manage the City's assets soundly for the long term benefit of the Community.

4.1.3 Maximise regulatory compliance in Council and the community through our systems and processes.

Reporting Brief:

To recommend that Council receives and notes the feedback from residents in regards to a proposed Food Organics Garden Organics (**FOGO**) kerbside service, and that this feedback is considered as part of the development of a business case to be tabled at the March 2019 Council meeting.

Proposal in Detail:

Council is currently reviewing its Waste Management Strategy and considering the future of waste services for the city. This includes the possible introduction of a Food Organics Garden Organics (FOGO) kerbside collection service.

As part of the development of a business case on the possible introduction of a new service Council surveyed the community in respect to their support and any concerns or issues they may wish to raise.

A summary of the engagement methodology, questions, and responses to the survey are Attachment 1 to this report.

Council received over 1,300 responses to the survey with representation from across the municipality.

90% of those surveyed considered the introduction of a new service as important or very important.

The report also outlines a range of issues and concerns raised by the community and identifies that these will be addressed as part of the development of the business case to be presented to the March 2019 Council meeting.

The presentation of the feedback report at this time provides the community with time to reflect on the responses and for Council to demonstrate that we are listening to the community and addressing concerns.

Consultations:

Executive Leadership Team
Waste Management Team
Co-ordinator Community Planning and Engagement
Community Engagement Officer

Human Resource / Financial and Risk Management Implications:

Financial

Financial implications will be fully developed in the business case to Council, to be presented at the March 2019 meeting.

Risk management

There are no material risk management implications in Council receiving this report. A risk assessment in relation to the proposed implementation of a FOGO service will be presented with the business case.

Community Consultation and Public Relations Implications:

Community consultation

The attached report details the community engagement process

Public relations

If received by Council then Council officers would publish the results of the survey on our website and distribute the results of the survey to the community.

Recommendation:

That Council:

1. RECEIVE and NOTE the attached report on FOGO Food Organics Garden Organics Community Feedback Report.

Attachments/Annexures

1 FOGO Food Organics Garden Organics Community Feedback Report

GOVERNANCE

9. PETITION - PROPOSED SALE OF THE DERWENT ENTERTAINMENT CENTRE AND DEVELOPMENT OF ADJACENT LAND

Author: Acting Manager, Legal Services (Bryn Hannan)

Qualified Person: Director, Community and Strategy (David Ronaldson)

ECM File Reference: Derwent Entertainment Centre Proposals

Upon Community Plan Reference:

Leading Our Community

We will be a progressive, positive community with strong council leadership, striving to make Our Community's Vision a reality.

Strategic or Annual Plan Reference:

Leading our community

Objective 4.1 Govern in the best interests of our community.

Strategy 4.1.1 Manage Council for maximum efficiency, accountability and transparency.

Strategy 4.1.3 Maximise regulatory compliance in Council and the community through our systems and processes.

Reporting Brief:

To consider a petition presented to the General Manager and tabled at this meeting relating to the potential sale of the Derwent Entertainment Centre and the development of adjacent land, in accordance with the requirements of Part 6, Division 1 of the *Local Government Act 1993*.

Proposal in Detail:

Council has received a petition, lodged by Janiece Bryan of 14 England Avenue, Montrose, relating to Council's proposed sale of the Derwent Entertainment Centre and Development land at Wilkinson's Point (**the Petition**).

The Petition is to be formally tabled at the current Council meeting.

The Petition was accompanied by a covering letter signed by Mrs Bryan (**Covering Letter**). The Covering Letter is Attachment 1 to this report.

The Covering Letter states that the petition contains 842 signatures.

The Petition

The subject of the Petition is as follows:

"*Stop selling our public Assets and Land*

HANDS OFF OUR DEC and WE SAY NO THE $4,000,000 LIBERAL GOVERNMENT LOAN TO DEVELOP AND SELL OUR LAND"

The Petition is referring to Council's proposed sale of the Derwent Entertainment Centre (**DEC**), and the $4 million loan that has been offered by the State Government to assist Council in providing the infrastructure necessary to develop land adjacent to the DEC site at Wilkinsons Point.

It should be noted that these two issues are not directly related to one another and are matters that will (or may) be considered separately by Council in the future.

Previous Petitions

The petition is in the same terms as two previous petitions in the same form which have been presented to Council. The previous petitions were:

- a petition tabled at the Special Council meeting on 20 August 2018 (**the August Petition**) containing 418 signatures, and
- a further petition tabled at the 29 October 2018 Council meeting (**the October Petition**) containing 758 signatures.

The August and October Petitions were formally considered by Council at the meetings at which they were tabled.

At the 20 August 2018 Council meeting, Council resolved to treat the August Petition as a formal objection to the proposed disposal of the DEC, which was also being considered at that meeting.

At the 29 October Council meeting, Council resolved to:

- note the concerns of the 736 signatories to the October Petition in relation to the proposed sale of the DEC and the potential loan from the State Government to assist with the development of Wilkinson's Point, and
- take the concerns of signatories into account in any future consideration by Council of sale of the DEC or the acceptance of assistance from the State Government in relation to the development of Wilkinson's Point.

Given that action has already been taken in response to the August and October Petitions by Council, it is recommended that Council treats the current Petition as a separate document. Council should note, however, that all three Petitions are in the same (or substantially the same) form, meaning that the issue stated in them has received 1996 signatures in total (subject to the comments below about duplicate or anomalous signatures).

Signatories to the Petition

Council has reviewed each of the 842 signatures on the Petition. The following should be noted:

- once duplicate signatures, unsigned entries, or entries where the signatory has written a statement that contradicts the petition (i.e. is supportive of the DEC sale) are removed, the petition contains **825** signatures
- of those 825 signatures, **370** were from people who reside outside the Glenorchy local government area, leaving **455** signatories who claim to be Glenorchy residents, and
- of the 455 Glenorchy residents, only **273** can be identified as electors on the Glenorchy electoral roll.

The above does not include an analysis of whether the any signatories have signed more than one of three Petitions that have been tabled by Mrs Bryan.

Requirements for Dealing with Petitions under the *Local Government Act 1993*

The Petition substantially complies with the requirements under section 57 (Petitions) of the *Local Government Act 1993* (**the Act**). Accordingly, the Petition has been tabled at an ordinary Council meeting as required by section 58(2) of the Act.

Section 60(1)(b) of the Act requires that General Manager gives notice to the person who lodged the Petition (Mrs Bryan) of when Council will consider the Petition. The General Manager has notified Mrs Bryan that the petition will be considered at the current meeting.

Section 60(2) of the Act requires that within 42 days after tabling the Petition, the General Manager is to advise Council at a council meeting whether the Petition complies with section 59 (if applicable) and Council, at that meeting, is to determine any action to be taken in respect of the Petition. In respect to this:

- section 59 of the Act does not apply to the current Petition, as the petition does not call for a public meeting, and
- the action recommended in respect of the petition is set out below.

Recommended Action on Petition

The Covering Letter to the Petition proposes that the action to be taken in response to the petition is to the effect that Council does not proceed with the sale of the DEC.

While the number of signatures on the Petition indicates that a portion of the community is opposed to the prospective sale, this should not, alone, form the basis of any decision by Council as to whether the DEC is to be sold. The action proposed by the Petition is therefore not practical, despite the fact that Council has not yet reached a final decision on whether it will sell the DEC, or to who and on what terms, meaning that the outcome it seeks may ultimately eventuate.

The Petition does not propose any alternative course of action. However, given that Council may be required to make a decision in the future on whether it will sell the DEC, it is recommended that the action taken by Council is to make resolutions to the effect that the Petition and the concerns noted by its signatories are taken into consideration in any final decision as to whether to sell the DEC. This is reflected in the recommendations to this report.

Allegation in Covering Letter About DEC Tenure

The Covering Letter to the Petition does not form part of the Petition. It is a separate representation from Mrs. Bryan outlining some of her specific concerns relating to the proposed sale of the DEC.

Among other things, the Covering Letter alleges that Council is prevented from selling the DEC because it is a public reserve under the *Crown Lands Act 1976*.

Council has spent considerable time addressing this issue and explaining to Mrs Bryan why her reasoning is legally and factually incorrect. A detailed response to this issue was provided in the agenda for Council's November 2018 meeting.

It is therefore concerning that Mrs Bryan continues to persist with this unsubstantiated allegation, which has the potential to mislead people who are considering signing the petition.

Consultations:

Mayor
General Manager
Director, Community and Strategy
Manager, Governance and Executive Support

Human Resource / Financial and Risk Management Implications:

Financial

There are no material financial implications.

Human resources

There are no material human resources implications.

Risk management

Risk Identification	Consequence	Likelihood	Rating	Risk Mitigation Treatment
Do not adopt the recommendation Council would be in breach of its obligations under Part 6, Division 1 of the *Local Government Act 1993*.	Major (C4)	Unlikely (L2)	**Moderate**	Council adopts the recommendations of receiving and noting the tabled Petition.

Community Consultation and Public Relations Implications:

Community consultation

The person who lodged the petition, Mrs. Bryan, has been informed that the petition will be tabled and considered at the present meeting.

Public relations

The potential sale of the DEC is an issue that is attracting significant media and public interest. Public relations issues around the potential sale are being handled by the Mayor and Council's Communications and Marketing Advisor, in consultation with the General Manager.

Recommendation:

That Council:

1. RECEIVE and NOTE the petition titled *Proposed Sale of the Derwent Entertainment Centre and Development of Adjacent Land* lodged by Janiece Bryan of 14 England Avenue, Montrose (**the Petition**)
2. NOTE the concerns of the 842 signatories to the Petition in relation to the proposed sale of the Derwent Entertainment Centre (**DEC**) and the potential loan from the State Government to assist with the development of Wilkinson's Point, and
3. RESOLVE to take the concerns of the 842 signatories to the Petition into account in any future consideration by Council of sale of the DEC or the acceptance of assistance from the State Government in relation to the development of Wilkinson's Point.

Attachments/Annexures

1 Covering Letter to Petition

10. PROPOSAL TO LEASE PUBLIC LAND FOR INSTALLATION OF TELECOMMUNICATION EQUIPMENT AT KGV SPORTS GROUND

Author: Director, Infrastructure and Works (Ted Ross)
Property Officer (Niki Robertson)

Qualified Person: Director Infrastructure and Works (Ted Ross)

ECM File Reference: Telecommunications

Community Plan Reference:

Valuing our Environment

We will value and enhance our natural environment.

Open for Business

We will be a place where business can establish, continue and flourish.

Leading our Community

The communities of Glenorchy will be confident that Council manages the community's assets soundly for the long-term benefit of the community.

Strategic or Annual Plan Reference:

Valuing our Environment

Objective 3.1 Create a liveable and desirable City.

Strategy 3.1.4 Deliver new and existing services to improve the City's liveability.

Open for Business

Objective 2.1 Stimulate a prosperous economy.

Leading our Community

Objective 4.1 Govern in the best interests of our community.

Strategy 4.1.2 Manage the City's assets soundly for the long term benefit of the Community.

Reporting Brief:

To recommend that Council resolves to lease public land at 1B Anfield Street, Glenorchy to Telstra Telecommunications for a period of 20 years, following the conclusion of the process carried under section 178 of the *Local Government Act 1993.*

Proposal in Detail:

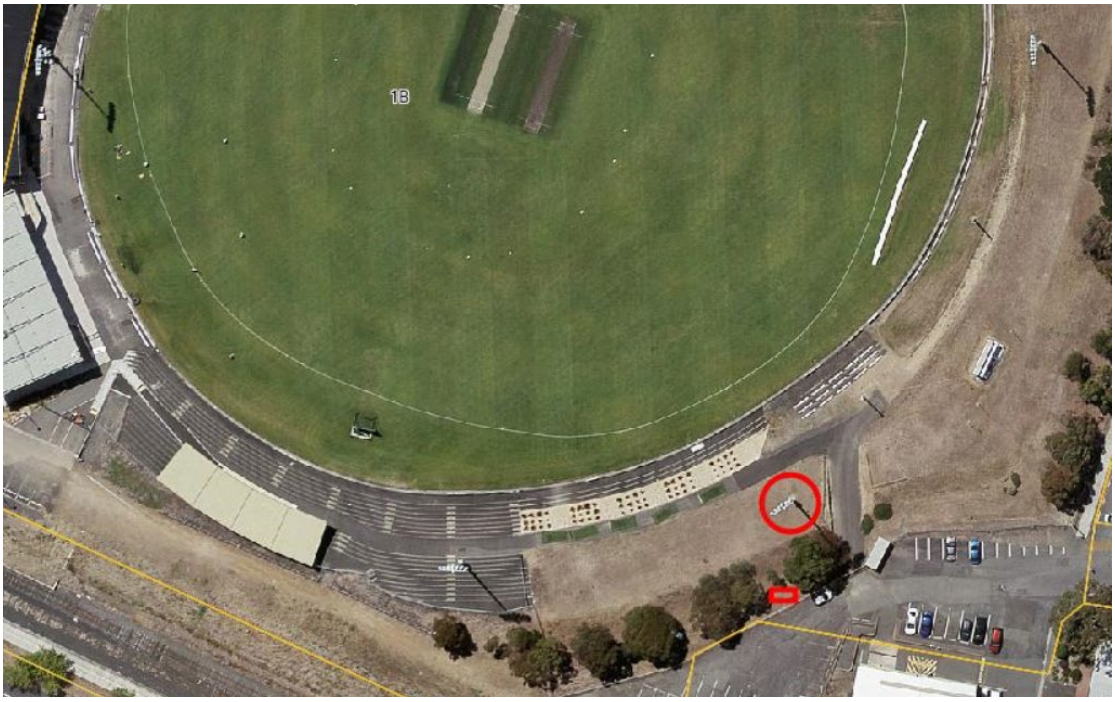
Under section 178 of the *Local Government Act 1993* (**the Act**), Council can sell, lease, donate, exchange or otherwise dispose of public land owned by it in accordance with the process set out in that section.

This report recommends that Council determines, under section 178 of the Act, to lease public land at 1B Anfield Street, being the KGV Sports Ground (**the Land**) to Telstra Telecommunications on the following terms and conditions:

1. term of 10 + 10 years.
2. Telstra to be responsible for conducting all installation work including pre-installation investigations, negotiations with effected parties including the Glenorchy District Football Club and the Glenorchy Cricket Club.
3. Telstra to liaise with and co-operate closely with Musco Lighting Australia Pty Ltd who installed the field lighting system at King George V Oval in regard to swapping the light pole and moving the field lighting to the new pole.
4. Telstra to be responsible for all maintenance and repair of the equipment shelter and the pole.
5. Payment of current market rent for the site by the Lessee.

The land

The Land forms part of King George V sports ground and constitutes an area approximately 24m^2 as denoted by the red rectangle below:



The red circle denotes the light pole that the carrier will swap with a telecommunication pole appropriate for the installation of telecommunication equipment.

Process under section 178 of The Act

Section 178 of the the Act sets out the process that must be followed by a council which intends to lease public land for a term greater than 5 years.

Section 178(3) states that a resolution of the Council to sell, lease, donate, exchange or otherwise dispose of public land is to be passed by an absolute majority of Council. If such a resolution is passed:

- the intention to lease must be advertised on two (2) occasions in a daily newspaper circulating in the municipal area, and
- a copy of the notice must be displayed on any boundary of the public land that abuts a highway and notifies the public that objection to the proposal may be made to the General Manager within 21 days of the date of the first publication.

If the General Manager does not receive any objection under subsection (4) and an appeal is not made under section 178A, the council may sell, lease, donate, exchange or otherwise dispose of public land in accordance with its intention as published under subsection (4).

Compliance with the section 178 Process

On 29 October 2018 Council resolved under section 178 to form an intention to dispose of the Land (see Attachment 1). The resolution was passed by an absolute majority, as required.

Following this, a notice was published in *The Mercury* newspaper on two occasions, being Friday 30 November 2018 and Friday 7 December 2018 (copies of the advertisements are Attachment 2) advising the public that any objections must be received by the General Manager within 21 days of the date of the first publication.

In addition, notices were placed on the boundary of the public land in two positions as shown by the photographs at Attachment 3.

The General Manager did not receive any objections to the proposed lease, either within or outside the time frame of 21 days from the advertising and display of notices.

Where no objections are received, section 178(5) of the Act authorises Council to dispose of the land in accordance with its intention, as published.

Compliance with Council Policy

Council's *Disposal of Council Land* policy requires that the following criteria must be addressed in any report to Council in regard to the disposal of land, (the definition of 'disposal' includes leasing):

The current use and history of the Council Land

The current use of the Land is a sporting facility which is home to the Glenorchy District Football Club and the Glenorchy Cricket Club. There is also an existing Vodafone pole on the land which houses telecommunication equipment.

Details of the cultural, heritage, environmental, recreation, landscape values of the Council Land

The Land holds significant cultural and recreation value for the Glenorchy district. It has been the home of both the Glenorchy District Football Club since 1957 and later, since 1996, the Glenorchy Cricket Club.

The results of the valuation of the Council Land

The land is a very small parcel of unutilised land and is therefore difficult to value. A valuation for leasing purposes will be obtained if required as part of negotiating the lease.

Any statutory or legal considerations

In order to enter a lease for greater than 5 years S. 178 of the Act in regard to advertising must be complied with and this has been completed.

The consultation process undertaken and consideration and response to every objection lodged

No objections were received in the S. 178 consultation process.

The rationale for the recommended disposal, including details of any internal referrals

The rationale for leasing the land is that there will be no or little impact on the current users of the land, there is already a Vodafone telecommunication facility on the Land and the lease is expected to generate revenue that can assist in offsetting the cost of running the facility.

The recommended method of sale

In this instance it is proposed that Council enter a formal lease with the telecommunication provider.

The recommended sale price range

There is no recommended price range for the lease. A figure of $15,000.00 per annum has been provided by the proponent as part of preliminary discussions. The lease is expected to generate income in this vicinity.

Any encumbrances on the Council Land (easements, mortgages etc)

There are various easements across the land, but none which effect the proposed lease and there are leases to the Glenorchy District Football Club, the Glenorchy Cricket Club and Vodafone. Tenancies within the KGV Building (which is 1A Anfield Street, Glenorchy) are currently occupied by the Glenorchy District Football Club, Revive Physiotherapy and the Migrant Resource Centre.

The estimated timeframe for the disposal

It is expected that if approval by Council, the lease will take approximately one month to be drawn up and one month to be reviewed by Council's Legal Department. Depending on the level of negotiation it is expected that a lease could be in place within three months.

Any other relevant matters in the circumstances

There are no other relevant matters.

The recommended course of action.

Refer to the Recommendations Section of this report.

Consultations:

Manager City Strategy and Economic Development
Coordinator Planning Services

Human Resource / Financial and Risk Management Implications:

Human Resources

Council staff will negotiate, draft and finalise the lease as part of normal duties.

Financial

There will be no additional cost to Council in entering into this lease, as the lessee is required to bear all associated costs. The lease is expected to generate income of around $15,000 per annum.

Risk management

Risk Identification	Consequence	Likelihood	Rating	Risk Mitigation Treatment
Adopt the recommendation Public reaction due to concerns about electromagnetic radiation from telecommunications equipment.	Moderate (C3)	Possible (L4)	Moderate	Provide scientific information about telco towers and radiation to interested rate payers. Require the applicant to hold an information session to alleviate concerns about radiation from the tower if Council deems it necessary, as a term of the Lease.
Do not adopt the recommendation Loss of revenue. Retention of Glenorchy mobile phone "black spot" with no service. Inconsistency with "Open for Business" goal in Community Plan	Moderate (C3)	Almost Certain (L5)	Notable	Request Telstra to find an alternate location in the CBD and give appropriate consideration to any new proposal.

Public Relations

Despite the lack of objections to the lease by the public, there still may be community concerns about the proposed lease. The proponent has offered to hold information sessions with the public (if required) to address concerns.

Community Consultation and Public Relations Implications:

The intention to lease the Land has been advertised in accordance with section 178 of the *Local Government Act 1993*.

Recommendation:

That Council:

1. RESOLVE under section 178 of the *Local Government Act 1993* to lease public land, being part of 1B Anfield Street, Glenorchy (Certificate of Title Volume 134668 Folio 1) to Telstra Telecommunications for 20 years, and
2. AUTHORISE the Acting Manager Property and Assets to negotiate and finalise the terms of the lease.

Attachments/Annexures

1 Council resolution from 29 October 2018

2 Newspaper advertisements published on 30 November and 7 December 2018

3 Notices erected on the boundary of KGV

11. COUNCIL POLICIES

Author: Acting Manager, Legal Services (Bryn Hannan)

Qualified Person: Director, Corporate Services (Jenny Self)

ECM File Reference: Council Policy

Community Plan Reference:

Leading our Community

We will be a progressive, positive community with strong Council leadership, striving to make Our Community's Vision a reality.

The communities of Glenorchy will be confident that Council manages the community's assets soundly for the long-term benefit of the community.

Strategic or Annual Plan Reference:

Leading our Community

4.1 Govern in the best interests of our community

4.1.1 Manage Council for maximum efficiency, accountability and transparency

Reporting Brief:

To present one (1) amended policy to Council for adoption and recommend one (1) policy for rescission.

Amended policy - Fraud Control and Corruption Prevention

Attachment 1 is a marked-up copy of Council's current Fraud Control and corruption Prevention Policy, which shows a number of proposed amendments.

The amendments are very minor and are to form only. They have primarily been made in anticipation of the adoption of Council's Fraud Control and Corruption Prevention Strategy. This document is referenced in the policy, but was referred to as a 'Plan' rather than a 'Strategy' in the original version of the policy which was adopted 12 months ago.

Other minor amendments have been made to clarify wording and include reference to Council's Fraud Control and Corruption Prevention Framework (which is currently in the final stages of preparation).

Policy to be rescinded – Handling and Disposal of Infectious Waste

Attachment 2 is a copy of Council's Handling and Disposal of Infectious Waste policy which is recommended for rescission.

The policy was last updated in 2003 and has not been used or referred to for many years. The policy has been superseded by an internal 'standard operating procedure' which applies to all Council staff dealing with infectious waste in the course of their work. The Policy is therefore redundant and can be rescinded.

Consultations:

Executive Leadership Team
Senior Risk Assurance Advisor
Senior Environmental Health Officer

Human Resource / Financial and Risk Management Implications:

There are no material human resource or financial implications.

Risk management

Risk Identification	Consequence	Likelihood	Rating	Risk Mitigation Treatment
Adopt the recommendation None of the proposed updated or new policies represent any significant departure from established practices or statutory requirements. There is a chance that procedural difficulties may be identified once they are implemented, leading to operational inefficiencies.	Minor (C2)	Unlikely (L2)	Low (4)	Responsible officers continue to monitor compliance with policies and ensure that any amendments are made in a timely manner, as required.
Do not adopt the recommendation Governance administration will be less optimal due to the presence of outdated and less effective policies.	Moderate (C3)	Likely (L4)	Notable (12)	Council officers are instructed to review the policies and implement any changes requested by Council as soon as practicable.

Community Consultation and Public Relations Implications:

Community consultation was not required or undertaken.

There are not expected to be any material public relations impacts.

Recommendation:

That Council:

1. ADOPT an updated version of the Fraud Control and Corruption Prevention policy containing the changes detailed in Attachment 1, and
2. RESCIND the Handling and Disposal of Infectious Waste policy (Attachment 2).

Attachments/Annexures

1 Fraud Control and Corruption Prevention policy (marked-up)

2 Handing and Disposal of Infectious Waste policy

12. ADOPTION OF REVISED ALDERMANIC CODE OF CONDUCT POLICY

Author: Manager, Corporate Governance (Simon Scott)

Qualified Person: Director, Corporate Services (Jenny Self)

ECM File Reference: Code of Conduct

Community Plan Reference:

Under the *City of Glenorchy Community Plan 2015 – 2040*, the Community has prioritised 'transparent and accountable government'.

Strategic or Annual Plan Reference:

Leading our Community

Objective 4.1 Govern in the best interests of our community.

Strategy 4.1.1 Manage Council for maximum efficiency, accountability and transparency.

Strategy 4.1.3 Maximise regulatory compliance in Council and the community through our systems and processes.

Reporting Brief:

To recommend that Council adopts an updated Aldermanic Code of Conduct Policy incorporating the new Model Code of Conduct, as gazetted on 26 December 2018.

Proposal in Detail:

Following a review of the Model Code of Conduct Framework, there have been changes made to both the *Local Government Act 1993* (**the Act**) and the *Local Government (Model Code of Conduct) Order 2016* (**the Order**).

Amendments to the Act (effective 10 December 2018) include:

- a new requirement that a complainant (along with Aldermen and Council employees) is to provide a statutory declaration verifying the accuracy of the information they provide in respect of a complaint (sections 28V(3)(fa) and 28ZE(5A))
- a new requirement that a complainant provides details of reasonable efforts made to resolve the issue that is subject of the complaint when lodging a complaint (section 28V(3)(fb))
- a new provision requiring Council to include in their annual report the number of code of conduct complaints that were received in total, as well as the number that were upheld either wholly or in part (section 72(1)(ba))

- a new offence provision to explicitly prevent any person from misusing information acquired in relation to a Code of Conduct investigation (sections 28ZK(7) and (8)), and
- several minor amendments focused on improving the overall procedural fairness, confidentiality and transparency of the complaints handling process.

Amendments to the Model Code (effective 26 December 2018) include:

- changes to make it clear that the Model Code does not apply to pecuniary interests or to the disclosure of confidential information, as these are dealt with as offence provisions under the Act, and
- the introduction of a 'reasonable person' test in relation to non-pecuniary conflicts of interest. This replaces the 'materiality' test and is intended to provide consistency within the Code and with common law principles. Further guidance will be issued through the Director of Local Government as to what is the 'reasonable person'.

Under section 28T(2) of the Act, after the Minister makes available to councils an amendment to (or substitute to) the Model Code of Conduct available to councils, Council must adopt the amendment (or revoke its Code of Conduct and adopt the substitute), within three (3) months of gazettal. Accordingly, Council will be required to consider rescinding the current Aldermanic Code of Conduct Policy as readopted by Council at its 28 May 2018 meeting (Item 12) (see Attachment 1).

The attached revised Aldermanic Code of Conduct Policy (incorporating the new Model Code of Conduct) has been redrafted to take into account the legislative changes and still incorporates the recommended content to accompany the Model Code of Conduct, as prepared by the Director of Local Government in 2016 (see Attachment 2).

Attachment 3 has been drafted for convenience, and compares the new Model Code of Conduct with the previously adopted Model Code of Conduct.

Upon adoption of the Aldermanic Code of Conduct Policy, Council is required to provide a copy to the Director of Local Government within 14 days. In addition, the General Manager is required under section 28T(6)(a) of the Act to make a copy of Council's Code of Conduct available for 'for public inspection, free of charge, at the public office of Council during ordinary office hours and on its website'.

Consultations:

Mayor
General Manager

Human Resource / Financial and Risk Management Implications:

Financial

There are no material financial implications.

Human Resources

There are no material human resources implications.

Risk Management

Risk Identification	Consequence	Likelihood	Rating	Risk Mitigation Treatment
Do not adopt the recommendation If Model Code of Conduct (as incorporated in the Aldermanic Code of Conduct Policy) is not adopted, then Council is breach of section 27T(2) of the *Local Government Act 1993*	Moderate (C3)	Likely (L4)	Notable	Council articulates its reasons for refusing to adopt the recommendation so that these can be addressed and the Model Code of Conduct can be adopted as soon at the next Council meeting.

Community Consultation and Public Relations Implications:

Community consultation

Nil.

Public Relations

It is worth noting that Council is not aware of any Code of Conduct complaints made since the election of the current Council. While not directly related to the proposed amendments to the Model Code, it demonstrates the considerable improvements in the governance of Council. This has a potential positive public relations impact.

Recommendation:

That Council:

1. RESCIND the existing Aldermanic Code of Conduct Policy in the form of Attachment 1
2. ADOPT the revised Aldermanic Code of Conduct Policy incorporating the substitute Model Code of Conduct in the form of Attachment 2 under section 27T(2) of the *Local Government Act 1993*
3. NOTE that the General Manager is required to:
   (a) provide a copy of the policy to the Director of Local Government within 14 days, and

(b) make a copy of Council's Aldermanic Code of Conduct Policy available for public inspection, free of charge, at Council Chambers during ordinary office hours and on Council's website.

Attachments/Annexures

1 Aldermanic Code of Conduct Policy (to be rescinded)

2 Draft Aldermanic Code of Conduct (January 2019)

3 Comparison between Model Codes of Conduct

13. AUDIT PANEL ACCESS TO CLOSED COUNCIL AGENDAS AND MINUTES

Author: Senior Risk and Assurance Advisor (Colette Millar)
Manager, Corporate Governance (Simon Scott)

Qualified Person: Director, Corporate Services (Jenny Self)

ECM File Reference: Ministerial Directions

Community Plan Reference:

Under the *City of Glenorchy Community Plan 2015 – 2040*, the Community has prioritised 'transparent and accountable government'.

Strategic or Annual Plan Reference:

Leading our Community

Objective 4.1 Govern in the best interests of the community

Strategy 4.1.1 Manage Council for maximum efficiency, accountability and transparency

Reporting Brief:

To recommend that the members of the Audit Panel be given access to closed Council meeting agendas and minutes in order that the Audit Panel can comply with Ministerial Direction 5(b)(ii).

Proposal in Detail:

Background

Direction 5(b)(ii) of the Ministerial Directions to Council, directs the Audit Panel to:

> "*undertake an annual review of Council's compliance with, though not limited to … the* Local Government (Meeting Procedures) Regulations 2015 *including the appropriate use of closed meetings and accuracy of relevant minutes*".

Council management, through the Audit Panel meetings, has provided compliance information with respect to the number of closed to the public items in Council meetings held since February 2018 and what reason(s) under regulation 15(2) of the *Local Government (Meeting Procedures) Regulations 2015* (**the Regulations**) have been invoked to ensure confidentiality of those items.

The Audit Panel is seeking authorisation from Council to access a sample of closed Council agendas and minutes to verify compliance with regulation 15(2) to satisfy the requirements under Ministerial Direction 5b(ii).

From a legal perspective it is permissible to allow the Audit Panel access as the limited access does not constitute a public release of confidential information (which would require Council to resolve to authorise public release after considering privacy and confidentiality issues under regulation 15(9)). The independent Audit Panel members are contractually bound to maintaining and all Audit Panel members are refrained from improper disclosure of confidential information and improper use of information under the *Local Government Act 1993* (sections 338A(3) and 339, respectively).

From a practicality and ease of administration basis it is recommended that Council considers authorising the Audit Panel full access to Council agenda and minutes for 2018 (through Docs-on-Tap) for a period of three (3) months. This should provide sufficient time for the Audit Panel to conduct its compliance audit under the Direction. If the Audit Panel ultimately requires more time due to finalise its audit to, this can be dealt with through the General Manager and Audit Panel Chairperson at that stage.

Consultations:

Audit Panel
Director, Corporate Services
Manager, Corporate Governance

Human Resource / Financial and Risk Management Implications:

There are not considered to be any material financial or human resources implications.

Risk Identification	Consequence	Likelihood	Rating	Risk Mitigation Treatment
Do not adopt the recommendation If Council does not assist the Audit Panel to comply with the Ministerial Directions as provided under section 225(2) of the *Local Government Act 1993* then there is potential for a complaint to be lodged for non-compliance under section 339E and further scrutiny and sanction by the Director of Local Government	Major (C4)	Likely (L4)	Significant	No appropriate mitigation strategies have been identified.

Community Consultation and Public Relations Implications:

Not applicable.

Recommendation:

That Council:

1. AUTHORISE the Audit Panel full access to Council agendas and minutes for 2018 for a period of three (3) months (commencing on application by the Audit Panel Chairperson), in order that the Audit Panel can satisfy the requirements under Ministerial Direction 5(b)(ii), and
2. AUTHORISE the General Manager to control and permit access as necessary if the Audit Panel require more than three (3) month to complete the actions required under the Ministerial Directions.

Attachments/Annexures

Nil

14. REVIEW OF TASMANIA'S LOCAL GOVERNMENT LEGISLATION FRAMEWORK

Author: Manager, Corporate Governance (Simon Scott)

Qualified Person: Director, Corporate Services (Jenny Self)

ECM File Reference: Local Government Reform

Community Plan Reference:

Under the *City of Glenorchy Community Plan 2015 – 2040*, the Community has prioritised 'transparent and accountable government'.

Strategic or Annual Plan Reference:

Leading our Community

Objective 4.1 Govern in the best interests of the community

Strategy 4.1.1 Manage Council for maximum efficiency, accountability and transparency

Reporting Brief:

To inform Council of the first phase of the Review of Tasmania's Local Government Legislation and to identify how Council may wish to submit a consolidated response to the review.

Proposal in Detail:

Background

On 26 June 2018, the Minister for Local Government, the Hon Peter Gutwein MP, announced a major review into Tasmania's local government legislation (**Review**), which subsequently commenced in October 2018. The final Terms of Reference were released by the Minister on 22 November 2018 (see Attachment 1). This is complemented by a Discussion Paper which provides context to the Review (see Attachment 2).

The Review will examine the legislative and regulatory framework within which the local government sector operates with the intended outcome being a contemporary, flexible and best-practice legislative framework that will:

- support greater innovation, flexibility and productivity in the sector, to improve the overall efficiency and effectiveness of the services that councils provide to the Tasmanian community

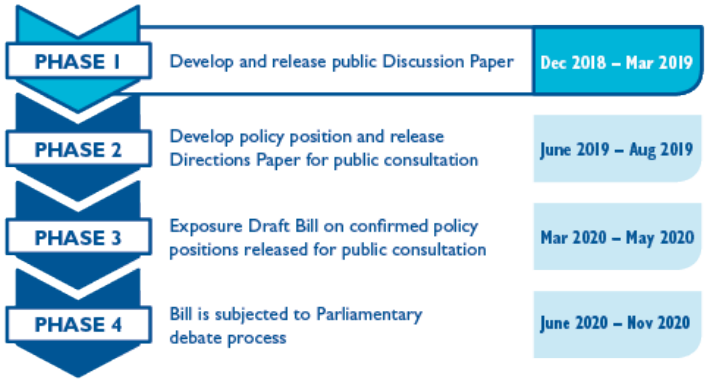
- minimise the red tape and administrative burden on councils, businesses and the broader community
- enhance accountability and transparency across the sector, and
- increase democratic and community engagement, participation and confidence in local government.

The Review is governed by a Steering Committee comprised of the following members:

- David Nicholson, Deputy Secretary, Department of Premier and Cabinet (Chair)
- Alex Tay, Director of Local Government (Deputy Chair)
- Katrena Stephenson, CEO of LGAT (Member)
- Roseanne Heyward, former Mayor of Tasman Council (Member), and
- Greg Preece, former general manager and current Chair of the Local Government Board (Member).

The Committee will be supported by a Reference Group comprised of members from a broad range of backgrounds, including members of the community. An Expression of Interest process is currently underway to form membership of the Reference Group.

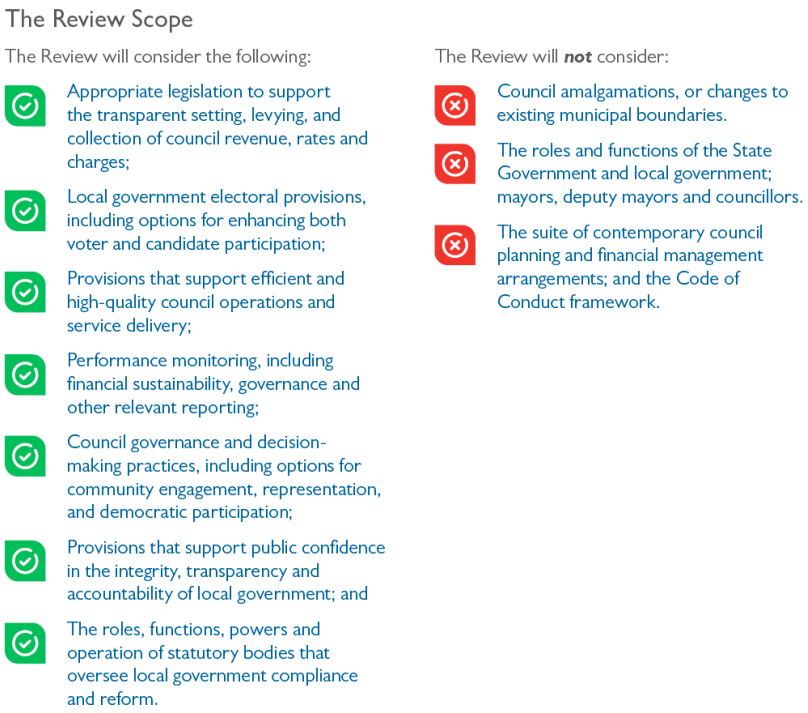
The Review will involve three public consultation phases, followed by a draft Bill being introduced to Parliament in mid-2020.



(Source: DPAC LGD website: http://www.dpac.tas.gov.au/divisions/local_government/local_government_legislation_review2/timeframes_and_scope)

Scope

The Scope of the Review is outlined in the diagram below. The diagram also sets out matters that will not be considered as part of the Review.



Submission

As noted below, submissions have been invited by Review Project Team and close on **Friday, 1 March 2019**. The Review is seeking general responses to the broad principles outlined in the Discussion Paper, however submissions can be made on any aspect being considered during the Review. The general questions from the Discussion Paper are extracted for convenience:

Category	Questions Raised in Discussion Paper
Overview of Local Government	• What do you think councils will be responsible for in the future? • What council activities should be driven or determined by communities? • Given the varying sizes of councils, what consideration should be given to costs of services and the councils' capacity to deliver these?
Council Governance and Powers	• What is vital to good governance in local government? • What aspects of good governance should be prescribed in a legislative framework? • What statutory powers do councils need to deliver the services that communities require, or expect to receive, from councils now and into the future? • How are the strategic decisions of councils best made? • What mechanisms best support strategic, operational and technical decisions and actions?
Democracy and Engagement	• What is the best way to engage Tasmanians in voting for local government? • Who should be allowed to participate in local government elections?

Category	Questions Raised in Discussion Paper
	• How can local government attract skilled, diverse and representative electoral candidates? • What should be required of candidates in local government elections before, during and after elections? • What decisions should councils continue to be able to make during an election period? • In what ways should councillors engage with, and represent, communities in the digital age? • On what matters should councils engage with communities? • How can community engagement be strengthened and measured?
Council Revenue and Expenditure	• How can councils ensure transparency in funding decisions; both how it is raised and spent? • How can councils determine how best to raise revenue for specific purposes? • How should councils engage communities when raising revenue? • How should councils determine the services they deliver to their communities in exchange for rates and charges? • How should councils decide where to make trade-offs (more or less rates vs more or less services)?
Performance Transparency and Accountability	• How can the right balance between autonomy and accountability be delivered? • Who should have oversight and regulation of councils' performance and how should it occur? • What mechanisms should there be to respond or intervene when a council is not performing as required? • What information should councils make available to the public and how should they be able to access it? • What information would be useful to councils to drive performance improvements?
Other Matters	• What is one thing you would change about the current local government legislative framework and why?

With the above table in mind as guidance, it is open to Council to provide a consolidated response on any or all of the targeted questions. To this end, an Aldermanic Workshop has been scheduled for Tuesday, 12 February 2019 in order that a response can be drafted with the assistance of Council officers, with the view of having it endorsed by Council at the next meeting (Monday, 25 February 2019).

Of note, the Review Project Team will be holding consultation sessions around the State with the community, local government sector and business, industry and other interest groups between 13 and 21 February 2019.

Community sessions will be open to the public: the scheduled session for southern Tasmania is 20 February 2019 at the RACV/RACT Hotel (154-156 Collins Street, Hobart) between 5:30 pm to 7:30 pm. Three (3) sessions for other identified groups have been scheduled at the Hobart Town Hall (50 Macquarie Street, Hobart) on 21 February 2019:

9:00 am – 11:00 am	Local government professionals, general managers and senior staff
11:00 am – 12:30 pm	Business/Industry/Interested Groups
1:00 pm – 3:00 pm	Elected members

Attendees should RSVP to the Review Project Team by Wednesday, 6 February 2019.

(Private appointment for these groups is also available by request to the Review Project Team on (03) 6232 7643 or by email at LGReview@dpac.tas.gov.au).

Consultations:

Mayor
General Manager
Director, Corporate Services

Human Resource / Financial and Risk Management Implications:

There are not considered to be any material financial or human resources implications.

Risk Identification	Consequence	Likelihood	Rating	Risk Mitigation Treatment
Do not adopt the recommendation	Insignificant (C1)	Likely (L4)	Low	Council authorises the Mayor on behalf of Council to provide a written summary submission to the Local Government Legislation Review Aldermen and members of the public are invited to provide individual submissions to the Review
If Council does not provide a submission to the Local Government Review, then an opportunity is missed to provide the Review Project Team with useful information to consider pertinent to the Glenorchy Municipality				

Community Consultation and Public Relations Implications:

The community are reminded that they may provide individual submissions directly to the Review by any of the following methods:

- completing an online survey available on the Department of Premier and Cabinet (Local Government Division) website: http://www.dpac.tas.gov.au/divisions/local_government/local_government_legislation_review2
- emailing a submission to LGReview@dpac.tas.gov.au, or
- posting a submission to –

  Local Government Legislation Review

  Local Government Division

  GPO Box 123

  HOBART TAS 7001

Recommendation:

That Council:

1. NOTE that a draft Council response to the first phase of the Review of Tasmania's Local Government Legislation will be tabled at the next scheduled Council meeting (25 February 2019) for consideration, and
2. NOTE that individual Aldermen and members of the public are invited to provide individual submissions directly to the Review Project Team, with guidance available on the Department of Premier and Cabinet (Local Government Division) website.

Attachments/Annexures

1 Terms of Reference - Review Tasmanian Local Government Legislation (2 November 2018)

2 Discussion Paper - Review of Tasmania's Local Government Legislation Framework (December 2018)

15. DELEGATIONS TO GENERAL MANAGER

Author: Acting Manager, Legal Services (Bryn Hannan)

Qualified Person: Director, Corporate Services (Jenny Self)

ECM File Reference: Delegations

Community Plan Reference:

Leading Our Community.

The communities of Glenorchy will be confident that Council manages the community's assets soundly for the long term benefit of the community.

Strategic or Annual Plan Reference:

Leading our Community

4.1 Govern in the best interests of our community

4.1.3 Maximise regulatory compliance in Council and the community through our systems and processes

Reporting Brief:

To recommend a small number of additional or amended delegations from Council to the General Manager to ensure that staff delegations are up-to-date and appropriate.

Proposal in Detail:

Council staff have recently undertaken a comprehensive review of all statutory delegations, authorisations and appointments given to Council staff, as part of a significant project to develop a new (and up to date) electronic delegations database.

During this process, the following were noted:

1. all powers or functions provided to Council as 'road manager' under the *Heavy Vehicle National Law* (**HVNL**) currently sit with Council. In the interests of efficiency and practicality these powers should more appropriately be delegated to the General Manager
2. Several minor typographical errors or outdated references were also identified.

Heavy Vehicle National Law

The HVNL provides a number of powers to 'road managers'.

Section 16 of the *Heavy Vehicle National Law (Tasmania) Act 2013* declares a road manager to be, for a road controlled by a local government authority, the local government authority (i.e. Council).

Road managers have various powers under the HVNL, which are operational/procedural in nature. The substantive powers and functions of a road manager for which delegation is sought are as follows.

Reference	Power/function
Section 156(1)	Grant or refuse consent to the Regulator for granting a mass or dimension authority.
Section 156(1) and (2)	Request a longer period to decide whether to grant consent for a mass or dimension authority.
Section 156A(4)	Provide a written statement explaining the road manager's reasons not to give consent for a mass or dimension authority.
Section 159(2)	Notify the Regulator that a route assessment is required by the road manager in deciding whether to give consent, and the fee payable.
Section 159(4)	Stop considering a consent until the fee is paid.
Section 160(1)	Specify a road condition to which the granting of consent is subject as set out in Section 160.
Section 160(2)	Provide the Regulator with a written statement explaining the road manager's decision to grant consent subject to a road condition.
Section 161(1)	Specify a travel condition to which the granting of consent is subject.
Section 161(2)	Provide the Regulator with a written statement explaining the road manager's decision to grant consent subject to road conditions.
Section 162(2)	Request that a specified vehicle condition be imposed on a mass or dimension authority.
Section 167(2)(b)	Give notice to the Regulator of an objection to the application of Section 167 [which provides for an expedited process for renewal of mass or dimension authority].
Section 169	Give consent to the grant of a mass or dimension authority for a trial period of no more than 3 months.
Section 174(2)	Ask the Regulator to amend or cancel the mass or dimension authority granted by Commonwealth Gazette notice.
Section 178(2)	Ask the Regulator to amend or cancel the mass or dimension authority granted by permit.

None of the above powers are likely to require a resolution of Council to properly exercise. The functions of a road manager under the HVNL are administrative in nature and are not intended to require direct oversight of an elected body.

In practice, the General Manager is likely to sub-delegate any powers that Council delegates to an appropriately qualified and senior Council officer to exercise.

It is recommended that Council delegates the powers as a 'road manager' under the HVNL to the General Manager and authorises the General Manager to further delegate these powers.

Glenorchy City Council Environmental Amenity By-Law 2017

The General Manager's delegations include the powers and functions of the Council under Council's (now superseded) *Environmental and Health Services By-Law 2010*, and the authority to further delegate these powers and functions. The By-law was superseded by the *Glenorchy City Council Environmental Amenity By-Law 2017*.

To ensure that the General Manager's delegations remain up-to-date, replacement of these delegations with similar delegations under the new By-Law is requested.

While the By-Law already allocates most of the powers under it to the General Manager, Council's delegation of any of its residual powers is requested to ensure that the General Manager is able to properly discharge Council's powers under this By-law. For example, clause 12 of the by-law provides that enforcement expenses incurred by Council are recoverable 'by Council'. Delegating the debt recovery power to the General Manager would remove any doubt about whether a resolution of Council was required to proceed with debt recovery proceedings.

It is recommended that Council delegates all its powers under the By-Law to the General Manager and authorises the General Manager to further delegate those powers.

Roads and Jetties Act 1935

The General Manager has been delegated all of Council's functions and powers under this Act and is authorised to further delegate these.

However, the year of the Act is incorrectly recorded in the instrument of delegation as both 1995 and 2005. For the purpose of clarity, a new record of the delegation of these powers which records the correct year of the Act, is required.

Human Resource / Financial and Risk Management Implications:

Risk Identification	Consequence	Likelihood	Rating	Risk Mitigation Treatment
Adopt the recommendation				
No material risks have been identified.				
Do not adopt the recommendation	Moderate (C3)	Possible (L3)	Moderate	Council staff are instructed to identify low, medium and high risk powers under the relevant Acts so that Council can reconsider which are appropriate to delegate.
Decisions of the General Manager or other staff subject to legal challenge if the powers are not delegated appropriately.				

Community Consultation and Public Relations Implications:

Community consultation was not required.

No material public relations impacts have been identified.

Recommendation:

That Council:

1. DELEGATE the powers and functions of Council as 'road manager' under the *Heavy Vehicle National Law* to the General Manager
2. AUTHORISE the General Manager to further delegate the functions and powers of the road manager
3. DELEGATE the powers and functions of Council under the *Glenorchy City Council Environmental Amenity By-Law 2017* to the General Manager
4. AUTHORISE the General Manager to further delegate the functions and powers of Council under the *Glenorchy City Council Environmental Amenity By-Law 2017*
5. DELEGATE the powers and functions of Council under the *Roads and Jetties Act 1935* to the General Manager, and
6. AUTHORISE the General Manager to further delegate the functions and powers of Council under the *Roads and Jetties Act 1935*.

Attachments/Annexures

Nil.

16. MINISTERIAL DIRECTIONS - MONTHLY AND FOURTH QUARTERLY REPORT

Author: Manager, Corporate Governance (Simon Scott)

Qualified Person: Director, Corporate Services (Jenny Self)

ECM File Reference: Ministerial Directions

Community Plan Reference:

Under the *City of Glenorchy Community Plan 2015 – 2040*, the Community has prioritised 'transparent and accountable government'.

Strategic or Annual Plan Reference:

Leading our Community

Objective 4.1 Govern in the best interests of our community

Strategy 4.1.1 Manage Council for maximum efficiency, accountability and transparency

Strategy 4.1.3 Maximise regulatory compliance in Council and the community through our systems and processes

Reporting Brief:

To inform Council of the progress towards completing the action items out of the Ministerial Directions Implementation Plan for the period ending 18 January 2019 and to recommend the fourth quarterly report to the Minister (as per Direction 7 of the Ministerial Directions) to Council for adoption.

Proposal in Detail:

At its meeting of 17 December 2018, Council was informed of the progress of satisfying the Ministerial Directions (as at 7 December 2018).

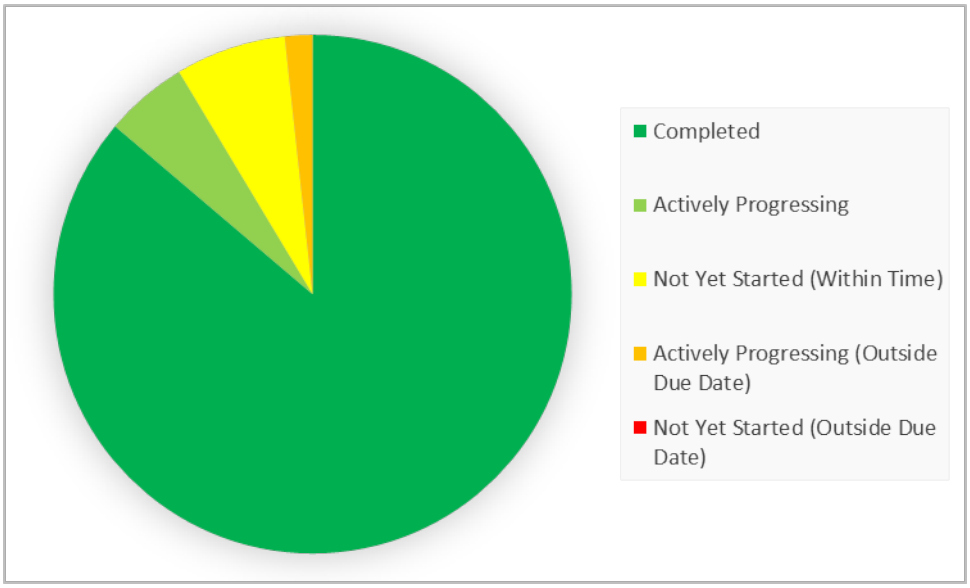
As per Attachment 1, there are 58 Ministerial Direction actions that are required to be actioned by Council.

At the date of this Report, Council had not completed any additional actions over the reporting period, meaning that the total actions completed to date remains at 50.

Council's progress of actions required to comply with the Directions is summarised as follows:

- Actions completed 50
- Actions being actively progressed 3
- Actions not yet started but within time 4
- Actions being actively progressed and outside due date, and 1
- Actions not yet started and outside due date 0

58



The action which is being actively progressed but is outside the due date is the implementation of a Legal Services Directive. This was delayed by the recent departure of Council's Manager Legal Services, but is almost finalised and will be complete by the end of January. Once complete, Ministerial Direction 3(i)(i-iii) should be fully satisfied, bringing the total of completed Ministerial Directions to 51.

In line with Direction 7, there is a requirement for Council to report quarterly (for the term of the current Council) to the Minister on the progress of actions taken to comply with the Directions and make that report publicly available on Council's website. The Ministerial Directions Implementation Quarterly Progress Report has been drafted to satisfy this requirement. The draft report is Attachment 2.

It is recommended that Council acknowledges and approves this report with the view that the Mayor can forward it to the Minister in accordance with Direction 7.

Consultations:

Mayor
General Manager
Director, Corporate Services

Human Resource / Financial and Risk Management Implications:

There are not considered to be any material financial or human resources implications.

Risk Identification	Consequence	Likelihood	Rating	Risk Mitigation Treatment
Do not adopt the recommendation If Council does not comply with the Ministerial Directions as provided under section 225(2) of the *Local Government Act 1993* then there is potential for a complaint to be lodged for non-compliance under section 339E and further scrutiny and sanction by the Director of Local Government	Major (C4)	Likely (L4)	Significant	Council continues to progress actions required to comply with these Directions

Community Consultation and Public Relations Implications:

There has been no community consultation due to the nature of the document.

Recommendation:

That Council:

1. NOTE the progress satisfying the Ministerial Directions in the form of Attachment 1 as at 18 January 2019
2. ACKNOWLEDGE and APPROVE in accordance with Direction 7 of the Ministerial Directions, for the Mayor to forward the third quarterly report (in the form of Attachment 2) to the Minister of the progress of actions to date taken to comply with the Ministerial Directions, and
3. NOTE that the fourth quarterly report will be made publicly available on Council's website.

Attachments/Annexures

1 Ministerial Directions Implementation Progress Report (January 2019)

2 Ministerial Directions Implementation Quarterly Progress Report (Fourth Quarter Jan 2019)

17. PROCUREMENT EXEMPTIONS - MONTHLY REPORT

Author: Acting Manager, Legal Services (Bryn Hannan)

Qualified Person: Director, Corporate Services (Jenny Self)

ECM File Reference: Procurement

Community Plan Reference:

Leading our Community

The communities of Glenorchy will be confident that Council manages the community's assets soundly for the long-term benefit of the community.

Strategic or Annual Plan Reference:

Leading our Community

Objective 4.1	Govern in the best interests of our community
Strategy 4.1.1	Manage Council for maximum efficiency, accountability and transparency
Strategy 4.1.2	Manage the City's assets soundly for the long-term benefit of the community
Strategy 4.1.3	Maximise regulatory compliance in Council and the community through our systems and processes

Reporting Brief:

To inform Council of exemptions that have been applied to the procurement requirements under Council's Code for Tenders and Contracts for the period 7 December to 16 January 2018.

Proposal in Detail:

Exemption Report

Council's Code for Tenders and Contracts (**Code**) has been made and adopted by Council as required under section 333B of the *Local Government Act 1993*.

Under clause 10.2 of the Code, the General Manager is required to provide a regular report to Council on exemptions that have been authorised to the procurement requirements under the Code. Clause 10.2 relevantly provides:

> *In accordance with Regulation 28(j), the General Manager will establish and maintain procedures for reporting to Council* ***at the first ordinary meeting of Council after the event*** *in relation to the procurement of goods and/or services* ***in circumstances where a public tender or quotation process is not used****. Such report will include the following details of each procurement:*

a) *a brief description of the reason for not inviting public tenders or quotations (as applicable);*

b) *a brief description of the goods or services acquired;*

c) *the approximate value of the goods or services acquired; and*

d) *the name of the supplier.*

A copy of an extract from Council's Purchasing Exemption Register (**Exemption Report**), which is delivered to Council as required under clause 10.2 is Attachment 1 to this report.

The Exemption Report covers the period from 7 December to 16 January 2018. There have been three (3) exemptions approved for the period totalling approximately $249,730 in budgeted capital and operational expenditure.

Expenditure on Sugden & Gee (KGV consultancy services)

At its meeting on 29 October 2018, Council approved additional expenditure of $100,000 with Sugden & Gee Pty Ltd for ongoing services in relation to the KGV project, bringing the total expenditure on Sugden & Gee to $500,000 (inc GST).

Council also approved the non-application of the tender process for the contract with Sugden & Gee on the basis that extenuating circumstances meant that a satisfactory result would not be achieved by inviting tenders. The reasons for that decision are outlined in the report to Council's October meeting.

Council has requested that it be kept informed of the running total of expenditure on Sugden & Gee for its services in relation to KGV.

At the date of this report, the total expenditure on Sugden & Gee is $376,147.68.

Exemption to Tender Requirement – Southern Waste Solutions

The Exemption Report includes an exemption for $100,000 fees paid to Southern Waste Solutions (**SWS**) for the disposal of kerbside waste at their Lutana Waste Transfer station. The disposal of waste through SWS' facility is necessary to actively manage the future closure of the Jackson Street landfill facility and prolong its life span by diverting kerbside waste that would otherwise go to Jackson Street to SWS' Copping landfill through the Lutana transfer station.

Council has budgeted for this activity to continue until 30 June 2019. It is estimated that the SWS gate fees at Lutana will be around $400,000 this financial year. Council is advised that the arrangement with SWS was not required to be subject to a tender process, despite exceeding the $250,000 threshold specified in the *Local Government Act 1993*.

This is because SWS is a joint authority, established under section 30 of the Act. Under section 333A of the Act and regulation 27(c) of the *Local Government (General) Regulations 2015*, Council is not required to invite tenders for a contract entered into with a joint authority.

Consultations:

Executive Leadership Team

Human Resource / Financial and Risk Management Implications:

Human resources

There are no material human resources implications.

Financial

The Exemption Report identifies approximately $249,730 in budgeted operational expenditure that has been approved.

Risk management

Risk Identification	Consequence	Likelihood	Rating	Risk Mitigation Treatment
Adopt the recommendation Criticism of Council's acceptance of procurement process exemptions and associated expenditure.	Minor (C2)	Unlikely (L2)	Low (4)	Council notes the reasons identified for the exemptions and satisfies itself that each is sound and in accordance with approved procedures.
Do not adopt the recommendation Council officers less likely seek exemptions in accordance with approved processes, leading to business inefficiency and excessive administrative burden on staff and suppliers.	Moderate (C3)	Possible (L3)	Moderate (9)	Council communicates reasons for refusal and identifies preferred practices and information required for future exemptions.

Community Consultation and Public Relations Implications:

Community consultation was not required or undertaken.

There is unlikely to be any material public relations impact.

Recommendation:

That Council:

RECEIVE and NOTE the monthly Procurement Exemptions Report for the period from 7 December to 16 January 2018.

Attachments/Annexures

1 Procurement Exemption Register

18. FINANCIAL PERFORMANCE REPORT TO 30 NOVEMBER 2018

Author: Director, Corporate Services (Jenny Self)

Qualified Person: Director, Corporate Services (Jenny Self)

ECM File Reference: Corporate and Financial Reporting

Community Plan Reference:

Leading Our Community

We will be a progressive, positive community with strong council leadership, striving to make Our Community's Vision a reality.

Strategic or Annual Plan Reference:

Leading Our Community

Objective 4.1	Govern in the best interests of our community
Strategy 4.1.1	Manage Council for maximum efficiency, accountability and transparency.
Action 4.1.1.04	Implement the performance reporting system for corporate strategic planning.
Objective 4.2	Prioritise resources to achieve our communities' goals.
Strategy 4.2.1	Deploy the Council's resources effectively to deliver value.
Action 4.2.1.07	Develop the annual budget estimates in line with the Financial Management Strategy and provide regular reporting of actuals to budget.

Reporting Brief:

To provide the monthly Financial Performance Report to Council for the year-to-date, ending 30 November 2018.

Proposal in Detail:

The Financial Performance Report (**Report**) for the period 1 July to 30 November 2018 is Attachment 1.

The Report highlights that at 30 November 2018 the operating result is $112k ahead of the budgeted position. A summary of the key indicators is as follows:

Revenue

- revenue is $514k above budget representing a favourable variance of 1.03%
- the forecast end of year position is an unfavourable variance of $421k* under budget

  *(*refer to the Flood Damage Repairs section in this report)*

Expenditure

- expenditure is $403k above budget representing an unfavourable variance of 1.77%, and
- the forecast end of year position is an unfavourable variance of $337k* above budget.

** refer to the Flood Damage Repairs section of this report, below*

Capital Works

- capital works are $1.743m underspent, representing 29.3% of the overall YTD programs budget of $5.937m, and
- a detailed analysis of the program will be undertaken as part of the mid-year review in February 2019 and reported to Council.

Flood Damage Repairs

- the flood damage assessment report with capital work estimate was sent to the Department of Premier and Cabinet (**DPAC**) on 2 January 2019
- the flood damage assessment report was prepared by GHD and documents the pre-/post flood asset conditions, justifying repair options, estimated cost, etc. as required by DPAC
- seven (7) projects have been nominated with an estimated total eligible amount of $1.58m
- the progress of the projects is: one (1) has been completed, five (5) have contracts awarded, and one (1) is out to tender, which will close by the end of January 2019
- it is expected that the reimbursement from DPAC will be up to $1.18m (based on a maximum of 75% reimbursement rate. This is to be confirmed)
- YTD flood-related capital expenditure (as of 2 January 2019) is $297k
- the flood recovery cost recorded FY17/18 = $250k, FY18/19 YTD (as of 18/01/19) = $356k, with additional $84k commitment, and
- all the capital works showing in the report are expected to be completed by 30 June 2019 except the Moss Park Drive Bridge/retaining wall remediation (which is estimated at $371k for flood damage related repair work).

Reporting Format

At its meeting held 26 February 2018 (item 13), Council endorsed the replacement of the (then) Monthly Corporate Performance Indicators report with the current reporting format, effective from March 2018.

As part of its review of the Corporate Reporting Framework, Management is looking at approaches to simplify the report to make it easier for Council (and the community) to oversee the important aspects of Council's financial performance.

Accordingly, a revised draft format of the monthly Financial Performance Report to Council (ending 30 November 2018) is attached for Council's consideration (see Attachment 2).

It is open for Council to endorse the simplified report template for future reporting purposes.

Consultations:

General Manager
Executive Leadership Team
Acting Chief Financial Officer
Capital and Operational Budget Responsibility Officers

Human Resource / Financial and Risk Management Implications:

There are no material risk management or human resources implications.

Community Consultation and Public Relations Implications:

No public relations implications have been identified, and no community consultation has been undertaken.

Recommendation:

That Council:

1. RECEIVE and NOTE the Financial Performance Report for the year-to-date, ending 30 November 2018 (in the form of Attachment 1), and
2. ENDORSE the replacement of Council's Financial Report (in the form of Attachment 2), effective from February 2019.

Attachments/Annexures

1 Financial Performance to 30 November 2018

2 Financial Performance to 30 November 2018 - Draft Revised Format

19. NOTICES OF MOTIONS – QUESTIONS ON NOTICE / WITHOUT NOTICE

19.1 QUESTION ON NOTICE - ALDERMAN J. DUNSBY

Author: Director Development and Customer Services (Sam Fox)

Qualified Person: Acting General Manager (David Ronaldson)

ECM File Reference: Question on Notice

Question on Notice:

To consider a Question on Notice from Alderman Jan Dunsby submitted in accordance with the requirements of Regulation 30 of the *Local Government (Meeting Procedures) Regulations 2015*.

Question:

Q: A member of our community contacted me noting it is the 200-year anniversary of the first construction of Main Road this year. Do we have any information regarding this event in 1819 and are there any plans to acknowledge/commemorate/celebrate the anniversary?

Answer:

Council is aware that the 200-year anniversary of the first construction of Main Road falls this year.

At its 30 July 2018 meeting, Council provided the following response to George Burrows in response to his question about how we will commemorate the anniversary:

> "*In June 2019, Council intends to acknowledge the historical importance of this milestone via an illustrated article that will be submitted for publication in the Glenorchy Gazette (coinciding with the 200th anniversary of Dennis McCarty's completion of the thoroughfare that was to become the Main Road).*"

Council will provide further information about our approach to commemorating the event in the coming months. For example, there may be opportunity to convey the historical importance of Main Road as part of the National Trust 2019 Australian Heritage Festival – *Connecting People, Places and the Past*. A static exhibition may also be erected in the foyer of Council Chambers, coinciding with the Gazette article.

Of note, Glenorchy's CBD Revitalisation is now underway. The project will make Main Road between Terry Street and Barry Street more pedestrian-friendly, see installation of street art, feature lighting and will widen pavements. At the official launch of the Glenorchy's CBD Revitalisation Project on 30 January, Council will acknowledge the 200-year anniversary of the construction of Main Road.

Attachments/Annexures

Nil

CLOSED TO MEMBERS OF THE PUBLIC

20. CONFIRMATION OF MINUTES (CLOSED MEETING)

21. APPLICATIONS FOR LEAVE OF ABSENCE

GOVERNANCE

22. AUDIT PANEL MINUTES

This item is to be considered at a closed meeting of the Council by authority of the Local Government (Meeting Procedures) Regulations 2015 Regulation 15(2)(g) (Information of a personal and confidential nature or information provided to the Council on the condition it is kept confidential).

23. KGV SPORTS AND COMMUNITY PRECINCT - PROJECT UPDATE

This item is to be considered at a closed meeting of the Council by authority of the Local Government (Meeting Procedures) Regulations 2015 Regulation 15(2)(g) (Information of a personal and confidential nature or information provided to the Council on the condition it is kept confidential).

24. NOTICES OF MOTIONS – QUESTIONS ON NOTICE / WITHOUT NOTICE (CLOSED)