

GLENORCHY CITY COUNCIL
ATTACHMENTS
TUESDAY, 12 DECEMBER 2017



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GOVERNANCE

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Purchasing Exemption Register

22 Nov 2017 – 7 Dec 2017

Regulation 28(j) *Local Government (General) Regulations 2015*
(requirement to report to Council where goods or services purchased in circumstances where a public tender or quotation process is not used)

Date	Supplier	Amount (ex GST)	Exemption Clause	Reason	Requested by	Approved by	Title	Approval Date
1/12/2017	Sugden & Gee	\$8,329	(e), (f)	Consulting Services urgently needed for the Prince of Wales Bay Sports Precinct Project	A. Wooldridge	B. Hannan	ADCG	12/12/2017
1/12/2017	Sugden & Gee	\$6,298.80	(e), (f)	Consulting services urgently needed for the highly-complex and problematic KGV project. Resignation of Project Manager; under-resourced Department, Need for Superintendent for the Project.	A. Wooldridge	B. Hannan	ADCG	12/12/2017

Board of Inquiry Recommendations

Item	Topic	Recommendation	Summary	By whom	Due Date
1	Relationships between the Mayor and the Alderman (3.A.1)	Recommendation: that within three months of a council term, the mayor and aldermen approve a Statement of Expectations to establish agreed protocols for fulfilment of their mutual and respective obligations under the Act and the Regulations, and to provide for the good governance of the council.	Statement of Expectations	CG	Apr-18
2	Relationships between the Mayor and the Alderman (3.A.1)	Recommendation: that the Director of Local Government issue a model Statement of Expectations for Mayors and Aldermen, and that adoption of a Statement of Expectations be recommended to all councils.	Statement of Expectations	DPAC	
3	Relationships between the Mayor and the Alderman (3.A.1)	Recommendation: that the Act be amended to make training in local government procedures mandatory for all aldermen, and that the provision include a commitment by candidates for election to undertake such training within six months of the declaration of the poll.	Training	DPAC	
4	Relationships between the Mayor and the Alderman (3.A.1)	Recommendation: that council review and formalise its induction procedures for new mayors and new aldermen, including the roles to be undertaken by the mayor and the general manager in the induction procedures.	Induction	CG	Jan-18
5	Relationships between the Mayor and the Alderman (3.A.1)	Recommendation: that council undertake an annual review of its own performance, including but not limited to its compliance with the Act and associated Regulations, compliance with the Code of Conduct, compliance with its Statement of Expectations, compliance with its policies and procedures, its conduct of meetings and workshops, and its oversight and review of the general manager.	Annual Review	CG	Feb-19
6	Relationships between the Mayor and the Alderman (3.A.1)	Recommendation: that council determine its aldermanic professional development program based on the outcomes of its annual review.	Training	CG	Feb-19
7	Relationships between the Mayor and the Alderman (3.A.1)	Recommendation: that the Act and the Regulations be amended to provide additional powers for the popularly elected mayor. These powers should include, but not necessarily be limited to, the mayor's automatic representation of council on all external bodies (with the power to delegate such representation); the mayor's power to approve the agenda prior to its release by the general manager; the mayor's power to approve the release of the draft minutes to other aldermen; the mayor's power to approve the general manager's leave; the mayor's power to appoint an acting general manager.	Mayoral Powers	DPAC	

Item	Topic	Recommendation	Summary	By whom	Due Date
8	November 2014: Election of aldermen to the General Manager Performance Review Committee (GMPRC) (3.A.1.1)	Recommendation: that the mayor be ex-officio a member of any committee established to make recommendations regarding the general manager's KPIs, and/or make recommendations regarding changes to his remuneration; and that the mayor be ex-officio the chairperson of any committee established to assess the performance of the general manager and/or to consider changes to the general manager's contract of employment.	Committees	CG	Feb-18
9	October 2015: Election to GMC (3.A.1.2)	Recommendation: that the mayor ex-officio be appointed as council's representative on all external bodies, with the power to delegate that appointment to another alderman should the mayor wish to do so. The process of such delegation should be part of the Statement of Expectations of the mayor and aldermen.	Committees	CG	Feb-18
10	Media statements and letters (3.A.1.4)	Recommendation: that protocols regarding media statements be included in the Mayor and Aldermen's Statement of Expectations.	Statement of Expectations	CG	Apr-18
11	The general manager's Contract of Employment (contract) (3.A.2.3)	Recommendation: that should council establish a committee to consider matters pertaining to the general manager's contract of employment, the committee should be authorised only to make recommendations to full council for decision.	GM performance management	CG	Feb-18
12	The general manager's Contract of Employment (contract) (3.A.2.3)	Recommendation: that council remove any provision for payment of a performance bonus from the general manager's contract of employment.	GM Contract	CG	Dec-17
13	The general manager's Contract of Employment (contract) (3.A.2.3)	Recommendation: that council adopts the Remuneration clauses of the General Manager Template Contract of Employment of LGAT for the general manager's CoE, with particular reference to relevant factors to be considered in reviewing the general manager's remuneration package.	GM Contract	CG	Dec-17
14	3 January 2016 – 2 January 2017 assessment period (3.A.2.4.2)	Recommendation: that the general manager's Key Performance Indicators (or similar assessment tools) be considered by full council. Should council establish a committee to provide recommendations to council regarding the general manager's KPIs, its terms of reference should ensure that all aldermen are given ample opportunity to have input into setting the general manager's KPIs.	GM performance management	CG	Apr-18

Item	Topic	Recommendation	Summary	By whom	Due Date
15	Review of the period 3 January 2016 – 2 January 2017 (3.A.2.5.3)	Recommendation: that all aldermen be involved in appraising the general manager's performance, and that the matter not be delegated to a council committee. Should council establish a committee to provide recommendations to council regarding the general manager's performance, its terms of reference should ensure that all aldermen are given ample opportunity to have input into the final assessment and any outcomes of that assessment.	GM performance management	CG	Dec-18
16	Review of the period 3 January 2016 – 2 January 2017 (3.A.2.5.3)	Recommendation: that aldermen who are not members of a council committee considering the general manager's contract of employment, or a committee established to provide recommendations regarding the general manager's KPIs, or a committee established to provide an initial appraisal of the general manager's performance, be permitted to attend all committee meetings as observers.	GM performance management	CG	Dec-18
17	Failure to liaise on council meeting agendas (3.A.3.2)	Recommendation: that the Meeting Regulations be amended so that while the agenda is drafted by the general manager, it must be approved by the mayor prior to release to the aldermen.	Agenda	DPAC	
18	Failure to provide adequate support for the mayor and the office of the mayor (3.A.3.7)	Recommendation: that within three months of a council term, or within three months of the election or re-election of the mayor, or within three months of the employment of a new general manager, the mayor and general manager approve a Statement of Expectations to establish agreed protocols for fulfilment of their mutual and respective obligations under the Act and the Regulations, and to provide for the good governance of the council.	Statement of Expectations - Mayor/GM	GM/DPAC	Apr-18
19	Relationships with the community, aldermen and council staff (3.A.4.5)	Recommendation: that GCC undertake an annual review of its performance in upholding the requirements of its Code of Conduct, and that its induction procedures include training in all aspects of the Code.	Annual Review	CG	Feb-19
20	Relationships with the community, aldermen and council staff (3.A.4.5)	Recommendation: that all elected members undertake compulsory training in the Code of Conduct within three months of the commencement of a council term.	Training	CG	Apr-18
21	Compliance with code for tenders and contracts (3.A.6.1)	Recommendation: that council's Code for Tenders and Contracts be examined by the Auditor General to determine whether it complies with the letter and the spirit of the Act.	Procurement	AG	
22	Compliance with code for tenders and contracts (3.A.6.1)	Recommendation: that council upholds the principles of transparent and accountable governance through stringent compliance with its Code for Tenders and Contracts.	Procurement	CG	Ongoing

Item	Topic	Recommendation	Summary	By whom	Due Date
23	Compliance with code for tenders and contracts (3.A.6.1)	Recommendation: that the Auditor General investigate whether council has complied with s 27(i) of the General Regulations, which state that council is not compelled to undertake a public tender process for a contract for goods or services, if the council resolves by absolute majority and states the reasons for the decision, being that a satisfactory result would not be achieved by inviting tenders because of – (i) extenuating circumstances; or (ii) the remoteness of the locality; or (iii) the unavailability of competitive or reliable tenderers.	Procurement	AG	
24	Compliance with code for tenders and contracts (3.A.6.1)	Recommendation: that the Auditor General investigate whether council has complied with s 29 of the General Regulations, which prescribes council's annual reporting requirements in relation to tenders and contracts.	Procurement reporting	AG	
25	Compliance with the nomination and appointment of alderman to committees and other bodies policy (3.A.6.2)	Recommendation: that council amend its procedures for special committees, and representation on external bodies, to ensure that all council representatives report at least annually to council.	Committees	CG	Rolling program
26	Compliance with the nomination and appointment of alderman to committees and other bodies policy (3.A.6.2)	Recommendation: that council amend its procedures for determining membership of all committees and external bodies to allow consideration of the suitability and aptitude of aldermen seeking appointment.	Committees	CG	Feb-18
27	Compliance with the nomination and appointment of alderman to committees and other bodies policy (3.A.6.2)	Recommendation: that the Statement of Expectations between the Mayor and Aldermen detail the process to be used should the mayor wish to delegate her representation of council on an external body to another alderman.	Statement of Expectations	CG	Apr-18
28	Compliance with the nomination and appointment of alderman to committees and other bodies policy (3.A.6.2)	Recommendation: that as part of its annual review of aldermanic performance, council assesses its compliance with its policies relating to committees.	Annual Review	CG	Feb-19
29	Grievance policy (3.A.6.3)	Recommendation: that council amend its Grievance Policy to provide proper, safe channels for reporting complaints against senior staff.	Policy	CG	Mar-18
30	Meeting procedures and accuracy of minutes (3.A.7.3)	Recommendation: that council audio records both open and closed sessions of all council meetings.	Council meetings	CG	Feb-18
31	Meeting procedures and accuracy of minutes (3.A.7.3)	Recommendation: that the Meeting Regulations be amended to make audio recordings of all sessions of all council meetings mandatory, unless an exemption is approved by the Minister.	Council meetings	DPAC	

Item	Topic	Recommendation	Summary	By whom	Due Date
32	Meeting procedures and accuracy of minutes (3.A.7.3)	Recommendation: that council undertake training in correct meeting procedure and the Meeting Regulations within three months of the commencement of a council term, and at least once more during the term of the council.	Training	CG	Apr-18
33	Meeting procedures and accuracy of minutes (3.A.7.3)	Recommendation: that when considering compliance with the Meeting Regulations as part of their annual review of their own performance, aldermen examine their use of closed council meetings, and the accuracy and relevance of minutes.	Annual Review	CG	Feb-18
34	Meeting procedures and accuracy of minutes (3.A.7.3)	Recommendation: that the Meeting Regulations be amended so that draft minutes are made available to the mayor within two working days of a meeting, and that they are released to other aldermen only with the approval of the mayor.	Council meetings	DPAC	
35	Meeting procedures and accuracy of minutes (3.A.7.3)	Recommendation: that to achieve greater understanding of council support requirements, the general manager ensure that relevant council staff are given adequate training in meeting procedure and the proper recording of minutes.	Training	CG	Jan-18
36	Staff attendance (3.A.7.7)	Recommendation: that council review staff attendance at council meetings to ensure that staff time is used efficiently and cost effectively, and that any staff attendance enhances the capacity of aldermen to make sound decisions.	Council	GM	Feb-18
37	Council workshops (3.A.7.8)	Recommendation: that council establishes a calendar of workshops for each calendar year. The calendar should include adequate provision for workshops in setting the annual budget, including determining the capital works program and capital spending.	Workshops	CG	Feb-18
38	Council workshops (3.A.7.8)	Recommendation: that aldermen be provided with relevant information at least two days before workshops, to enable effective preparation.	Workshops	CG	Ongoing
39	Council workshops (3.A.7.8)	Recommendation: that council develop a policy on workshops, to assist both aldermen and staff to make effective use of the workshop, without detracting from council's need to be transparent in its decision making.	Policy	CG	Feb-18
40	General Managers personal leave and return to work, January 2017 (3.A.8)	Recommendation: that the Act be clarified to ensure that the power to appoint an acting general manager lies with the mayor, with the proviso that an appointment must be approved by council at its next ordinary meeting.	Acting GM appointment	DPAC	
41	General Managers personal leave and return to work, January 2017 (3.A.8)	Recommendation: that council ensure that the general manager's contract of employment includes the provision that any leave (annual or personal) must be approved by the mayor.	GM Contract	CG	Dec-17

Item	Topic	Recommendation	Summary	By whom	Due Date
42	General Managers personal leave and return to work, January 2017 (3.A.8)	Recommendation: that any delegated authority given to the general manager to appoint an acting general manager during a period of leave be clearly limited to occasions when the general manager is fully able to fulfil the functions of his office.	Acting GM appointment	CG	Dec-17
43	B. Management and Operations Recommendations	Recommendation: that the Act be amended to clarify that the Minister may direct a council to terminate the employment of a general manager following investigation by the Director of Local Government, or a Board of Inquiry, or similar investigative independent authority.	Power to terminate GM	DPAC	
44	Managing the performance of the DCG&GC and/or failure of the DCG&GC to undertake her roles in accordance with the Act and the Regulations (3.B.5.3)	Recommendation: that council ensures that the general manager consults with the mayor and aldermen on senior executive appointments and associated remuneration packages.	Consultation on senior appointments & remuneration	GM	As required
45	Managing the performance of the DCG&GC and/or failure of the DCG&GC to undertake her roles in accordance with the Act and the Regulations (3.B.5.3)	Recommendation: that the Act be amended to make it mandatory for the general manager to consult the mayor and aldermen on senior executive appointments and associated remuneration packages.	Consultation on senior appointments & remuneration	DPAC	
46	Budget 2016-17 (3.B.8.1)	Recommendation: that the general manager ensure that aldermen are given projected end of year financial results throughout the budget setting process, and that the trial results are updated as necessary to inform aldermen of council's financial position as accurately as possible before the next budget is approved.	Financial reporting	CFO	Apr-Jun 2018
47	Use of credit cards (3.B.9.1)	Recommendation: that council amend its credit card procedures to restrict access to credit to the general manager and his direct reports.	Credit cards	CFO/CG	Jan-18
48	Use of credit cards (3.B.9.1)	Recommendation: that council amend its procedures for monitoring credit card usage to ensure greater accountability and transparency in their use.	Credit cards	CFO/CG	Jan-18
49	Legal expenses (3.B.9.2)	Recommendation: that council adopts a policy to govern the use of external legal advisors. The policy should include guidance on the circumstances in which the general manager may seek external advice, and direction on the maximum expense which can be incurred on any matter before the matter needs to be brought to council for approval. Council approval of such expense should be sought even if the amount is less than the total amount budgeted for that management section.	Legal advice	CG	Dec-17

Item	Topic	Recommendation	Summary	By whom	Due Date
50	Legal expenses (3.B.9.2)	Recommendation: that council budgets include specific allocation of legal expenses within each management section, to enable aldermen to monitor resource allocation and delivery of efficient service.	Legal advice	CFO	Apr-Jun 2018
51	Proposed revision of the general manager's contract (3.B.11.1)	Recommendation: that any advice required to assist council in matters pertaining to the general manager's contract of employment be obtained from independent external lawyers.	GM Contract	CG	As required
52	Overall recommendations	Minister recommend that the Governor by order dismiss the Aldermen.	Dismissal of Aldermen	Minister	22/11/2017
53	Overall recommendations	That a Commissioner be appointed.	Appointment of Commissioner	Minister	22/11/2017
54	Overall recommendations	The Commissioner undertake an extensive review of management practices at GCC with reference to its responsibilities for good governance, organisational health and effective, efficient and compliant operational management.	Management review	Commissioner	Jan-18
55	Overall recommendations	The BOI Report be released.	Release of report	Minister	28/11/2017



Legal Services Policy

Title	Legal Services Policy
Council Resolution	Item ### (####) as per Council Minutes
Responsible Directorate	Corporate Governance
Due for Review	Four (4) years from Council Resolution Date
Strategic Plan Reference	4.1 Govern in the best interest of our community 4.1.1 Manage Council for maximum efficiency, accountability and transparency 4.2 Prioritise resources to achieve our communities' goals 4.2.1 Deploy the Council's resources to effectively deliver value
ECM	Council Policy

PURPOSE

The purpose of this policy is to provide a framework for:

- the delivery of internal legal services by Council's in-house legal practitioners, and
- the engagement and use of external legal services by Council.

SCOPE

This policy applies to all employees of Council.

STATUTORY REQUIREMENTS

Section 20 of the *Local Government Act 1993* relevantly provides that the functions of a Council include:

- to provide for the health, safety and welfare of the community;
- to represent and promote the interests of the community; and
- to provide for the peace, order and good government of the municipal area.

Section 221 of the *Legal Profession Act 2007* relevantly provides that the prescribed authority may make rules about legal practice in Tasmania engaged in by Australian legal practitioners.

The *Rules of Practice 1994* set out the prescribed rules for legal practice in Tasmania.

Acts	<i>Local Government Act 1993</i> <i>Legal Profession Act 2007</i> <i>Rules of Practice 1993</i>
Regulations	Not applicable
Australian/International Standards	Not applicable

POLICY STATEMENT**Background**

Council provides a diverse range of local government services to the Glenorchy community and has necessary core business functions to discharge and statutory obligations to meet, including:

- regulation and enforcement

- infrastructure and service delivery
- facilities maintenance and management
- the entering into and management of contracts and commercial and non-commercial ventures
- risk management and human resource management, and
- the acquisition and disposal of property, including leasing, licensing and casual hire by commercial and not for profit organisations.

The efficient and effective provision of these services to protect the interests of Council, its assets and the community often requires legal advice and the assistance of legal support services. Legal services can be provided by legal practitioners employed by Council or by taking advice from external legal practitioners employed in law firms.

As a public body utilising public funds, Council must ensure that its use and procurement of legal services is consistent with both its statutory functions and obligations, and the expectations of the Glenorchy community and is efficiently and effectively protecting Council's interests and assets.

Objectives

The following objectives are to guide Council in its use of and provision of legal services with guidance notes as to how these objectives are to be achieved.

Objective 1

To ensure that Council has access to legal advice to support appropriate decision making over the short, medium and long terms.

Actions

To achieve Objective 1, Council will:

- 1.1 maintain an in-house legal service, led by a senior legal practitioner with appropriate qualifications, experience skill and resources to facilitate and oversee the provision of legal support within all of Council
- 1.2 ensure that any person employed as a legal practitioner by Council holds a current Tasmanian Legal Practising Certificate, and is otherwise appropriately skilled and qualified
- 1.4 establish and communicate agreed service level standards for the provision of legal services, and procedures and expectations for Council staff seeking legal advice.

Objective 2

To use legal services appropriately to manage and balance the risks involved with providing local government service outcomes for the community.

Actions

To achieve Objective 2, Council:

- 2.1 recognises that the engagement of external law firms is appropriate in situations where there is a shortage of internal legal services resources where:
 - specialised advice is required
 - there is a risk that obtaining internal legal advice could give rise to a conflict of interest,
 - the matter is particularly time sensitive

- the matter pertains to the General Manager's contract of employment, or
 - the risk associated with legal advice and action is such that external legal support is appropriate
- 2.2 will establish a directive and line of authority for the approval of requests for external legal advice, which will specifically address requests for external legal advice by the General Manager
- 2.4 will endeavour to ensure that all management and senior staff have appropriate knowledge of the roles and responsibilities of Council's in-house legal service and the capacity to make sound decisions in relation to when it is appropriate (and not appropriate) to seek legal advice, and
- 2.5 will implement procedures that clearly define the expectations and responsibilities of all staff when communicating (internally and externally) on matters which may have legal implications for Council.

Objective 3

To actively manage Council's use of legal services to achieve the minimum cost to the community that is consistent with effective Council service provision and community expectations.

Actions

To achieve Objective 3, Council will:

- 3.1 establish and maintain a panel of experienced external legal service providers, to be appointed through a formal procurement process, with providers to be assessed on both skills and expertise and value for money for the level of service provided (with discretion to be retained by the General Manager and the manager of the Council legal department to engage a legal service provider which is not on the panel)
- 3.2 subject to direction by the General Manager, only refer matters to external legal services in the circumstances specified in Action 2.1
- 3.3 actively monitor Council's expenditure on external legal services and ensure that appropriate corporate reporting data is available to the elected body of Aldermen and internal decision makers
- 3.4 balance the cost of engaging external legal services against the potential financial and regulatory consequences for Council of not obtaining appropriate and timely legal advice.

Objective 4

To protect the integrity of Council's legal advice from conflicts of interest, loss of privilege and by ensuring the confidentiality of legal advice.

Actions

To achieve Objective 4, Council:

- 4.1 adopts the Glenorchy City Council In-House Legal Services Independence Statement which is [Attachment 1](#) to this policy
- 4.2 directs that any advice required to assist Council in matters pertaining to the General Manager's contract of employment be obtained from independent external lawyers
- 4.3 will implement procedures and delegations to clarify the roles and responsibilities of decision makers in respect to legal matters (which recognise and protect the independence of Council's in-house legal team and the duties of legal practitioners), and
- 4.4 will ensure that the confidentiality and integrity of sensitive legal information is maintained in accordance with all legal, fiduciary and ethical obligations.

Objective 5

To minimise the impact of avoidable disputation by promoting, where appropriate, early dialogue and alternative dispute resolution as an alternative to formal legal action.

Actions

To achieve Objective 5, Council will:

- 5.1 only commence formal litigation where Council has considered other forms of dispute resolution and the public interest
- 5.2 consider the interests of the Glenorchy community before initiating legal proceedings.

Objective 6

To comply with Council's obligation to act as a model litigant

Actions

- 6.1 though not prevented from acting firmly and decisively to protect its interests, and from exercising the same rights as any other litigants, Council will conduct itself as a model litigant in any proceedings in which it is involved. Council's conduct as a model litigant may include:
 - dealing with claims promptly
 - minimising delay in proceedings
 - making an early assessment of the prospects of success and potential liability in claims
 - paying legitimate claims (that have been substantiated with appropriate evidence) without commencing litigation
 - acting consistently in the handling of claims and litigation
 - endeavouring to avoid, prevent or limit the scope of litigation and participating in alternative dispute resolution where appropriate
 - minimising costs in proceedings
 - not taking unfair advantage of a claimant who lacks the resources to litigate a legitimate claim
 - not taking technical points unless not doing so may compromise Council's interests.

Legal Services Directive

This policy is to be supported by a legal services directive which set out prescriptive procedures and requirements that will be adopted to seek to achieve the objectives.

Council may combine any actions arising from this policy into a single legal services directive, or into multiple legal services directives that address separate policy areas, as appropriate.

ATTACHMENT 1

Glenorchy City Council In-House Legal Services Independence Statement

Council's employed lawyers must ensure that the advice they provide is objective and impartial in compliance with the professional obligations of practitioners of the legal profession in Tasmania.

In particular, Council's employed lawyers must be entitled to practice as a legal practitioner in Tasmania and maintain a current practising certificate, subject to and in compliance with the *Legal Profession Act 2007* and a range of imposed conditions including (but not limited to):

- individual lawyers can only engage in providing in-house legal services to Council, subject to any other conditions on a practising certificate issued by the Law Society of Tasmania, and
- individual lawyers must undertake continuing professional development in compliance with relevant Law Society practice directives and conditions imposed on an individual's practising certificate

The following statements highlight the characteristics of the independence of Council's employed lawyers to the rest of the organisation:

- Council's legal services will be provided in an independent and professional manner in accordance with each individual lawyer's responsibilities as an officer of the Court or Courts in which they are admitted to practice and the laws, regulations and professional rules applying to legal practitioners in Australia.
- The professional duties of Council's employed lawyers may take precedence over their duties to Council or individuals within Council. Their legal and ethical obligations must be observed and performed, including the duty to avoid conflicts and to not participate in or allow conduct or actions which may not be in accordance with legal or ethical requirements.
- The primary role of Council's employed lawyers is to provide legal advice, as opposed to commercial advice. Council's employed lawyers may provide commercial advice in an advisory capacity, provided it does not, in their reasonable opinion, conflict with their ability to provide impartial and unbiased legal advice. This distinction will be clearly understood where a lawyer is providing legal advice to assist the Council in making a commercial assessment of a particular matter.
- Council's Aldermen, management or staff must not seek to inappropriately influence the proper exercise of the independent professional judgment of any Council employed lawyer.
- If any Council employed lawyer forms the view that their ability to provide impartial legal advice has been, or may be, compromised, they should immediately inform the designated Manager of the legal department or the General Manager and, if necessary, declare a conflict of interest and refer the matter for external legal advice.
- The identity of the 'client' in each instance of provision of legal advice should be clear and for what purpose the advice is sought. The overarching fiduciary duty of a Council employed lawyer is to the Council as a whole. A Council employed lawyer does not owe a duty of confidentiality on an individual basis to any individual, including an Alderman, a member of management or staff where to do so would in the reasonable opinion of that lawyer, prejudice or jeopardise the interests of Council as a whole or be reasonably determined by an objective legal practitioner to be misleading, deceptive, unethical or unlawful. For example, a Council employed lawyer cannot provide personal advice to any individual including an Alderman, or a member of management or staff where that advice conflicts with the broader interest of Council and the Glenorchy Community or is unlawful or hides or

deprives critical information or advice that ought to be known by a wider audience than the individual whom the information or advice has been provided to or requested.

- Provided they have acted competently and in good faith, a Council employed lawyer cannot face disciplinary action where they have acted in accordance with their legal and ethical obligations, even where their decision or conduct is not in favour of Council as a whole or is not in alignment with the request or instruction of an individual person, Alderman, member of management or staff.
- The importance of maintaining and not waiving legal professional privilege is paramount to the interests of Council. There may be situations where a Council employed lawyer can only provide legal advice or information to certain individuals and within certain contexts within Council, (for example the General Manager or to Council in a closed session) so as not to compromise Council's position or rights.
- Where a Council employed lawyer performs both legal and non-legal roles those roles must be clearly delineated and the distinction identified where appropriate in relevant communications.
- Nothing limits, waives or reduces the obligations of a Council employed lawyer in relation to their professional and ethical obligations as an officer of the Court and as a legal practitioner pursuant to the *Legal Profession Act 2007* and *Rules of Practice 1994*, or any national legislation or rules or other equivalent or replacement legislation, code, regulation, rules or requirement.

Outstanding Actions List: Open Council Meeting

Outstanding Action List - Open Council Meeting

Attachment 1

Council Meeting Date	Item No.	Subject / Issue	Council Adopted Action	Directorate	Comments / Update	Estimated Completion Date
3/06/2015	13.3	Notice of Motion Alderman M. Stevenson	That a brief projects and major operational items summary be provided at each Council meeting.	General Manager	Blackadder Consultants provided a draft report to Council on 27 December 2016. The draft report has been circulated to departmental managers who are currently formulating a structure for the reporting model. The reporting model and potential actions will be presented to Council at a future meeting.	To be advised
4/07/2016	11	Acquisition and Disposal of Land - Bosco Drive AND Dalmacia Place	That Council: APPROVE Council Officers negotiations and settlement of the purchase of private land at 2/1 Dalmacia Place for the purpose of allowing Council to formalise and maintain a public walkway through Dalmacia Place to Bosco Drive APPROVE Council Officers to continue negotiations to dispose of part of the public land at 23 Bosco Drive for the purpose of extending the private rear yard of 19 Bosco Drive, subject to the compliance of the requirements of section 178 of the Local Government Act 1993 (noting the investigation of the possibility of a similar sale to the owners of 21 Bosco Drive, to establish a safe, easily maintained and monitored piece of land which will comprise part of the public walk way). APPROVES the advertising of Council's intention to dispose of any part of the public land at 23 Bosco Drive under section 178 of the <i>Local Government Act 1993</i> .	CG	A separate planning application in respect only of Dalmacia Place will be submitted and a new revised survey plan has been sought. Correspondence was sent to the owners of 19 Bosco Drive and 21 Bosco Drive on Monday 4 December 2017 in relation to the planning issues and providing some suggested options.	To be advised
1/11/2016	19.4	Question on Notice - Alderman M. Stevenson	Alderman Stevenson noted that the Shared Services Agreement included a requirement that the committee receive an Annual Report on the group's activities. He requested that Council receive regular reports on the activities of the Shared Services Committee.	CG	Council received a final draft of the LGSS Agreement on 10 March 2017. A report presenting the draft agreement to Council and making recommendations will be presented to Council at a future meeting.	To be advised
3/01/2017	11	Question taken on notice - Alderman Stevenson	Management to provide a report to Council identifying the deficiencies in items that are include in the Good Governance Framework which was adopted by Council on 23 January 2017.	CG	The item will be considered by the Audit Panel at the 8 December Audit Panel meeting. The matter will be brought back before Council on 15 January 2018 Council meeting.	15-Jan-18