

**Minutes of the Meeting
of the Glenorchy City Council
held at the Council Chambers
on Monday, 23 January 2017 at 3.00 p.m.**



Present: Aldermen K. Johnston (Mayor), H. Quick (Deputy Mayor), J. Branch-Allen, J. Dunsby, S. King, C. Lucas, D. Pearce, S.E. Slade and M. Stevenson.

In attendance: Mr. P. Brooks (General Manager), Ms. S. Iskandarli (Director, Corporate Governance and General Counsel), Mr. E. Reale (Director, City Services and Infrastructure), Mr. T. McMullen (Acting Director, Community, Economic Development and Business), Ms. C. Higgins (Manager, Legal and Property), Mr. S. Scott (Manager, Governance and Risk), Mr. D. Ronaldson (Manager, Community and Customer Service), Mr. A. Askey (Acting Manager, Environment and Development), Mr. R. Grierson (Manager, Infrastructure, Engineering and Design), Mr. S. Mohamed (Manager, Waste Services), Mr. R. Frankcombe (Manager, Works), Mr. B. Hannan (Senior Internal Compliance Advisor), Mr. F. Chen (Hydraulics Engineer), Dr. A. Falaki (Coordinator, Community Planning and Inclusion) and Mrs. J. King (Mayoral and Executive Support Officer)

Ms. L. Mason and Mr. B. Easterher – members of Glenorchy City Council's Board of Inquiry

Mr. D. Tilley – representative of Glenorchy City Council's Board of Inquiry

Mr. A. Tay – Director of Local Government, Department of Premier and Cabinet

Ms. S. Franz – Policy Analyst, Department of Premier and Cabinet

Workshops held since **Date:** **Monday, 9 January 2017**

last Council Meeting **Purpose:** To discuss:

- Parking Strategy Review

The meeting was opened with a prayer by Pastor Les Batchelor.

The Chair read two statements at the beginning of Council Meeting:

Statement 1

In relation to the Audio Recording of the Council Meeting under Regulation 33 of the *Local Government (Meeting Procedures) Regulations* and Council's 'Audio Recording Council Meetings' Policy.

Statement 2

In relation to Work Health and Safety at the Council Meeting.

1. APOLOGIES

Alderman H. Nielsen

QUICK/PEARCE

That this Council goes to a Closed Council to discuss a pressing personnel issue.

The motion was put.

FOR: Aldermen Pearce, Branch-Allen, Dunsby, Slade, Quick, Johnston, Lucas, King and Stevenson.

AGAINST:

The motion was CARRIED.

As a consequence of the resolution, the meeting was closed to the public, under Regulation 15 of the *Local Government (Meeting Procedures) Regulations 2015*.

Members of the public and all staff except the General Manager left the meeting at 3:06 pm.

Members of the public and all staff returned to the meeting at 4:05 pm and the meeting returned to Open Council.

2. CONFIRMATION OF MINUTES

Resolution:

KING/PEARCE

That the minutes of the Council Meeting held on Monday, 19 December 2016 be confirmed.

The motion was put.

FOR: Aldermen Pearce, Branch-Allen, Dunsby, Slade, Quick, Johnston, Lucas, King and Stevenson.

AGAINST:

The motion was CARRIED.

3. ANNOUNCEMENTS BY THE CHAIR

None.

4. PECUNIARY INTEREST NOTIFICATION

The Chairperson asked if any Aldermen had or were likely to have a pecuniary interest in any items on the Agenda.

No declarations of pecuniary interest were declared.

5. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

None.

6. PUBLIC QUESTION TIME (15 MINUTES)

Mrs. Kaye Smith, Glenorchy

In relation to Notices of Motion at items 14.4 and 14.5 on the Agenda, which concern the Hydrotherapy Pool at the KGV Sports and Community facility:

1. Is it true that there are no change cubicles for male or female patrons, or for that matter even clients with persons with disabilities to change into or out of their clothing? I believe there is just a room with benches, with toilets and showers in the same room?
2. Is it true that there are no lockers to keep valuables in in that area for safekeeping of belongings? I believe these items would need to be carried with them out to the pool area?
3. Is it true that the floor cannot be mopped dry because of render shredding the mops and therefore the floor will constantly be wet because it can only be hosed down?
4. Is it true that those using gym will be using the same area used for the pool patrons (i.e. the showers and the toilets)?
5. When will the pool be available for the expected tenants and their clients?

Answer:

The General Manager advised that Mrs. Smith would be provided with written answers prior to the next Council meeting, and that the answers provided would be included on the Agenda for the next Council meeting.

Mr. Barry Smith, Glenorchy

In relation to the Notice of Motion at item 14.1 regarding the Australia Day celebrations for 26 January 2018 and onwards, will Council take the steps necessary to establish a committee with Council participation to organise an Australia Day celebration in 2018 and beyond, based on the format of the activities that took place prior to this year?

Answer:

Mayor Johnston advised that the question would be addressed during the discussion in relation to item 14.1 on the agenda.

Mr. George Burrows, Granton

In relation to Item 9 on the Agenda (Infill Development Pilot Project) is Council going to endorse the report referred to in that item, or just endorse the release of the report?

Answer:

Mayor Johnston advised that the officer's recommendation is to endorse the release of the report. Council could move the recommendation or could move an alternative recommendation. Should Council agree to the recommendation in the officer's report, Council would be endorsing only the release of the report.

7. PETITIONS/DEPUTATIONS

None

COMMUNITY

8. ANNOUNCEMENTS BY THE MAYOR

File Reference: Mayoral Announcements

Reporting Brief:

To receive the announcement of events by the Mayor.

Resolution:

LUCAS/BRANCH-ALLEN

That Council:

RECEIVE the announcements about the activities of the Mayor's office for the period 14 December 2016 to 17 January 2017.

The motion was put.

FOR: Aldermen Pearce, Branch-Allen, Dunsby, Slade, Quick, Johnston, Lucas, King and Stevenson.

AGAINST:

The motion was CARRIED.

ECONOMIC

9. INFILL DEVELOPMENT PILOT PROJECT

File Reference: Infill Development Consultancy

Reporting Brief:

The purpose of this report is to inform Council of the outcomes of the Infill Development Pilot Project and to seek Council's endorsement to release the report to the landowners of the 3 priority sites identified in Glenorchy.

Resolution:

LUCAS/BRANCH-ALLEN

That Council:

- (a) NOTE the outcomes of the Infill Development Pilot Project as detailed in this report, and
- (b) ENDORSE the release of the project reports, prepared by Emma Riley and Associates Pty Ltd, to the landowners of the 3 priority sites identified in Glenorchy.

The motion was put.

FOR: Aldermen Pearce, Branch-Allen, Dunsby, Slade, Quick, Johnston, Lucas, King and Stevenson.

AGAINST:

The motion was CARRIED.

GOVERNANCE

10. COUNCIL POLICY REVIEW UPDATE

File Reference: Council Policy

Reporting Brief:

This report provides an update on the current status of the ongoing Council Policy Review, including details of the expected completion date for the review of each policy and the actions to be taken in respect of each.

Resolution:

PEARCE/KING

That Council:

NOTES the progress of the Council Policy Review as set out in Council's Master Policy Register.

The motion was put.

FOR: Aldermen Pearce, Branch-Allen, Dunsby, Slade, Quick, Johnston, Lucas, King and Stevenson.

AGAINST:

The motion was CARRIED.

11. COUNCIL'S GOOD GOVERNANCE FRAMEWORK

File Reference: Governance

Reporting Brief:

This Report is to brief Council of the recommended Good Governance Framework and supporting policy for consideration and adoption by Council.

Resolution:

BRANCH-ALLEN/PEARCE

That Council:

- (a) ADOPT the Good Governance Framework (as attached), and
- (b) NOTE that Management will draft an Action Plan at 30 June 2017 to assist with the prioritisation of ongoing activities to ensure that Council's Good Governance Framework is implemented throughout the organisation.

The motion was put.

FOR: Aldermen Pearce, Branch-Allen, Dunsby, Slade, Quick, Lucas and King.

AGAINST: Aldermen Johnston and Stevenson.

The motion was CARRIED.

12. ACTIONS LIST - UPDATE REPORT

File Reference: Actions List - Council Meetings

Reporting Brief:

To provide Council with the latest Actions List (Open Council Meeting), updated following the 19 December 2016 Council meeting.

Resolution:

SLADE/BRANCH-ALLEN

That Council:

NOTE the progress of the items on the Actions List (Open Council Meeting), as updated following the 19 December 2016 Council meeting.

The motion was put.

FOR: Aldermen Pearce, Branch-Allen, Dunsby, Slade, Quick, Johnston, Lucas, King and Stevenson.

AGAINST:

The motion was CARRIED.

13. CORPORATE PERFORMANCE INDICATORS - NOVEMBER 2016

File Reference: Traffic Lights

Reporting Brief:

To present the Corporate Performance Indicators as at the end of November 2016 for Aldermens' information.

Resolution:

BRANCH-ALLEN/LUCAS

That Council:

ACCEPT the information provided by the Corporate Performance Indicators for November 2016.

Alderman Slade left the meeting at 5.05 p.m.

Alderman Slade returned to the meeting at 5.06 p.m.

The motion was put.

FOR: Aldermen Pearce, Branch-Allen, Dunsby, Slade, Quick, Johnston, Lucas, King and Stevenson.

AGAINST:

The motion was CARRIED.

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

The following item was included in the Agenda pursuant to Regulation 8(6) of the *Local Government (Meeting Procedures) Regulations 2015* on the advice of the General Manager.

BRANCH-ALLEN/KING

That Council enter into a lease agreement with Northern Physiotherapy Services Pty Ltd in relation to the Hydrotherapy Pool subject, to management's successful negotiation with the potential lessee.

The motion was put.

FOR: Aldermen Pearce, Branch-Allen, Dunsby, Slade, Quick, Johnston, Lucas, King and Stevenson.

AGAINST:

The motion was CARRIED.

The General Manager asked that it formally noted in the Minutes that he has declared a pecuniary interest in this item, and accordingly has removed himself from all negotiations with the prospective lessee.

14.1. NOTICE OF MOTION - ALDERMAN J. DUNSBY

File Reference: Notice of Motion

Reporting Brief:

To consider a notice of motion by Alderman J. Dunsby submitted in accordance with the requirements of Regulation 16(5) of the *Local Government (Meeting Procedures) Regulations 2015*.

Resolution:

DUNSBY/LUCAS

That Council auspice a working party to enable planning to commence for community celebrations to mark Australia Day in 2018 and beyond.

Alderman King left the meeting at 5.41 p.m.

Alderman King returned to the meeting at 5.46 p.m.

The motion was put.

FOR: Aldermen Pearce, Dunsby, Quick, Johnston, Lucas and Stevenson.

AGAINST: Aldermen Branch-Allen, Slade and King.

The motion was CARRIED.

14.2. NOTICE OF MOTION - ALDERMAN M. STEVENSON 5

File Reference: Notice of Motion

Reporting Brief:

To consider a notice of motion by Alderman M. Stevenson submitted in accordance with the requirements of Regulation 16(5) of the *Local Government (Meeting Procedures) Regulations 2015*.

Resolution:

STEVENSON/DUNSBY

- (a) That Council instructs the General Manager to provide all aldermen by Friday, 3 February 2017 with:
 - a. All reports provided to the Audit Panel in relation to the Jackson Street Landfill site.

Alderman Slade left the meeting at 5.51 p.m.

Alderman Slade returned to the meeting at 5.52 p.m.

The motion was put.

FOR: Aldermen Pearce, Branch-Allen, Dunsby, Slade, Quick, Johnston, Lucas, King and Stevenson.

AGAINST:

The motion was CARRIED.

14.3. NOTICE OF MOTION - ALDERMAN M. STEVENSON 6

File Reference: Notice of Motion

Reporting Brief:

To consider a notice of motion by Alderman M. Stevenson submitted in accordance with the requirements of Regulation 16(5) of the *Local Government (Meeting Procedures) Regulations 2015*.

Resolution:

STEVENSON/DUNSBY

That this Council does not allow any Council employee to provide any advice, secretarial or administrative support to General Manager's Performance Review Committee.

The motion was put.

FOR: Aldermen Pearce, Branch-Allen, Dunsby, Slade, Quick, Johnston, Lucas, King and Stevenson.

AGAINST:

The motion was CARRIED.

14.4. NOTICE OF MOTION - ALDERMAN M. STEVENSON 2

File Reference: Notice of Motion

Reporting Brief:

To consider a notice of motion by Alderman M. Stevenson submitted in accordance with the requirements of Regulation 16(5) of the *Local Government (Meeting Procedures) Regulations 2015*.

Resolution:

STEVENSON/DUNSBY

It is recommended that:

- (a) Council commissions as a matter of urgency a comprehensive independent external project audit, including but not limited to the financial and governance arrangements, projected and delivered outcomes, and a full probity investigation reporting directly to the Council (via the Mayor) on the KGV Redevelopment and the Hydrotherapy Pool Project, and
- (b) The General Manager is instructed to provide without delay any and all information required by the external auditors and investigators in the course of their investigations.

The motion was put.

FOR: Aldermen Dunsby, Johnston and Stevenson.

AGAINST: Aldermen Pearce, Branch-Allen, Slade, Quick, Lucas and King.

The motion was LOST.

14.5. NOTICE OF MOTION - ALDERMAN M. STEVENSON 4

File Reference: Notice of Motion

Reporting Brief:

To consider a notice of motion by Alderman M. Stevenson submitted in accordance with the requirements of Regulation 16(5) of the *Local Government (Meeting Procedures) Regulations 2015*.

Resolution:

STEVENSON/DUNSBY

- (a) That Council instructs the General Manager to provide all aldermen by Friday 27 January 2017 with:
 - a. detailed original budget for KGV, together with any iterations where changes were made (e.g. addition of the initial and subsequent Hydro pool details), and a copy of the expenditure that can be cross referenced on those figures
 - b. the actuals against budget as they apply for each of the three tenancies functions/floors and also the hydrotherapy pool, and
 - c. the original and any amended specifications for the construction and operation of the hydrotherapy pool.

The motion was put.

FOR: Aldermen Dunsby, Johnston and Stevenson.

AGAINST: Aldermen Pearce, Branch-Allen, Slade, Quick, Lucas and King.

The motion was LOST.

14.6. NOTICE OF MOTION - ALDERMAN M. STEVENSON 1

File Reference: Notice of Motion

Reporting Brief:

To consider a notice of motion by Alderman M. Stevenson submitted in accordance with the requirements of Regulation 16(5) of the *Local Government (Meeting Procedures) Regulations 2015*.

Resolution:

STEVENSON/DUNSBY

It is recommended that:

- (a) Council commissions as a matter of urgency a comprehensive independent external project audit and operational review, including but not limited to the financial and governance arrangements, projected and delivered outcomes, and a full probity investigation reporting directly to the Council (via the Mayor) on the Derwent Park Stormwater Project, and
- (b) The General Manager is instructed to provide without delay any and all information required by the external investigators in the course of their investigations.

The motion was put.

FOR: Aldermen Dunsby, Johnston and Stevenson.

AGAINST: Aldermen Pearce, Branch-Allen, Slade, Quick, Lucas and King.

The motion was LOST.

14.7. NOTICE OF MOTION - ALDERMAN M. STEVENSON 3

File Reference: Notice of Motion

Reporting Brief:

To consider a notice of motion by Alderman M. Stevenson submitted in accordance with the requirements of Regulation 16(5) of the *Local Government (Meeting Procedures) Regulations 2015*.

Resolution:

STEVENSON/DUNSBY

- (a) That Council instructs the General Manager to provide all aldermen by Friday 27 January 2017 with:
- a. all instructions, any accompanying documents, and any correspondence that has been provided to, and received from, Page Seager or any other solicitor or barrister briefed in relation to a request for legal advice on the issue of the CT Management contract exemptions (the subject of Questions on Notice from Ald Stevenson), and
 - b. all internal advice and correspondence to and from the General Manager regarding the application of the tender code (both old and new) to the CT Management projects.

The motion was put.

FOR: Aldermen Dunsby, Johnston and Stevenson.

AGAINST: Aldermen Pearce, Branch-Allen, Slade, Quick, Lucas and King.

The motion was LOST.

14.8. NOTICE OF MOTION - ALDERMAN M. STEVENSON 7

File Reference: Notice of Motion

Reporting Brief:

To consider a notice of motion by Alderman M. Stevenson submitted in accordance with the requirements of Regulation 16(5) of the *Local Government (Meeting Procedures) Regulations 2015*.

Resolution:

STEVENSON/DUNSBY

That the Council provide one Waste Management Facility open weekend per year, free to Glenorchy Residents for domestic waste only for cars, utes and trailers. This is estimated to cost between \$40,000 - \$48,000 per year in forgone revenue.

The motion was put.

FOR: Aldermen Dunsby, Quick, Johnston and Stevenson.

AGAINST: Aldermen Pearce, Branch-Allen, Slade, Lucas and King.

The motion was LOST.

The Chairperson adjourned the Meeting under Regulation 13(1)(b) of the *Local Government (Meeting Procedures) Regulations 2015* at 7.10 p.m. for 15 minutes to facilitate the required break for Council staff, members of the public and Aldermen.

The meeting was reconvened at 7.26 p.m.

BRANCH-ALLEN/PEARCE

To reorder the agenda to put Item 20.2 into Open Council to follow Item 14.14.

The motion was put.

FOR: Aldermen Pearce, Branch-Allen, Dunsby, Slade, Quick, Johnston, Lucas, King and Stevenson.

AGAINST:

The motion was CARRIED.

14.9. QUESTION ON NOTICE - ALDERMAN M. STEVENSON - 3

File Reference: Question on Notice

Question on Notice:

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

Question on Notice:**Board of Inquiry**

Has the Board of Inquiry been provided all requested information and documents by Council? If not, what have they not been provided and why?

Answer:

As at the date of publication of the Agenda (18 January 2017), all information requested by the Board of Inquiry has, to the best of management's knowledge, been provided.

14.10. QUESTION ON NOTICE - ALDERMAN K. JOHNSTON - 3

File Reference: Question on Notice

Question on Notice:

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

Question on Notice:**Berriedale Caravan Park:**

May the General Manager please provide advice to Council on the consequences of the recent Resource Planning and Appeals Tribunal decision for the development of the proposed Berriedale Caravan Park site?

Answer:**Summary**

The consequence of the recent decision of the Resource Management and Planning Appeals Tribunal (**the Tribunal**) in *Claremont Partners Pty Ltd v Glenorchy City Council and Anor [2016] TASRMPAT 38* is that the applicant for the proposed Berriedale Caravan Park will need to comply with Council's additional information request dated 15 June 2016 (made under the *Land Use Planning and Approvals Act 1993*) before Council can assess its application any further.

The additional information request required the applicant to provide an odour modelling assessment and proposed mitigation measures to Council in relation to the adjacent Cameron Bay Sewerage Treatment Plant.

Background

Council is currently assessing an application for the redevelopment of the former Berriedale Caravan Park Site. The application seeks approval for a total of 109 accommodation units including pods, camping sites and mobile homes.

The statutory controls that apply to that site under the *Glenorchy Interim Planning Scheme 2015 (Planning Scheme)* require, amongst other things, that the application is assessed under the Planning Scheme's Attenuation Code.

The purpose of the Attenuation Code is set out in clause 9.1.1 of the Planning Scheme, and provides as follows:

"The purpose of this provision is to:

- (a) minimise adverse effect on the health, safety and amenity of **sensitive use from uses with potential to cause environmental harm**; and*
- (b) minimise likelihood for sensitive use to conflict with, interfere with or constrain uses with potential to cause environmental harm."* (emphasis added)

The proposed caravan park is a 'sensitive use', as defined in the Planning Scheme (clause 4.1). The adjacent Cameron Bay Sewerage Treatment Plant is a 'use with the potential to cause environmental harm', as defined in the Planning Scheme (table 9.2).

The Sewerage Treatment Plant has an Attenuation Area of 400 metres under the Planning Scheme (see table 9.2), which more or less covers the entire site of the proposed development.

Council's Information Request

As part of an additional information request made to the applicant in accordance with the provisions of the *Land Use Planning and Approvals Act 1993* dated 15 June 2016, Council requested the applicant provide an odour modelling assessment in relation to the Sewerage Treatment Plant in order to assess potential impact on sensitive uses, as well as any mitigation options.

The applicant appealed Council's request to Tribunal (appeal no. 64/16P).

Tribunal Decision

In its decision of 13 December 2016, the Tribunal affirmed the validity of Council's information request, noting that the odour assessment requirements would be consistent with practices in other municipalities throughout Australia. The applicant will therefore need to provide the requested information to Council before its application can be further considered.

Council is unable to determine whether the proposal is appropriate for the site until Council has reviewed and considered the odour modelling assessment and any proposed mitigation works.

Any new proposal located within the Attenuation Area of the Sewerage Treatment Plant which includes sensitive uses, such as accommodation, would also need to provide similar information to determine the appropriateness of the use in that locality, and be assessed against all the relevant provisions of the Planning Scheme.

14.11. QUESTION ON NOTICE - ALDERMAN J. DUNSBY

File Reference: Question on Notice

Question on Notice:

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

Question on Notice:

A recent query to the General Manager in relation to water levels of the Tolosa Park dam noted that the reduced levels are as a result of concerns about the dam wall.

What are the ongoing plans for this water storage facility in the site rehabilitation to be funded by Taswater? Will the wall be repaired to enable a water facility to remain, or will park users continue to view the reduced water capacity?

Answer:

TasWater has begun rationalising and upgrading drinking water storages in the Glenorchy area. This has resulted in the long-planned decommissioning of the 1890 constructed Tolosa Dam, and construction of two new 20 megalitre water storage tanks, due for completion in March 2017. The dam has not been utilised as a potable drinking source for some time.

Council will continue to work with TasWater to ensure that its works to remediate the site, during and after construction, is in line with future plans for the site. Glenorchy City Council will conduct a community consultation process, to assist with the future elements to be located on site.

On the advice of the Director, Corporate Governance and General Counsel, Council agreed to move the Item 14.12 to the closed session of Council on the basis that the answer to be tabled contained confidential information.

14.12. QUESTION ON NOTICE - ALDERMAN K. JOHNSTON - 2

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).

14.13. QUESTION ON NOTICE - ALDERMAN M. STEVENSON - 1

File Reference: Question on Notice

Question on Notice:

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

Question on Notice:

Internal Staff Survey:

In April and August 2015, the General Manager was asked how he was both measuring and managing the cultural impact of the corporate restructure of the organisation. He answered that he was having meetings with all staff to manage this impact.

It is understood that an internal staff survey has been conducted recently. May the General Manager please provide a full report on the results of the survey, particularly focussing on staff satisfaction and engagement?

Answer:

Following Council's decision on 16 March 2015 to proceed with the Corporate restructure, the General Manager held a number of meetings with the staff members of all departments. However, no staff survey was conducted specifically in relation to the impact of the CT Management review.

14.14. QUESTION ON NOTICE - ALDERMAN K. JOHNSTON - 1

File Reference: Question on Notice

Question on Notice:

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

Question on Notice:**Sponsorship**

May the General Manager please provide details of any sponsorship arrangements that Council has entered into during the 15/16 and 16/17 financial years?

Answer:

Council's current chart of accounts does not specifically identify a natural account for 'sponsorships'. Sponsorship has been taken to mean 'vouching for or endorsing a person or product' (Butterworths Concise Australian Legal Dictionary). It may include 'paying for or contributing to the costs involved in staging a sporting or artistic event in return for advertising' (Oxford Dictionary). In the local government context, an example definition adopted by Devonport City Council is 'the exchange of money, goods or services from one party to another where there are specific obligations on the receiver for a return to the sponsor in some form'.

It is understood that Management are of the view that Council have contributed to the sponsorship of the following events in the FY 2015-16 and FY 2016-17 years to date:

- GovHack event held late July each year (\$1,000 and \$2,000 in each financial year respectively)
- Tasmanian Women Lawyers gold support package payment for Gala dinner event held in November 2016 (\$1,000), and

- in partnership with NRM South, contributed to the sponsorship of a volunteer to attend the National Landcare conference in 2016 (\$513.80).

In addition, it is noted that the details of grants made and benefits provided by Council under section 77 of the *Local Government Act 1993* are set out in Part 4 – Financial Report in Council’s Annual Report (e.g., see note 48 under the FY 2015/16 Annual Report). This includes cash donations and ‘in-kind contributions’ (i.e., rental subsidies and waiver of fees).

Management are currently drafting a sponsorship policy for future Council consideration and adoption. Indicatively, it will include (but not limited to):

- a threshold limit as to what sponsorship arrangements need to be reported to Council for determination (e.g., City of Devonport is \$10,000 and above)
- the nature of sponsorship arrangements that are suitable to Council, and
- guiding principles for prospective sponsorship applicants.

It is envisaged that this will be supported by specific register to record such arrangements for future information requests.

20.2. QUESTION ON NOTICE - ALDERMAN M. STEVENSON

File Reference: Question on Notice

Question on Notice:

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

Question on Notice:

There have been several questions in the past council meetings in relation to the expenditure on CT Management. In particular, these questions have centred around why no tender process occurred for a large expenditure when our Council tender code explicitly says that we should.

It seems the General Manager has given two major reasons for the expenditure occurring without a tender:

1. That council has approved this expenditure.
2. That the expenditure was exempt from a tender process.

Council decisions

The General Manager has pointed to two council decisions to suggest council has approved expenditure on CT Management projects.

1. March 2015 Council Meeting
2. August 2015 Council Meeting

In March, the only component of the resolution that related to moving forward on projects was part 3) Council approves the recommendations made by CT management Group Pty Ltd and the General Manager in the presentation of 5 February 2015.

This resolution does not approve expenditure, nor any exemption from the tender code.

In August, the motion simply acknowledged projects that were occurring, and again did not approve expenditure, nor any exemption from the tender code.

Tender Code

The General Manager has failed thus far to point to the exemption that this expenditure falls under within the Tender Code. While questioning this, the General Manager suggested that the current code does not apply, and that the expenditure was made under the previous code.

This explanation is correct; however, the previous code, as does the current, has exemption provisions for which the expenditure should have been exempt under. The current provisions are detailed below. The previous exemption provisions attached.

Of note is their similarity.

It appears that no circumstance within those exemptions existed for the CT management expenditure.

10 EXEMPTIONS

10.1 Exemption by Regulation from the tender or quotation process

The Regulations identify certain circumstances where Council is not required to issue a public tender process.

The exemption circumstances identified in Regulation 27 are:

- (a) an emergency if, in the opinion of the General Manager, there is insufficient time to invite tenders or quotations for the goods or services required in that emergency;
- (b) a contract for goods or services supplied or provided by, or obtained through, an agency of a State or of the Commonwealth;
- (c) a contract for goods or services supplied or provided by another council, a single authority, a joint authority or LGAT;
- (d) a contract for goods or services obtained as a result of a tender process conducted by another council, a single authority, a joint authority, the Local Government Association of Tasmania or any other local government association in this State or in another State or a Territory;
- (e) a contract for goods or services in respect of which a council is exempted under another Act from the requirement to invite a tender;
- (f) a contract for goods or services that is entered into at public auction;
- (g) a contract for insurance entered into through a broker;
- (h) a contract arising when a council is directed to acquire goods or services due to a claim made under a contract of insurance;
- (i) a contract for goods or services if the Council resolves by absolute majority and states the reasons for the decision, 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; and
- (j) a contract of employment with a person as an employee of the council.

Question:

May the general manager indicate:

- Which specific exemption existed for the CT management expenditure;
- How was it approved under that exemption;
- Will it be recorded within the Annual Report as required under the Code for Tender?

Answer:

The General Manager provided Council with legal advice received from Mr. Bruce McTaggart S.C. of Malthouse Chambers (instructed by Page Seager Lawyers) dated 19 January 2017 which addressed the above questions.

Mr McTaggart's advice made a number of conclusions. The 'Opinion' section of Mr. McTaggart's advice is extracted below:

“Opinion

24. *Based on my instructions, as outlined above, I conclude that the Council’s engagements of [CT Management Group Pty Ltd “CTMG”]] during the 2015/2016 financial year were compliant with public tender requirements under the [Local Government Act 1993 (“the Act”)] and [Local Government (Meeting Procedures) Regulations 2015 (“the Regulations”)] and [Council’s Code for Tenders and Contracts (“the Code”)].*
25. *There was no requirement to undertake a public tender process because the contracts were for services below the prescribed amounts of \$250,000 ex GST (the Act) and \$100,000 inc. GST (the Code). In respect to the Code it was estimated by the Council that none of the proposals in respect to each program agreed would cost more than \$100,000 inc. GST by way of services.*
26. *The Council’s purpose was not to split the contract with CTMG to avoid compliance with the public tender process. Each program and proposal from CTMG in relation thereto was for totally a different scope of works. In any event the Council resolved to use CTMG for the programs on 16 March 2015.*
27. *The Code provided the Council with an absolute discretion to determine the appropriate method to procure services. On 16 March 2015 the Council resolved to accept the programs proposed by CTMG even though the fees for those programs had not yet been proposed and agreed. The Council having done so, it would not have been reasonable for the General Manager or his delegate to then embark on the process of obtaining quotations from other potential suppliers as per the “current methods employed by the Council to procure” referred to in the Code and set out above. The General Manager could not accept a quote from another supplier because the Council had resolved to use CTMG for the programs.*
28. *There was a requirement by virtue of Regulation 29 for the Council to include in its annual report for FY 2015/16 details of any “contract” for the supply of services above \$100,000 ex. GST. However none of the contracts the Council entered into with CTMG came close to exceeding that amount. In my opinion there has been no breach of the Regulations and Code by the Council in respect to the matters published in the annual report for 2015/16.”*

Resolution:

KING/LUCAS

That the meeting be closed to the public to allow discussion of matters that are described in Regulation 15 of the *Local Government (Meeting Procedures) Regulations 2015*.

The motion was put.

FOR: Aldermen Pearce, Branch-Allen, Dunsby, Slade, Quick, Johnston, Lucas, King and Stevenson.

AGAINST:

The motion was CARRIED.

CLOSED TO MEMBERS OF THE PUBLIC

15. APPLICATIONS FOR LEAVE OF ABSENCE

None

GOVERNANCE

14. APPOINTMENT OF ACTING GENERAL MANAGER

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).

17. AUDIT PANEL - INDEPENDENT MEMBERS SELECTION

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).

18. MINUTES AND CHAIR'S REPORTS OF AUDIT PANEL MEETING - 23 NOVEMBER AND 6 DECEMBER 2016

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).

19. ACTIONS LIST - UPDATE REPORT

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).

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

14.12. QUESTION ON NOTICE – ALDERMAN K. JOHNSTON - 2

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).

The following item was included in the Agenda pursuant to Regulation 8(6) of the *Local Government (Meeting Procedures) Regulations 2015* on the advice of the General Manager.

LEASE OF HYDROTHERAPY POOL

This item is to be considered at a closed meeting of the Council by authority of the Local Government (Meeting Procedures) Regulations 2015, 15(2)(c) (commercial information of a confidential nature that, if disclosed, is likely to; (i) prejudice a commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the Council; or (iii) reveal a trade secret); and 15 (2)(g) (Information of a personal and confidential nature or information provided to the Council on the condition it is kept confidential)

20.1. QUESTION ON NOTICE - ALDERMAN M. STEVENSON - 2

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).

Alderman Quick left the meeting at 9:43 p.m.

The meeting closed at 9:44 p.m.

Confirmed,

CHAIR