

COUNCIL AGENDA

MONDAY, 25 FEBRUARY 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.

A handwritten signature in blue ink, likely of Tony McMullen.

Tony McMullen
General Manager

20 February 2019

Hour: 6.00 p.m.

Present:

In attendance:

Leave of Absence:

**Workshops held since
last Council Meeting**

Date: Monday, 4 February 2019

Purpose: To discuss:

- Long Term Financial Plan
- Asset Management / Capital Expenditure
- Annual Plan and Budget Process

Date: Monday, 12 February 2019

Purpose: To discuss:

- Local Government Act Review

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1. APOLOGIES

2. CONFIRMATION OF MINUTES (OPEN MEETING)

That the minutes of the Council Meeting held on 29 January 2019 be confirmed.

3. ANNOUNCEMENTS BY THE CHAIR

4. PECUNIARY INTEREST NOTIFICATION

5. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

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 February Council meeting.

Eddy Steenberg, 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?

In the 2017-18 financial year, Council spent approximately \$315,000 on Parking compliance. This includes expenditure on employee salaries, uniforms, signage and removal of abandoned vehicles, but does not include overheads and corporate on-costs (such as for office accommodation and human resources support).

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

In 2017-18, Council officers issued 5,939 parking infringement notices. This generated income of around \$330,000

James Bryan, 14 England Avenue, Montrose

(from 29 January 2019 Council meeting)

Mr Bryan noted in the Audit Panel Chair's report in Council's Annual Report, the Chair notes that the Audit Panel was pleased to note the decision by Council to include additional funds in the 2019 budget to address outstanding audit recommendations:

Q: Has this led to a noticeable change in audit recommendations?

A: Council has completed 7 audit recommendations this financial year. There are currently an additional 42 recommendations that are being actively progressed and 7 which are on-hold. Addressing recommendations from internal audits is a priority item for Council to be balanced against the other operational priorities. Management is actively working to address the bulk of outstanding recommendations by the end of the current financial year.

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

I'm interested in how council informs its electors about its decisions. I was very disappointed to learn about the draft Hobart City Deal in an article in the Mercury rather than a media release clearly describing and explaining the decision.

According to the Local Government Act and Council's media policy, the Mayor is the official spokesperson of Council, and responsible for "final approval of any Council media statements."

Q1: I assume that this means that the Mayor decides, or at least approves or delegates, what, how and when information is released to the media on behalf of council. Am I correct?

The council website has a place for media releases but none have appeared since October 2018.

A: Yes. The Mayor seeks advice from a range of people including the General Manager, Council's Communications and Marketing Officer, and Council's technical experts.

The assertion that no media releases have appeared on Council's website since October 2018 is incorrect. The website contains six (6) further media releases, the most recent of which was from 29 January 2019. However, due to a website issue, the media releases do not appear in chronological order. We are working with our website administrators to address this.

Q2: Has the Mayor decided to use interviews with the Mercury as the normal method for informing the public?

A: Council uses a variety of methods to inform the public about its decisions. These include (but are not limited to):

- the minutes of meetings
- Media releases (available on Council's website)
- Letters/direct emails
- articles and updates in the Glenorchy Gazette
- Council's website

Following its recent adoption of a Communication Strategy, Council is also working towards to a development of a social media presence in coming months.

Q3: What factors does the Mayor consider when deciding whether to offer/grant the Mercury newspaper an interview or publish a media release?

A: There are generally two types of interactions that Council has with the media. The first is proactive, whereby the Council initiates contact with the media via a 'Media Alert' or 'Media Release'.

The second type is reactive, whereby the media outlet makes contact with Council regarding a story it is interested in and seeking comment. In those circumstances the interaction is usually with an individual journalist on behalf of a media outlet and as a result it is typically only reported as such. As a matter of principle, the Mayor responds to media enquiries in a manner that is consistent with Council's commitment to transparency and accountability.

Q4: Why did the Mayor not consider the Hobart City Deal, a strategic ten million dollar commitment, worthy of a media release?

A: The Mayor certainly did consider the matter worthy of a media release. Due to the confidentiality requirements of both the State and Federal Governments, the matter of the City Deal was considered in closed Council. However Council resolved that the Mayor could disclose matters pertaining to our Council's commitment.

The matter was considered at the Monday, 17 December 2018 Council meeting which concluded at 9:08pm. On Tuesday, 18 December 2018 at 8:30am, the Council issued a Media Alert to all media outlets informing them of a public event at 10:45 am that day (extracted below). At 10:45am, Council issued a Media Release outlining the decision of Council (available on Council's website).

At the media call, journalists from The Mercury, WIN TV and Southern Cross TV attended. ABC indicated they were unable to attend, but contacted the Mayor later for comment. All four media outlets covered the story. The Mayor reiterates that she has no control over the editorial decisions of media outlets and often information is disseminated more widely than recognised by individual members of the public.



MEDIA ALERT

18 December 2018

For immediate release

GLENORCHY CITY COUNCIL ALL ABOARD CITY DEAL

Mayor Kristie Johnston will announce Glenorchy City Council's commitment to the Hobart City Deal, the key features, and how this will be a "game-changer" for the future of the Glenorchy community.

Mayor Johnston will be joined by Andrew Wilkie MP (Federal Independent Member for Denison), Madam Speaker Sue Hickey (Liberal Member for Clark), Lucy Baker (owner of St Albis Bar and Eatery Moonah), and Tony Collidge (State President of Real Estate Institute of Tasmania).

WHEN: 10:45am TODAY (Tuesday 18 December 2018)

WHERE: Railway line, KGV, Anfield Street Glenorchy

Contact: Mayor Kristie Johnston 0437 967 786

ENDS

Q5: Is Council considering the use of its soon-to-be-implemented Facebook page for media releases?

A: Yes.

7. PETITIONS/DEPUTATIONS

COMMUNITY

8. ANNOUNCEMENTS BY THE MAYOR

Author: Mayor (Ald. Kristie Johnston)
Qualified Person: General Manager (Tony McMullen)
ECM File Reference: Mayoral Announcements

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:

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 receive the announcements of events and external meetings attended by the Mayor.

Proposal in Detail:

The following is a list of events and external meetings attended by the Mayor during the period Tuesday, 11 December 2018 to Monday, 18 February 2019.

Tuesday 11 December 2018

- Attended a meeting with representatives of the After Hours Vet Clinic

Wednesday 12 December 2018

- Attended the Karadi Christmas Luncheon
- Attended a meeting with a community representative

Thursday 13 December 2018

- Attended Cosgrove High School Presentation Assembly
- Attended Collinsvale Primary School Assembly
- Attended the Glenorchy Youth Taskforce ‘Gig in the Gardens’ event
- Hosted the Committees’ Christmas function

Friday 14 December 2018

- Attended Inspiring Place 20th Anniversary celebrations
- Participated in the Christmas Bawdy Panto

Monday 17 December 2018

- Attended the Golden Years Club Christmas Luncheon
- Attended a meeting with Football Federation Tasmania and Glenorchy Knights
- Chaired a Council workshop
- Chaired the Council meeting

Tuesday 18 December 2018

- Held a media conference regarding the Hobart City Deal
- Joined the Choir of High Hopes for carol singing in the Elizabeth Street Mall
- Attended the Ogilvie High School Presentation Assembly

Wednesday 19 December 2018

- Hosted the Anglicare Christmas Gifting Tree presentation
- Attended the Windermere Primary School Grade 6 Celebration Assembly
- Attended the combined Glenorchy Historical Society and YMCA AGM

Thursday 20 December 2018

- Attended the Moonah Primary School Grade 6 Leavers Assembly
- Attended the Works Centre Christmas BBQ

Friday 21 December 2018

- Attended a lunch with former Board of Inquiry member, Barry Easter

Friday 4 January 2019

- Attended the 90th birthday celebration of Phyl Pears

Tuesday 8 January 2019

- Attended a meeting regarding the Queen's Arch project
- Attended an onsite meeting with a resident

Wednesday 9 January

- Attended a meeting with Jim Alouat from the Mercury

Thursday 10 January 2019

- Officially opened the After Hours Vet Emergency Clinic

Sunday 13 January 2019

- Attended the Claremont Summer Flower, Lilium and Rose Show

Monday 14 January 2019

- Chaired a Council workshop

Tuesday 15 January 2019

- Attended a meeting with Lucy MacDonald from ABC

Wednesday 16 January 2019

- Attended a meeting with S Group regarding the waste management marketing campaign

Thursday 17 January 2019

- Officially opened the Glenorchy Open Exhibition at the Moonah Arts Centre

Sunday 20 January 2019

- Coordinated and participated in the Clean Up Glenorchy Taskforce monthly activity at top of Springfield Avenue
- Attended the World Religion Day Celebrations

Monday 21 January 2019

- Chaired the Glenorchy Planning Authority meeting

Tuesday 22 January 2019

- Participated in the Budget Plan Workshop

Saturday 26 January 2019

- Hosted and presided over the Glenorchy Australia Day Celebrations and Citizenship Ceremony
- Attended the Glenorchy Citizens of the Year Group Australia Day Dinner

Tuesday 29 January 2019

- Chaired a Council workshop
- Chaired the Council meeting

Wednesday 30 January 2019

- Officially launched the Glenorchy CBD Revitalisation Project
- Attended the Splendour of China Concert

Thursday 31 January 2019

- Attended the announcement of \$6m funding for the YMCA
- Attended the CBD Pop Up Information Booth session

Friday 1 February 2019

- Attended the Collingwood Magpies v Sunshine Coast Netball Game at the DEC

Saturday 2 February 2019

- Attended the Year of the Pig Chinese New Celebration Banquet

Monday 4 February 2019

- Attended a meeting with a business representative
- Chaired the Council workshop

Tuesday 5 February 2019

- Attended the Official Launch of the Hobart Office of the Royal Flying Doctor Service at Government House
- Attended a meeting of the metropolitan mayors
- Attended the TasWater Owners Representatives Quarterly Briefing

Wednesday 6 February 2019

- Attended a meeting with representatives from the Federal Government regarding the Derwent Park Stormwater Harvesting Project

Thursday 7 February 2019

- Attended a meeting with a business representative

Friday 8 February 2019

- Attended a meeting with a business representative
- Attended a meeting with a resident

Sunday 10 February 2019

- Attended the Official TRC Hobart Cup Luncheon

Tuesday 12 February 2019

- Attended the launch of the Learn to Drive Videos #2
- Attended a meeting of the Queen's Arch Project
- Chaired the Council workshop

Wednesday 13 February 2019

- Attended a meeting with representatives from TasWater

Thursday 14 February 2019

- Attended a meeting with a community representative

Friday 15 February 2019

- Hosted a Mayoral Reception for the Glenorchy Citizens of the Year Group
- Participated in a video promoting the Whitestone Precinct and the City
- Attended an onsite meeting with a resident

Saturday 16 February 2019

- Attended the Chinese Lantern Festival
- Officially opened the Concert for Compassion

Sunday 17 February 2019

- Coordinated and participated in the Clean Up Glenorchy Taskforce monthly activity at Claremont

Monday 18 February 2019

- Attended a meeting with the Premier of Tasmania Will Hodgman, Treasurer Peter Gutwein and the metropolitan mayors
- Attended the Southern Tasmanian Council's Authority meeting
- Chaired the Glenorchy Planning Authority meeting

A significant number of other internal Council meetings and administrative duties were also undertaken.

Consultations:

Nil.

Human Resource / Financial and Risk Management Implications:

Nil.

Community Consultation and Public Relations Implications:

Nil.

Recommendation:

That Council:

RECEIVE the announcements about the activities of the Mayor's office during the period from 11 December 2018 to 18 February 2019.

Attachments/Annexures

NIL

GOVERNANCE

9. PROPOSAL TO DISPOSE OF PUBLIC LAND - MILL LANE (EXISTING CARPARK)

Author: Acting Property Assets Coordinator (Ali Coombe)
Acting Manager, Property Assets (Alex Woodward)

Qualified Person: Director Infrastructure and Works (Ted Ross)

ECM File Reference: CT29803/5

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 the 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.

Objective 4.2 Prioritise resources to achieve our communities' goals.

Strategy 4.2.1 Deploy the Council's resources effectively to deliver value.

Reporting Brief:

To recommend that Council forms an intention under section 178 of the *Local Government Act 1993* to dispose, exchange or lease public land at Mill Lane, Glenorchy.

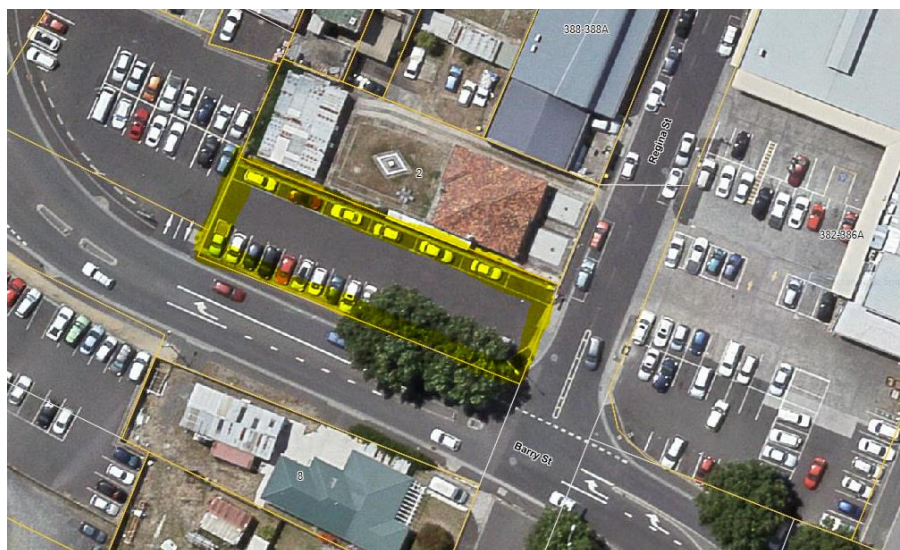
Proposal in Detail:

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 forms an intention under section 178 to exchange, lease or dispose of a 745 m² parcel of public land at Mill Lane, Glenorchy (**the Land**) (though situated on the corner of Barry Street and Regina Street).

The land

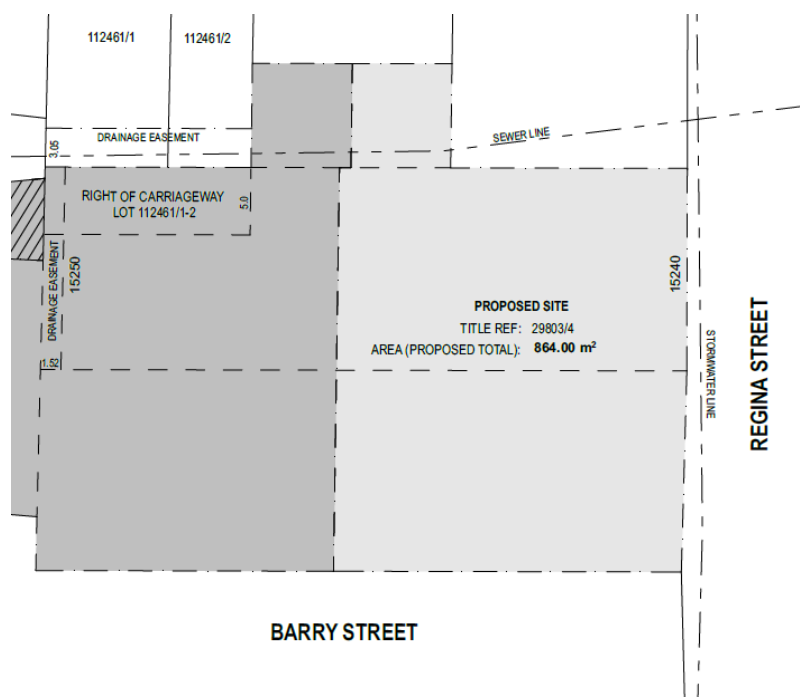
The Land is a rectangular block on the corner of Regina and Barry Street. The Land is zoned as Central Business under the Glenorchy Interim Planning Scheme 2015. It is currently used for car parking and accommodates 25 parking spaces.



Council has no intention or plans to redevelop the site. The Land serves no strategic purpose for Council and has been identified in Council's draft property strategy as 'no longer needed' and consequently recommended for disposal. Additionally, Council's Parking Strategy has shown that there is a surplus of parking in the CBD.

Proposal

Council has received a proposal to consider exchanging an approximately 448 m² portion of the sealed car park on the Land for a 429m² parcel which forms part of 2 Regina Street, Glenorchy (land with shed and lawn/gravel in image above) shown on the following plan:



Following the completion of the public notification and consultation under section 178, Council will need to consider any representations received along with the applicant's proposal to exchange land as shown above. If exchange rather than sale of land is the preferred outcome Council would need to negotiate the cost for reinstating the car park with the applicant on the land received in exchange for the Land with the.

Process under section 178

Section 178 of the Act sets out the process that must be followed by a council which intends to dispose of public land.

Council's *Disposal of Council Land Policy (the Policy)* deems all land owned by Council to be 'public land' for the purposes of the Act.

A resolution of Council to dispose of public land is required to be passed by an absolute majority of Council. If such a resolution is passed:

- the intention 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.

The Policy also provides that, in addition to the notification requirements in section 178, Council is required to:

- display a plan and relevant property information on the community notice board in Council's chambers (near the chambers' rear public entrance), and
- notify the owners of neighbouring and affected properties advising of the proposed disposal.

If Council resolves to commence the public notification and consultation process, officers will ensure that the requirements of section 178 and the Policy are complied with.

Following the completion of the notification, Council is required to consider any objections lodged with objectors having an opportunity to appeal a decision to dispose of the land. This will be provided in a future report to Council.

Specific requirements of the Policy

The Policy requires that the initial report to Council under section 178 contains information about how the matters set out below have been considered and addressed.

The matters to be considered and officers' comments on each are as follows:

1. The Council Land can be disposed of in a way which:

- ***transparently demonstrates achievement of the best value for the community, and***
- ***does not expose Council or the community to unacceptable risks around the process or the outcome.***

Council is following the process set out in section 178 of the Act, and the additional requirements over and above that process which are set out in the Policy.

Council will obtain a valuation for the Land which will be considered in any future decision as to whether to proceed with the disposal.

Council has disclosed that it has received a proposal to exchange land from an interested party, however will not be able to consider that proposal further until the public has had the opportunity to make submissions about any potential disposal or exchange and Council has considered the submissions.

2. Any transaction can be justified if questions are asked about market testing and competition

The method or terms of any disposal have not yet been determined and will not be until public consultation under section 178 is complete.

3. The community is given the opportunity to provide feedback about any potential alienation of Public Land

The community will be given the opportunity to comment through the section 178 public notification and consultation process.

4. The disposal of the Council Land would be consistent with Council's Open Space Strategy

As noted above, the Land serves no strategic purpose for Council and has been identified in Council's property strategy as 'no longer needed' and consequently recommended for disposal. As it is currently a car park it was not considered to be useable open space in the Open Space Strategy.

5. Access to areas and connectivity with any adjacent Public Land is maintained to a level that is acceptable and in keeping with reasonable community expectations

This is not able to be fully addressed until the method and terms of any disposal or exchange have been determined. Any future recommendation to Council will be required to ensure that this is addressed.

6. Any cost associated with creating saleable parcels of land is considered

The Land is already a distinct allotment, meaning there will be no cost to Council in creating a saleable parcel of land.

7. Compliance with all applicable planning requirements is achieved, and

This is not able to be considered until the method and terms of disposal or exchange are determined.

8. Any other relevant matters are considered.

All relevant matters at the current stage of the process have been considered. There will be other matters of relevance at the point at which Council is required to consider whether it wishes to proceed with the disposal, which will be after consideration of any representations received during the section 178 process.

Expressions of interest:

Council has not decided whether to dispose of the land, or, if it does, to proceed with the exchange proposed by the applicant. That decision can only be made after inviting submissions and considering them in accordance with section 178.

As part of that process, therefore, Council should consider any expressions of interest received from any interested purchasers.

Consultations:

Director Development and Customer Services
Manager City Strategy and Economic Development
Coordinator Planning Services

Human Resource / Financial and Risk Management Implications:Financial

The cost of advertising the proposal will be approximately \$700. Financial details on the proposed exchange will be provided in a future report to Council after the completion of the statutory advertising period.

Human resources

Council staff will facilitate the statutory twenty-one (21) day advertising period as part of their normal duties.

Risk management

Risk Identification	Consequence	Likelihood	Rating	Risk Mitigation Treatment
Adopt the recommendation	Moderate (C3)	Possible (L4)	Moderate	Council considers all objections received during the statutory consultation process, as required under s. 178 of the Act.
Adverse public reaction of decision to advertise Council's intention of disposal				
Council does not achieve best value for the community on disposal of the land.	Moderate (C3)	Possible (L4)	Moderate	An independent valuation will be obtained by Council and will be considered following the completion of public notification and as part of any decision to proceed with a disposal.
Do not adopt the recommendation	Moderate (C3)	Almost Certain (L5)	Notable	Council gives consideration to a strategy for realising land assets that are not required for strategic purposes. Council articulates any issues with the proposed disposal and instructs officers to address these in a future report.
Council will delay the opportunity to potentially dispose of surplus land that serves no strategic purpose and may be able to be disposed of for money or land with greater strategic benefits.				

Community Consultation and Public Relations Implications:

The intention to dispose and purchase the Land will be advertised in accordance with section 178 of the *Local Government Act 1993*. The public will have the opportunity to make submissions during this period.

Recommendation:

That Council:

1. RESOLVE under section 178 of the *Local Government Act 1993* (**the Act**) to form an intention to dispose, exchange or lease of public land, being Mill Lane, Glenorchy (Certificate of Title Volume 29803 Folio 5) (**the Land**)
2. INVITE expressions of interest during the advertising period from anyone interested in purchasing, exchanging or leasing the Land
3. AUTHORISE the General Manager to take all actions necessary to complete public notification of Council's intent to exchange, sell or lease the land in accordance with section 178 of the Act and Council's *Disposal of Council Land Policy*, and
4. AUTHORISE the General Manager to consider and acknowledge any objection received pursuant to section 178(6) of the Act and report to a future Council meeting.

Attachments/Annexures

Nil.

10. PROPOSAL TO DISPOSE OF PUBLIC LAND - 1 BELLETTE PLACE, CHIGWELL

Author: Acting Manager, Property Assets (Alex Woodward)
Acting Property Assets Coordinator (Ali Coombe)

Qualified Person: Director, Infrastructure and Works

ECM File Reference: 1633037

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 the Council manages the community's assets soundly for the long-term benefit of the community.

Strategic or Annual Plan Reference:

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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.

Objective 4.2 Prioritise resources to achieve our communities' goals.

Strategy 4.2.1 Deploy the Council's resources effectively to deliver value.

Reporting Brief:

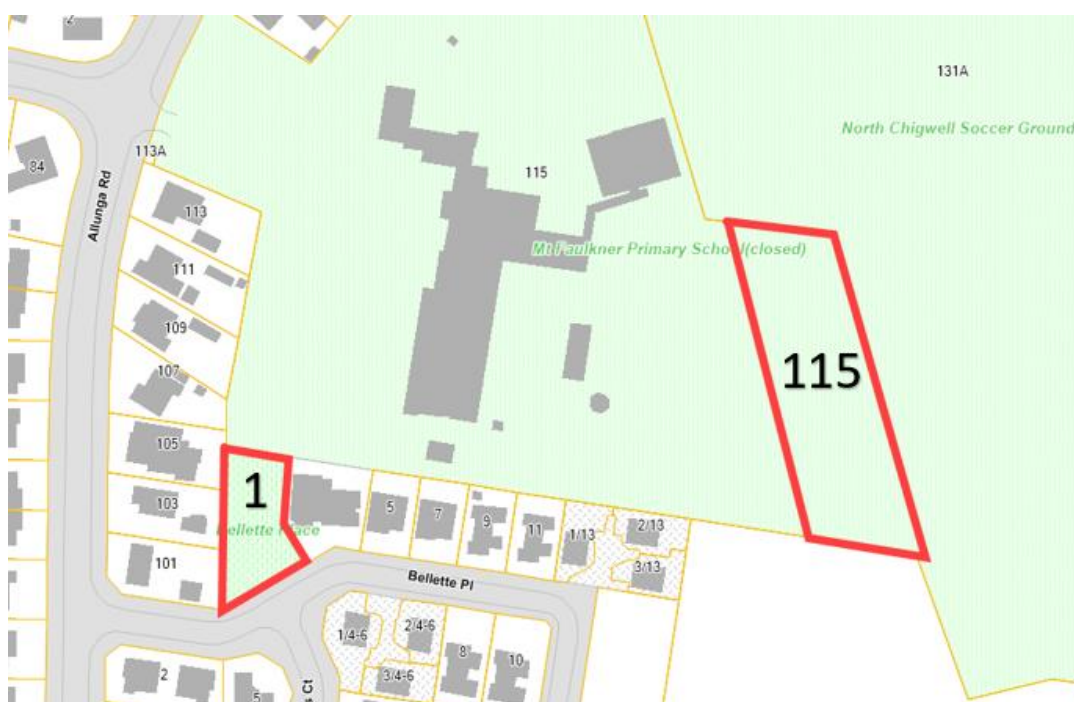
To recommend that Council approves:

- a) the disposal of a parcel of land at 1 Bellette Place, Chigwell (**the Land**) following the conclusion of the advertising process carried out in accordance with section 178 of the *Local Government Act 1993*), and
- b) the method of disposal for the Land by way of a land exchange with Catholic Care Tasmania.

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 dispose of an 849m² parcel of public land at 1 Bellette Place, Chigwell, Folio Identifier 118963/24 (**the Land**) by way of a land exchange with Catholic Care Tasmania for a parcel of land within the current block at 115 Allunga Road, Chigwell, Folio Identifier 174668/1. The Land and the proposed land to be exchanged are shown on the following plan:

**Disposal of Council Land Policy**

Council's *Disposal of Council Land Policy* requires that, following the completion of the statutory twenty-one (21) day advertising period, a report is to be presented to Council which is to contain the following information:

1. The current use and history of the Council Land

The Land is zoned as General Residential under the *Glenorchy Interim Planning Scheme 2015*. It is currently vacant and being used as public open space (although it does not have any facilities installed).

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

Council has no intention or plans to redevelop the site to a playground or local park. The Land serves no strategic purpose for Council and has been identified in Council's property strategy as 'no longer needed' and consequently recommended for disposal.

There are no buildings on the Land and subsequently the Land is not considered to hold any cultural or heritage values.

The Land contains no environmental values with biodiversity significance and there are no listed threatened flora or fauna species nor vegetation communities on the Land.

Council's Open Space Strategy 2015 recommended that Bellette Park (of which 1 Bellette Place forms half) be sold.

3. The results of the valuation of the Council Land (obtained under 4.2);

A valuation of the Land was obtained in August 2018 from Tasmanian Valuation Services (see [Attachment 1](#)).

The valuation assessment, based on reasonably similar sales in the Claremont, Berriedale and Montrose areas, was that the land is worth in the vicinity of \$105,000.00.

The valuation of the land that is proposed to be swapped with 1 Bellette Place (part of 115 Allunga Road) is \$15,000.00 (see [Attachment 2](#)). This valuation was undertaken by Saunders & Pitt on 7 November 2018.

4. Any statutory or legal considerations;

Council should consider that a disposal of public land must adhere to the requirements of section 178 of the Act and consider whether these provisions have been complied with.

5. The consultation process undertaken and consideration and response to every objection lodged;**i) Process under section 178 of the *Local Government Act 1993* (The Act)**

Section 178 of the Act sets out the process that must be followed by a council which intends to dispose of public land.

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 dispose must be advertised on two (2) occasions in a daily newspaper circulating in the municipal area, and

- a notice in regard to the disposal 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 newspaper publication.
- Owners of neighbouring and affected properties must be notified of the proposal.

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).

ii) Compliance with the section 178 Process

The resolution of Council passed on 17 December 2018 was passed in open Council by an absolute majority of Council.

Following this, a notice was published in *The Mercury* newspaper on two occasions, being Wednesday 16 January 2019 and Friday 18 January 2019 (copies at Attachment 3) advising the public that any objections must be received by the General Manager within 21 days of the date of the first publication, being (7 February 2019).

Notices were placed on the boundary of the public land in two positions as shown by the photographs in Attachment 4.

In addition, a mail-out notification was conducted with letters sent to 41 surrounding residents.

One objection and two expressions of interest were received in relation to the advertisements.

iii) The objection

During the advertising period one objection was received from the public. The objection received is reproduced in full as Attachment 6.

The objection states concern that the land, if sold to become a carpark, will increase anti-social behaviour in that area by providing a thoroughfare for the riding of motorbikes and cars and to access backyards.

The concern expressed is that the sale of the land to the school as carpark or access would exacerbate these issues in the community.

iv) Response to the objection

It is Council's understanding that the intended use of the land by the purchaser is for the building of a community residence to serve the needs of low socio-economic residents and not to use the site solely as a car park. This proposal would increase community surveillance and would likely reduce anti-social behaviour in the area.

The proposal would include a public walkway through the Land to enable access through to the proposed development at the existing school site and also the Council owned sporting ground area at the rear. Whilst the design of this walkway has not been fully completed, it would be the intention of Council officers to liaise with the developer and neighbouring properties about the design and construction. The aim would be to address the concerns raised in the objection.

The public will also have an opportunity to object to any proposed use and development of the land during the Planning Approval phase as carried out by the purchasers of the land.

v) Expressions of interest

Two expressions of interest in purchasing the land were received from the public. One was the same person who placed the objection, the other was from a nearby home owner who stated they would like to be informed of Council's final decision regarding a land swap or selling the Land on the open market. Each person was contacted directly and provided an overview of the proposal.

Council officers will advise these people of the outcome of this Council report.

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

As outlined, Council has received a proposal from Catholic Care Tasmania to consider exchanging the Land for a 3,000m² parcel of land which forms part of 115 Allunga Road, Chigwell.

The valuation for the parcel of land at 115 Allunga Road is estimated to be \$15,000 which is significantly lower than the \$105,000 valuation of 1 Bellette Place. However, preliminary talks with Catholic Care indicated that a walkway would be constructed by the developer from Bellette Place through the proposed development to the Sporting area at the developer's cost. This would achieve a strategic goal for Council by connecting our open spaces with residential areas.

In addition, by swapping this land Council would also enable a development that would provide significant community benefit in the area.

Upon consideration of both the objection and the expressions of interest for purchase of the land, Officers recommend that the best option for Council is to proceed with the land exchange with Catholic Care Tasmania.

This would enable Council to dispose of land that has little or no use to the community in exchange for a parcel of land adjacent to a large sporting facility (the North Chigwell Sports ground), which will increase the amenity of the sports ground and create a public access link.

7. The recommended method of sale

The recommended method of sale is via a land exchange with Catholic Care Tasmania.

8. The recommended sale price range

The recommended sale price range is between \$100,000 and \$115,000 with the valuation coming in at \$105,000.00. The land exchange option is expected to generate nil income for Council.

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

The Land includes several easements and covenants, including a fencing covenant which states the Department of Housing is not required to contribute to fencing and a building height restriction of 5.5 metres.

There is a 3m wide drainage easement traversing the half of the Land closest to Bellette Place which will most likely restrict building on the land to the rear section of the property.

10. The estimated timeframe for the disposal

The estimated timeframe for the disposal is approximately 6 months, as the purchaser would need to prepare and register a plan of subdivision, or a boundary adjustment, excising the parcel of land to be transferred to Council.

Approval for the subdivision of 115 Allunga Road, Chigwell will firstly need to be obtained through Council's Planning Department.

11. Any other relevant matters in the circumstances

There are no other relevant matters for consideration.

12. The recommended course of action

The recommended course of action is to approve the disposal of the Land by way of a land exchange with Catholic Care Tasmania.

Grounds of appeal

In determining whether to dispose of public land, Council should prudently consider the grounds on which a person can lodge an appeal. Those grounds are set out in section 178A of the Act as follows:

The community may suffer undue hardship due to the loss of access to, and the use of, the public land (s. 178A(3)(a))

As noted above, part of the proposal is that the applicant constructs a walkway through the Land to enable continued access to the development through the nearby areas of open space (including the area that is proposed to be exchanged). The Community will not suffer any loss of access to public land, other than the balance of the Land itself that is not part of the walkway which, for reasons outlined above, does not hold any notable value as open space.

There is no similar facility available to the users of that facility(s. 178A(3)(b))

The land is a disused vacant lot that holds no significant strategic, open space or environmental values. Its disposal will not deprive the community of access to a usable facility.

Consultations:

Acting Property Assets Coordinator
Director Infrastructure and Works
Tasmanian Valuation Services

Human Resource / Financial and Risk Management Implications:Financial

The financial implications for Council will be minimal as Catholic Care Tasmania will bear the costs of subdividing the land, applying for and obtaining planning approval for both the subdivision and the development.

Council will be required to cover half the costs of the legal conveyance, although this is likely to be able to be dealt with internally by Council's Legal Services section.

Conveyancing or legal costs associated with the land swap could be around \$3,000. However, this would likely be negotiated into the arrangement with Catholic Care Tasmania.

Human resources

The newly appointed Sales and Acquisitions Officer will be able to deal with this matter with the assistance of other Council staff.

Risk management

Risk Identification	Consequence	Likelihood	Rating	Risk Mitigation Treatment
Adopt the recommendation	Moderate (C3)	Possible (L4)	Moderate	Council gives consideration to all objections received during the statutory consultation process, as required under s. 178 of the Act.
Adverse public reaction to decision to advertise Council's intention of disposal via a land exchange.				
Council decides to dispose of the land but loses at appeal.	Moderate (C3)	Possible (L3)	Moderate	Ensure Council's decision is made with appropriate response to the potential grounds of appeal available under section 178A of the <i>Local Government Act 1993</i> . These are addressed in the body of the report (under 'Grounds of appeal')

Risk Identification	Consequence	Likelihood	Rating	Risk Mitigation Treatment
Do not adopt the recommendation Council will delay or miss an opportunity to potentially dispose of surplus land that serves no strategic purpose and obtain a parcel of land that will enhance the community amenity in the region.	Moderate (C3)	Possible (L4)	Moderate	Council could look to disposing of the land privately in the future and will potentially have no problem finding a buyer, however the advantage of obtaining a useful parcel of land in exchange may be lost.

Community Consultation and Public Relations Implications:

The intention to dispose of the Land via a land swap arrangement was advertised in accordance with section 178 of the *Local Government Act 1993*.

Recommendation:

That Council:

1. APPROVE the Disposal of 1 Bellette Place, Chigwell (**the Land**) by way of a land exchange for a 3,000m² parcel of land which forms part of 115 Allunga Road, Chigwell, currently owned by Catholic Care Tasmania, and
2. AUTHORISE the General Manager to negotiate the terms of the agreement with Catholic Care Tasmania (and to delegate this function as required).

Attachments/Annexures

- 1 1 Bellette Place - Valuation



- 2 115 Allunga Rd - Valuation



- 3 Newspaper advertisements



- 4 Photographs of land notices



- 5 Objection received



11. PROPOSAL TO DISPOSE OF PUBLIC LAND - 29 STOURTON STREET ROSETTA

Author: Acting Manager, Legal Services (Bryn Hannan)

Qualified Person: Director, Corporate Services (Jenny Self)

ECM File Reference: 29 Stourton Street Rosetta

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 the 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.

Objective 4.2 Prioritise resources to achieve our communities' goals.

Strategy 4.2.1 Deploy the Council's resources effectively to deliver value.

Reporting Brief:

To recommend that Council reconsiders its decision of 26 March 2018 to dispose public land at 29 Stourton Street Rosetta in open Council (in accordance with a direction of the Director of Local Government) and advise Council of a previous procedural failure whereby the matter was incorrectly considered in closed Council.

Proposal in Detail:

Background

This report recommends that Council forms an intention under Section 178 to dispose (by sale) of a 418m² parcel of public land at 29 Stourton Street, Rosetta (**the Land**). Attachment 1 contains 3 plans which show the existing and proposed areas, and the area of the Land the subject of this proposal.

Council, at its meeting on 26 March 2018, previously resolved to approve the sale the Land to the owner of the adjacent lot at 31 Stourton Street (**the Owner**). While steps toward a potential disposal have been taken, the Land has not yet been disposed of.

The potential sale of the Land was initiated by the Owners in 2010, when they expressed interest in acquiring an encroachment area occupied by previous owners of 31 Stourton Street and extending their title into the area of 29 Stourton Street to provide some amenity to their property.

Improper Consideration in Closed Council

The resolution of 26 March 2018 was the third time the matter had come before Council for consideration. It was previously considered by Council its meetings in July and then August 2012, at which Council purported to comply with the process under section 178 of the *Local Government Act 1993* (**the Act**) for the disposal of public land.

The reason the matter is back before Council is that all three reports dealing with the proposed disposal of the Land (that is, the two 2012 reports and the 2018 report) were considered in the closed sessions of Council. This is in contravention of the requirement in regulation 15(3)(c) of the *Local Government (Meeting Procedures) Regulations 2015* (**the Regulations**) that a council must not consider proposed disposals of public land under section 178 in closed meetings.

It is not clear why the matters were considered in closed Council in 2012. Those reports were considered in closed Council, purportedly under regulation 15(2)(e) (the security of the Council, councillors and council staff, or the property of council) however the reasons for this have not been able to be substantiated, and the staff involved have all since departed Council. Officers understand that the decision to consider the matter in closed Council in March 2018 was made (albeit erroneously) on the basis that the two 2012 reports had been considered in closed Council.

Copies of the three Council reports referred to above are Attachment 2 to this report. As noted, above, a review of the contents of the reports indicates that the basis for their inclusion in closed Council has not been substantiated. Accordingly, their inclusion in this open report to Council is made on the basis that they do not contain any information that triggers regulation 15 of the Regulations.

Process undertaken and identification of error

Following the July 2012 Council meeting, Council's intention to dispose of the Land was advertised on two occasions in accordance with the requirements of section 178.

Council subsequently endorsed the sale at the August 2012 meeting, subject to negotiations. In March 2018, Council was briefed on subsequent events that resulted in the portion of 29 Stourton Street that was proposed to be purchased being reduced from 754m² to the current 418m² and resolved to approve the sale, subject to conditions.

In mid 2018, the Director of Local Government conducted a review of Council's compliance with regulation 15 and advised that he believed the decisions in respect of 29 Stourton Street may have been improperly made in closed Council. Following a subsequent investigation (which Council assisted with), the Director wrote to Council on 13 December 2018 and advised that:

- Council's decisions 2 July and 26 August 2012 were invalid because they were considered in closed Council in contravention of the regulations
- as a result, Council's decision of 26 March 2018, even if it was lawfully considered in closed Council, was also invalid because the first part of s. 178 process (conducted in 2012) was invalid, and
- Council was strongly urged to reconsider the proposal in open Council and to re-start the s. 178 process.

A copy of the Director's letter to Council of 13 December 2018 is Attachment 3.

History of disposal process

A detailed history of the matter is contained in the report to Council of 26 March 2018 which forms part of Attachment 2.

While the history of the matter provides a useful context, the ultimate outcome of is that:

- Council officers currently support the disposal of the Land
- the Owners have indicated that they are prepared to purchase the Land, and

Proposed Disposal of Public Land – s. 178

To lawfully dispose of the Land, Council must follow the process under s. 178 of the Act. It is proposed to recommence that process to ensure that it is complied with and that the public has the opportunity to make submissions about the proposed disposal.

The Land

The Land forms part of a large Council reserve on two titles situated at 29 Stourton Street, Rosetta (**the Reserve**). Part of the Reserve serves as a linkage between the Brooker Highway and the InterCity Cycleway.

The disposal of the Land would not impact the Reserve's function as a linkage and would only have a minimal impact on its continued availability as public open space. The Land itself serves no strategic purpose for Council and its disposal would not alienate any other areas of land or adversely impact Council's interests.

Process under section 178

Section 178 of the Act sets out the process that must be followed by a council which intends to dispose of public land.

Council's *Disposal of Council Land Policy (the Policy)* adds additional requirements to that process to ensure transparency. The Policy deems all land owned by Council to be 'public land' for the purposes of the Act. Accordingly, the Land is treated as public land.

A resolution of the Council to dispose of public land is required to be passed by an absolute majority of Council. If such a resolution is passed:

- the intention 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.

The Policy also provides that, in addition to the notification requirements in section 178, Council is required to:

- display a plan and relevant property information on the community notice board in Council's chambers (near the chambers' rear public entrance), and
- notify the owners of neighbouring and affected properties advising of the proposed disposal.

If Council resolves to commence the public notification and consultation process, officers will ensure that the requirements of section 178 and the Policy are complied with.

Following the completion of the notification, Council is required to consider any objections lodged and provide objectors with an opportunity to appeal a decision to dispose of the land. This will be provided in a future report to Council.

Specific requirements of the Policy

The Policy requires that the initial report to Council under section 178 contains information about how the matters set out below have been considered and addressed.

The matters to be considered and officers' comments on them are as follows:

1. The Council Land can be disposed of in a way which:

- ***transparently demonstrates achievement of the best value for the community, and***
- ***does not expose Council or the community to unacceptable risks around the process or the outcome.***

Council is following the process set out in section 178 of the Act, and the additional requirements over and above that process which are set out in the Policy.

Council is openly disclosing that the proposed disposal has been in response to a request from a member of the public, being the Owner of the adjoining land and that previous negotiations have taken place around the disposal. This is not contrary to either the Act or the Policy.

2. Any transaction can be justified if questions are asked about market testing and competition

The Land is a small parcel that adjoins an existing lot.

As part of the planning approval process for the creation of the Land (discussed below), Council received a representation from a person who expressed an interest in buying the Land and querying why that person was not able to do so. That person will have the opportunity to make a further submission as part of the s. 178 process.

As part of the disposal process, Council should welcome approaches from interested parties. However, it should be noted that the Land is appurtenant to an existing lot, is small in size and would, on its own, be unlikely to be suitable for development. It is therefore unlikely that there would be any genuine interest in purchasing the Land from any person other than the Owner.

Additionally, Council has obtained an independent valuation of the Land for \$41,800 (a copy of which is [Attachment 4](#)).

3. The community is given the opportunity to provide feedback about any potential alienation of Public Land

The community will be given the opportunity to comment on the proposed disposal through the section 178 public notification and consultation process.

However, the disposal of the Land would not result in the alienation of 29 Stourton Street or any other public land, as it is a discrete portion of that land which is proposed to be sold off to an adjoining landowner. The bulk of the Reserve would remain available for public use.

4. The disposal of the Council Land would be consistent with Council's Open Space Strategy

29 Stourton Street serves as a linkage between the Brooker Highway and the InterCity Cycleway, however, as noted above, that linkage would not be impacted by the proposed disposal. The balance of 29 Stourton Street is not suitable for any other form of development or embellishment into a park or recreation area due to its irregular shape and location. The proposed disposal is therefore consistent with Council's Open Space Strategy.

5. Access to areas to and connectivity with any adjacent Public Land is maintained to a level that is acceptable and in keeping with reasonable community expectations

As is evident from the diagram, there will be no loss of access to the balance of the Reserve or any nearby public land as a result of the disposal. During the planning process, a representation was received to the effect that the Reserve should not be disposed of because it is parkland which should be available for children to play.

However, it is reiterated that the bulk of the Reserve will remain as a public land, and only a small portion is proposed for disposal.

6. Any cost associated with creating saleable parcels of land is considered

The Owner has borne the costs associated with the creation of a saleable parcel of land, and will bear any costs associated with the transfer and registration of the Land.

7. Compliance with all applicable planning requirements is achieved

The subdivision of 29 and 31 Stourton Street to create the saleable parcel was the subject of an application for Subdivision (boundary adjustment), which was approved by Council at the Glenorchy Planning Authority meeting on 10 December 2018.

The reduction in the size of the Land from what was initially proposed was in response to planning restrictions, which were subsequently addressed.

8. Any other relevant matters are considered.

This matter has a long and somewhat complex history, dating back to 2010. Negotiations between Council and the Owners have been ongoing for some time, and have been delayed by planning considerations, protracted negotiations and staff turnover in Council's property department.

Ultimately, the Land is a small and discrete parcel which is part of a larger reserve. Its disposal is not expected to have any notable impact on nearby properties, and would only result in a negligible loss of open space, which, in any event, is not generally used for recreation purposes.

Expressions of interest

Council has not made a final determination as to whether to dispose of the land. That decision cannot be made until after the completion of a valid process under section 178, including consideration of any representations.

Council should encourage expressions of interest from interested purchasers for the Land during this s. 178 process. The recommendations to this report reflect this.

Procedural matters

Given that Council's decision of 26 March 2018 purports to approve the sale of the Land under a process that has been determined to be invalid, Council should formally rescind the decision, given that it has not and will not be acted on.

Under regulation 18(2)(a) a motion to overturn a previous motion must be approved by an absolute majority of Council.

Consultations:

Acting Manager Property, Environment and Waste
Manager Corporate Governance
Commercial and Property Lawyer

Human Resource / Financial and Risk Management Implications:Financial

The land has been valued at \$41,800 and would be expected to return a similar amount to Council if it is sold as recommended.

Human resources

There are no material human resources implications

Risk management

Risk Identification	Consequence	Likelihood	Rating	Risk Mitigation Treatment
Adopt the recommendation Public objection to the proposed sale and concern about the procedural errors, leading to a reduction in confidence in Council's processes.	Minor (C2)	Unlikely (L2)	Low	Ensure that the s. 178 process is as open and transparent as possible, and that all procedural requirements (including the additional requirements of Council's policy) are complied with. Appropriate consideration is given to any objections to the proposed sale which are received.
Do not adopt the recommendation Proceed to sale without new s. 178 process Any sale made pursuant to the previous s. 178 process is potentially unlawful, leading to possible legal challenge and action from regulatory bodies, and associated expense, time and reputational cost.	Moderate (C3)	Almost Certain (L5)	Significant	No mitigation strategies have been identified.
Do not proceed with s. 178 process Time and expense spent in negotiating the matter previously is foregone as is revenue gained from potential sale.	Minor (C2)	Almost Certain (L5)	Almost Certain (L5)	Council articulates reasons for decision and officers are given the opportunity to renegotiate to try and address issues.

Community Consultation and Public Relations Implications:Community consultation

The public will be given the opportunity to comment on the proposed disposal as part of the process under section 178 of the Act.

Public relations

There may be a minor negative public relations impact, given that Council failed to comply with a regulatory process. However, Council is working to correct that mistake and is being transparent in doing so.

Recommendation:

That Council:

1. RESCIND its resolution made at item 24 of its meeting on 26 March 2018 in respect of the disposal of 29 Stourton Street Rosetta
2. RESOLVE under section 178 of the *Local Government Act 1993 (the Act)* to form an intention to exchange or dispose of public land, being part of 29 Stourton Street, Rosetta comprising 418m² as shown on the plan at Attachment 1 (the Land)
3. AUTHORISE the General Manager to take all actions necessary to complete public notification of Council's intent to exchange, sell or lease the land in accordance with section 178 of the Act and Council's *Disposal of Council Land Policy*
4. AUTHORISE the General Manager to consider and acknowledge any objection received pursuant to section 178(6) of the Act and report to a future Council meeting, and
5. INVITE expressions of interest during the advertising period from anyone interested in purchasing, exchanging or leasing the Land.

Attachments/Annexures

- 1 Plan of proposed disposal
[!\[\]\(5774573cf757c446bb08af21f46b2969_img.jpg\)](#)
- 2 Previous Council reports
[!\[\]\(a502cb21d600ba28a5cdf414d68eef89_img.jpg\)](#)
- 3 Letter from Director of Local Government
[!\[\]\(b90ad4352d6e82333440a21dde15d657_img.jpg\)](#)
- 4 Valuation Report - 21 February 2018
[!\[\]\(c887fe1bc1f2363e586d4073ecf6e4e9_img.jpg\)](#)

12. DELEGATIONS TO INFRASTRUCTURE MANAGEMENT GROUP

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 that Council update its Delegations to the General Manager to facilitate efficient and compliant decision making by Council's Infrastructure Management Group.

Proposal in Detail:

Role of Infrastructure Management Group

Council's Infrastructure Management Group (**IMG**) is a body comprised of Council staff that considers and advises on all aspects of Council's Capital Works Program to ensure the program is completed on time and on schedule.

Its primary role is to advise the General Manager and Director Infrastructure and Works (as appropriate) on matters within its scope to enable the making of decisions to optimise program's delivery.

Deficiencies in IMG's Delegated Authority

A copy of the IMG's Terms of Reference is Attachment 1 (TORs).

The TORs provide for the IMG to review and approve all new investment (capital expenditure) proposals, including whole of life cost analysis, business plan and project plans, and allow the group and/or responsible officers to make variances to capital projects within specified financial limits.

As part of the ongoing process of ensuring that statutory and non-statutory delegations across Council are up to date and facilitate effective and compliant decision making, a review of the delegations to the IMG was undertaken. That review indicated that the provisions in The TORs are not matched by any formal delegations, and the delegated financial limits do not align with the financial delegations of the various officers.

The consequence of this is that key Council staff involved in infrastructure management lack the appropriate delegations to enable them to adjust capital project/program budgets when prompt decisions on are required and the General Manager is not available.

Recommended Changes to General Manager's Delegations

At present, the General Manager has delegation from the Council under Section 82(6) of the Act to *"make minor adjustments to individual items within any estimate up to \$250,000 so long as the total amount of the estimate is not altered"*. The exercise of that power is conditional upon any adjustment being reported and explained at the first ordinary meeting of Council following the adjustment. The General Manager is not currently authorised to further delegate this function. An extract of the relevant part of the General Manager's delegations is below:

Section 82(6)	Authorisation to make minor adjustments to individual items within any estimate up to \$250,000, so long as the total amount of the estimate is not altered.	Must report any adjustment and an explanation of the adjustment at the first ordinary meeting of Council following the adjustment. Authorisation must be by an absolute majority of Council. The General Manager is not authorised to delegate this function.
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Situations arise from time-to-time during the implementation of capital projects which require adjustments to the budget within relatively short timeframes. For example, a crew working on a public road may find that a change of materials is required due to local ground conditions, which results in additional unforeseen costs. A delay getting the necessary approval for that extra expenditure would delay the completion of the project, which, in turn, would prolong disruption to road users and may increase costs if contractors are used. In such situations it is impractical for managers or supervisors to obtain approval from the General Manager in available timeframes.

To ensure that key staff have the appropriate decision making powers while ensuring that there is appropriate oversight and reporting of any budget changes, it is proposed that staff responsible for delivering capital projects or programs be given the delegated authority to approve expenditure in excess of a project or program's budget within the limits of their existing financial delegation, provided that, where the prior approval of IMG is not practical, the IMG is informed at the earliest opportunity.

The recommended mechanism to achieve this is to adjust the delegations given to the General Manager to the effect that the General Manager is authorised to further delegate his powers under section 82(6) of the Act to make minor adjustments to budget estimates, on the condition that this is limited to:

- a) authorising the Director Infrastructure and Works to make such adjustments only in accordance with the IMG's TOR's, and
- b) authorising staff with responsibility for the delivery of projects funded from Councils' capital works program to approve expenditure in excess of a project or program's budget up to the person's delegated financial limit, and in accordance with the Infrastructure Management Group Terms of Reference.

A summary of the current and proposed delegations to the General Manager under Section 82(6) of the *Local Government Act 1993* to give effect to this is set out below:

Current Delegation and Conditions	Proposed Delegation and Conditions
Authorisation to make minor adjustments to individual items within any estimate up to \$250,000, so long as the total amount of the estimate is not altered. Conditions/limitations Must report any adjustment and an explanation of the adjustment at the first ordinary meeting of Council following the adjustment. Authorisation must be by an absolute majority of Council. The General Manager is not authorised to delegate this function. [emphasis added]	Authorisation to make minor adjustments to individual items within any estimate up to \$250,000, so long as the total amount of the estimate is not altered. Conditions/limitations Must report any adjustment and an explanation of the adjustment at the first ordinary meeting of Council following the adjustment. Authorisation to further delegate the authority to make minor adjustments to individual items within any estimate up to \$250,000, so long as the total amount of the estimate is not altered, subject to the following conditions and limitations: Conditions/limitations This authority is limited to the following: a) authorisation to authorise the Director Infrastructure and Works to make adjustments of up to \$250,000 to Council's annual capital works estimate, in accordance with the Infrastructure Management Group Terms of Reference b) authorisation to authorise staff with responsibility for the delivery of projects funded from Councils' capital works program to approve expenditure in excess of a project or program's budget up to the person's delegated financial limit, and in accordance with the Infrastructure Management Group Terms of Reference.

The limitations placed on this General Manager's authority to delegate this function provide an appropriate exercise of the power to a specific set of circumstances which would safeguard the integrity of Council's budget and ensure that there is sufficient oversight by both the IMG and the Director Infrastructure and works to protect the integrity of Council's budget process.

Most importantly, however, the exercise of the power under section 82(6) of the Act only authorises minor changes within Council's adopted expenditure estimate for a financial year. It does not authorise an increase in the overall expenditure estimate for a financial year. Any increase in the overall expenditure estimate for a financial year requires the approval of an absolute majority of Council under section 82(4) of the Act.

Human Resource / Financial and Risk Management Implications:

Risk Identification	Consequence	Likelihood	Rating	Risk Mitigation Treatment
Adopt the recommendation	Minor (C2)	Possible (L3)	Moderate	The ELT regularly reviews IMG consideration of spending and capital works budget to ensure appropriate oversight is maintained.
Increased authority to exceed budgets leads to reduced scrutiny and increased expenditure on capital projects				
Do not adopt the recommendation	Moderate (C3)	Almost Certain (L5)	Significant	Management instructed to review IMG's TORs to determine alternative procedures to ensure capital expenditure is compliant with regulatory requirements but capital program can respond to unforeseen events without compromising time frames.
Statutory non-compliance, either through the exercise of powers by staff that have not been validly delegated, leading to deficiencies in governance oversight and compliance functions, and potential scrutiny from regulatory bodies.				

Community Consultation and Public Relations Implications:

Community consultation was not required.

No material public relations impacts have been identified.

Recommendation:

That Council:

1. RESCIND the current restriction preventing the General Manager from further delegating the function under Section 82(6) of the *Local Government Act 1999*.
2. AUTHORISE the General Manager to further delegate the functions and powers under Section 82(6) of the Act, limited to:

- (a) authorisation to authorise the Director Infrastructure and Works to make adjustments of up to \$250,000 to Council's annual capital works estimate, in accordance with the Infrastructure Management Group Terms of Reference, and
- (b) authorisation to authorise staff with responsibility for the delivery of projects funded from Councils' capital works program to approve expenditure in excess of a project or program's budget up to the person's delegated financial limit, and in accordance with the Infrastructure Management Group Terms of Reference.

Attachments/Annexures

1 IMG Terms of Reference



13. 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 recommended consolidated response to the first phase of the Review of Tasmania's Local Government Legislation.

Proposal in Detail:

Background

At its meeting on 29 January 2019 (item 14), Council was briefed on the ongoing review of Tasmania's Local Government Legislation Framework by the State Government, and resolved as follows:

"... 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 ..."

An Aldermanic Workshop was held on Tuesday, 12 February 2019 and (in broad terms) a range of issues pertinent to the review was discussed. Following the workshop, a draft submission reflecting the outcomes of the discussion was prepared (see Attachment 1).

It is recommended that Council resolves to endorse the submission with the view that it is forwarded to the review's project team before the closing date of Friday, 1 March 2019.

It is noted as per the previous report that individual Aldermen (and the general community) may make their own individual submissions to the Review.

Consultations:

Mayor
Aldermen
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 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	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

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. ADOPT the draft submission (as amended) in the form of Attachment 1 to the first phase of the Review of Tasmania's Local Government Legislation, and
2. NOTE that Council officers will submit the submission to the Review Project Team before 1 March 2019.

Attachments/Annexures

- 1 Draft Response to Targeted LG Review



14. MID YEAR FINANCIAL PERFORMANCE REPORT

Author: Manager, Finance and ICT (Tina House)

Qualified Person: Director Corporate Services (Jenny Self)

ECM File Reference: Finance

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

Reporting Brief:

To provide the Mid Year Financial Performance Review to Council for the six months ended 31 December 2018, together with the forecast for the year ended 30 June 2019.

Proposal in Detail:

The Mid Year Financial Performance Report (**Report**) to 31 December 2018 and forecast for the year ended 30 June 2019 is Attachment 1.

In summary, the Report highlights an estimated position at 30 June 2019 of a Total Operating Deficit of \$392k, being an unfavourable movement on the original budgeted Total Operating Surplus of \$49k.

A number of factors have been estimated to impact on this result including:

- the timing of expected receipt of the Financial Assistance Grant
- movement in expenditure of the contingency amount in the budget, and
- above estimated expenditure on the Jackson Street landfill site

The final expenditure amounts on all impacting budget items are yet to be finalised and will be notified to Council as and when they proceed.

Consultations:

All Aldermen
General Manager
Executive Leadership Team
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:

RECEIVE and NOTE the Mid Year Financial Performance Report for the period ended 31 December 2018 and forecast for the year ended 30 June 2019.

Attachments/Annexures

1 Mid Year Performance Review



15. QUARTERLY REPORT

Author: General Manager (Tony McMullen)

Qualified Person: General Manager (Tony McMullen)

ECM File Reference: Corporate 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:

Making Lives Better

Objective 1.3 Facilitate and/or delivers services to our communities

Strategy 1.3.2 Directly deliver defined services to our communities

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

Objective 4.2 Prioritise resources to achieve our communities' goals

Strategy 4.2.1 Deploy the Council's resources effectively to deliver value

Reporting Brief:

To provide Council with the Quarterly Report for the quarter ending 31 December 2018.

Proposal in Detail:

The Quarterly Report for the quarter ending 31 December 2018 provides detail on the Council's key strategic projects, core business activities, financial performance and forecasting and monitoring of the Annual Plan.

The Quarterly Report comprises the following:

- Quarterly Report ([Attachment 1](#))
- Quarterly Annual Plan Progress Report ([Attachment 2](#)).

The purpose of the report is to assist Council in its strategic oversight of Council operations and progress on implementation of the Council's Annual (Operational) Plan. A further benefit of this reporting is that it helps to make Council's operations more transparent to the community.

Aldermen will note the revised and improved format of the attachments to this report. This is the result of a planned revision process when the current reporting structure was introduced at the commencement of 2018 including the result of consultation undertaken with Aldermen and Council's management team in the final quarter of 2018.

Financial Performance

At 31 December 2018 the operating result is \$370k ahead of the corresponding budgeted position. The Quarterly Report provides detailed information however a summary of the key indicators is as follows:

Revenue

- revenue is \$625k above budget representing a favourable variance of 1.2%

Expenditure

- expenditure is \$255k above budget representing an unfavourable variance of 0.8%

Capital Works

- capital works expenditure is \$4.751m against an overall annual budget of \$13.765m

Consultations:

The Quarterly Report is compiled in consultation with the Directors of each area of Council with Council's Finance section contributing the financial reporting content.

Annual plan progress reporting is undertaken by individual management team members for each of their allotted annual plan actions and vetted by the Directors.

Human Resource / Financial and Risk Management Implications:

The Quarterly Report assists Council's risk management by regularly monitoring and reporting on the progress of Annual Plan actions, major projects, key activities of Council and financial performance.

This enables Council to have oversight of the performance of the organisation, enabling informed decision-making and risk management.

Community Consultation and Public Relations Implications:

Community consultation

As this is a report on the outputs and outcomes of Council services and activities, no community consultation was undertaken.

Public relations

There are no material public relations implications.

Recommendation:

That Council:

RECEIVE and NOTE the Quarterly Report, Directorate Key Performance Indicators and the Quarterly Annual Plan Progress reports for the Quarter ending 31 December 2018.

Attachments/Annexures

1 Quarterly Report



2 Quarterly Annual Plan Progress Report



16. MINISTERIAL DIRECTIONS - MONTHLY 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 19 February 2019.

Proposal in Detail:

At its meeting of 29 January 2019, Council was informed of the progress of satisfying the Ministerial Directions as at 18 January 2019.

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

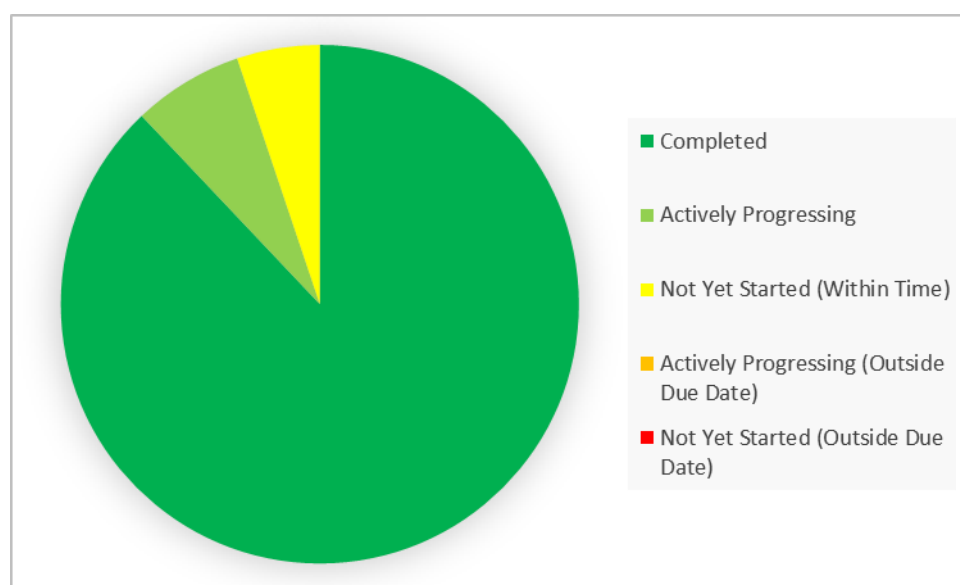
Council completed one (1) additional action over the reporting period, being the implementation of its Legal Services Directive, bringing the total actions completed to date to 51. The implementation of the Directive addresses the following Ministerial Direction:

- ensuring, there is a policy, within four (4) months, to address the use of external legal advisers to include guidance on the circumstances in which the General Manager may seek external legal advice, direction on the maximum expense to be incurred before the matter needs to be brought to Council for approval, and clear and transparent reporting of legal expenses to Council.

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

- Actions completed 51
- Actions being actively progressed 4
- Actions not yet started but within time 3
- Actions being actively progressed and outside due date, and 0
- Actions not yet started and outside due date 0

58



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 <i>Local Government Act 1993</i> 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:

NOTE the progress satisfying the Ministerial Directions in the form of Attachment 1 as at 19 February 2019.

Attachments/Annexures

- 1 Ministerial Directions Implementation Progress Report (February 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 January to 18 February 2019.

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 January to 18 February 2019. There has been one (1) exemptions approved for the period, accounting for \$8,585 in budgeted 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** (this has not increased from the previous month as no additional invoices have been issued).

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 \$8,585 in budgeted operational expenditure that has been approved. Accordingly, there are no material financial implications.

Risk management

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

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 January to 18 February 2019.

Attachments/Annexures

- 1 Procurement Exemptions - 25 February 2019



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

Answer to question taken on notice - Alderman Stevenson

(from 29 January 2019 Council meeting)

Q: In light of the bushfire situation that is currently unfolding in the State, can Council please receive the statistics about the use of Abatement Notices issued by Council as a means of managing bushfire risk in the municipality?

A: During the 2018/2019 Fire Permit Period as declared by Tasmania Fire Service, Council has taken action under section 199 of the *Local Government Act 1993* (**the Act**) to identify and abate any nuisances on private land that “*is , or is likely to be, a fire risk.*”

Perpetual Property Inspections

In October and November 2018, Council’s Public Compliance Unit issued general ‘act now’ notifications to the owners of 213 properties which had been identified in a previous Fire Permit Period as containing a fire risk due to overgrown grass, vegetation, or the presence of other flammable material such as leaf litter, timber or debris.

After the twenty eight day period had elapsed (as advised in the notices), Officers inspected these properties for compliance with legislative requirements. These inspections took place in November and December 2018.

Of the 213 perpetual properties inspected:

- 133 properties had complied with the general ‘act now’ notice advice
- 41 Abatement Notices were issued
- 39 properties are continuing to be managed to achieve compliance.

The list of these properties is reviewed annually, as parcels of land are built on, developed by owners, or property owners demonstrate that they annually act to ensure that their properties are maintained.

Customer Requests

Council’s Customer Service Centre has received 123 separate customer requests alleging a fire risk nuisance on other properties. These properties were inspected by the Public Compliance Unit and where a nuisance was identified, an Abatement Notice was served on the owner.

Of the 123 customer requests received:

- 50 Abatement Notices were issued
- 84 requests are now finalised
- 39 properties are continuing to be managed to ensure compliance.

Requests are continuing to be received, however the rate of requests is slowing.

Supplementary Information

Infringement Notices may be issued to property owners who Fail to Comply with an Abatement Notice, and the costs associated with any Council instigated property clearance action is imposed on the property owner and becomes a debt owed to Council. At this time, Council's fire risk clearance contractor has been engaged to clear two properties containing fire risks, however several more properties may require clearance action if property owners do not comply.

It is important to note that if Council is satisfied that a Fire Risk nuisance exists on a property, the Act requires that General Manager must serve an Abatement Notice on the owner. This provides a level of assurance that Fire Risk nuisances on privately owned land will be managed by Council Officers via a thorough and diligent process until the nuisance becomes abated, or until the declaration of the closure of the Fire Permit Period by Tasmania Fire Service (anticipated to be March/April 2019).

CLOSED TO MEMBERS OF THE PUBLIC

19. CONFIRMATION OF MINUTES (CLOSED MEETING)

20. APPLICATIONS FOR LEAVE OF ABSENCE

GOVERNANCE

21. 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)(b) (Information that, if disclosed, is likely to confer a commercial advantage or impose a commercial disadvantage on a person with whom the Council is conducting, or proposes to conduct, business.) and 15(2)(g) (Information of a personal and confidential nature or information provided to the Council on the condition it is kept confidential).

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