

**GLENORCHY PLANNING AUTHORITY
ATTACHMENTS
MONDAY, 20 APRIL 2020**



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PLANNING

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Attachment 1 - Summary of representation

Issue	Response
The advertising of the draft amendment is misleading. It does not include correct information as the heading refers to Wilkinsons Point only.	While the public notice in the heading refers only to Wilkinsons Point, the overall public notice clearly describes all land affected by the draft amendment and articulates that there are changes to the specific area plan for the Montrose Foreshore Community Park and Elwick Bay foreshore. The public notice was a very large notice occupying close to half a page in The Mercury and The Saturday Mercury and provided more information that is required to comply with the regulations.
Of major concern is that contamination of land has not been addressed by the Planning Authority and liability for costs accepted by the Council. This is not an acceptable risk and liability for ratepayers and could potentially bankrupt the Council. It also appears to contravene legislation and Principle 5 of the NEPM. Has the Glenorchy Planning Authority consulted the Environment Protection Authority in regard to an assessment of this low-lying contaminated land which should have been undertaken prior to certifying these extensive amendments to the Specific Area Plan for the Montrose Foreshore Community Park Precinct and the Elwick Bay Foreshore Precinct?	The representation at length outlines concerns regarding Council's consideration of the financial burden on Glenorchy ratepayers at its meeting on 25 November 2019. Issues around costs and liability to Council as landowner is not relevant to the consideration of this draft amendment in Council's role as Planning Authority. That said, site contamination issues are a relevant planning issue which was raised in both the initiation and certification report. The NEPM referred to by the representor, being the National Environmental Protection Measures for Assessment of Site Contamination, has, under the LUPAA, the effect of a State Policy for the purposes of assessing the draft amendment. A Stage One Environmental Site Assessment was prepared by EM&C for consideration at the certification stage. This was considered by the GPA and at the certification stage and at that time was satisfied that the requirements of the NEPM (being the National Environmental Protection Measures for Assessment of

Issue	Response
	Site Contamination) were met, having regard to the revision of the SAP to exclude the residential use class, the existing safeguards in place within the planning scheme through the Potentially Contaminated Land Code. In regard to the Environmental Protection Authority (EPA), the GPA is not required to consult with them. Assessment of site contamination issues within the Resource Management and Planning System of Tasmania is a shared responsibility between local Planning Authorities and relevant State Authorities. The person who undertook the assessment that the GPA considered, is however an EPA certified practitioner.
Can the Glenorchy Planning Authority pass a Planning Approval of such significance based on Local Planning Provisions that are not legislated and only in draft form?	While the representor is correct in that the GPA could not consider a planning permit application against the Local Planning Provisions, this is not what is being considered at this stage. In certifying the draft amendment, the GPA is not 'approving' any use or development. The Local Planning Provisions were used as the basis for the modified provisions applying to the Montrose Foreshore Community Park and Elwick Bay foreshore, as an efficient and effective transition to the future Tasmanian Planning Scheme (TPS). The revised SAP – if approved by the Tasmanian Planning Commission – would be subject to transitional provisions at the LPS approval stage and therefore it is considered appropriate and logical that the modified provisions align, in their drafting, with what the GPA has already considered appropriate in endorsing the LPS for submission to the Commission.

Issue	Response
Planning Approval submitted is based on the premise that the Glenorchy City Council has title to the land. The ownership of the Crown land is on a 99 year lease. The Planning Approval includes a Letter of Consent from Hon Roger Jaensch MP Minister for Environment and Parks. The letter references a Works Application (required for any works on Crown Land) supplied to Parks and Wildlife Service on 12th December 2019 prior to the vote by the Glenorchy City Council on 23rd December. It also states "I understand that the changes do not impact the subject Crown Land". It has been denied by Council that there is any Crown Land on the 3 titles to the land. In addition, how can the applicant submit a Planning Approval prior to the successful negotiations and purchase? How can the applicant submit a Planning Approval for Crown Land and the additional titles not part of the negotiations in the DEC / Wilkinsons Point deal? In addition, the Planning Application included a Letter of Consent in regard to the Planning Application in the name of the applicant prior to Council voting to dispose of the title. Five (5) Titles of Montrose Bay Foreshore have been included in the Planning Application without any public consultation (PIDs 2060744, 2060752, 2060760, 1473731, 5358765).	This is a request for a planning scheme amendment (not planning approval). The person(s) making the request to amend the planning scheme does not need to be the landowner. Section 33(2A) of the former provisions of the LUPAA, does however require that the planning scheme amendment request is accompanied by the consent of the landowner. For the purposes of this scheme amendment the relevant landowners were taken to be both Glenorchy City Council and The Crown. As a result, written consent was provided by both the General Manager and the relevant Minister, being the Hon. Roger Jaensch, as Minister for Environment and Parks, the portfolio responsible for Crown land. There is no requirement under the LUPAA, that requires either Council or The Crown to have undertaken public consultation prior to granting the consent to the planning scheme amendment request. Consultation is built into the planning scheme amendment process and it is important to recognise that this is not an application to undertake use or development on the land, rather amend the planning scheme provisions applying to the land. Notwithstanding, the issues raised by the representor in terms of whether Council's ownership is on the basis of a long-term lease (noting that nothing on the title documentation indicates as such), the legislative requirements relating to landowner consent under the LUPAA are considered to have been satisfied. The five titles that have been referenced by the representor have been addressed in the consent letters as follows:

Issue	Response
	PID 2060744 – The Grove Reserve and included in the consent letter signed by the General Manager. PID 2060752 – Montrose Foreshore Community Park and included in the consent letter signed by the General Manager. PID 2060760 – The Grove Reserve and included in the consent letter signed by the General Manager. PID 1473731 – Glenorchy Rowing Club and included in the consent letter signed by the General Manager. PID 5358765 – Montrose Bay Yacht Club. Owned by The Crown and covered by consent provided by the Minister and confirmed by way of email on 16 October 2019.
The Derwent Entertainment Centre was to remain an entertainment centre under the signed agreement with the Council in 1997 and under the seal of then <i>Derwent Entertainment Centre Management Act 1988</i>. (Agreement Attached with common seal of the Authority and Council). The Council is required under the agreement to act in good faith at all times. The Council agreed to this and therefore cannot lawfully contravene:- - the Deed of Sale Agreement, - the Powers and Functions of the DECMA Act of Parliament in force at the date of transfer, - the Land Titles Transfer Section 58 <i>Land Titles Act 1980</i> stating: TO HAVE AND TO HOLD the land	In certifying the draft amendment, Council is acting as a planning authority in accordance with its legislative powers under the LUPAA. These matters raised by the representor are generally not relevant considerations under the LUPAA. That said, issues around public access to the foreshore and public land use more generally are relevant to the GPA, particularly through the application of the <i>State Coastal Policy 1996</i>. In this regard, the certified draft amendment does allow for continued public access and use of the foreshore through the SAP and exclusion of specific uses and developments within Precinct D. No further changes to the draft amendment are considered necessary.

Issue	Response
described unto and to the use of the Transferee and its assigns forever in fee simple subject to any reservations exceptions conditions and powers contained in the <i>Crown Lands Act 1976</i>. The representor also raises concerns around use of public reserve and maintenance of public access around the foreshore	
The risk of inundation is a major concern regarding the cost and liability for ratepayers including ongoing costs related to maintaining the boardwalk and sea wall. The proposed Planning approval does not adequately cater for this contingency. Council has stated in their Planning Authority Agenda on 11th June 2019 "...there is no Council policy requiring a developer contribution with respect to flooding protection works." The Wilkinson Point Specific Area Plans must address this issue.	Inundation, coastal, riverine and coincident events, have been considered in the certification of the draft amendment. The applicant provided a further study prepared by Pitt & Sherry which considers the specific inundation risks on the subject land. This was reviewed by Council's Hydraulic Engineer and the certified draft amendment contains provisions that provide for a site-specific response to that risk. Costs to Council in maintaining the boardwalk and sea wall are not relevant to this assessment. These are existing assets and no changes to the planning scheme provisions will affect the ongoing maintenance requirements for these. No further changes to the draft amendment are considered necessary.
Concern is also expressed in regard to potential faults in the control, placement and design of buildings by the developer. It appears that the exclusion zone is only 10 metres for areas A2 and P2. F2. 7.3. Setback from high-water in the Montrose Foreshore Community Park specifies the setback of buildings from the	The setback provisions referred to by the representor are contained within the modified Montrose Foreshore Community Park and Elwick Bay Specific Area Plan. This clause (F2.7.3) is the same as what currently applies to that area of land under the current SAP.

Issue	Response
high-water mark must not be less than 10 metres. Confusingly it applies to A2 (in the Wilkinsons Point Specific Area Plan) but the heading appears to be incorrect. The exclusion zone for development from the high-water mark should be in accordance with the Coastal Inundation Hazard Code. F13.7 Development Standards for Buildings and Works does not specify any setback in regard to Coastal Inundation. In addition, a Coastal Inundation Hazard Report must identify appropriate protection measures for any hazardous chemicals used, handled, generated or stored on the site, taking into consideration the potential risks of the hazardous chemical to human health and safety as a consequence of coastal inundation on the site or adjacent land.	It will not apply to Wilkinsons Point area as that area of land is excluded from the SAP boundaries under the certified draft amendment. In this context the heading is not incorrect. While the representor suggests the exclusion zone for development should be in accordance with the Coastal Inundation Hazard Code, the Code will continue to apply along with these setback provisions for land in the Montrose Foreshore Community Park precinct. It does not override the requirements of the zone. In the Wilkinsons Point area setback of buildings from the foreshore will be primarily controlled through the application of Precinct D, which for most locations provides for an excess of a 20m setback. The Wilkinsons Point SAP also includes specific provisions relating to inundation risk which include requirements for technical reports at the permit application stage. While Clause F13.7 does not specify a setback, it is considered unnecessary given the application of Precinct D and the controls for development within that precinct. No modifications to the certified draft amendment are considered necessary in response to this concern.
Can a Planning Approval Application be passed on behalf of a potentially deregistered or unregistered company? The planning application has been progressed by the Council with what appears to be a deregistered or unregistered company.	The planning report and application form submitted by Ireneinc Planning refers to LK Property Group Pty Ltd. An ASIC search has identified that the correct name of the company is LK Property Group Holdings Pty Ltd (ACN 130 992 282). Notwithstanding this error in the documentation, as this has not affected any landowner consent and it has been at all times

Issue	Response
	clear that Ireneinc Planning was providing services on behalf of Mr Larry Kestelman who is the Director of LK Property Group Holding Pty Ltd, it is considered that no further actions is required in response to this issue.
Why has the instrument of certification document included the potential for Gaming Machines in Precinct C when it was not included in Attachment 6 – Amended Planning Report prepared by Ireneinc Planning and Urban Design and the Attachment 1 – proposed SAP amendment as disclosed on 23 October 2019.	The GPA raised concern about the potential of gaming machines at the initiation stage and in response the applicant provided a revised SAP with their covering letter (dated 10 December 2019) stating “Gaming Machines as defined by the <i>Gaming Control Act 1993</i> are not an allowable use under the qualification of the use class Hotel Industry”. A review of the revised SAP provided by the applicant and the certified draft amendment does confirm that this prohibition has not been carried through to Precinct C. In that precinct Hotel Industry is a discretionary use and the only qualification is “if not for a bottle shop”. It is considered that this is an oversight and that the GPA should recommend to the Commission that Clause F13.5.3 under the certified draft amendment (being the use table for Precinct C) is further modified to prohibit gaming machines.
Why did the Government make an election promise of a \$10 million indoor multi-sports facility for young people and now abandon that need to provide a \$20 million state of art NBL training and performance facility? (Refer Glenorchy Planning Authority 17/2/20 Attachment 1 Page 14, 17) The Southern Indoor Sports Facilities Feasibility Study confirmed the need for this facility and associations reported waiting lists due to the demand. The facility was to cater for	The concern raised by the representor relates to commitments made by Government outside of the planning processes provided for under the LUPAA. As a result, they are not relevant to the GPA in determining whether the draft amendment should be certified. That said, the certified draft amendment, does provide for a broad range of indoor sporting and entertainment uses within the Derwent Entertainment Centre, which is recognised through the

Issue	Response
young people participating in multiple sports including basketball, netball, gymnastics, volleyball, futsal and martial arts.	local area objectives for Precinct C, at Clause F13.4.3 <i>“To enhance the role and function of the DEC as a major entertainment, sporting, events, cultural and conference facility for the City, region and State”</i>. No modification to the certified draft amendment is considered necessary in response to this issue.
The Instrument of certification states Subdivision must be by or for the Council or public authority (Page 11). Of major concern for ratepayers is the cost commitment taken on by Council on behalf of the developer. Attachment 8 – Infrastructure Report 23 October 2019 states “It is recommended that the road through the development be maintained as a Council asset, with infrastructure required to service the site installed within the associated (future) road reserve where possible.” Special Council Meeting Agenda 28 February 2020 Page 11 It appears that ratepayers are to pay for the construction of a new road and that the infrastructure for the subdivision will be also funded by ratepayers as it will be incorporated under the road. Ratepayers will be contributing to the costs associated with any risks associated with any potentially contaminated land.	The certified draft amendment does not alter the provisions relating to subdivision in the underlying zoning. The underlying Recreation Zone that will apply to the Wilkinsons Point area does limit in the acceptable solution, subdivision for the purposes of public open space, reserves or utilities. The performance criteria allows subdivision for an allowable use. Therefore, there is flexibility in the underlying zoning to allow subdivision for a range of purposes. Nothing in the subdivision provisions specifically state who is responsible for the cost of providing and maintaining public roads through the site. There are provisions (P3 of Clause 18.5.1 and Road and Rail Asset Code) which outlines requirements for roads. Generally, the accepted practice through planning permit applications is that the developer undertakes the construction of roads at their own cost, with the roads transferred to the relevant Road Authority once completed to the Road Authorities satisfaction and appropriate provisions for a 12 month maintenance period are made. While Council has indicated a willingness to contribute to the cost of the Loyd Road upgrade, this is outside of its functions as a planning authority and

Issue	Response
	therefore not relevant to the consideration of the draft amendment. No further changes to the certified draft amendment are considered necessary in response to this concern.

Attachment 2 – Instrument of Amendment with recommended modifications

GLENORCHY INTERIM PLANNING SCHEME 2015
AMENDMENT PLAM-19/01

The Glenorchy Interim Planning Scheme 2015 is amended as follows:

Land affected by this amendment:

Site Address	References
601A Brooker Highway, Glenorchy	CT 157350/2 PID 2984138
301 Brooker Highway, Glenorchy (Derwent Entertainment Centre)	CT 110871/1 PID 75971887
601B Brooker Highway, Glenorchy	CT 157350/1 PID 2984111
Brooker Highway, Glenorchy	CT 135852/3 PID 2060760
Brooker Highway, Glenorchy (The Grove Reserve)	CT 135852/4 PID 2060744
825 Brooker Highway, Montrose (Montrose Foreshore Community Park)	CT 135852/5 PID 2060752
849B Brooker Highway, Montrose (Glenorchy Rowing Club)	CT 126136/1 PID 1473731
No address (Reserved Road within Public Reserve under <i>Crown Lands Act 1976</i>)	NA
No address (Reserved Road within Public Reserve under <i>Crown Lands Act 1976</i>)	CT 135853/1
No address (Reserved Road within Public Reserve under <i>Crown Lands Act 1976</i>)	CT 201259/1
No address (Foreshore land allocated as Crown land under <i>Crown Lands Act 1976</i>)	NA
No address (informally part of Montrose Foreshore Community Park)	CT 197856/1
No address (informally part of Montrose Foreshore Community Park)	CT 201259/1

Site Address	References
849 Brooker Highway, (Montrose Bay Yacht Club)	Montrose CT 201259/1 PID 5358765

The Planning Scheme Ordinance is amended by:

1. Modifying Clause F2.0 as shown in Annexure 1
2. Insert Clause F13.0 as shown in Annexure 2.

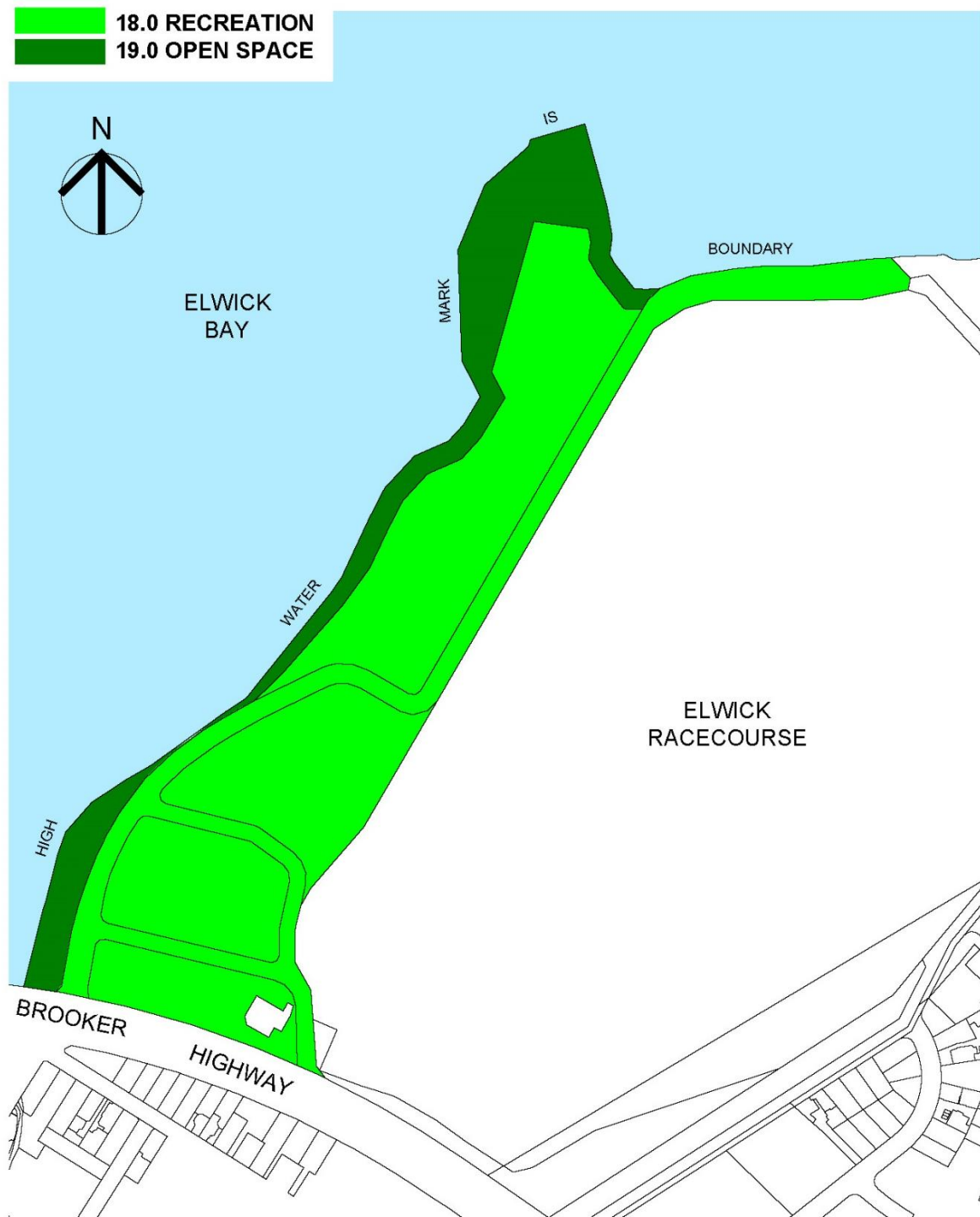
The Planning Scheme maps are amended by:

1. Modifying the boundaries of the Wilkinsons Point and Elwick Bay Specific Area Plan as shown in Figure 1 and renaming to the Montrose Bay Foreshore Community Park and Elwick Bay Foreshore Specific Area Plan.
2. Rezoning the land as shown in Figure 2 from Open Space and Community Purpose to Open Space and Recreation.
3. Applying the Wilkinsons Point Specific Area Plan to the land as shown in Figure 2.

In witness whereof the common seal of
Glenorchy City Council has been affixed
on the day of
 20 as
authorised by Council in the presence of:

Council Delegate

Figure 1

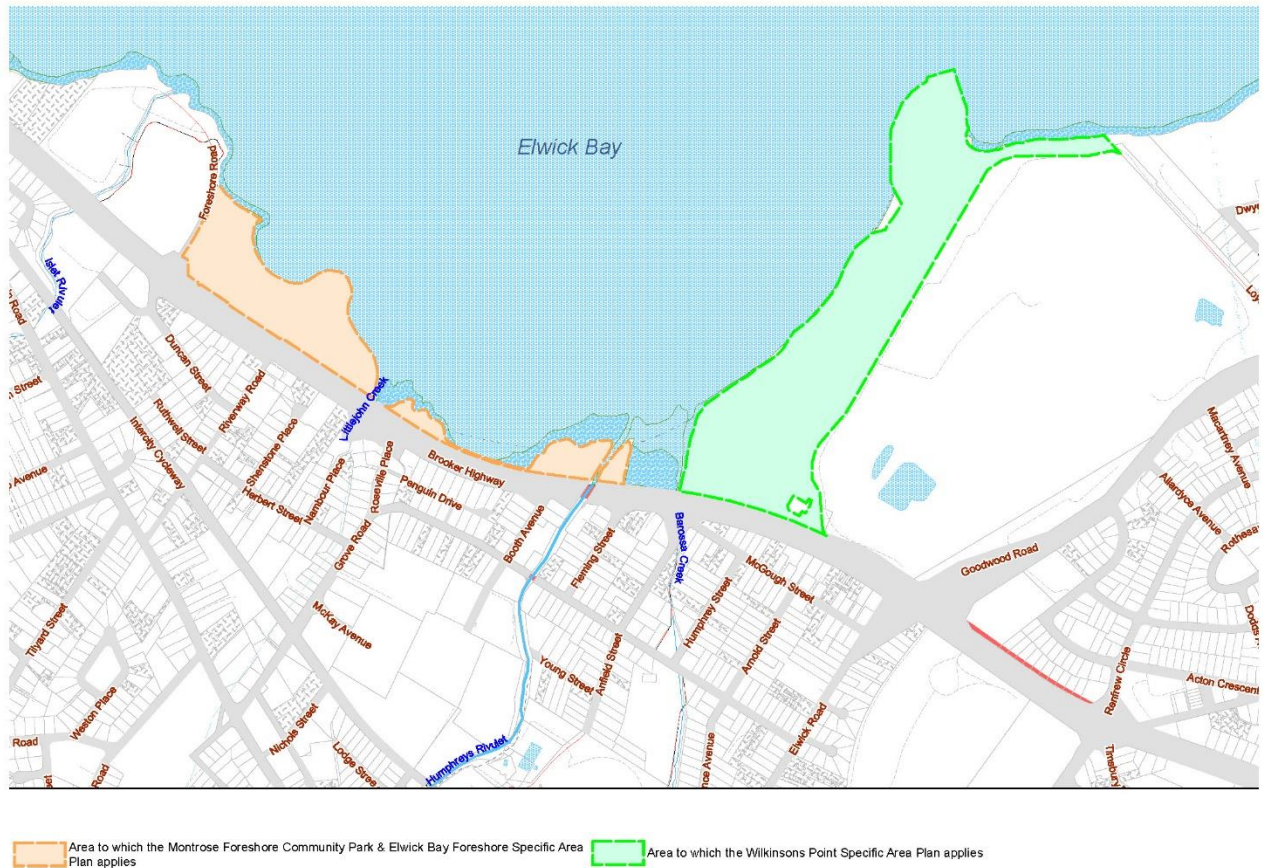


0 50 100 150m

SCALE
1:5000@A4

 PDA Surveyors Surveying, Engineering & Planning WALTER SURVEYS		127 Bathurst Street Hobart, Tasmania, 7000 www.pda.com.au PHONE: +61 03 6234 3217 FAX: +61 03 6234 6086 EMAIL: pda.hbt@pda.com.au	
WILKINSON'S POINT PROPOSED REZONING PLAN		SCALE	PAPER
		1:5000	(A4)
DATE 3 DECEMBER 2019		JOB NUMBER	DRAWING
		44465MD	4B

Figure 2



ANNEXURE 1

F2 Montrose Foreshore Community Park and Elwick Bay Specific Area Plan

F2.1 Purpose of the Specific Area Plan

The purpose of the Elwick Bay Specific Area Plan is:

- (a) To develop the Montrose and Elwick Bay areas as an iconic waterfront recreational area-with quality environments and structures that complement each other, integrate well into the surroundings and contribute towards a richly vibrant waterfront precinct – a place that is engaging, contemporary and culturally relevant.
- (b) To build on the foundation provided by GASP! as a significant community facility.
- (c) To protect the natural values of the foreshore and bay.
- (d) To provide comfortable and continuous foreshore open space, including the development of shared trails, along the foreshore.
- (e) To support and where possible, extend the recreational values of the foreshore and community facilities.
- (f) To promote public health and well-being through the provision of significant amounts of open space and the promotion of linkages within the area and to the broader City.
- (g) To provide for future use and development of open space and facilities within the realistic resources of the Council and community to manage, maintain and upgrade.
- (m) To improve access, parking, pedestrian and cycling infrastructure to cater for future use of the area.
- (n) To improve linkages to the surrounding facilities, suburbs and the Glenorchy CBD.

F2.2 Application of Specific Area Plan

- (a) This specific area plan applies to an area of land designated as the Montrose Foreshore Community Park and Elwick Bay Specific Area Plan on the overlay maps.
- (b) In the area of land this plan applies to, the provisions of the specific area plan are in substitution for or in addition to the provisions of the Open Space Zone, as specified in the relevant provision.
- (c) The specific area plan is divided into the following precincts:
 - (i) Montrose Foreshore Community Park Precinct; and
 - (ii) Elwick Bay Foreshore Public Open Space Precinct.
- (d) The extent of each precinct is shown in Figure F2.2 Montrose Foreshore Community Park and Elwick Bay Precinct Map

F2.3 Definition of Terms

F2.3.1 In this Specific Area Plan, unless the contrary intention appears:

Terms	Definition
Montrose Foreshore Community Park Precinct	means the area shown as the Montrose Foreshore Community Park Precinct in Figure 2.1.
GASP!	means Glenorchy Art and Sculpture Park.
Elwick Bay Foreshore Precinct	means the area shown as the Elwick Bay Foreshore Precinct in Figure 2.1.
social enterprise	means an organization, the primary objective of which is to create public or community benefit from the sale of goods or services.

F2.4 Local Area Objectives

F2.4.1 The local area objectives for the Montrose Foreshore Community Park Precinct are to:

- (a) Strengthen the Precinct as the major hub for the GASP! initiative including social enterprise, recreational facilities and activities, display of art, interpretation and training functions and education;
- (b) Provide for social enterprise facilities, services and activities that foster engagement, education and enjoyment with the community; including uses related to the existing sports clubs, playground facilities, picnic facilities, trails, boat launching ramp, display of art, interpretation and the opportunity for education and training functions; and
- (c) Provide for commercial functions connected with recreational uses, such as a kiosk/café or an outlet for hire of recreation equipment such as bikes or kayaks.

F2.4.2 The local area objectives of the Elwick Bay Foreshore Precinct are to:

- (a) Maintain the natural values and enhance community, cultural and recreational use of the foreshore as a linear open space link between Montrose Foreshore Community Park, Wilkinsons Point and beyond;
- (b) ensure that the enhancement of the foreshore is in accordance with the GASP! Vision for a dynamic, inspirational and internationally resonant open space providing unique encounters with art and creating memorable experiences for all in the natural environment;
- (c) build on Tasmania's cultural tourism offerings;
- (d) increase liveability; and
- (e) retain the whole of the area primarily for public open space uses and uses that support public open space use with provision for pop-up,

mobile or temporary commercial use.

F2.5 Use Table

This subclause is in substitution of Open Space Zone – Clause 29.2 Use Table

Use Class	Qualification
No Permit Required	
Natural and Cultural Values Management	
Passive Recreation	
Utilities	If for minor utilities.
Permitted	
Community Meeting and Entertainment	If for GASP! activities.
Educational and Occasional Care	If for GASP! activities.
Food Services	If: (a) In the Elwick Bay Foreshore Precinct; and (b) associated with occasional or temporary sporting, social or cultural events, or for GASP! activities.
Discretionary	
Community Meeting and Entertainment	If (a) in the Montrose Community Foreshore Park Precinct; (b) for sporting, social and cultural events; and (c) not listed as Permitted.
Education and Occasional Care	If (a) in the Montrose Community Foreshore Park Precinct; (b) for education and training undertaken within existing facilities or associated with management and maintenance of the foreshore area; and (c) not listed as Permitted.
Food Services	If: (a) in the Montrose Community Foreshore Park Precinct;

	(b) for a kiosk, café, restaurant or take away food premises for occasional sporting, social and cultural events; and (c) not listed as Permitted.
General Retail and Hire	If (a) in the Montrose Foreshore Community Park Precinct; and (b) for a recreational hire outlet providing recreational equipment to the users of the park and foreshore areas.
Pleasure Boat Facility	If (a) in the Montrose Foreshore Community Park Precinct; and (b) for a recreational hire outlet providing recreational equipment to the users of the river.
Sports and Recreation	If in the Montrose Foreshore Community Park Precinct.
Utilities	If not listed as Permitted.
Prohibited	
All other uses	

F2.6 Use Standards

F2.6.1 Limit on private commercial use in the Montrose Foreshore Community Park Precinct

This subclause is in addition to Open Space Zone – Clause 29.3 Use Standards.

Objective:	To retain the bulk of the Montrose Foreshore Community Park Precinct for public open space.	
Acceptable Solutions		Performance Criteria
A1 Private commercial uses in the Montrose Bay Community Park Precinct must not, in aggregate, occupy an area greater than 5000m ² .		P1 No performance criteria.

F2.6.2 Public use only in the Elwick Bay Foreshore Precinct

This subclause is in addition to Open Space Zone – Clause 29.3 Use Standards.

Objective:	To restrict the use of the Elwick Bay Foreshore Public Open Space Precinct to predominantly public use.
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Acceptable Solutions	Performance Criteria
A1 The use must be a public use or a mobile use.	P1 Uses for private events and displays must be: (a) temporary, and (b) appropriate to the scale and environmental sensitivities of the Precinct.

F2.7 Development Standards for Buildings and Works

F2.7.1 Limit on buildings in the Montrose Foreshore Community Park Precinct

This subclause is in addition to Open Space Zone – Clause 29.4 Development Standards for Buildings and Works.

Objective:	To: (a) retain the predominant public open space character of the Montrose Foreshore Community Park Precinct; and (b) preserve expansive views across the water plane by restricting the number and nature of buildings allowed in the Montrose Foreshore Community Park Precinct.
Acceptable Solutions	Performance Criteria
A1 There must be no buildings or extensions to buildings within the Montrose Foreshore Community Park Precinct, except for one or more of the following: (a) a food premises, training facility or recreational hire outlet only in the car free area; (b) a social enterprise; or (c) BBQ facilities, picnic shelter, public amenities or public area.	P1 Buildings in the Montrose Foreshore Community Park Precinct must be subservient to the landscape character, be limited in number and be designed in the round.

F2.7.2 Building height in the Montrose Foreshore Community Park Precinct

This clause is in substitution of Open Space Zone – Clause 29.4.1 Building height, setback and siting A1 and P1.

Objective:	To maintain a scale of development in the Montrose Foreshore Community Park Precinct in keeping with the foreshore location and the predominant scale of existing built form.
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Acceptable Solutions	Performance Criteria
A1 Building height in the Montrose Foreshore Community Park Precinct, must not be more than 5m, or one storey, whichever is the higher.	P1 Building height in the Montrose Foreshore Community Park Precinct must not result in any of the following: (a) domination of the public foreshore or open space in the precinct by visual bulk; (b) unreasonable overshadowing of the public foreshore or open space in the precinct; or (c) obstruction of key public views or vistas.

F2.7.3 Setback from high-water mark in the Montrose Foreshore Community Park Precinct

This subclause is in substitution of Open Space Zone – Clause 29.4.1 Building height, setback and siting, A2 and P2.

Objective:	To maintain a sufficient setback from high water mark to allow for continuous and safe pedestrian access to the foreshore edge.
Acceptable Solutions	Performance Criteria
A1 The setback of buildings, in the Montrose Foreshore Community Park Precinct, other than marine structures, from high water mark must not be less than 10m.	P1 The setback of buildings, in the Montrose Foreshore Community Park Precinct, other than marine structures, from high water mark must be sufficient to allow for continuous and safe pedestrian access to the foreshore edge.

F2.7.4 Passive surveillance in the Montrose Foreshore Community Park Precinct

This subclause is in addition to Open Space Zone – Clause 29.4. Development Standards for Buildings and Works.

Objective:	To design and site buildings to minimise opportunities for crime and anti-social behaviour.
Acceptable Solutions	Performance Criteria

A1 No acceptable solution.	P1 Buildings in the Montrose Foreshore Community Park Precinct, must satisfy all of the following: (a) be designed and sited to provide natural surveillance of pedestrian routes and car parks; (b) be free of concealment and entrapment spots; (c) be lit to a level that is adequate to ensure a reasonable level of security; (d) have access and egress points that are clearly visible from the public domain; and (e) be constructed of materials that are hardy or easily replaceable; and resistant to vandalism.
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F2.8 Development Standards for Subdivision

F2.8.1 Subdivision in the Montrose Foreshore Community Park Precinct

This subclause is in substitution of Open Space Zone – Clause 29.5.1 Lot design A1 and P1.

Objective:	That subdivision is suitable for the intended use and development and to restrict the carrying out of subdivision within the Precinct to the Council or a public authority.	
Acceptable Solutions		Performance Criteria
A1 Subdivision must be by or for the Council or a public authority.	P1 No performance criteria.	
A2 No acceptable solution	P2 Each lot must have sufficient area, suitable proportions, adequate services and sufficient frontage to a road or access by right of way to satisfy its intended use or development.	
A3 Where a subdivision in the Elwick Bay Precinct Foreshore Precinct, creates a road, the minimum reservation width must be 20m.	P3 No performance criteria.	

Figure F2.1



ANNEXURE 2

F13 Wilkinson's Point Specific Area Plan

F13.1 Purpose of the Specific Area Plan

The purpose of the Specific Area Plan is to:

- (a) To provide for a state NBL team training and performance facility, supported by a range of active recreation, hotel accommodation, sports retail, and food services whilst retaining public access for public art, passive recreation and community events.
- (b) To cultivate a vibrant and engaging district that prioritises pedestrian movement and activity through designed landscaped areas, integrated infrastructure, and connectivity within the site.
- (c) To promote sustainable transport options through:
- (d) Reducing potential for pedestrian/vehicle conflict and enhancing the pedestrian environment;
- (e) The development of a park and ride facility;
- (f) Providing infrastructure to support the use of bicycles, walking, and other sustainable transport modes.
- (g) To ensure that sports focused retail outlets enhance and support recreational and entertainment activities on the site, without undermining the activity centre hierarchy.
- (h) To provide for GASP! activities and events.

F13.2 Application of Specific Area Plan

F13.3.1 This specific area plan applies to an area of land designated as the Wilkinson's Point Specific Area Plan on the overlay maps.

F13.3.2 In the area of the land this plan applies to, the provisions of the specific area plan are:

- (a) In the area that is within the Recreation Zone, in substitution for:
 - (i) Clause 18.2 Use Table;
 - (ii) Clause 18.3 Use Standards; and
 - (iii) Clause 18.4 Development Standards for Buildings and Works.
- (b) In the area that is within the Open Space Zone, in substitution for:
 - (i) *Clause 19.2 Use Table;*
 - (ii) *Clause 19.3 Use Standards; and*
 - (iii) *Clause 19.4 Development Standards for Buildings and Works.*
- (c) In substitution for Clause E17.6.1 A1 and P1 and A2 and P2, Use of Signs; and
- (d) In addition to Clause E15.7 Inundation Prone Areas Code.

- F13.2.3 The specific area plan is divided into precincts in respect of which the primary controls for the use and development of land are set out. The Precincts are:
- (a) Precinct A – Sports and Entertainment Precinct;
 - (b) Precinct B – Highway Precinct;
 - (c) Precinct C - Derwent Entertainment Centre Precinct; and
 - (d) Precinct D – Elwick Bay Public Open Space Precinct.
- F13.2.6 The extent of each precinct is shown in Figure 13.1 Wilkinsons Point Precinct Map.

F13.3 Definition of Terms

- F13.3.1 In this Specific Area Plan, unless the contrary intention appears:

1. Terms	Definition
Activity Centre Hierarchy	means as defined in the <i>Southern Tasmanian Regional Land Use Strategy</i> .
Big Box Sporting Retail	means a sports retail business with a floor area greater than 500m ² .
Commuter Transit Services	mean use associated with the transit of passengers between modes of transport both private and public, such as a park and ride.
DEC	means the Derwent Entertainment Centre, or that building as subsequently named located within Precinct C.
Designated Flood Level	means the height above Australian Height Datum which is subject to a 1% Annual Exceedance Probability (AEP) identified by a suitably qualified person through inundation modelling, taking into account riverine inundation, tides, storm surge, climate change, wave action and sea level rise and coincident events between any of these inundation factors.
Flood Emergency Management Plan	means an emergency management plan prepared by a suitably qualified engineer. The report and plan must: (a) detail: (i) the risks to life; (ii) the likely number of occupants of the building; (iii) the likely impact on the use or development; and (iv) how the use or development will manage the risk to tolerable levels; during either an overtopping of the levee or a levee breach at the closest point in the levee

	during a 5% AEP, 2% AEP or a 1% AEP flood event; and (b) consider the following: (i) the likely velocity and depth of flood waters; (i) the need to locate electrical equipment and other fittings above the 1% AEP designated flood level; (ii) the likely effect of the use or development on flood characteristics; (iii) the development and incorporation of evacuation plans into emergency management procedures for the precinct; and (iv) the ability of the use or development to withstand flood inundation and debris damage and the necessity for the incorporation of any flood proofing measures in the development. (c) be developed in accordance with the Australian Standard AS 3745-2010 and reflect the evacuation requirements of the Glenorchy City Council. The Emergency Management Plan should prioritise evacuation of infants, their parents or careers, disabled and people who are not physically mobile.
Gaming Machines	means as defined in the <i>Gaming Control Act 1993</i>
GASP!	means Glenorchy Art and Sculpture Park.
Naming Rights Building Identification Sign	means a sign that includes third party logos associated with the sponsorship of buildings or events within the site.
Park and Ride	means an integrated parking and public transport facility, providing vehicular parking for commuters, to transfer to alternate means of transport such as ferry, bus or bicycle.
Pedestrian-friendly features	means design elements such as transparent or decorative windows, public entrances, murals, landscaping, bulletin boards, display windows, seating, architectural elements or street displays.
Precinct A (Sports and Entertainment Precinct)	means the area shown as Precinct A (Sports and Entertainment Precinct) in Figure F13.1
Precinct B (Highway Precinct)	means the area shown as Precinct B (Highway Precinct) in Figure F13.1

Precinct C (Derwent Entertainment Centre Precinct)	means the area shown as Precinct C (Derwent Entertainment Centre Precinct) in Figure F13.1
Precinct D (Elwick Bay Public Open Space Precinct)	means the area shown as Precinct D (Elwick Bay Public Open Space Precinct) in Figure F13.1
Sports retail business	means a retail business that solely sells sporting goods including sporting equipment and active wear with a floor area less than 500m ² .
Vulnerable use	Means a use that is within one of the following Use Classes: (a) Educational and Occasional Care; or (b) Visitor Accommodation.

F13.4 Local Area Objectives

F13.4.1 The local area objectives for Precinct A (Sports and Entertainment Precinct) are to:

- (a) Provide a state of the art facility for NBL training and performance.
- (b) Provide a broad range of public recreation activities, supported by entertainment and food services;
- (c) Provide for a variety of visitor accommodation;
- (d) Create an engaging and vibrant environment for all users of the site, both within and between buildings, and moving around the site;
- (e) Modulate the scale of built form with landscaping between buildings;
- (f) Facilitate the establishment and operation of a park and ride facility; and
- (g) Provide connectivity within the precinct through pedestrian and cycling infrastructure.

F13.4.2 The local area objectives Precinct B (Highway Precinct) are to:

- (a) Facilitate a sporting retail facility supported by a variety of food outlets;
- (b) Provide a high quality architectural response to the highway frontage, as gateway to the city and the site;
- (c) Provide a broad range of recreation activities; and
- (d) Allow for signage which facilitates the site, building and use identification and sharing of information about uses on the site, and upcoming events and attractions, whilst ensuring that the architectural integrity and landscape qualities of the site are not compromised.

F13.4.3 The local area objectives Precinct C (Derwent Entertainment Precinct) are to:

- (a) To enhance the role and function of the DEC as a major entertainment, sporting, events, cultural and conference facility for the City, region and State;
- (b) Provide buildings that support recreational use of the land;
- (c) Allow for development that will not unreasonably impact the views of the DEC from Elwick Bay.

- F13.4.4 The local area objectives Precinct D (Elwick Bay Public Open Space Precinct) are to:
- (a) Preserve public access to the foreshore of Elwick Bay;
 - (b) Provide a combination of soft and hard landscaping that positively contributes to the site;
 - (c) Preserve and enhance the GASP! trail;
 - (d) Provide connectivity within the precinct through pedestrian and cycling linkages and infrastructure;
 - (e) Provide for a ferry terminal in the precinct to improve sustainable transport options to the site;
 - (f) Provide a landscape buffer predominantly free from buildings, between the Elwick Bay Public Open Space Precinct, and the remainder of the site;
 - (g) Notwithstanding (b), provisions be made for a pavilion at the south western end of the precinct, to provide for café, restaurant or kiosk, as well as services catering to the recreational use of the foreshore and GASP! trail.

F13.5 Use Table

F13.5.1 Use Table for Precinct A (Sports and Entertainment Precinct)

Use Class	Qualification
No Permit Required	
Natural and Cultural Values Management	
Passive Recreation	
Utilities	If for minor utilities.
Permitted	
Business and Professional Services	If associated with another Permitted use.
Food Services	If not a take-away premise with a drive through facility
Hotel Industry	If: (a) not for a bottle shop with a drive through facility; (b) not for a bottle shop exceeding a floor area of 500m²; or (c) not for the use of 'Gaming Machines'.
Resource Development	If for a kitchen or community garden.
Sports and Recreation	
Transport Depot and Distribution	If for commuter transit services in sub-precinct A2 as shown in Figure 13.1.

Visitor Accommodation	If: (a) for a hotel or serviced apartments; and (b) located in Sub-Precinct A1 as shown in Figure 13.1.
Discretionary	
Community Meeting and Entertainment	
Educational and Occasional Care	If for a childcare centre located in Sub-Precinct A1 or A2 as shown in Figure 13.1.
Food Services	If not listed as Permitted.
General retail and hire	
Resource Processing	If for brewery, winery or distillery associated with a food services use.
Tourist Operations	
Utilities	If not listed as No Permit Required.
Vehicle Parking	
Visitor Accommodation	If: (a) located in Sub-Precinct A1 as shown in Figure 13.1; and (b) not listed as Permitted.
Prohibited	
All other uses	

F13.5.2 Use Table for Precinct B (Highway Precinct)

Use Class	Qualification
No Permit Required	
Natural and Cultural Values Management	
Passive Recreation	
Utilities	If for minor utilities.
Permitted	
Food Services	If not a take-away premise with a drive through facility.

General retail and hire	If for a local shop.
Sports and Recreation	
Discretionary	
Community Meeting and Entertainment	
Educational and Occasional Care	If for a child care centre.
Food Services	If not listed as Permitted.
General retail and hire	If not listed as Permitted.
Transport Depot and Distribution	If for a commuter transit services.
Utilities	If not No Permit Required.
Prohibited	
All other uses	

F13.5.3 Use Table for Precinct C (Derwent Entertainment Centre Precinct)

Use Class	Qualification
No Permit Required	
Natural and Cultural Values Management	
Passive Recreation	
Utilities	If for minor utilities.
Permitted	
Community Meeting and Entertainment	
Food Services	If for a take-away premises with no drive through facility.
General retail and hire	If for a market.
Resource Development	If for a kitchen or community garden.
Sports and Recreation	

Discretionary	
Business and Professional Services	If to support a Permitted use in the same Precinct.
Food Services	If not listed as Permitted.
General retail and hire	If not listed as Permitted.
Hotel Industry	If not for a bottle shop. <u>If:</u> (a) <u>not for a bottle shop; or</u> (b) <u>not for the use of Gaming Machines.</u>
Utilities	If not listed as No Permit Required.
Prohibited	
All other uses	

F13.5.4 Use Table – Precinct D – Elwick Bay Public Open Space Precinct

Use Class	Qualification
No Permit Required	
Natural and Cultural Values Management	
Passive Recreation	
Utilities	If for minor utilities.
Permitted	
Community meeting and entertainment	If for: (a) occasional or temporary sporting, social or cultural events; and (b) GASP! activities, artwork, events or infrastructure.
Food services	If for: (a) occasional or temporary sporting, social or cultural events; and (b) GASP! activities, artwork, events or infrastructure.
General retail and Hire	If for: (a) occasional or temporary sporting, social or cultural events; and

	(b) GASP! activities, artwork, events or infrastructure.
Sports and Recreation	If for: (a) occasional or temporary sporting, social or cultural events; and (b) GASP! activities, artwork, events or infrastructure.
Transport Depot and Distribution	If for a ferry terminal.
Discretionary	
Food Services	If for café, restaurant, or kiosk
General retail and Hire	If for: (a) a premise associated with the sale, hire or repair of recreational equipment; or (b) a market.
Pleasure boat facility	
Port and shipping	Only if for the temporary mooring of vessels or loading or unloading of passengers
Utilities	Except if no permit required
Prohibited	
All other uses	

F13.6 Use Standards

F13.6.1 Discretionary use

Objective:	That the economic, social and environmental impact of significant new food services and retail use and development is consistent with the activity centre hierarchy.	
Acceptable Solutions		Performance Criteria
A1 No acceptable solution		P1 A use listed as Discretionary must not compromise or distort the activity centre hierarchy, having regard to: (a) the characteristics of the site; (b) the size and scale of the proposed use; (c) the function of the activity centre and the surrounding activity centres; and

	(d) the extent that the proposed use impacts on the other activity centres.
--	---

F13.6.2 Food services and General Retail and hire uses

Objective:	That the economic, social and environmental impact of Food Services and General Retail and Hire uses; (a) supports the activity centre hierarchy; and (b) is consistent with the purpose of the Specific Area Plan.
Acceptable Solutions	Performance Criteria
A1 Food Services, excluding in sub-precinct A1, and General Retail and Hire uses listed as discretionary, excluding in Precinct D, must not result in a net trading floor area for the relative time period, as calculated across the specific plan area, exceeding that in Table F13.1	P1 Food Services, excluding in sub-precinct A1, and General Retail and Hire uses listed as discretionary, excluding in Precinct D, must not compromise or distort the activity centre hierarchy, having regard to: (a) the characteristics of the site; (b) the size and scale of the proposed use; (c) the function of nearby activity centres; (d) the extent that the proposed use impacts on the other activity centres; (e) the purpose of the specific area plan; and (f) a retail impact assessment.
A2 General Retail and Hire uses are not located in Precinct A.	P2 General Retail and Hire uses in Precinct A, must be required to support users and employees on the site, having regard to: (a) other uses on the site; (b) the size and scale of the proposed use; (c) the proximity of similar uses to the site; (d) the extent that the proposed use impact on other activity centres; and (e) the purpose of the specific area plan.
A3 General and Retail Hire uses in Precinct B must be for a: (a) Sports retail business; or	P3 General Retail and Hire uses in Precinct B, must be required to support users and employees on the site, having regard to: (a) other uses on the site;

(b) Big box sporting retail.	(b) the size and scale of the proposed use; (c) the proximity of similar uses to the site; (d) the extent that the proposed use impact on other activity centres; (e) the purpose of the specific area plan; and (f) a retail impact assessment.
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F13.7 Development Standards for Buildings and Works

F13.7.1 Building height and site coverage

Objective:	Buildings: (c) contribute positively to the creation of pedestrian spaces; (d) are appropriate to the location and surrounding landscape characteristics; and (e) are consistent with the purpose of the specific area plan and local area objectives.
Acceptable Solutions	Performance Criteria
A1 Building height, excluding roof top plant and equipment structures: (a) in Precinct A must be not more than: (i) 40m if in sub-precinct A1; (ii) 18m if in sub-precinct A2; or (iii) 10m if in sub-precinct A3. (b) in Precinct B must not be more than: (i) 22m if in sub-precinct B1; or (ii) 10m if in sub-precinct B2. (c) in Precinct C must not be more than 12m. (d) in Precinct D must not be more than 10m.	P1 Building height, excluding roof top plant and equipment structures, must be compatible with the surrounding landscape characteristics and contribute to the creation of pleasant pedestrian spaces having regard to: (a) the topography of the site; (b) the height, bulk and form of existing buildings on the site and adjacent properties; (c) the bulk and form of proposed buildings; (d) visual impacts caused by the apparent scale of the building when viewed from roads and public spaces; (e) overshadowing of public spaces on the site or adjacent properties; (f) any design measures that reduce the scale of the building; (g) relevant local area objectives; and (h) the purpose of the specific area plan.

A2 Site coverage (excluding covered walkways): (a) in Precinct A must be not more than: (i) 5,500m² if in sub-precinct A1; (ii) 21,000m² if in sub-precinct A2 with no individual building exceeding 7,000m²; or (iii) 4,000m² if in sub-precinct A3. (b) In Precinct B must be not more than: (i) 8,000m² if in sub-precinct B1 (ii) 20,000m² if in sub-precinct B2 (c) In Precinct C must be not more than 10,000m²; or (d) In Precinct D must be not more than 1,000m² unless for a ferry terminal located adjacent to the existing jetty.	P2 Site coverage must contribute to an overall appearance of the site being of a collection of individually identifiable buildings compatible with the creation of pedestrian friendly environments and the surrounding landscape having regard to: (a) the topography of the site; (b) the bulk and form of existing buildings on the site and adjacent properties; (c) the bulk and form of proposed buildings; (d) the layout of buildings and pedestrian connections; (e) any design measures that reduce the scale of the building; (f) proposed landscaping; (g) relevant local area objectives; and (h) the purpose of the specific area plan.
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F13.7.2 Building setback from the Brooker Highway

Objective:	To protect the safety and efficiency of the Brooker Highway.
Acceptable Solutions	Performance Criteria
A2 Building setback, in sub-precinct B2, must be not less than 10m from the Brooker Highway frontage.	P2 No performance criteria for building setback in sub-precinct B2.

F13.7.3 Building design

Objective:	Buildings: (a) maintain a high standard of design; (b) minimise opportunities for crime and anti-social behaviour; and (c) contribute positively to the streetscape.
Acceptable Solutions	Performance Criteria
A1 No Acceptable Solution.	P1 Buildings must: (a) be freestanding in appearance and design in a landscape setting, allowing for glazed linkages;

	(b) provide a landscaped setting between buildings for sheltered pedestrian movement; (c) screen infrastructure, service plants and lift structures within the design of the building, where reasonably possible; (d) provide a formal frontage to the Brooker Highway where within sub-precinct B2; and (e) provide a high quality presentation to the foreshore where adjacent to Precinct D.
A2 No Acceptable Solution.	P2 The design and detailing of external facades must create safe and engaging spaces having regard to: (a) encouraging active frontages on the ground floor to provide high levels of visual interest and pedestrian interaction; (b) promoting visual interest through materiality and articulation of facades; (c) avoiding blank walls, security screens, obscured windows or large sign panels; and (d) design principles for crime prevention.
A3 No Acceptable Solution.	P3 Buildings must satisfy all of the following: (a) be designed and sited to provide passive surveillance of pedestrian routes and car parks; (b) be free of concealment and entrapment spots; (c) be lit to a level that is adequate to maintain a reasonable level of security; and (d) have access and egress points that are clearly visible from the public domain.

F13.7.4 Outbuildings

Objective:	Outdoor storage areas do not detract from the appearance of the site or surrounding area.
Acceptable Solutions	Performance Criteria

A1 Outdoor storage areas, excluding for the display of goods for sale, must not be visible from any road or public open space adjoining the site.	P1 Outdoor storage areas, excluding for the display of goods for sale, must be located, treated or screened to not cause an unreasonable loss of visual amenity.
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F13.7.5 Landscaping

Objective:	Landscaping: (a) enhances the appearance of the site; (b) encourages and fosters movement throughout the site; and (c) maintains an overall site character of buildings in parkland.
Acceptable Solutions	Performance Criteria
A1 Development in accordance with an approved landscape master plan for the site.	P1 Landscaping should satisfy all of the following: (a) retain and enhance the tree canopy across the site where reasonably possible; (b) preserve and enhance public access within and adjacent to Precinct D and throughout the site; (c) protect and enhance the GASP! architecture and public space experiences through public art and pedestrian connections; (d) preserve and enhance the experience of enclosure and exposure between buildings on the site, and provide protection from the weather; (e) maintain an overall site character of buildings in parkland, by retaining and enhancing the tree canopy at the entrance to the site, along shared boundaries, and if possible, between buildings; and (f) utilise predominantly character of indigenous vegetation.

F13.7.6 Access to the site

Objective:	To: (a) restrict the development of new access onto the Brooker Highway; and (b) protect the safety and efficiency of the road network.
Acceptable Solutions	Performance Criteria
A1 Access to the Brooker Highway or Goodwood Road must be by way of existing access arrangements.	P1 Additional or amended access to the site from the Brooker Highway or Goodwood Road must meet the relevant provisions under 'Part IVA – Limited Access to Roads' under the <i>Roads and Jetties Act 1935</i> .
A2 Development does not require any upgrades to: (a) Loyd Road; or (b) existing accesses onto Brooker Highway or Goodwood Road.	P2 Upgrades to road infrastructure are the responsibility of the developer and are to be constructed in accordance with the requirements of the relevant Road Authority.

F13.7.7 Signage

Objective:	To allow for the upgrade or replacement of existing signage.
Acceptable Solutions	Performance Criteria
A1 A sign must: (a) be a permitted sign in Table E.17.3; or (b) be a pole/pylon sign that: (i) is located within 10m of the Brooker Highway frontage; (ii) does not exceed 2 in number; and (iii) 10m in height; or (iv) is located on the site other than within 10m of the Brooker Highway frontage and (v) is not be visible from outside of the SAP area; or (c) be a Naming Rights Building Identification Sign that is: (i) located in Precinct C; and	P1 A sign must: (a) be a discretionary sign in Table E17.3; (b) be a pole/pylon sign which satisfies all of the following: (i) be of appropriate dimensions so as not to dominate the site on which it is located; (ii) be constructed of high-quality weather resistant materials which are able to be maintained at all times; (iii) not result in loss of amenity to neighbouring properties; (iv) not involve the repetition of messages or information on the same street frontage/ direction; and (v) not cause a safety hazard.

(ii) has a vertical dimension not more than 5m.	(c) be a Naming Rights Building Identification Sign in Precinct C that is of appropriate building location and dimensions to protect the architectural character and integrity of the building, whilst of sufficient scale to allow the building to be identified from beyond the SAP boundaries.
A2 A sign associated with the sale of goods or services must relate directly to the use of the building or site to which it is affixed.	P2 A sign may be associated with the sale of goods or services not directly related to the site providing that the sign does not detract from the architectural or landscape character of the precinct.
A3 A sign associated with events must relate directly to the use of the building or site to which it is affixed.	P3 A sign may be associated with events not directly related to the site providing that the sign does not detract from the architectural or landscape character of the precinct.

F13.7.8 Inundation risk management

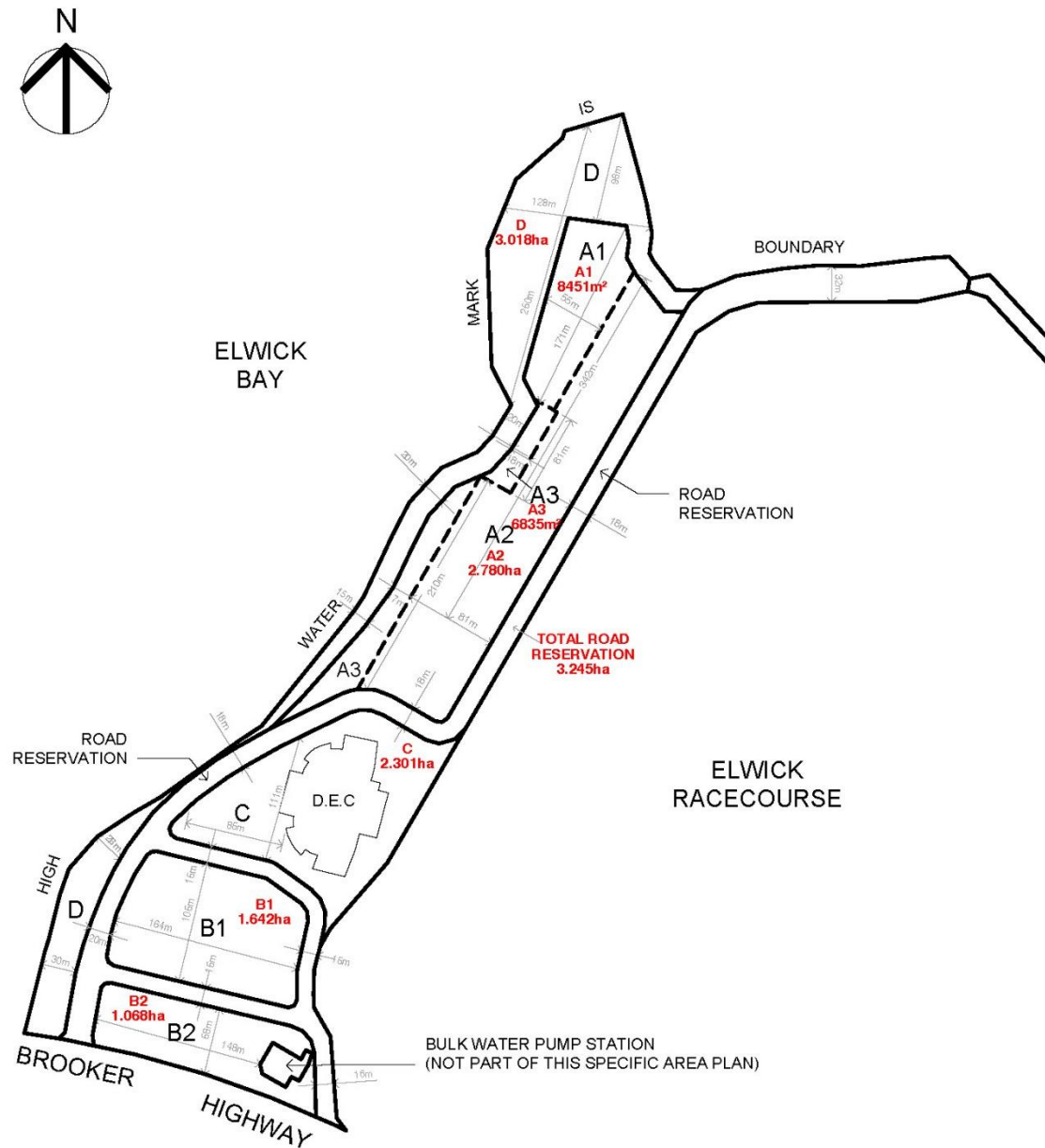
Objective:	Buildings and works: (a) achieve and maintain a tolerable risk from inundation; and (b) do not increase the risk from inundation to adjacent land and public infrastructure.
Acceptable Solutions	Performance Criteria
A2 Building and works must be located 300m above the Designated Flood Level.	P2.1 Buildings and works located below 300m above the Designated Flood Level must: (a) not be for the purposes of a vulnerable use; (b) not contain any civil, mechanical or electrical elements that have not been designed using suitable materials and techniques to resist inundation effects; (c) maintain a tolerable risk from inundation, having regard to: (i) the Designate Flood Level (ii) the type, form, scale and intended duration of the development; (iii) the intended function and use of the building;

	(iv) whether any increase in the level of risk from flood requires any specific hazard reduction or protection measures; (v) any advice from a State authority, regulated entity or a council; and (vi) the advice contained in a flood hazard report, and (d) be accompanied by a Flood Emergency Management Plan.
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Table F13.1 – Gross floor areas for Food Services and General Retail and Hire uses

Proposed use	Maximum gross floor area in m ² through to 1 July 2024	Total maximum gross floor area in m ² after 1 July 2024
Big box sports retail	2,700	5,820
Sports retail business	1,392	3,000
Other General Retail and Hire uses	No acceptable solution	No acceptable solution
Take-away premises	1,000	2,658
Food Services (except for Take away premises)	3,480	6,975

Figure F13.1



0 50 100 150m

SCALE
1:5000@A4

 PDA Surveyors WALTER SURVEYS Surveying, Engineering & Planning ADV 710 OF 200.002		127 Bathurst Street Hobart, Tasmania, 7000 www.pda.com.au PHONE: +61 03 6254 3217 FAX: +61 03 6254 5085 EMAIL: pda.hbt@pda.com.au	
WILKINSON'S POINT PRECINCT MAP & DETAILS		SCALE	PAPER
		1:5000	(A4)
DATE 13 DECEMBER 2019		JOB NUMBER	DRAWING
		44465MD - 5	

Department of State Growth

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Mr Tony McMullen
General Manager
Glenorchy City Council
PO Box 103
Glenorchy TAS 7010

By email: gccmail@gcc.tas.gov.au

Dear Mr McMullen

***Glenorchy Interim Planning Scheme 2015 Draft Amendment PLAM-19/01
Insertion of New Clause F13.0 Wilkinsons Point Specific Area Plan and
Modification of Existing Clause F2.0 Wilkinsons Point and Elwick Bay Specific
Area Plan***

State Growth has reviewed the *Glenorchy Interim Planning Scheme 2015 Draft Amendment PLAM-19/01* Insertion of New Clause F13.0 Wilkinsons Point Specific Area Plan and Modification of Existing Clause F2.0 Wilkinsons Point and Elwick Bay Specific Area Plan and appreciates the opportunity to provide the following submission.

Impacts on the State Road Network

State Roads has previously consulted with both the applicant and Glenorchy Council regarding details of the proposed SAP, including proposed access arrangements at the Brooker Highway and Goodwood Road, the traffic impact assessment (TIA) associated with the proposed development and clause wording regarding access to the state road network and setbacks from the Brooker Highway.

State Roads considers that the SAP and supporting materials have demonstrated suitable consideration of impacts on the road network. State Roads notes that traffic management during road upgrade works in this area as well as during major events will be highly important as the Brooker Highway is a strategic commuter route. It is anticipated that major events will be held outside of peak commuter times which will relieve traffic impacts.

Passenger Transport – Bus Services

Whilst the Supporting Report suggests that a commitment has been made to review and reroute bus services post construction, State Growth is likely to review demand at this location as part of a broader review of changes in demand over time. If commercial bus services are to be provided, which operate to a published route and timetable and that do not

meet the definition of a tour, then the operator of those services may need to seek authorisation from the Transport Commission.

Passenger Transport – Ferries

The Tasmanian Government has committed to the delivery of a new Derwent River ferry service between Bellerive and Sullivans Cove. Further public ferry services and infrastructure will be considered at other locations based on passenger demand and following the demonstrated success of this initial service.

It is recognised that a private tourist ferry service from the site may be viable, particularly given the site is on the route of the existing MONA ferries. The viability of a tourist service, together with its establishment and operation, would need to be determined by individual ferry operators.

Yours sincerely



Gary Swain
Deputy Secretary, Transport Services

26 March 2020

Janiece Bryan

14 England Avenue

MONTROSE TAS 7010

26th March 2020

General Manager
Glenorchy City Council

PO Box 103

Glenorchy Tas 7010

I submit this response to the GLENORCHY INTERIM PLANNING SCHEME 2015 - DRAFT AMENDMENT PLAM -19-01 (WILKINSONS POINT SPECIFIC AREA PLANS)

I believe there should be a postponement of any decisions related to this Draft Amendment due to the significant number of concerns associated with it and the complications now being caused by the COVID 19 in regard to the facilitation of on-going due process.

(1) The advertising of the DRAFT AMENDMENT PLAM 19-01 IS MISLEADING.

THE HEADING DOES NOT INCLUDE THE CORRECT INFORMATION CONTAINED IN THE SPECIFIC AREA PLANS VOTED ON BY COUNCIL.

The Instrument of certification including modified draft amendment includes the Montrose Foreshore Community Park Precinct, Brooker Highway Glenorchy, The Grove Reserve and the Derwent Entertainment Centre and Wilkinsons Point.

How can these areas be excluded from the Planning Amendment advertising with the heading only referencing the Wilkinsons Point Specific Area Plans? All areas should be listed at the top of the advertisement and it is misleading to exclude them when they are included in the documents presented for certification?

In addition to this the numbering and referencing of criteria throughout the Proposed, Amended and Draft Modifications including the Instrument of Certification are extensively changed throughout making it impossible to compare modifications being made when reviewing critical aspects of this Planning Application.

certification

Refer Attachment 6 – Amended Planning Report prepared by Irene Inc Planning and Urban Design

2.1 SITE ANALYSIS states:- The area of the site which is subject to the masterplan and proposed SAP is described below and referred to throughout this document as Wilkinsons Point (the site). As changes are required to the current part of a more extensive SAP which includes Elwick Bay. As changes are required to the current Wilkinsons Point Elwick Bay SAP to remove the Wilkinsons Point component, it too forms part of the wider site, although it is important to note that no development is proposed by this application on that balance land.

It is concerning however that there are changes to the Scheme for that area of the SAP and they should be included in this process of advertising, consultation and response. The fact that the applicant is not planning to undertake development at the present time is immaterial to the fact that there are changes to the Specific Area Plan being made.

(2) Of major concern is that contamination of land has not been addressed by the Planning Authority and liability for costs accepted by the Council. This is definitely not an acceptable risk and liability for ratepayers and could potentially bankrupt the Council. It also appears to contravene legislation and Principle 5 of the NEPM.

The planning system is the primary means of regulating land use and approving development and is an important mechanism for triggering the consideration of potentially contaminated land. The Planning Authority, when preparing a planning scheme or amendment should take into account any significant effects which it considers the scheme or amendment might have on the environment or which it considers the environment might have on any use or development envisaged in the scheme or amendment.

In Questions on Notice on 25th November 2019, it was stated there are “serious concerns, as a ratepayer, that decisions regarding the sale of Wilkinsons Point and the D.E.C. may create considerable financial burdens on Glenorchy ratepayers and not be in their best interests, rather than a financial bonanza some are expecting. On page 11 of the Agenda Special Council Meeting on 28th February it is stated that Council would pay “costs associated with mitigating any risks associated with any potentially contaminated land.” This commitment has been made but the Council and applicant do not appear have not undertaken a detailed hazard and contamination assessment of the land and due diligence has not been exhibited by the Council on behalf of its ratepayers, as well as the welfare of the users of the land and protection for the environment. Lack of good governance, transparency and due diligence are serious consequences displayed by this Council in failing to adequately address the assessment of contaminants and other risks associated with this land. How can Planning amendments be considered on this basis when the extent of contamination and hazards have not been assessed by the Glenorchy Planning Authority? It is important that the Environment Protection Authority is consulted in regard to use and development on potentially contaminated land.

The reply by the Council stated: “Council will ensure that there are adequate protections for ratepayers incorporated into any sale agreement.” This is certainly not what appears to have occurred in regard to intents stated in the Planning Application.

The Glenorchy community could face a severe legal and financial liabilities into the future.

The Glenorchy Planning Authority Agenda page 19 states:-

“National Environmental Protection Measures

National Environment Protection Measures (NEPM) are automatically adopted as State Policies under section 12A of the State Policies and Projects Act 1993 and are administered by the Environment Protection Authority.

Principle 5 of the NEPM states that planning authorities 'that consent to developments, or changes in land use, should ensure a site that is being considered for development or a change in land use, and that the authorities ought reasonably know if it has a history of use that is indicative of potential contamination, is suitable for its intended use.'

Part of the Wilkinsons Point site (601A Brooker Avenue) is identified as potentially contaminated as is the adjoining land at Dowsing Point. The Assessment of Site Contamination NEPM therefore applies to the proposed amendment.

The applicant has not provided in their submission any information or response relating to this potential contamination. The notes on Council GIS system indicates that in this area the property may have soil metal concentrations exceeding residential health investigation levels.

Given that the proposed Wilkinsons Point Specific Area Plan includes introducing the Residential use class onto the land, this is a matter that requires further information and resolution - potentially through revisions to the Specific Area Plan.

What is not stated here is that it is common knowledge within the Glenorchy community that the site while being reclaimed was a tip site and that rubble from demolished buildings was dumped there. Whether the Council has records of what was dumped there or not, one can be certain that it can be considered to be contaminated. Contaminants include asbestos and hydrocarbons as well as heavy metals which would be in the original bay sediments underlying the fill and contamination that originated at industrial sites such as Boyer and Risdon. Contamination of this type has recently prevented residents from occupying buildings in other States of Australia with serious and costly consequences.

According to the Wilkinsons Point Proposed Rezoning Infrastructure Report, the introduction of fill was carried out between 1975 and 2003. Fill commenced within the bay in the southwest corner between 1975 and 1976. By 1981 this bay was completely filled to current boundary extents. Land reclamation along the northern corner with the introduction of a sea wall in this area extended the point to its current area between 1989 and 2003.

Also stated is: It should be noted that prior to any building works on the site, an environmental site assessment would be required to determine whether the fill utilised on the site had introduced any introduced contamination. This assessment would be the responsibility of any future landowner.

Preliminary geotechnical assessment by W C Cromer in 2007 indicates 0.8 to 2.2 metres of fill across different areas of the site with groundwater encountered across the site at approximately sea level. The fill was found to contain a range of building waste material including concrete, timber, PVC, plastic, metal, bricks, copper wire and lead piping

The sediments in the Elwick Bay area are known to have high levels of heavy metal contamination and any works at the foreshore would be required to minimise disturbance of sediment to prevent introduction of contamination into the water column.

Has the Glenorchy Planning Authority consulted the Environment Protection Authority in regard to an assessment of this low-lying contaminated land which should have been undertaken prior to certifying these extensive amendments to the Specific Area Plan for the Montrose Foreshore Community Park Precinct and the Elwick Bay Foreshore Precinct? The Wilkinsons Point Proposed Rezoning Infrastructure Report states:-

Detailed geotechnical assessment would be required to assess potential contamination of the site due to uncontrolled fill, and expected low bearing capacity of underlying sediments, requiring piling.

(3) Can the Glenorchy Planning Authority pass a Planning Approval of such significance based on Local Planning Provisions that are not legislated and only in draft form?
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Refer Attachment 4 – SAP amendment supporting document states:-

“The State Planning Provisions (SPP) have been released and result in modified provisions from the current interim planning scheme. At the time of writing this report, there is still uncertainty in relation to the Local Planning Provisions that will be included within the finalized State Planning Provisions, as it is understood that they are currently comment for the Tasmanian Planning Commission after being drafted by Council.”

(4) Planning Approval submitted is based on the premise that the Glenorchy City Council has title to the land. The ownership of the Crown land is on a 99 year lease.

The Glenorchy City Council voted to sell the Derwent Entertainment Centre and Wilkinson’s Point when they did not have the legal right to do so. The three (3) titles have Public Reserve status under the Crown Lands Act 1976 Section 8 as well as being set aside under Section 12. They therefore cannot be sold as they are still being used for the purpose they were set aside. This includes the **Gazettal Notice in 1989 by the Governor and Minister** setting part of the land aside for a public purpose being a resumed part of the DEC land when it was acquired. There is the **Order No 25 issued 2nd July 2001** under the Crown Lands Act 1976 in regard to legislating the partnership agreement between the GCC and the Crown for Wilkinson’s Point land and **Order No 36 of 23rd June 2009** creating Public Reserve status for two unalienated areas of the Wilkinson’s Point Land plus the initial legislation that enabled the 99 Year Crown Land lease.

Section 8 (3) of the Crown Lands Act 1976 states: -

“Except as otherwise specifically provided, no land reserved under this section shall be sold leased, or otherwise disposed of under this Act while the order reserving the same remains in force”

There are serious questions in regard to overriding the law and conditions that were enacted under the Derwent Entertainment Centre Management Authority Act 1988 in July 1997 and including the Common Seal of the Authority affixed to the Transfer as well as the Crown Lands Act 1976 Section 12 - Setting Aside Crown Land for purposes of Act & c. whereby the public reserve status and purpose of the setting aside has not changed or ceased.

Council has consistently relied on the fee simple explanation for the ownership of the Derwent Entertainment Centre and made statements that there is no Public Reserve status over the land.

This is explained below and the Council’s claims are not logical or legally proven including the provision of any proof that the 99 Year Crown Land lease has been extinguished.

Fee simple ownership includes ownership on a 99 Year Crown Land lease under the Law of Easements in Tasmania.

Conclusions:-

1. In regard to the properties - Volume 110871 folio 1(DEC) and SP157530 Folio 1 and SP157350 folio 2 (Wilkinson’s Point) it is evidenced that **fee simple** is used not only for freehold ownership but for ownership of Crown land held as a lease over a number of years. (99 Year Lease)
2. Section 12 of the *Crown Lands Act 1976* - **Setting aside Crown Land for purposes of Act & c.** describes exactly the transaction whereby the DEC was transferred to the GCC. Section 12 (3) **“For the purposes of giving effect to any order under this section, the Minister has power, upon receipt of the purchase price(if any) in respect of the land comprised in the order and upon fulfilment by the transferee of all conditions precedent, to convey and alienate in the**

name and on behalf of Her Majesty the land in **fee simple** in accordance with section 10 of the *Land Titles Act 1980*."

The Minister cannot revoke this order as the land is still used for the purpose it was so set aside.

3. Selling Crown Land property on the basis of one unsolicited bid appears to contravene the Crown Lands Act 1976 as it specifies how Crown Land can be sold.
Crown Lands Act 1976 Section 6 - Land to be disposed of only in accordance with this Act
(1) Crown land shall be disposed of in accordance with this Act and not otherwise
4. It is the responsibility of the Crown Lands Department to deal with the sale of Crown Land and not the Local Government Authority [GCC].
5. In addition to all this however, is the fact that all three (3) titles have Public Reserve status under the Crown Lands Act 1976 Section 8 as well as being set aside under Section 12. They therefore cannot be sold as they are still being used for the purpose they were set aside. This includes the **Gazettal Notice in 1989** setting aside for a public purpose, a resumed part of the DEC land when it was acquired. There is the **Order No 25 issued 2nd July 2001** under the Crown Lands Act 1976 in regard to legislating the partnership agreement between the GCC and the Crown for Wilkinson's Point land and **Order No 36 of 23rd June 2009** creating Public Reserve status for two unalienated areas of the Wilkinson's Point Land plus the initial legislation that enabled the 99 Year Crown Land lease.
6. There are penalties under Section 28 of the *Crown Lands Act 1976* for misrepresentation in dealing with the disposal of Crown Land other than in accordance with the Act. Only Crown Land Services and the Minister are able to deal with Crown Land.

Setting aside Crown land for the purposes of Act, &c.

Under the *Land Resumption Act 1957*, the *Land Acquisition Act 1993* and *Crown Lands Acts 1935 and 1976* the land is Public Reserve and set aside under Section 8 of the *Crown Lands Act 1976*

Also refer *Crown Lands Act 1976* Section 12 **Setting aside Crown land for the purposes of Act, &c.**

(4) The Minister may, by order, if he is satisfied that any land set aside under this section will not be required for the purposes for which it was so set aside, revoke the order by which the land was so set aside or so much of the order as affects that land ceases to be available for the purpose for which it was so set aside.

The Derwent Entertainment Centre has always been used as an entertainment centre and never ceased to be available for use as an entertainment centre. The Minister cannot dispose of this site under the *Crown Lands Act 1976* and it is unlawful for Council to dispose of Crown Land. Also, it is important to point out that under the *Crown Lands Act 1976*, it is the responsibility of Crown Land Services and the Minister to administer Crown Land and (99 Year) leases. Council has no authority to dispose of this land and it definitely cannot term this public land as erroneously stated on 9th July 2018 Meeting Agenda.

The Derwent Entertainment Centre was granted as a bi-centennial gift to the people in perpetuity. This was protected by the Derwent Entertainment Centre Management Authority Act 1988 and law at

the date of transfer to GCC in July 1997. The document tabled in both Houses of Parliament by the Authority stated :-

“According to our Strategic Plan, during the year we have achieved the following objectives:

Negotiated the transfer of ownership of the Centre

- A) The control and ownership of the DEC be vested solely in the Glenorchy City Council
- D) The Council continues to hold a 99 Year lease over the Crown Land surrounding the Centre and including Wilkinson’s Point.

The *Derwent Entertainment Centre Management Authority Act 1988* (DECMA ACT) was law at the date of transfer to the GCC in July 1997. It was not repealed until 17th December 1998.

A COPY OF THE SALE AGREEMENT DATED 30TH APRIL 1997 STATES:

12. “It is hereby acknowledged that the Property is being transferred to the Purchaser so that the Property can continue to be used for the purpose of an entertainment centre and that the Purchaser will be required to seek the written permission of the Crown (still continuing under the *Crown Lands Act 1976*) in Right of the State of Tasmania prior to implementing any proposed change in use of the Property from that of an entertainment centre. The Purchaser shall be required to act in good faith at all times. The provisions of this clause shall not merge on transfer of the Property to the Purchaser.”

Annexure “B” C. states:

“In consideration of the Council agreeing to purchase the Centre” (on a continuing 99 Year Crown Land Lease) “and continuing to use it for the purpose of an entertainment centre the Crown has agreed to pay certain moneys to the Council upon the terms and conditions set out in this Deed”

The common seal of the Authority was attached to the document in accordance with its powers and functions under the DECMA Act 1988. The common seal of the Glenorchy City Council was also affixed to the Deed as a binding corporate act.

N.B. Refer DECMA Act 1988 in force at the date of transfer states:-

- (2) (a) has perpetual succession
- (b) shall have a common seal
- (c) The common seal of the Authority shall not be affixed to a document except in pursuance of a resolution of the Authority.....

(d) All courts, judges and persons acting judicially shall take notice of the common seal of the Authority affixed to a document

SUMMARY:

- the Derwent Entertainment Centre was to remain an entertainment centre under the signed agreement with the Council in 1997 and under the seal of then *Derwent Entertainment Centre Management Act 1988*. (Agreement Attached with common seal of the Authority and Council). The Council is required under the agreement to act in good faith at all times.

The Council agreed to this and therefore cannot lawfully contravene:-

- the DEED of Sale Agreement,

- the Powers and Functions of the DECMA Act of Parliament in force at the date of transfer
- the Land Titles Transfer Section 58 *Land Titles Act 1980* stating: TO HAVE AND TO HOLD the land described unto and to the use of the Transferee and its assigns forever in fee simple subject to any reservations exceptions conditions and powers contained in the *Crown Lands Act 1976*.

The Authority has perpetual succession and Section 4 (3) “the common seal of the Authority shall not be affixed to a document except in pursuance of resolution of the Authority and every sealing shall be authenticated by the signature of at least 2 members of the Authority.” Section 4(4) All courts, and judges and persons acting judicially shall take judicial notice of the common seal of the Authority affixed to a document....”

The site is Crown Land on a 99 Year Lease vested in fee simple ownership and cannot be sold by Council or the Minister as it is reserved under the *Crown Lands Act 1976* as Public Reserve Section 8.

The Law of Easements in Tasmania covers three types of fee simple ownership and includes the ownership where the estate passes to lineal heirs.

- **Fee simple is used for 3 types of freehold ownership including freehold ownership of Crown land held as a lease over a number of years. The Council and the Minister do not have the authority to dispose of this public reserved Crown Land and the Derwent Entertainment Centre which must lawfully be retained for its original purpose with perpetual succession for the people under the DECMA Act 1988 and Crown Lands Act 1976 and the binding Sale Agreement. In summary, Section 28 of the *Crown Lands Act 1976* outlines penalties including 12 months imprisonment for anyone involved in the purchase (or sale) of Crown Land by misrepresentation.**

WILKINSON’S POINT STATUS AND TENURE OF THE LAND

Folio No. 157350/1 Property Identification No. (PID) 2984111 - 601B Brooker Highway, GLENORCHY TAS 7010

Description of Land: Derivation: Whole of Lot 1001(1.160 ha) The Crown and Whole of 2.182 ha acquired by the Crown. Prior CTs 157350/1001 and 135856/1 (PID 2984111)

Lot 1 on Sealed Plan 157350 held by Crown Land Services

Folio No. 157350/2 Property Identification No. (PID) 2984138 - 601A Brooker Highway, GLENORCHY TAS 7010

Description of Land: Derivation: Whole of Lot 1000 (7452m²) the Crown, Part of 427 Acres Gtd. To George Frederick Read and Part of 41A-2R-23P Gtd. to Thomas Yardley Lowes.

Prior CTs 157350/1000 and 135856/2

Crown Lands Act 1976, Order 25 of 2nd July 2001 states ownership in partnership with the Crown

Unalienated Land at Wilkinson’s Point confirmed and created as Public Reserve pursuant to Crown Lands Order No 36 of 2009 under Section 12 of the *Crown Lands Act 1976* (PID 2511680)

Lot 2 on Sealed Plan 157350 held by Crown Land Services

The *Lands Resumption Act 1957* is “AN ACT to consolidate and amend the law relating to the acquisition or resumption of estates and interests by the Crown.” 157350/2 was acquired for public purposes under the *Lands Resumption Act 1957*.

Refer Section 63 (*Crown Lands Act 1976*)

63- (1) Any land purchased, acquired, or taken in accordance with the provisions of the *Lands Resumption Act 1957* may be leased to any person, or a licence may be granted to any person in respect thereof, by the Minister, as if that land were land reserved under Section 8, or were Crown Land.

Crown Lands Act 1976, Section 8 specifies Public purpose for which land may be reserved. Column 3 of Schedule 5 details purposes of reservation.

Section 8 (3) states “Except as otherwise specifically provided, no land reserved under this section shall be sold or leased, or *The Land Acquisition Act 1993* No. 23 of 1993 states:-

AN ACT to make provision for the acquisition of land by the Crown, public and local authorities and promoters, to authorize the acquisition of land undertakings of a public nature, to provide for matters incidental to, and consequential on, that acquisition, and repeal the *Lands Clauses Act 1857*, the *Lands Resumption Act 1957* and the *Public Authorities’ Land Acquisition Act 1949* [Royal Assent 3 June 1993]

Land acquired by Crown becomes Crown Land reserve

75 – (1) On the acquisition of land by the Crown, the land acquired becomes land reserved to the Crown under section 8 of the *Crown Land Act 1976* for the purpose for which the land was acquired.

The Local Government Act 1962 applied to the Wilkinson’s Point land. Both titles are sealed plans held by Crown Lands. The land is zoned CU2 – Community Use and a Special departure applies to the area. The Departure was set forth in Schedule 10 of the Glenorchy Planning Scheme 1992 and related to Wilkinson’s Point and Elwick Bay Masterplan.

The Elwick Bay Foreshore Public Open Space Area Intent states:-

“To maintain the natural values and enhance community and recreational use of the foreshore as a linear open space link between Montrose Community Park, Wilkinson’s Point and beyond.”

Section 468 Conveyancing Provisions (1) **Where land comprised in a sealed plan-**

(b) is described as a reserve it shall be deemed surrendered to and accepted by Her Majesty by deed enrolled of record of transfer, as the case may be, and subject to the *Crown Lands Act 1935* as if excepted and reserved under seven of that Act for the purpose appearing on the plan or, if no purpose or no lawful purpose appears on the plan, for such lawful purpose as the Governor by proclamation declares, a memorandum of which proclamation shall be entered by the Surveyor –General on the proper maps and records kept by him.

The following is a record from Council Documents in regard to Planning Authority issues and the GASP Development in March 2012

PROPOSED USE AND DEVELOPMENT – SHELTER AND TOILETS AT WILKINSON’S POINT WITHIN 30METRES OF A LISTED WATERCOURSE –DERWENT ENTERTAINMENT CENTRE -601 BROOKER HIGHWAY, GLENORCHY. Property ID 7597188

ZONING: Special Community use CU2 - Development Status: Discretionary – Discretions Use with 30M of listed watercourse – Existing Land Use: Public Park, Marine Development- Proposal in Brief: Shelter and toilets at Wilkinson’s point within 30M of a listed watercourse.

Pippa Dickson on behalf of GASP has lodged an application to lease Crown land for the reclamation, sea wall and cut and another application for the pavilion building at the point. CLS is currently assessing the application and I am hoping to submit for approval to the Minister’s delegate next week with the following conditions associated with the lease and works: 1. That the Deputy Secretary approve the lease to Glenorchy City Council on the following basis: Purpose: public recreation (pavilion & park, boardwalk) Term: ten (10) years with an option to renew for a further ten (10) year term Rental: \$1.00 if asked in accordance with the Tasmanian Crown Lands Rental Policy 2008.

“All works are subject to the Council seeking approval of all necessary planning and building permits for the development.”

The Ferry Terminal is on Crown Land within 30 metres of the watercourse and should not be sold by Local Government (GCC). It should remain Public Reserve.

Road Reservations shown on all titles being disposed of are managed under the *Crown Lands Act 1976* and cannot be sold by Local Government (GCC).

The Road Reservations (e.g. Lloyd Road) are shown on the Titles 110871/1, 157350/1 & 157350/2. “Reserved Roads that have not become a public road are managed like any other Crown land under the *Crown Lands Act 1976*. Land owners who wish to use such Reserved Roads for access to their properties, or for other purposes, must first apply to Property Services”- (Refer Crown Land Services)

The Certificates for 157350/1 and 157350/2 were dispatched to Crown Land Services

& are both on Sealed Plans

“Reserve” means any land of the Crown reserved from sale, lease or private occupation or for any special purpose under any Act;

Crown Lands Act 1976 states Part 11 (6) Crown Land shall be disposed of in accordance with this Act and not otherwise.

Crown Lands Act 1976 states 28 –(1) No person shall. For or in connection with the purchase of any Crown land, make any representation which he knows to be false.

57. Reservation of land abutting on streams

Where in the opinion of the Minister, it is desirable to reserve Crown Land –

- (a) Abutting on any permanent river, stream, or lake; or
- (b) That is contiguous to the sea or any estuary

He shall reserve. From any sale of that Crown Land, land to the extent of at least 15 metres in width on each bank of the river, stream, lake, or the high-water mark of the sea or estuary.

Wilkinsons Point - Recreational and Public Space Land for the People

The Public open space featuring a flat natural landscape is used by hundreds of people every day. The Glenorchy Planning Scheme S.10.8.2 states - Use/Public Space Desired Future Character -

(a) "It's prominent, accessible and centrally located within the Municipality makes Wilkinson's Point the 'people's point'.

(b) Experience of the Point is enriched through provision of a continuously accessible foreshore linear park."

In addition to other parts of the foreshore Crown Land and as a result of the Crown Land Classification Project - October 2006 parts of unallocated land were created and confirmed as Public Reserve pursuant to Crown Land Order No. 36 of 23rd June 2009.

Wilkinsons Point & Elwick Bay Precinct Masterplan (Prepared by Glenorchy City Council) states:- SECTION 1 1.1 Background

Land in the Wilkinsons Point – Elwick Bay foreshore area is **generally** in Council ownership as a result of a partnership agreement with the State Government in 2001. (Crown Lands Act Order 25 of 2nd July 2001).

It is important to note that the ownership is a Crown Land lease of 99 years

(5) The Risk of inundation is a major concern in regard to the cost risk and liability for ratepayers including ongoing costs related to maintaining the boardwalk and sea wall.

The proposed Planning approval does not adequately cater for this contingency. Council has stated in their Planning Authority Agenda on 11th June 2019. "...there is no Council policy requiring a developer contribution with respect to flooding protection works." The Wilkinson Point Specific Area Plans must address this issue.

Concern is also expressed in regard to potential faults in the control, placement and design of buildings by the developer. It appears that the exclusion zone is only 10 metres for areas A2 and P2.

F2. 7.3. Setback from high-water in the Montrose Foreshore Community Park specifies the setback of buildings from the high-water mark must not be less than 10 metres. Confusingly it applies to A2 (in the Wilkinsons Point Specific Area Plan) but the heading appears to be incorrect. The exclusion zone for development from the high-water mark should be in accordance with the Coastal Inundation Hazard Code.

F13.7 Development Standards for Buildings and Works does not specify any setback in regard to Coastal Inundation.

In addition, a Coastal Inundation Hazard Report must identify appropriate protection measures for any hazardous chemicals used, handled, generated or stored on the site, taking into consideration the potential risks of the hazardous chemical to human health and safety as a consequence of coastal inundation on the site or adjacent land.

Wilkinsons Point & Elwick Bay Precinct Masterplan (Prepared by Glenorchy City Council) states:-

SECTION 2

2.1 Physical and Biological Setting

Footnote: In addition, changes to global rainfall patterns, storm patterns and temperatures are projected. These predictions may not seem significant, but even the smallest increases may result in flooding of low-lying coastal areas such as occur in this study. As such a conservative (and recommended risk management) approach is to use the IPCC projection to assess coastal flooding hazards and to guide development decisions. (Intergovernmental Panel on Climate Change 4th Assessment Report 2007)

Sea Level Rise

The University of NSW Water Research Laboratory 2008 "The study assessed various inundation level risks and recommended planning controls that deal with building setbacks, minimum floor levels, appropriate engineering assessments and appropriate construction techniques."

"The location of walkways, buildings and landscaping will need to take into account the risk of continuing erosion along the foreshore."

In addition to other parts of the foreshore being Crown Land and as a result of the Crown Land Classification Project - October 2006 parts of unallocated land were created and confirmed as Public Reserve. (PID 2511680)

Questions: Who will maintain the foreshore boardwalk? It is a wooden structure that is already showing signs of deterioration. Who will maintain the stability and height of the seawall? If this is Crown Land why is it included on the title? If it becomes dangerous to use when it falls into disrepair what will happen to public access that is promised? People will be prevented for using it.

(6) Works and Development Applications are required for Crown Land. "All works are subject to the Council seeking approval of all necessary planning and building permits for the development."(Refer Council and Property Services documentation). If the Council states this not Crown Land then why is approval from the Minister and Crown Land Services required for Works and Development and referenced on the Letter of Consent? The Planning Approval includes a Letter of Consent from Hon Roger Jaensch MP Minister for Environment and Parks. The letter references a Works Application(required for any works on Crown Land) supplied to Parks and Wildlife Service on 12th December 2019 prior to the vote by the Glenorchy City Council on 23rd December. It also states "I understand that the changes do not impact the subject Crown Land". It has been denied by Council that there is any Crown Land on the 3 titles to the land. In addition, how can the applicant submit a Planning Approval prior to the successful negotiations and purchase?

(7) How can the applicant submit a Planning Approval for Crown Land and the additional titles not part of the negotiations in the DEC / Wilkinsons Point deal? In addition, the Planning Application included a Letter of Consent in regard to the Planning Application in the name of the applicant prior to Council voting to dispose of the titles.

(8) Five(5) Titles of Montrose Bay Foreshore have been included in the Planning Application without any public consultation.

Council have listed five (5) additional titles on their letter in regard to the Planning Amendment Request on behalf of LK Property Group Pty Ltd. These have not been subject to public consultation and the titles include Crown Land.

(Please refer to Page 419 of attachments to Glenorchy Planning Authority Meeting 23rd October 2019)

The addresses of eight (8) Property Titles included in the Application from LK Property Group Pty Ltd are:-

PID 7597188 601 Brooker Highway (Derwent Entertainment Centre)

PID 2984111 601B Brooker Highway (Wilkinson's Point) Title 157350 Folio 1

PID 2984138 601A Brooker Highway (Wilkinson's Point) Title 157350 Folio 2

The additional five (5) PID's and Titles that the community has not been consulted on are:-

PID 2060744 THE GROVE RESERVE Brooker Highway Glenorchy Title 135852 Folio 4

PID 2060752 MONTROSE BAY COMMUNITY PARK 825 Brooker Highway Montrose Title 135852/5

The following three (3) listed properties are not included in the Scheme Amendment description and consent letters.

PID 2060760 Brooker Highway Glenorchy (2603 Square Metres acquired by the Crown)
Title 135852 Folio 3

PID 1473731 GLENORCHY ROWING CLUB 849B Brooker Highway Montrose Title 126136 Folio 1

PID 5358765 MONTROSE BAY YACHT CLUB 849 Brooker Highway Montrose

It is concerning that there no description of these (3) PID's on the Planning Amendment Consent letters by the GCC and the Minister of the State Government Department but the Properties are included in this process with the LK Property Group Pty Ltd.

(9) Can a Planning Approval Application be passed on behalf of a potentially deregistered or unregistered company?

The Corporations LAW and dealing with a Deregistered Company. The Planning application has been progressed by the Council with what appears to be a deregistered or unregistered company. ASIC advice states entities should seek professional advice in regard to the Corporations Act 2001 and other applicable laws in regard to deregistered companies. The risks and liabilities for Council (& ratepayers) are potentially enormous. Council must exercise due diligence

when carrying out its duties. When a company is deregistered it ceases to exist as a legal entity and is no longer able to do anything in its own right. This includes the power to deal, negotiate, acquire assets and enter into any legal proceedings using a deregistered company name. Is the deregistered company exempt from liability in the case of anything to do with the acquisition including building on a rubbish site containing known contaminants and building site stability issues and with the risk of inundation from sea level rise especially when the planning process appears to have reduced the margin to building within 20 metres from the water's edge (Refer Planning Authority Meeting Agenda 23rd October 2019) or what appears to be 10 metres in the Instrument of certification? Who will carry the risks and liabilities associated with this?

(11) Why has the Instrument of certification document included the potential for Gaming Machines in Precinct C (Derwent Entertainment Centre) when it was not included in Attachment 6 - Amended Planning Report Prepared by INC Planning & Urban Design and the Attachment 1 – Proposed SAP Amendment as disclosed on 23 October 2019

The inclusion of the Hotel Industry in the Use Table is specified in the Montrose Foreshore and Elwick Bay Specific Area Plan - Attachment 4- Modified Wilkinsons Point Specific Area Plans as prepared by the applicant (dated 17th February 2020) and the Instrument of certification modified draft amendment. (This was added with no accompanying comment)

How can this be certified when this is a Community Facility for Family Entertainment?

Hotel Industry – Tasmanian Planning Scheme – State Planning Provisions

Hotel Industry Use:- Use of land to sell liquor for consumption on or off the premises. If the land is so used, the use may include accommodation, food for consumption on the premises, entertainment, dancing, amusement machines and gambling. Examples include a hotel, bar, nightclub, adult entertainment venue and tavern.

Glenorchy Planning Authority Meeting Agenda dated 23rd October 2019 states:-

Resolution:

B. That the Planning Authority resolve to prepare a modified amendment PLAM-19/01 as detailed in the report.

C. That the Planning Authority resolves to advise the applicant of the above and that further information relating to the matters referred to in this report as well as additional clarification as to how gaming facilities will be controlled in the specific area plan is required.

Of additional concern was the statement made by the Planning Authority on the Agenda dated 17th February 2020:-

Hotel Industry Use

Concern was raised by the Planning Authority as to whether there were sufficient limitations in the use standards under the Wilkinsons Point SAP to control use of land for large drive through bottle shops and gaming facilities.

The applicant has, in their proposed modified Wilkinsons Point SAP, proposed to exclude these uses by way of use qualifications under the use tables. The Wilkinsons Point SAP now lists a bottle shop as prohibited in all Precincts except Precinct B. In Precinct B a bottle shop less than 500m² is a relatively small area even for a retail style bottle shop as it covers back of house storage and as a result the Wilkinsons Point SAP as contained in Attachment 1 for certification is considered an appropriate response to this concern.

In light of these comments why has Hotel Industry allowing Gaming Machines been added as a Discretionary use to the Use Table Precinct C (DEC) by the Planning Authority and added to the Instrument of certification including modified draft amendment?

It is also of concern that the discretionary use of Gaming facilities at the Derwent Entertainment Centre was added by the applicant at the last minute and as a result public scrutiny was not facilitated or evident especially in light of the above confusing statement by the Planning Authority.

(12) F13.1 Purpose of the Specific Area Plan

The purpose of the Specific Area Plan is to

(a) To provide for a state NBL team training and performance facility, supported by a range of active recreation, hotel accommodation, sports retail, and food services whilst retaining access for public art, passive recreation and community events. –

Why is there no mention in the SAP of this facility being available to young people as promised? The Specific Area Plan requires further amendment and certification to reflect that the plan is to include young people sports at this training facility.

Why did the Government make an election promise of a \$10 million indoor multi-sports facility for young people and now abandon that need to provide a \$20 million state of art NBL training and performance facility? (Refer Glenorchy Planning Authority 17/2/20 Attachment 1 Page 14, 17)

The Southern Indoor Sports Facilities Feasibility Study confirmed the need for this facility and associations reported waiting lists due to the demand. The facility was to cater for young people participating in multiple sports including basketball, netball, gymnastics, volleyball, futsal and martial arts.

This should be acknowledged and amended in the Specific Area Plan.

(13) The Infrastructure Report(23rd October 2019 - Attachment 8 Page 374) states “It is recommended that the road through the development be maintained as a Council asset, with infrastructure required to service the site installed within associated (future) road reserve where possible.”

F2.8 Subdivision must be by or for the Council or public authority. (Lot design A1 and P1.

Attachment 1 – Instrument of certification including modified draft amendment – 17th February 2020

F2.8 Development Standards for Subdivision

F2.8.1. Subdivision in the Montrose Foreshore Community Park Precinct

This is a misleading heading as it also includes the Elwick Bay Foreshore Precinct.

The Instrument of certification states Subdivision must be by or for the Council or public authority(Page 11)

Of major concern for ratepayers is the cost commitment taken on by Council on behalf of the developer.

Attachment 8 – Infrastructure Report 23 October 2019 states:-

“It is recommended that the road through the development be maintained as a Council asset, with infrastructure required to service the site installed within the associated (future) road reserve where possible.”

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It appears that ratepayers are to pay for the construction of a new road and that the infrastructure for the subdivision will be also funded by ratepayers as it will be incorporated under the road. Ratepayers will be contributing to the costs associated with any risks associated with any potentially contaminated land.

It is believed that the Purchaser should indemnify and keep indemnified the Council (ratepayers) against any costs with respect to the Property from the date of transfer. Why are ratepayers being knowingly left with so many risks and liabilities associated with the loss of their Open Space and Community Entertainment Centre and as contained in this rezoning Draft Amendment to Specific Area Plans?

In answer to Questions on Notice, GCC meeting 25 November 2019, it was stated that:- Council will ensure that there are adequate protections for ratepayers incorporated into any sale agreement. It now appears that this is completely incorrect.

Yours sincerely, Janiece Bryan