



CITY OF HOBART

AGENDA

Finance and Governance Committee Meeting

Open Portion

Wednesday, 14 March 2018

at 5.00 pm

Lady Osborne Room, Town Hall

THE MISSION

Our mission is to ensure good governance of our capital City.

THE VALUES

The Council is:

about people	We value people – our community, our customers and colleagues.
professional	We take pride in our work.
enterprising	We look for ways to create value.
responsive	We're accessible and focused on service.
inclusive	We respect diversity in people and ideas.
making a difference	We recognise that everything we do shapes Hobart's future.

ORDER OF BUSINESS

Business listed on the agenda is to be conducted in the order in which it is set out, unless the committee by simple majority determines otherwise.

APOLOGIES AND LEAVE OF ABSENCE

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Finance and Governance Committee Meeting (Open Portion) held Wednesday, 14 March 2018 at 5.00 pm in the Lady Osborne Room, Town Hall.

COMMITTEE MEMBERS

Ruzicka (Chairman)
Thomas (Chairman)
Deputy Lord Mayor Christie
Zucco
Sexton
Cocker
Reynolds

APOLOGIES: Nil

LEAVE OF ABSENCE:

Alderman E R Ruzicka.

ALDERMEN

Lord Mayor Hickey
Briscoe
Burnet
Denison
Harvey

1. CO-OPTION OF A COMMITTEE MEMBER IN THE EVENT OF A VACANCY

2. CONFIRMATION OF MINUTES

The minutes of the Open Portion of the Finance and Governance Committee meeting held on [Wednesday, 14 February 2018](#), are submitted for confirming as an accurate record.

3. CONSIDERATION OF SUPPLEMENTARY ITEMS

Ref: Part 2, Regulation 8(6) of the *Local Government (Meeting Procedures) Regulations 2015*.

Recommendation

That the Committee resolve to deal with any supplementary items not appearing on the agenda, as reported by the General Manager.

4. INDICATIONS OF PECUNIARY AND CONFLICTS OF INTEREST

Ref: Part 2, Regulation 8(7) of the *Local Government (Meeting Procedures) Regulations 2015*.

Aldermen are requested to indicate where they may have any pecuniary or conflict of interest in respect to any matter appearing on the agenda, or any supplementary item to the agenda, which the committee has resolved to deal with.

5. TRANSFER OF AGENDA ITEMS

Regulation 15 of the *Local Government (Meeting Procedures) Regulations 2015*.

A committee may close a part of a meeting to the public where a matter to be discussed falls within 15(2) of the above regulations.

In the event that the committee transfer an item to the closed portion, the reasons for doing so should be stated.

Are there any items which should be transferred from this agenda to the closed portion of the agenda, or from the closed to the open portion of the agenda?

6 REPORTS

GOVERNANCE

6.1 Hobart City Vision Project: Presentation by Community Panellists
File Ref: F18/20682; F18/20682

Report of the Associate Director City Economy, Tourism and Events and the Project and Research Officer of 9 March 2018.

Stephen Poljansek, Raja Iyer, Kartika Franks, Samuel Watson, Nitesh Raj Pant/Lucinda Toynbee Wilson, Boshra Yazahmeidi, Amelia Lawrence and Sarah Wilcox, Community Panel Members from the Hobart City Vision Project, will address the Committee in relation to Item 6.1.

Delegation: Council

**REPORT TITLE: HOBART CITY VISION PROJECT: PRESENTATION
BY COMMUNITY PANELLISTS****REPORT PROVIDED BY:** Associate Director City Economy, Tourism and Events
Project and Research Officer**1. Report Purpose and Community Benefit**

- 1.1. The purpose of this report is to present a *summary* of findings from the vision project community engagement, as background for the presentation of the vision put forward by Community Panellists.
 - 1.1.1. A considerably more detailed report on findings will accompany the draft vision document once it is compiled.
- 1.2. Representatives from the Community Panel will be at the meeting to present their vision to the Aldermen.
 - 1.2.1. The work that the panellists will present is the culmination of their collaboration over four sessions.
 - 1.2.2. It will be presented as a first draft vision that will undergo further editing and wider community engagement.

2. Report Summary

- 2.1. The main period of community engagement for the vision project began in September 2017 and concludes with the Community Panellists' presentation to Aldermen on 14 March 2018.
 - 2.1.1. The engagement involved five major phases, outlined in this report, with detailed information to be provided in subsequent reporting:
 - Phase 1: Talking to Hobart
 - Phase 2: City Forum
 - Phase 3: Wider engagement
 - Phase 4: Stakeholder workshops
 - Phase 5: Community Panel
- 2.2. The presentation by panellists represents the culmination of their work over four sessions in February 2018.
 - 2.2.1. Their presentation will focus on an overarching vision statement, along with long-term vision statements, objectives, and strategies for eight focus areas, called pillars.
 - 2.2.2. These elements comprise the core of the community's vision, which will become the draft vision document, in consideration of findings from the preceding stages of engagement.

3. **Recommendation**

That the Council receive and note the presentation from Community Panellists, as the core input leading into a subsequent comprehensive project report and draft vision document.

4. **Background**

4.1. Aldermen will recall that two research projects helped to inform the Council decision to create a new, community-led vision document to guide the City's strategic planning.

4.1.1. A preliminary report evaluated changes that had occurred in Hobart since the first vision document was created in 2006.

4.1.2. The Governance Committee received a presentation on that report, along with preliminary recommendations. On 1 March 2016, the Governance Committee decided inter alia:

That:

This memorandum and the attached report are for the information of Aldermen.

The work undertaken by Ms Field will be used as an input by officers in the development of the new vision project.

4.1.3. A second report evaluated global trends in city visioning and long-range strategies, including document structures, content, and community engagement methods, and related initiatives. The report reviewed examples from over 60 cities in 37 countries.

4.1.4. The Governance Committee received a presentation on that report, along with specific recommendations as to means of undertaking the project to create a new vision. On 6 March 2017, the Council decided inter alia:

That:

1. *The Council reaffirm its commitment to creating a new vision or long-range strategy for the City of Hobart*

2. *The process to create a new vision commence in early 2017.*

3. *The process to create the new vision involve broad-scale community engagement, including:*
 - (i) *Both online and offline methods, including web and social media presence and a range of in-person interactions.*
 - (ii) *Incorporating techniques of relevance to long-range strategy, such as strategic foresight, systems thinking, and participatory democracy.*
 - (iii) *Building vision-specific partnerships with key stakeholders, such as the University of Tasmania and metropolitan local government entities.*
 - (iv) *Wherever practicable, entering into direct dialogue with leading cities in relation to the development and measurement of individual and aspirational visions, to assist the process.*
 4. *The process to create the new vision involve comprehensive pre-engagement planning, including:*
 - (i) *A dedicated communications strategy, including provisions for project branding, marketing and messaging.*
 - (ii) *A dedicated research and evaluation strategy, including provisions for data collection and analysis.*
 5. *Regular updates be provided to ELT and the Council.*
- 4.2. A national expression of interest process was undertaken, to seek consultants to undertake some elements of the vision project.
 - 4.2.1. Two requests for quote were circulated in mid-2017, one for the community panel and wider engagement, and one for communications and marketing.
 - 4.2.2. A Hobart-based consortium of consultants, under the banner of The20 (a communications and marketing agency, formerly Clemenger Tasmania) was engaged.
 - 4.2.3. The20 put forward a unique and integrated approach to engagement, in particular the use of in-depth interviews feeding into a narrative expression of Hobart identities and characteristics.

- 4.3. The major phase of the vision project community engagement began in September 2017 and is now largely complete.
- 4.3.1. A comprehensive analysis of engagement findings will comprise a subsequent report, as a means of introducing the draft vision document itself. The purpose of the information in this section is to provide a brief background as to the process that fed into the Community Panel and their presentation.
- 4.3.2. This subsequent report will include more detailed information about participant recruitment, participant demographics, evaluation findings, and other project characteristics and outcomes.
- 4.3.3. **Phase 1: Talking to Hobart**
- The first phase involved 214 one-on-one interviews with greater Hobartians who live, work, study, and access services and amenities in Hobart LGA, conducted by consultants from The20 and the City of Hobart project manager.
 - Roughly half of participants were recruited as a random stratified sample through market research company, EMRS. The remainder were recruited through City of Hobart and The20's databases and contacts, which a focus on thematic diversity (e.g. representation from creative industries and entrepreneurs).
 - Detailed information about participant demographics will be provided in a subsequent report.
 - Aldermen and Directors from the City of Hobart were also interviewed as part of this phase.
 - Topics discussed in interviews included:
 - What brought you to Hobart or what has kept you here, if you chose this place?
 - What are you most and least proud of?
 - What could only happen here?
 - What is an example of Hobart at its best?
 - The aim was to find the sources of pride in Hobart—starting the project from what people love, rather than what they want to fix.
 - Major themes heard in the interviews were shared through 20 blog posts at www.onlyinhobart.com.au.

- The major themes were brought together into a Hobart Story, a narrative piecing together the major themes in an aspirational style. The Story was a core input to the Community Panel (Phase 5) and can be viewed at www.onlyinhobart.com.au/contributions.

4.3.4. Phase 2: City Forum

- The most visible public event, the City Forum was a two-day workshop at City Hall, attended by 116 people from across the Hobart metropolitan area.
- Participants chose from eight perspective groups (the percentage of participants who selected each area is shown in brackets):
 - Interested in development and the environment (39%)
 - (A little bit) creative (21%)
 - Keeping our city in business (12%)
 - Passionate about sport, games, the outdoors or tech (10%)
 - Someone who helps and cares (9%)
 - Helping people learn new things (6%)
 - Leaders of tomorrow (and today) (3%).
- Further details on participant demographics will be provided in a subsequent report.
- The central activity of the forum was the creation of pillars, focus areas or categories for thinking about the future of Hobart. Participants voted on their preferred pillars, which were considered alongside vision project research findings from earlier stages of the project.
- The pillars taken forward to the Community Panel were:
 - Community inclusion and participation
 - Creativity and culture
 - City economies
 - Natural environment
 - Movement and connectivity
 - Land use and development
 - Urban design and sense of place
 - Governance and civic involvement.

- Participants also workshoped principles: what they believed that ‘we need to apply as individuals and as a city to achieve the future we have talked about’. Participants voted on their preferred principles, which were compiled and copyedited by The20:
 - We are transparent and accountable in our decision making.
 - We value and respect our natural, built, cultural and Aboriginal heritage.
 - We are inclusive in our engagement.
 - We foster distinctiveness and diversity.
 - We value the human scale of our city.
 - Change must lead to improvements for our people, our environment and our place.
 - We put future generations at the heart of our thinking.

4.3.5. Phase 3: Wider engagement

- The main feature of wider community engagement was a survey in the City News, sent to every residence and business in Hobart, and posted on Your Say Hobart, resulting in 527 responses.
- There were three pop-ups in November 2017, at Farm Gate Market, Salamanca Market, and the Christmas tree lighting, where people could complete postcards about what they love about Hobart. The postcards were displayed at the City Forum.
- A workshop with 60 Hobart primary school students, as part of Children’s Week celebrations, was undertaken, and a report compiled. The report was shared with Community Panellists for their consideration.
- Broader public engagement through formal and informal media occurred during this stage, including:
 - A Talking Point and advertisements in the Mercury
 - Posters displayed in various locations around Hobart
 - Emails circulated by Council staff and UTAS.
- Further details on media and communications will be provided in a subsequent report.

4.3.6. Phase 4: Stakeholder workshops

- Three, two-hour workshops attended by 46 key stakeholder representatives were undertaken. Details on attendance will be provided in a subsequent report. Broadly speaking attendance was from business, developers, the community sector and key individuals that the City has regular dealings with.
- Participants responded to the Hobart Story and reflected on the key opportunities and challenges under each pillar area.
- Approximately 90 organisations were invited to send representatives to the workshops. Just under 200 more were sent invitations to provide a written submission that would be given to the panel to consider, although only five organisations responded.
- Stakeholders will be invited to comment on the draft vision when it is released to the public.

4.3.7. Phase 5: Community Panel

- A group of 50 community members and businesspeople, who deliberated over the inputs from the previous stages and drafted a new vision of the city.
- Panellists were recruited and selected primarily through EMRS, to be representative of the City and its' constituents with some demographic gaps fulfilled through direct expressions of interest through City of Hobart databases.
- Details on panellist demographics and recruitment and selection methods will be provided in a subsequent report.

4.4. The Community Panel deliberations were the culmination of the engagement program to date.

4.4.1. Panellists met over four sessions, on 8 and 16 February (from 5:30 to 9:30pm) and 17 and 24 February (from 9am to 5pm).

4.4.2. Panellists self-selected into groups based on the eight pillars derived from the City Forum.

4.4.3. They had the opportunity to review findings from the aforementioned stages of engagement, vision project reports to date, and topic-specific documentation.

- 4.4.4. Panellists also heard from 58 contributors with expertise in the relevant pillar topics. The contributors came from diverse organisations, such as the University of Tasmania, CSIRO, Tasmanian chapters of peak bodies, and the Tasmanian Government. They joined 2-3 City of Hobart staff members in each pillar area for discussions with panellists.
- 4.4.5. The panellists, as an overall group, voted on a preferred vision statement to headline the draft vision document.
- 4.4.6. The panellists, in pillar groups, created topic-specific vision statements, objectives, and strategies that they wished to recommend to the City of Hobart.
- 4.5. The remainder of the community engagement program will be completed following the presentation by Community Panellists. Next steps include:
 - 4.5.1. Building on the Community Panel's vision documentation, the core of the new vision, to incorporate additional findings from the preceding engagement stages
 - 4.5.2. Submission of the draft vision document to panellists for their review and feedback
 - 4.5.3. Submission of the draft vision document to the Council for endorsement to go out to the community for wider engagement
 - 4.5.4. A period of wider engagement to seek feedback from Hobart communities and stakeholders, including participants in previous project stages
 - 4.5.5. A final round of edits based on wider engagement findings and subsequent feedback from panellists
 - 4.5.6. Submission of the final draft to the Council for approval
 - 4.5.7. The release of a final vision document.
- 4.6. Once the vision document has been finalised, a new body of work will be undertaken, to integrate the vision through and into the City of Hobart's strategic planning framework and create a suitable strategic measurement system that will measure progress.

5. Proposal and Implementation

- 5.1. The Community Panel deliberations were the culmination of the vision project community engagement to date.
- 5.2. The presentation by panellists covers the major aspects of their work, and therefore the vision elements that their respective pillar groups agreed were the most valuable.

- 5.3. The draft vision document will be a reflection the Panel's deliberations, the wider community's contributions through previous stages, and the City of Hobart's capacity to provide strategic leadership, through weaving together the major themes.
- 5.4. It is proposed that the Council receive and note the Panellists' presentation, as the core input leading into a subsequent comprehensive project report and draft vision document.

6. Strategic Planning and Policy Considerations

- 6.1. Creating a new vision document inherently affects City of Hobart strategic planning and policy.
 - 6.1.1. The resulting document will provide a new strategic framework for the City, superseding *Hobart 2025: A strategic framework*.
- 6.2. Adopting the proposal will make City of Hobart strategic planning more relevant and aligned with community values, as the panellists are presenting the results of 24 hours of deliberations.

7. Financial Implications

- 7.1. Funding Source and Impact on Current Year Operating Result
 - 7.1.1. Should the Council endorse the proposal set out in this report, there will be no notable impact on the current year operating result, as the major phase of engagement has concluded.
- 7.2. Impact on Future Years' Financial Result
 - 7.2.1. Impact on the 2018-19 operating results depends on the exact timing and scale of the projects to integrate the community's vision through the strategic plan, and to create a suitable strategic measurement system to track progress against the strategic plan.
 - 7.2.2. Both stages will likely required input from consultant(s).
- 7.3. Asset Related Implications
 - 7.3.1. None arise from this report.

8. Legal, Risk and Legislative Considerations

- 8.1. Although there is no legal requirement to adopt Community Panel recommendations, considering their input will yield benefits to Council activities that are legislatively required, such as strategic planning.
- 8.2. The use of a community panel for the vision project will have positive impacts on the City of Hobart's ability to manage risk.

- 8.2.1. The Community Panel represented a cross-section of Hobart communities, including businesspeople, providing deep insights into areas of importance for the community.
- 8.2.2. The resulting information will make the vision (and thus Council strategic planning) more relevant to the community at large and can thus more accurately inform risk management approaches.

9. Environmental Considerations

- 9.1. A group of panellists deliberated specifically on environmental topics—directly, through the Natural environment pillar, and indirectly, through discussions on transport, urban design, and other areas.
 - 9.1.1. The Aldermen will note specific mention of environmental considerations by panellists in their presentation, as a key element of the overall vision.

10. Social and Customer Considerations

- 10.1. The Community Panel proceedings were a first for the City of Hobart and yielded many lessons that could be applied to social and customer considerations.
 - 10.1.1. It is important to give due consideration and feedback to panellists and the community and staff members who have been involved so they can see and comment on the results of their work.

11. Marketing and Media

- 11.1. There are significant marketing and media opportunities associated with receiving the panellists' recommendations.
 - 11.1.1. These include publicising the draft documents through traditional channels, as well as with other organisations who may undertake similar processes.
- 11.2. As stated in Section 4.3.5, further details on media engagement and opportunities to date will be discussed in a subsequent report.

12. Community and Stakeholder Engagement

- 12.1. The panel deliberations, and their recommendations, involved significant customer and stakeholder engagement.
 - 12.1.1. As outlined in this report, the panel received substantial reporting on previous engagement stages.
 - 12.1.2. Given the time constraint on panel proceedings, these findings will be considered in compiling the draft vision document, to ensure major themes are represented.

- 12.1.3. Significant internal and external engagement was undertaken, and it is critical to project success that the panel's work be communicated to those who have participated so far.
- 12.1.4. It will likewise be important to raise awareness about the draft and final vision documents so that the panel's work can be seen and considered by the wider community.

13. Delegation

- 13.1. This matter is delegated to the Council.

As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.



Tim Short
**ASSOCIATE DIRECTOR CITY
ECONOMY, TOURISM AND EVENTS**



Marisa McArthur
PROJECT AND RESEARCH OFFICER

Date: 9 March 2018
File Reference: F18/20682; F18/20682

6.2 Notice of Motion - Code of Conduct - Bias and Conflict of Interest
File Ref: F18/7408; 15/153-167

Report of the General Manager of 9 March 2018 and attachments.

Mr David Morris, Partner, Local Government, Environment, Planning & Development Law, from Simmons Wolfhagen, will be in attendance at the meeting for the purposes of answering questions from the Committee in relation to Item 6.2.

Delegation: Council

**REPORT TITLE: NOTICE OF MOTION - CODE OF CONDUCT - BIAS
AND CONFLICT OF INTEREST****REPORT PROVIDED BY:** General Manager**1. Report Purpose and Community Benefit**

- 1.1. The purpose of this report is to respond to a Notice of Motion, adopted by the Council at its meeting of 20 November 2017 requesting a report in relation to the legal issues around decision making of the Council and the provisions of the Model Code of Conduct.

2. Report Summary

- 2.1. A motion was adopted by the Council at its meeting of 20 November 2017 in relation to the provisions of the Aldermanic Code of Conduct relating to conflicts of interest and specifically in relation to the materiality test included within the Code.
- 2.2. That motion required that legal advice be obtained in relation to these provisions and this was sought from Simmons Woflhaben. The advice concludes that:
 - 2.2.1. The cornerstone of all Council decision making are the rules of natural justice which are codified within Part 1 of the Code of Conduct – requiring a decision to be made in a manner which is fair and reasonable in all the circumstances.
 - 2.2.2. Alderman should always approach considerations of pecuniary conflict of interest by reference to Part 5 of the *Local Government Act 1993*. A pecuniary interest identified as a 'conflict of interest' by operation of Part 5 of the Act will always be a material conflict of interest.
 - 2.2.3. Decisions that are made by public authorities in breach of the rules of natural justice and associated principles of procedural fairness are open to challenge as to their validity in the Courts. A successful challenge may require the decision to be made again in accordance with the law and also have significant cost consequences and reputational damage.
- 2.3. It also provides guidance for Aldermen in relation to determining whether they have a non-pecuniary interest on a particular matter.
- 2.4. It also highlights some concerns with respect to the drafting of the Code of Conduct and it is proposed that the Council write to the Director of Local Government conveying those concerns.

3. **Recommendation**

That:

1. ***The Council note the advice provided by Simmons Wolfhagen dated 16 February 2018.***
2. ***The Council write to the Director of Local Government and Local Government Association of Tasmania expressing its concern with the materiality test in the Code of Conduct.***

4. **Background**

- 4.1. At its meeting of 20 November 2017 the Council adopted the following motion:
- 4.2. *That the General Manager prepare an urgent report that advises the Council on:*
 - 4.2.1. *The legal principles that underpin Part 1 of the Aldermanic Model Code of Conduct relating to Decision Making and bringing an open mind to decision making (bias);*
 - 4.2.2. *The requirements that Aldermen should follow in order to determine if they have a conflict of interest pursuant to Part 2 of the Aldermanic Code of Code and in particular how the 'materiality' test should be applied under Part 2 - 6 of the Code;*
 - 4.2.3. *The impact any breach of the above Parts of the Code may have on any decision taken by the Council; and*
 - 4.2.4. *Requesting the Local Government Office to either provide clarification of the "materiality" provision in the Aldermanic Code of Conduct such that Codes of Conduct do not need to be resorted to in the first instance, or request the Minister to seek its removal altogether.*
- 4.3. *In addition the Council resolved that the Lord Mayor write to the Director of Local Government, Minister for Local Government, the Integrity Commission and other appropriate entities, as determined by the General Manager, seeking clarification of the provisions with the Model Code of Conduct as referenced in the motion.*
- 4.4. The Minister for Local Government and the Integrity Commission were written to by the Lord Mayor on 22 December 2017. The Director of Local Government was not written to as he circulated correspondence to all councils dealing with this matter pre-emptively which was distributed to all Aldermen via email and uploaded to the Hub.

- 4.5. In relation to the substantive part of the motion, the advice of Simmons Wolfhagen was obtained. That advice is included as **Attachment A** to this report.
- 4.6. The advice concludes that:
 - 4.6.1. The cornerstone of all Council decision making are the rules of natural justice which are codified within Part 1 of the Code of Conduct – requiring a declension to be made in a manner which is fair and reasonable in all the circumstances.
 - 4.6.2. Alderman should always approach considerations of pecuniary conflict of interest by reference to Part 5 of the *Local Government Act 1993*. A pecuniary interest identified as a 'conflict of interest' by operation of Part 5 of the Act will always be a material conflict of interest.
 - 4.6.3. Decisions that are made by public authorities in breach of the rules of natural justice and associated principles of procedural fairness are open to challenge as to their validity in the Courts. A successful challenge may require the decision to be made again in accordance with the law and also have significant cost consequences and reputational damage.
- 4.7. The advice also provides guidance to Aldermen in how to determine if they have a conflict of interest and how to apply the materiality test. This is included at paragraph 2.20 of the advice.
- 4.8. As mentioned above, the Director of Local Government wrote to all councils on 20 December 2017 in relation to this issue. In that correspondence the Director provided some practical guidance with respect to the operation of materiality test within the Code of Conduct. **Attachment B** to this report is a copy of that correspondence.
- 4.9. In addition, however, the Director noted feedback in relation to the review of the Code has included a proposal to remove the materiality test, so that in principle any 'grey area' is removed. The Director noted that this proposal has merit.
- 4.10. The advice from Simmons Wolfhagen noted particular concerns with the operation of the Code of Conduct in this respect. It establishes a two-stage requirement that an Alderman first identify a conflict of interest and then secondly determine whether or not that conflict is 'so material that it requires removing himself or herself physically from any Council discussion and remaining out of the room until the matter is decided by the Council'.
- 4.11. To quote the advice:
 - 4.11.1. *In my opinion, this process is fraught, confusing and is out of step with the way in which non-pecuniary conflict of interest is dealt with in other jurisdictions. It is my view that community*

expectation of the conduct of Alderman requires that they deal and should be required to deal only with non-pecuniary conflict of interest which is material. Yet this code of conduct requires declarations of non-pecuniary interest, even if they are not material. The consequence is that Alderman will be always exposed to the risk of code of conduct complaints on the basis of an allegation that they have failed to act in good faith and exercise reasonable judgment in determining whether or not a conflict of interest was in fact a material conflict of interest which required further action under Part 2 – 6.

- 4.12. The advice ultimately recommends a 'way forward' which is legislative amendment to remove the 'materiality test' from the Code of Conduct.
- 4.13. In light of the correspondence received from the Director and the advice from Simmons Wolfhagen it is considered appropriate to write to the Director communicating the City of Hobart's concerns with this provision of the Code of Conduct.

5. Proposal and Implementation

- 5.1. It is proposed that the Council note the advice provided by Simmons Wolfhagen dated 16 February 2018.
- 5.2. It is also proposed that the Council write to the Director of Local Government and the Local Government Association of Tasmania expressing its concern with the materiality test in the Code of Conduct.

6. Strategic Planning and Policy Considerations

- 6.1. Clearly, good quality decision making is strongly aligned to the Council's Capital City Strategic Plan. Specifically Goal 5 – Governance states that leadership provides for informed decision-making for our capital city.

7. Financial Implications

- 7.1. Funding Source and Impact on Current Year Operating Result
 - 7.1.1. None arise from this report.
- 7.2. Impact on Future Years' Financial Result
 - 7.2.1. None arise from this report.
- 7.3. Asset Related Implications
 - 7.3.1. None arise from this report.

8. Legal, Risk and Legislative Considerations

- 8.1. These have been addressed in the body of this report.

9. Delegation

9.1. This matter requires the consideration of the Council.

As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.



N.D Heath
GENERAL MANAGER

Date: 9 March 2018
File Reference: F18/7408; 15/153-167

Attachment A: Letter of Advice Code of Conduct - conflict of interest and bias -
Simmons Wolfhagen - 16 February 2018 ↓
Attachment B: Correspondence from Alex Tay, Director of Local Government,
dated 20 December 2017 ↓



Contact: David Morris
Our Ref: DJM:LM:173453

16 February 2018

Hobart City Council
GPO Box 503
HOBART TAS 7001

By email jacksonp@hobartcity.com.au

Dear Mr Jackson,

City of Hobart code of conduct - legal advice

Thank you for your instructions to provide advice to the Council regarding the Aldermanic Model code of conduct.

1. Preliminary

- 1.1 I have been asked to provide advice to the Council under three headings, which relate to the Aldermanic Code of Conduct. Those three headings are:
 - 1.1.1 The legal principles that underpin Part 1 of the Aldermanic Model Code of Conduct (*Code of Conduct*) relating to decision making and bringing an open mind to decision making (bias);
 - 1.1.2 The requirements that Aldermen should follow in order to determine if they have a conflict of interest pursuant to Part 2 of the code of conduct, and in particular how the "materiality" test should be applied under Part 2 – 6 of the code;
 - 1.1.3 The impact that any breach of the above parts of the Code of Conduct may have on any decision taken by the Council.

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- › Wills, Estate Planning & Administration of Estates
- › Commercial Litigation, General Litigation & Dispute Resolution
- › Local Government, Environment & Planning Law
- › Employment & Workplace Relations Law
- › Bankruptcy, Insolvency & Securities Enforcement
- › Insurance Law, Personal Injury Law
- › Building, Construction & Engineering Law

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2. Advice

The legal principles that underpin Part 1 of the Code of Conduct relating to decision making and bringing an open mind to decision making (bias).

- 2.1 The cornerstone of all Council decision making, and in particular decisions to be made by the Council in its role of the Planning Authority, are the rules of natural justice. These rules regulate the exercise by a Council of its power to consider and deal with matters before it which might affect the rights and legitimate expectations of members of the public.
- 2.2 Part 1 of the Code of Conduct usefully codifies front and centre the core principles of natural justice which require a decision to be made in a manner which is fair and reasonable in all the circumstances.
- 2.3 Absence of bias, including questions of partiality and pre-judgment are part of the requirements of natural justice. As such, the law requires that they apply to any exercise of decision making by Aldermen acting Individually and collectively.
- 2.4 The application of the rules of natural justice are founded upon the principle that the public should have confidence in Council decision making. Simply, the law says that fair minded people can have no confidence in a decision where the procedural fairness principles of natural justice codified by Part 1 have been offended.
- 2.5 I will refer to it later in this advice, but it is sufficient to say that the consequence of offending these principles opens a decision made by a Council to the risk of:
 - 2.5.1 being declared invalid by a Court on application to it with cost consequences and reputational damage which undermines public confidence; and or
 - 2.5.2 Code of conduct proceedings against Alderman or the Council as a collegiate body with cost and reputational consequences.
- 2.6 The rules of natural justice applying principles of procedural fairness to the decisions made by Councils have been the subject of particular consideration by the Courts. In this advice I rely on a number of principles which have been extracted from the authorities. I consider it sufficient though to identify the cases from which these principles have been extracted as:
 - 2.6.1 Ibester – v – Knox City Council (the High Court) [2015] HCA 20
 - 2.6.2 McGovern – v – Ku-ring-gai Council (Court of Appeal – Supreme Court of New South Wales) [2008] NSWCA 209

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- 2.6.3 Winky Pop Pty Ltd – v – Hobsons Bay City Council (Supreme Court of Victoria) [2007] VSC 468
- 2.6.4 R – v –West Coast Council; ex parte Strahan Motor Inn (Supreme Court of Tasmania – Justice Zeeman) [1995] TASSC 47
- 2.7 The core principles of natural justice which underpin Part 1 of the Code of Conduct are as follows:
- 2.8 Principles of fairness applicable to Council decision making requires that any decision must be approached with an open mind. The law has determined that an Alderman should approach decision making with a willingness to give genuine and appropriate consideration when participating in a decision. "Pre-judgment" of a matter for decision offends the principles of procedural fairness and so contravenes the rules of natural justice. That is because the fair-minded lay observer will reasonably apprehend that the Alderman might not bring an impartial mind to the decision in question. This is commonly expressed as a reasonable apprehension that the Alderman will be bias in making his or her decision by reason of having pre-judged it and so will not have an open mind to persuasion when it comes time to make the decision in question.
- 2.9 An allegation of disqualifying bias against an Alderman must establish that there is a pre-judgment of the matter to the extent that any representations at variance with the view which has been adopted by the Alderman as a pre-judgment would be futile. Such futility is demonstrated when an Alderman evidently has a closed mind, having already expressed a final opinion or pre-judgment which cannot be dislodged, rather than an open mind, open to persuasion when the time comes to make the decision in question.
- 2.10 In determining whether there is pre-judgment by an Alderman, it must be borne in mind that Councils are democratically elected, and that Aldermen necessarily carry out political and legislative roles. Accordingly, an Alderman is not necessarily disqualified from participating in a decision because the Alderman, previously, has held and expressed views on a matter in question.
- 2.11 The law understands that strongly held political views are part and parcel of an Alderman's role. It is for that reason that the test of pre-judgment or apprehended bias is only satisfied when an Alderman so expresses or conducts themselves that the reasonable bystander could only apprehend that they would adhere to that position regardless of what other material might be put before them, or what other arguments might be advanced.
- 2.12 It is important to emphasize that strongly held views expressed by an Alderman which may or may not be derived because of their political persuasion do not usually satisfy the test of apprehended bias through pre-

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judgment. As Justice Zeeman observed in R – v –West Coast Council; ex parte Strahan Motor Inn¹:

"Councillors may be assumed to hold and to express views on a variety of matters relevant to the exercise of the functions of the Council. Expressing such views is part of the electoral process. Provided that expressions of opinion do not go so far as to evince an intention to exercise a discretion conferred by statute without regard to the terms in which it is conferred, or without being prepared to listen to any contrary argument, it ought not be taken to disqualify the Councillor from participating in a relevant decision-making process".

Justice Zeeman went on to say:²

"Of relevance is the way in which Local Government Councils are elected. Councillors are representatives of their community and elected by and from that community. It may be expected that they will support particular views as to what is in the best interests of the community, and that often they will have strong personal views as to what ought to occur in the community. In one sense, they may be expected to hold views which may be described as being bias. Councillors may be expected to hold particular views as to how they would wish their community to develop and to discharge their duties as Councillors by reference to those views".

2.13 As I always do, I can but point to two classic examples of conduct and expressions of opinion which led the Court to conclude that the Alderman had a closed mind when approaching decision making. Those examples are:

2.13.1 Councillor Gerrity of West Coast Council participated in a decision of the Council to refuse a sign on the Strahan Motor Inn. Prior to the decision which the Council made as the Planning Authority, Councillor Gerrity had expressed strong views concerning the

¹ Supra at paragraph 33

² Supra at paragraph 25

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appropriateness of that sign and the appropriateness of that type of signage generally in the township of Strahan. Strongly held views were found not to be sufficient to give rise to an apprehension of bias by reason of pre-judgment. He had not so expressed himself in a way which evinced a closed mind to being persuaded to altering the strongly held view that he had. However, Councillor Gerrity had filed a representation concerning the application for the sign in which he expressed his opposition to it. The Court found that by this conduct, the reasonable bystander could only assume that by making that representation, Councillor Gerrity had closed his mind to the possibility of doing other than voting against the proposal. By his representation, he unequivocally committed to a position. The reasonable bystander could not but apprehend that he would adhere to that position regardless of other material that might be put before him, or what other arguments might be advanced. The Court therefore found that there was a reasonable apprehension that Councillor Gerrity would be biased in his decision by reason of his fixed pre-determined view and that as a consequence, his participation and presence at the meeting at which the issue was decided, vitiated the whole decision-making process.

2.13.2 A decision on a development application was due to come before a Tasmanian East Coast Council. One of the Councillors was known to hold very strong views opposed to the type of development that was proposed. These views arose predominately by reason of her political persuasion and those views had formed the platform for her democratic election to the Council. These views would not have disqualified her from participating in the decision concerning the application. Strongly held views by her were expected concerning a development application of this type. However, in the week prior to the Council meeting which was to decide the application, the Councillor confronted by a group of residents on Scamander Beach, uttered words to the effect "I don't care what is in the application or what the planning officers tell us, I will never vote to approve this type of development". These statements made were a clear indication of a "closed mind" and pre-judgment giving rise to a reasonable apprehension of bias. The Councillor was disqualified from participating in the relevant decision-making process because of the statement she made evincing a closed mind. In the end she was persuaded not to participate, but had she done so the decision made could have been successfully challenged in the Court.

2.14 Part 1 makes particular reference to decision making as part of the Council's role as a Planning Authority. The expectation and natural justice principles enshrined in Part 1 take account that the power to grant a Planning Permit is one to be exercised in accordance with the law and in particular in accordance with provisions of a relevant planning scheme and

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section 51 of the *Land Use Planning and Approvals Act 1993*. Whilst the application of the planning scheme permits the formation and application of subjective judgment on particular matters, in the end those matters must be relevant. The considerations which the Council brings to the matter must be relevant to the exercise of the discretion. A decision which fails to take account of relevant matters or takes into account irrelevant matters is unfair and will be open to challenge as to its validity.

The requirements that Alderman should follow in order to determine if they have a conflict of interest pursuant to Part 2 of the code of conduct, and in particular how the "materiality" test should be applied under Part 2 – 6 of the code;

- 2.15 Part 2 dealing with conflict of interest in the code of conduct applies equally to pecuniary and non-pecuniary conflict of interest.

- 2.16 An Alderman should always approach considerations of pecuniary conflict of interest by reference to Part 5 of the *Local Government Act 1993*. Compliance with the requirements of Part 5 will in my view avoid any breach of the code of conduct when it comes to pecuniary interests. A pecuniary interest identified as a "conflict of interest" by operation of Part 5 of the act will always be a material conflict of interest. A material pecuniary conflict of interest must be dealt with in accordance with the requirements of Part 5 of the act in order to then necessarily comply with Part 2 of the code of conduct.

- 2.17 The identification of what constitutes a material non-pecuniary conflict of interest is problematic. "Material" is not defined in the *Local Government Act 1993* or by the code of conduct.

- 2.18 The difficulty for any Alderman dealing with non-pecuniary conflict of interest under Part 2 is the 2-stage requirement that an Alderman first identify a conflict of interest and then secondly determine whether or not the conflict of interest "is so material that it requires removing himself or herself physically from any Council discussion and remaining out of the room until the matter is decided by the Council".

- 2.19 In my opinion, this process is fraught, confusing and is out of step with the way in which non-pecuniary conflict of interest is dealt with in other jurisdictions. It is my view that community expectation of the conduct of Alderman requires that they deal and should be required to deal only with non-pecuniary conflict of interest which is material. Yet this code of conduct requires declarations of non-pecuniary interest, even if they are not material. The consequence is that Alderman will be always exposed to the risk of code of conduct complaints on the basis of an allegation that they have failed to act in good faith and exercise reasonable judgment in

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determining whether or not a conflict of interest was in fact a material conflict of interest which required further action under Part 2 – 6.

- 2.20 In order to deal with this most unsatisfactory situation, I can only offer a precautionary conservative approach to Alderman as to how to determine if they have a conflict of interest and how to apply the materiality test. In order to respond to the risk of a breach of the Code of Conduct, Aldermen should proceed on the basis that a non-pecuniary personal conflict of interest identified in accordance with the following principles will be "so material" as to require the Aldermen to proceed in accordance with Part 2 – 6 of the Code of Conduct. Those broad principles are:
- 2.20.1 The principles of procedural fairness embodied in the rules of natural justice and codified by Part 2 of the Code of Conduct make it clear that an Alderman must not make a decision unduly influenced or seen to be unduly influenced by personal or private interests which conflict with their public duty to make a fair and impartial decision. A personal non-pecuniary interest is "so material" if a reasonably disinterested person would take it into account in exercising judgment or making a decision. In other words, the interest is "so material" if it could be reasonably assumed that such a personal interest or consideration would influence the decision of the Alderman in conflict with the fundamental requirement that they act impartially as far as practicable in the Local Government context.
- 2.20.2 Personal non-pecuniary interests usually arise from personal connections such as relationships, friendships, memberships or affiliations with sporting, social, religious or cultural organisations, and the material conflict usually arises as a consequence of a tendency towards favour or bias because of taking account of the personal interest in making the decision.
- 2.20.2 More particular examples of circumstances where personal non-pecuniary conflicts of interest might arise involve:
- (a) Particularly close relationships between and Alderman and another person, for example a current or former spouse or defacto partner, a relative or another person from the Alderman's extended family;
 - (b) Other relationships that are particularly close, such as friendships and business relationship. Closeness is identified by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship;

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- (c) An affiliation between the Alderman and an organisation, sporting body, club, corporation or association that is particularly strong, including, but not limited to active participation and its management or administration, or other activities; or
 - (d) the conferral or loss of a personal benefit, other than one conferred or lost as a member of the community or a broader class of people affected by a decision.
- 2.20 If it is that by reference to these principles, an Alderman determines that they have a personal interest that is material to the subject matter of the decision they are being called upon to make, then they should proceed in accordance with Part 2 – 6 of the Code of Conduct.
- 2.20 Finally, under this section I note that it should always be borne in mind that democratically elected Aldermen will always have some partiality that influences the way they vote. That is by reason of their political persuasion or strongly held beliefs that might have formed the platform for their election or which may be in line with the expectation of electing voters, or in line with long held personal views. It is for this reason that strongly held personal views on a particular subject matter by reason of the above do not amount to a personal non-pecuniary conflict of interest, let alone a material interest which might disqualify participation in decision making in accordance with the principles of procedural fairness.

The impact that any breach of Parts 1 and 2 of the code may have on any decision taken by the Council.

- 2.21 Decisions that are made by public authorities in breach of the rules of natural justice and associated principles of procedural fairness are open to challenge as to their validity in the Courts.
- 2.22 A successful challenge as to validity may require the decision to be made again in accordance with the law. Significant cost consequences usually follow a successful challenge and require the decision maker to pay the legal costs of that successful challenge. The decision maker would also be responsible for their own legal costs of unsuccessfully defending the validity of the decision that has been made.
- 2.23 It is important to note though, that an individual breach by an Alderman of Parts 1 and 2 of the Code of Conduct does not inevitably result in the invalidation of a Council decision made collectively. The breach of Part 1 or 2 of the Code of Conduct will have consequences for the individual Alderman committing the breach. However, a determination of whether or not the breach is of such consequence to infect or invalidate the collective decision through the Alderman's participation in the decision-making

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process is matter of fact and degree to be evaluated in the individual circumstances of the particular decision undertaken. The legal principles associated with a determination of the validity or otherwise of a collective decision taken by the Council is detailed and the subject of much authority in Australia. I am happy to expand upon these principles if required.

- 2.24 In this advice I have identified that Part 1 and Part 2 of the Code of Conduct embody the laws of natural justice so far as they relate to principles of procedural fairness in decision making. It follows that where Part 1 or Part 2 of the Code of Conduct has been breached by an Alderman or the Council acting collectively, such breach may affect the decision that has been made and so expose the Council to legal challenge as I have described above.

- 2.25 The impact from a declaration of invalidity in the Court is quite apart from the other consequences of breach where reputational damage undermined public confidence go hand in hand with the breach.

3. Way forward

- 3.1 I have been asked to make some further observations regarding a way forward in so far as resolving the application of the materiality test in Part 2 of the Code of Conduct.
- 3.2 As may be appreciated from this advice, the difficulty I see with the application of Part 2 of the Code of Conduct dealing with conflict of interest is the lack of a set of clear guidelines which can be followed by an Alderman in order that they might determine the existence of a material conflict of interest. Instead, an Alderman is left to subjectively assess the existence of a material conflict of interest against a set of broad principles which, no matter that they are applied in good faith, may lead to subjective conclusions by application of these principles that are in fact wrong.
- 3.3 In my opinion, it is an imperative that Alderman have the benefit of clearly articulated and identifiable guidelines they may follow to determine whether or not their actions or participation might constitute a breach of Part 2 of the Code of Conduct. This is particularly so in the case of conflict of interest for the reasons that I have set out above.
- 3.4 In my view, the imperative exists because of the increasing tendency by Councillors across local government municipalities in Tasmania to use Code of Conduct proceedings against fellow Councillors as a means for obtaining political advantage.
- 3.5 A resolution is legislative change to remove the "materiality" test from the Code of Conduct proceedings. A test which must be applied subjectively, and which therefore leads the risk of an incorrect decision by an Alderman as to whether a conflict of interest exists or not is unsatisfactory indeed.

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I trust that this advice responds to the issues that you have raised.

Yours faithfully
Simmons Wolfhagen



David Morris

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Dear Mayor

I am writing to all councils to remind elected members of their obligations under the *Local Government Act 1993* (the Act) and the Model Code of Conduct (the Code) in managing conflicts of interest, both pecuniary and non-pecuniary.

This matter was discussed at the recent Premier's Local Government Council (PLGC) meeting on 14 December 2017, and the PLGC affirmed the importance for all councillors to understand their obligations with regards to managing conflicts.

Conflict (Non Pecuniary) Interests

Non-pecuniary conflicts of interests may arise from any personal involvement or relationships in areas such as sporting, social, religious or cultural activities. They include any tendency toward favour or bias because of personal beliefs, friendship or animosity, that a reasonable person would at least perceive would affect a councillor's capacity to be impartial. **Part 2 of the Code of Conduct – Conflict of interest** outlines the conduct of councillors in matters of interest. The Code has been adopted by all councils. Section 28U of the Act provides that a councillor is to comply with the provisions of the council's code of conduct while performing the functions and exercising the powers of his or her office.

The Code makes it clear that a councillor must not be unduly influenced, nor be seen to be unduly influenced, by personal or private interests they may have. A councillor must declare actual, potential or perceived conflicts of interest at any meeting of the Council and at any workshop or any meeting of a body to which the councillor is appointed or nominated by the council.

The matter of 'materiality' has been raised during the review of the Code of Conduct. The Code currently provides that a councillor must declare an interest and then act in good faith and exercise reasonable judgement to determine whether the conflict of interest is so material that it requires removing himself or herself from any council discussion and remaining out of the room.

It is not the case that a councillor can simply declare the interest is not material and then remain in the council meeting. The councillor must act in good faith and exercise reasonable judgement. In practice, for example, a councillor could seek guidance via the general manager and/or the mayor to manage any risk of conflict, prior to a meeting if possible. If there is any doubt, the prudent course of action would be to remain out of the room and not participate in the discussion. Failure to act conservatively increases the likelihood that a Code of Conduct complaint could be brought against the councillor, where the Code of Conduct Panel would then need to assess whether the councillor has acted in good faith and exercised reasonable judgement.

It is incumbent on elected members to avoid taking risky positions, particularly when considering that the costs of a complaint to the Code of Conduct Panel are incurred by the relevant council, as per section 28O of the Act. Councils have raised concerns regarding the cost of Code of Conduct complaints, which on average cost approximately \$3,000, and councillors have the capacity to limit a council's exposure to these costs through their actions. Reputational risk to a councillor and the council should also be at the forefront of councillors' minds.

I appreciate that the feedback to the review of the Code has included a proposal to remove the materiality test, so that in principle any 'grey area' is removed. Without prejudicing any decision by Government on this matter, the proposal has merit. Indeed there is nothing currently preventing councillors acting as if the materiality test does not apply.

Pecuniary Interests

Part 5 of the Act – Interests, provides that a councillor must not participate in any meeting where they have a pecuniary interest. Section 49 of the Act makes it clear that an interest is a pecuniary benefit or a pecuniary detriment. Section 48(3) states that a councillor is to leave the room upon the declaration of interest. This is a mandatory provision and there is no discretion for a councillor to remain in the room.

It is important to stress that if a councillor fails to comply with the Act they may be guilty of an offence and fined accordingly. I also remind all councillors that in addition to any fine imposed under section 48 of the Act, section 48(6) provides that a court may make an order to bar a councillor from nominating as a candidate at any election for a period not exceeding 7 years, and dismiss the councillor from office.

Further to this, elected members should note that the Local Government Division is currently undertaking an audit of interest registers that councils are required to keep, as per section 54 of the Act. I strongly encourage all councillors to regularly consult the Good Governance Guide in relation to managing conflicts of interest in the execution of their often complex duties as elected members. The Good Governance Guide is available on the Local Government Division's website at http://www.dpac.tas.gov.au/divisions/local_government/good_governance_guide. If you would like further information, please phone me on 6232 7022 or email lgd@dpac.tas.gov.au.

Spokesperson for Council

I would also like to take this opportunity to remind elected members about the spokesperson provisions in the Act. Section 27(1)(e) states that the mayor is to act as the spokesperson of the council. In the event that the mayor is unavailable, section 27(2) provides that the deputy mayor is to act in the position of mayor and exercise the powers and perform the functions of the mayor, which includes acting as the spokesperson of the council.

Further, a councillor may only speak on behalf of the council if the mayor has delegated that function in writing, pursuant to section 27(2A). Part 8(3) of the Code prohibits a councillor from speaking on behalf of the council unless specifically authorised or delegated by the mayor. If a code of conduct complaint is upheld, the panel may impose one or more of the following sanctions under section 28ZI(2): a caution; a reprimand; a requirement to apologise to the complainant or other person affected; a requirement to attend counselling or a training course; a suspension from performing and exercising the functions and powers of his or her office as a councillor for a period not exceeding 3 months.

Cognisant that we are entering an election year for local government, I expect councillors who intend to stand for re-election will begin to put forward their re-election platform in the community. The reminder regarding the spokesperson provisions are, therefore, timely to assist councillors avoid a situation where they attempt to speak on behalf of council without authorisation.

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I would be pleased if you could circulate this reminder to your fellow elected members.

Yours sincerely

A handwritten signature in black ink, appearing to be 'AT' or 'Alex Tay'.

Alex Tay
Director of Local Government

20 December 2017

FINANCE

**6.3 Code for Tenders and Contracts - Tender and Quotation Exemption
Reporting
File Ref: F18/17602**

Report of the Group Manager Rates and Procurement and the Director
Financial Services of 9 March 2018 and attachments.

Delegation: Council

REPORT TITLE: CODE FOR TENDERS AND CONTRACTS - TENDER AND QUOTATION EXEMPTION REPORTING**REPORT PROVIDED BY:** Group Manager Rates and Procurement
Director Financial Services**1. Report Purpose and Community Benefit**

- 1.1. The purpose of this report is to seek Council's approval of a change to the City's quotation exemption reporting procedures and a resultant change to the City of Hobart Code for Tenders and Contracts.
- 1.2. The community benefit is consistent with strategic objective 5.1 in the City of Hobart Capital City Strategic Plan 2015-25, being to *deliver best value for money through strategic procurement decision-making*.

2. Report Summary

- 2.1. This report proposes a change to the City's quotation exemption reporting procedures, which the City is required to include in its code for tenders and contracts (Code).
- 2.2. It is proposed that a report of all instances where an exemption has been granted from the requirement to seek 3 written quotations pursuant to the City's Code is presented to Committee as at 31 March, 30 June, 30 September and 31 December each year.
- 2.3. The proposed change requires an amendment to the City's Code.
- 2.4. It is proposed that the Council adopt the amended Code and make it available to the public in paper and electronic form.

3. Recommendation***That:***

1. ***The Report 'Code for Tenders and Contracts – Tender and Quotation Exemption Reporting' be received and noted.***
2. ***A report of exemptions granted from the requirement to seek 3 written quotes be presented to the Finance and Governance Committee as at 31 March, 30 June, 30 September and 31 December each year.***
3. ***The Council adopt the amended City of Hobart Code for Tenders and Contracts marked as Attachment A to this report.***
4. ***The General Manager be authorised to finalise the City of Hobart Code for Tenders and Contracts and arrange for it to be made available to the public in paper format from the Council's Customer Service Centre and in electronic format from Council's website.***

4. Background

- 4.1. As outlined in the City's Code for Tenders and Contracts (the Code) where a Council Contract does not exist the City has 4 procurement thresholds, being (GST exclusive):
 - 4.1.1. Up to \$10,000 – 1 written quote shall be sought.
 - 4.1.2. \$10,000.01 to \$50,000 – 2 written quotes shall be sought.
 - 4.1.3. \$50,000.01 to \$249,999.99 – 3 written quotes shall be sought.
 - 4.1.4. \$250,000 and over – Public Tender.
- 4.2. Exemptions from the requirement to seek written quotes under the thresholds (4.1.1, 4.1.2 and 4.1.3) above can be sought from the appropriate financial delegate but only if an acceptable reason exists as outlined in the City's Purchasing Policy and Guidelines, as follows:
 - (a) where, in response to a prior notice, invitation to participate or invitation to tender:
 - no tenders were submitted; or
 - no tenders were submitted that conform to the essential requirements in the tender documentation;
 - (b) where the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist for the following reasons:
 - the requirement is for works of art;
 - the protection of patents, copyrights or other exclusive rights or proprietary information; or
 - due to an absence of market competition for technical reasons.
 - (c) for additional deliveries of goods or services by the original supplier that are intended either as replacement parts, extensions or continuing services for existing equipment, software or installations, where a change of supplier would result in the purchase of goods or services that do not meet requirements of interchangeability with existing equipment;
 - (d) for goods purchased on a commodity market;
 - (e) where there is an emergency and insufficient time to seek quotes for goods, services or works required in that emergency;
 - (f) for purchases made under exceptionally advantageous conditions that only arise in the very short term, such as from unusual disposals, liquidation, bankruptcy or receivership and not for routine purchases from regular suppliers; or
 - (g) for a joint purchase of goods or services purchased with funds contributed by multiple entities, where Council is one of those entities and does not have express control of the purchasing decision.

- 4.3. As stated in regulation 27 of the *Local Government (General) Regulations 2015*, (the Regulations) the requirement for public tendering does not apply to the following:
- a) an emergency, if, in the opinion of the general manager, there is insufficient time to invite tenders for the goods or services required in that emergency;
 - b) a contract for goods or services supplied or provided by, or obtained through, an agency of a State or of the Commonwealth;
 - c) a contract for goods or services supplied or provided by another council, a single authority, a joint authority or the Local Government Association of Tasmania;
 - d) a contract for goods or services obtained as a result of a tender process conducted by –
 - (i) another council; or
 - (ii) a single authority or a joint authority; or
 - (iii) the Local Government Association of Tasmania; or
 - (iv) any other local government association in this State or in another State or a Territory; or
 - (v) any organisation, or entity, established by any other local government association in this State or in another State or a Territory;
 - e) a contract for goods or services in respect of which a council is exempted under another Act from the requirement to invite a tender;
 - f) a contract for goods or services that is entered into at public auction;
 - g) a contract for insurance entered into through a broker;
 - h) a contract arising when a council is directed to acquire goods or services due to a claim made under a contract of insurance;
 - i) a contract for goods or services, if the council resolves by absolute majority and states the reasons for the decision, being that a satisfactory result would not be achieved by inviting tenders because of
 - (i) extenuating circumstances; or
 - (ii) the remoteness of the locality; or
 - (iii) the unavailability of competitive or reliable tenderers;
 - j) a contract of employment with a person as an employee of the council.
- 4.4. Currently all approvals for the exemptions from the requirement to Tender under section 4.3 (i) above are sought and reported through the formal Committee / Council approval processes.
- 4.5. Section 333B of the *Local Government Act 1993 (Tas)* requires Council to adopt a Code for tenders and contracts. That Code must include any prescribed matter.

- 4.6. Regulation 28 states that the code must (j) *establish and maintain procedures for reporting by the general manager to the council in relation to the purchase of goods or services in circumstances where a public tender or quotation process is not used.*
- 4.7. As required under Regulation 29(2), all instances where a public tender process has been exempted by Council are reported in the City's Annual Report with the following details:
 - 4.7.1. A brief description of the reason for not inviting public tenders,
 - 4.7.2. A description of the goods or services acquired,
 - 4.7.3. The value of the goods or services acquired, and
 - 4.7.4. The name of the supplier.
- 4.8. Public Tender exemption requests are not common.
- 4.9. No changes are proposed to these Public Tender exemption reporting procedures.
- 4.10. The current procedure on quotation exemptions is that Council pursuant to its Purchasing Policy and Guidelines requires quotation exemptions to be sought using an exemption reporting form, to be approved by the appropriate financial delegate who has authority to approve and saved with the purchase order in Council's financial system. There is no requirement to report these in Council's annual report.
- 4.11. It should be noted that while quotation exemptions are currently approved by the appropriate financial delegate, moving forward all quotation exemptions will be considered and approved by the relevant Divisional Directors.
- 4.12. While this is Council's current agreed procedure, it has been challenging to obtain a corporate report of these approved quotation exemptions with current system constraints. System improvements have recently been undertaken enabling a report of quotation exemptions granted to be more easily generated.

5. Proposal and Implementation

- 5.1. Noting that public tender exemptions are already reported to Council, it is proposed that quotation exemptions be reported to Council on a quarterly basis where the value of the expenditure exceeds \$50,000. That is, where 3 written quotations are required to be sought but an exemption from the requirement to seek the 3 written quotes is granted.
- 5.2. It is proposed that quotation exemptions for a value under \$50,000, that is where 1 or 2 written quotations are required to be sought but an exemption from that requirement is granted, are reported to the General Manager.

- 5.3. It is considered more efficient from an administrative perspective for the General Manager to receive reports on quotation exemptions granted where the value of the expenditure is less than \$50,000, that is, where 1 or 2 quotations are required to be sought.
- 5.4. The \$50,000 threshold is also consistent with the threshold for reporting budget variances to Council and pursuant to Regulation 28(j) Council is only required to specify in its Code when 3 written quotations are required for contracts valued under the Tender threshold.
- 5.5. As this is a change to the City's current procedures for exemption reporting pursuant to Regulation 28(j), the City's Code will need to be amended.
- 5.6. A marked up version of the proposed amended Code for Tenders and Contracts is attached – refer **attachment A**.
- 5.7. It is proposed that the Council adopt the attached City of Hobart Code for Tenders and Contracts, as amended, and make copies available to the public in a paper format from the Customer Service Centre and in electronic format prominently from the Council's website as required under section 333(B)(4) of the LG Act, which states that:
 - 5.7.1. The general manager is to make a copy of the council's code and any amendments to the code available –
 - 5.7.1.1. (a) for public inspection at the public office during ordinary office hours; and
 - (b) *for purchase at a reasonable charge; and*
 - (c) *on its internet site free of charge.*
- 5.8. Moving forward a report on exemptions granted from the requirement to seek 3 written quotes will be presented as at 31 March, 30 June, 30 September and 31 December each year.
- 5.9. It should be noted that the Code is currently the subject of annual review. Any further changes arising from that review will be presented to Committee / Council in due course.

6. Strategic Planning and Policy Considerations

- 6.1. This report proposes amendments to the Hobart City Council Code for Tenders and Contracts.
- 6.2. This report is consistent with strategic objective 5.1 in the City of Hobart Capital City Strategic Plan 2015-25, being to *deliver best value for money through strategic procurement decision-making*.

7. Financial Implications

- 7.1. Funding Source and Impact on Current Year Operating Result
 - 7.1.1. There are no financial implications arising from this report.
- 7.2. Impact on Future Years' Financial Result
 - 7.2.1. Not applicable.
- 7.3. Asset Related Implications
 - 7.3.1. Not applicable.

8. Legal, Risk and Legislative Considerations

- 8.1. These are considered elsewhere in this report.

9. Delegation

- 9.1. This matter is delegated to the Council.

As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.



Lara MacDonell
**GROUP MANAGER RATES AND
PROCUREMENT**



David Spinks
DIRECTOR FINANCIAL SERVICES

Date: 9 March 2018
File Reference: F18/17602

Attachment A: Hobart City Council Code for Tenders and Contracts Draft v5 ↓



Code for Tenders and Contracts

Endorsed by Council on [21-November-2016X](#)

Hobart City Council Code for Tenders and Contracts

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Hobart City Council Code for Tenders and Contracts

1. INTRODUCTION**1.1. Preface**

- 1.1.1. This Code is intended as a guide to the overarching standards of ethics and best practice procurement principles and practices to be applied by Council personnel when dealing with suppliers in seeking Tenders and Quotations. The Code also sets out the ethical behaviour that Council expects Service Providers (including contractors, subcontractors, consultants and suppliers) to demonstrate when doing business with Council.
- 1.1.2. This Code covers the procurement of all goods and services and building/construction and civil works procurement, including the purchase of consulting services and asset maintenance and improvement works. Plant and equipment purchases are also covered by the Code. Property transactions, leasing and disposals are not covered by the Code.

1.2. Purpose of the Code

- 1.2.1. This Code provides a statement of ethics which underline best practices to be applied by Council officers with a role in organising or participating in procurement and Service Providers when offering to provide Council with goods, services or works and when engaged by Council to supply it with goods, services or works.

1.3. Scope of the Code

- 1.3.1. The Code places an obligation of refusal to condone unacceptable or unconscionable conduct on Council and on Service Providers. Therefore, it is intended that the Code will apply to Council, Council's employees and agents and any Service Provider wishing to compete for Council business or provide goods, services or works to Council (including contractors, subcontractors, consultants and suppliers).
- 1.3.2. In so far as is reasonably possible, Service Providers engaged by Council will apply the Code when seeking Tenders or Quotations from subcontractors and suppliers. Additionally, the Code applies to Council Procurement Processes (Tenders and Quotations) for all of Council's Requirements.

1.4. Application of Alternative Standards

- 1.4.1. The Council may, if it deems appropriate, elect to apply the following standards in place of this Code:
- AS 4120-1994 (the Australian Standard Code of Tendering for the Construction Industry); or
 - AS 4121-1994 (the Australian Standard Code of Ethics for the Selection of Consultants).

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- 1.4.2. If AS 4120 or AS 4121 is to be applied in place of this Code, the Council officer responsible for coordinating the purchase will ensure that prospective Service Providers are advised at the time Tenders or Quotations are invited.

1.5. Legislative Requirements

- 1.5.1. The Council's specific legislative and regulatory obligations with respect to procurement are set out under:
- a) Section 333A and Section 333B of the *Local Government Act 1993* ("the Act"); and
 - b) Regulations 23-29 of the *Local Government (General) Regulations 2015* ("the Regulations").

1.6. Methods of Procurement

- 1.6.1. In respect to purchases valued at or in excess of the prescribed amount under Section 333A(1) of the *Local Government Act 1993* ("the Prescribed Amount"), Council will undertake the Procurement Processes in accordance with Part 3 Division 1 of the *Local Government (General) Regulations 2015*.
- 1.6.2. In respect of purchases for goods, services or works that are:
- a) valued at less than the Prescribed Amount; and
 - b) available under a Common-use Contract sole supplier arrangement,
- Council may, after having sought a written Quotation from that supplier purchase from that supplier without need to seek further quotes.
- 1.6.3. In respect of purchases for goods, services or works that are:
- a) valued at less than the Prescribed Amount; and
 - b) available under a Common-use Contract panel arrangement,
- Council may enter into a contract after having sought the following number of written Quotations from panel members able to provide the goods, services or works:
- i. Less than \$10,000 (GST exclusive) – Council will only enter into a contract if the value of the goods, services or works has been ascertained and appropriately documented prior to making the purchase.
 - ii. In excess of \$10,000.00 (GST exclusive) and less than \$50,000.00 (GST exclusive), – at least two (2) written Quotations have been sought.

Hobart City Council Code for Tenders and Contracts

- iii. In excess of \$50,000.00 (GST exclusive) but not equal to or exceeding \$250,000.00 (GST exclusive), – at least three (3) written Quotations have been sought.

- 1.6.4. In respect of purchases for goods, services or works that are not available under a Common-use Contract and valued at or in excess of \$100,000.00 (GST exclusive) but not equal to or exceeding the Prescribed Amount, Council will only enter into a contract where:
 - a) at least three (3) written Quotations have been sought in the Approved Form from suitable contractors able to provide the required goods, services or works; or
 - b) a request for Quotation in the Approved Form has been posted on Council's e-tendering portal.

- 1.6.5. In respect of purchases for goods, services or works that are:
 - a) not available under a Common-use Contract; and
 - b) valued at or in excess of \$50,000.00 (GST exclusive) but not equal to or exceeding \$100,000.00 (GST exclusive),

Council will only enter into a contract where at least three (3) written Quotations have been sought in the Approved Form from suitable contractors able to provide the required goods, services or works.

- 1.6.6. In respect of purchases for goods, services or works that are valued at or in excess of \$10,000.00 (GST exclusive) and less than \$50,000.00 (GST exclusive),

Council will only enter into a contract where at least two (2) written Quotations have been sought in the Approved Form from suitable contractors able to provide the required goods, services or works.

- 1.6.7. In respect of purchases for goods, services or works that are valued at less than \$10,000.00 (GST exclusive), Council will only enter into a contract if the value of the goods, services or works has been ascertained and appropriately documented prior to making the purchase.

1.7. Non-application of the Public Tender Process

- 1.7.1. In accordance with section 27 of the *Local Government (General) Regulations 2015*, the requirement for public tendering does not apply for the followings situations:

- a) an emergency, if, in the opinion of the general manager, there is insufficient time to invite tenders for the goods or services required in that emergency.

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Hobart City Council Code for Tenders and Contracts

b) a contract for goods or services supplied or provided by, or obtained through, an agency of a State or of the Commonwealth;

c) a contract for goods or services supplied or provided by another council, a single authority, a joint authority or the Local Government Association of Tasmania;

d) a contract for goods or services obtained as a result of a tender process conducted by –

(i) another council; or

(ii) a single authority or a joint authority; or

(iii) the Local Government Association of Tasmania; or

(iv) any other local government association in this State or in another State or a Territory; or

(v) any organisation, or entity, established by any other local government association in this State or in another State or a Territory;

e) a contract for goods or services in respect of which a council is exempted under another Act from the requirement to invite a tender;

f) a contract for goods or services that is entered into at public auction;

g) a contract for insurance entered into through a broker;

h) a contract arising when a council is directed to acquire goods or services due to a claim made under a contract of insurance;

i) a contract for goods or services, if the council resolves by absolute majority and states the reasons for the decision, being that a satisfactory result would not be achieved by inviting tenders because of

(i) extenuating circumstances; or

(ii) the remoteness of the locality; or

(iii) the unavailability of competitive or reliable tenderers;

j) a contract of employment with a person as an employee of the council.

Instances of non-application of the tender process under section a) and i) above must be included in the Council's Annual Report.

All instances where an exemption from the requirement to seek 3 written quotes, pursuant to the City of Hobart Purchasing Policy and Guidelines, has been granted must be reported to Council on a quarterly basis.

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Hobart City Council Code for Tenders and Contracts

2. COUNCIL PROCUREMENT PRINCIPLES

2.1. Procurement Principles

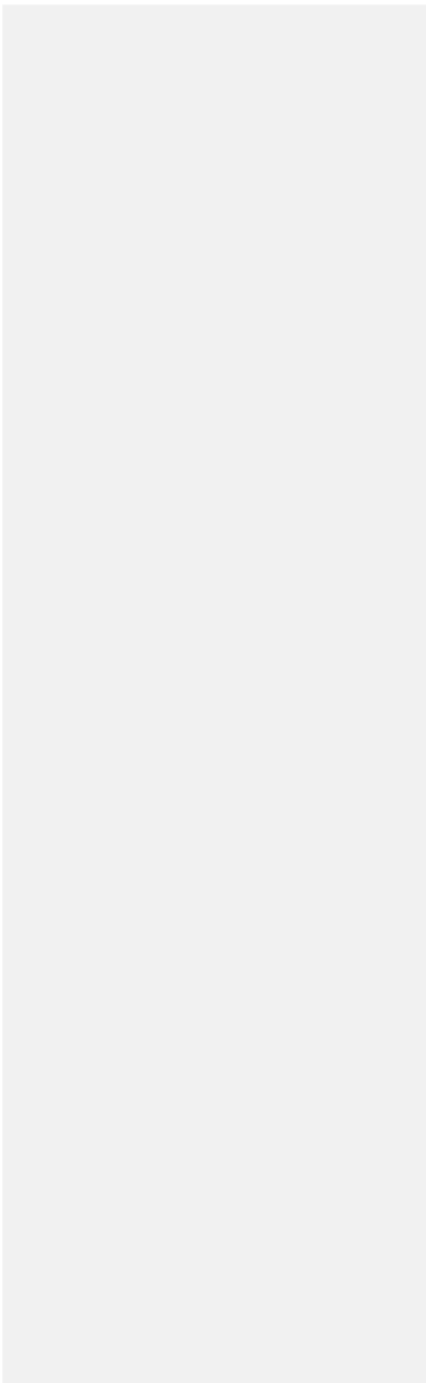
- 2.1.1. Council purchasing must be conducted legally and by encouraging fair and open competition between Service Providers seeking to do business with Council. The core objective of any Council Procurement Process is to achieve the required outcomes and obtain value for money.
- 2.1.2. The Council Purchasing Principles below provide Council officers and Service Providers with an overview of the meanings applied to each principle in the context of Council procurement. The sections of this Code covering ethics and conduct sets out in more detail the accepted minimum standards of ethics and behaviours that Council expects Council officers and Service Providers to adhere to when participating in a Procurement Process.

Principle	Description	This means
Value for money	Achieving the desired outcome at the best possible price	<p>Weighing up the benefits of a purchase against the cost. Factors which may be considered when determining value for money include:</p> <ul style="list-style-type: none"> a) fitness for purpose; b) whole-of-life costs over the lifetime of the product, good or service; c) advantages of buying locally (e.g. shorter delivery lead-times, availability of local back-up and servicing and availability of spare parts); d) supplier's capacity and ability, including management and technical capability and physical and financial resources; e) climate change and environmental considerations and energy conservation; f) contribution to achieving Council's policy or strategic objectives; g) social or community benefit; h) risk assessment; i) quality assurance; and j) disposal value.

Hobart City Council Code for Tenders and Contracts

Principle	Description	This means
Ethical purchasing standards	Acting ethically, being fair and unbiased and complying with the law in all dealings with Service Providers	<p>Applying the following standards of ethics and ethical behaviours when dealing with suppliers:</p> <ul style="list-style-type: none"> k) conducting all business in the best interest of Council, avoiding any situation which may, or which could be deemed to, impinge on impartiality; l) ensuring Council monies are spent effectively and in accordance with Council policies; m) acting without favour or prejudice; n) complying with legal requirements; o) always seeking to maximise the value for money in all transactions; p) maintaining confidentiality at all times in dealings with Service Providers; q) declining gifts, gratuities or any other benefit which may, or could be deemed to, influence equity or impartiality; not disclosing the bid of one Service Provider to any other provider in order to play Service Providers off against one another; and r) avoiding the purchase of Dumped Goods.
Encouraging open and effective competition	Ensuring that the Procurement Process is impartial, open and focussed on encouraging competitive offers	<p>Ensuring an open and effective Procurement Process by:</p> <ul style="list-style-type: none"> s) putting transparent, open purchasing procedures in place; t) ensuring the market is adequately tested by seeking an appropriate number of Quotations or calling for public Tenders; u) avoiding use of biased or proprietary Specifications; v) if requested, de-briefing unsuccessful providers; and w) treating all Service Providers consistently and equitably.
Enhancing opportunities for Local Business	Where local capacity exists, actively seeking to engage the local market and encourage their participation in Tender and Quotation processes.	<ul style="list-style-type: none"> x) actively seeking quotes from Local Businesses; and y) where local capability exists, ensuring that the discretionary elements of Specifications do not prevent Local Businesses from competing. <p>Enhancing opportunities for Local Business does not mean giving preferential treatment to local Service Providers.</p>

Hobart City Council Code for Tenders and Contracts



Hobart City Council Code for Tenders and Contracts

2.2. Ethics and Conduct – Council Officers

- 2.2.1. Council officers, or any other person or entity making a purchase on Council's behalf, will comply with the following ethical standards of behaviour:
- a) the Procurement Process will be undertaken in accordance with Council's Procurement Principles;
 - b) actual or potential conflicts of interest will be declared before inviting offers and measures put in place to appropriately manage any actual or potential conflicts of interest, monetary or otherwise;
 - c) accurate records of all dealings in respect to the purchase will be maintained during and after the process;
 - d) declining to accept any payments, gifts, gratuities, entertainment/hospitality and other benefits offered by a Service Provider for the discharge of official duties;
 - e) avoiding any situation which is, or which may become, or which may be perceived as being a conflict of interest with the person's official duties;
 - f) avoiding any relationship with a Service Provider, financial or otherwise, which could be perceived as unfair or improper influence on their judgement, or which could expose Council to allegations or perceptions of impropriety or unwarranted preference or unfair dealings or which could represent a breach of legislation; and
 - g) for any person with no legitimate role in the Procurement Process, not attempting to intervene or exert influence on the outcomes of the Procurement Process, in particular not communicating or implying any preference for the selection of a particular Service Provider.
- 2.2.2. Whenever dealing with Service Providers, Council officers will:
- a) clearly convey the Council's Requirements in an understandable manner and ensure that all Service Providers are provided with identical information upon which to base their Tender or Quotation;
 - b) ensure that Service Providers are provided with a Specification or other statement of the Council's Requirements, which is sufficient to ensure that Service Providers are not required to undertake unreasonable unpaid design or other work in order to prepare a Tender or Quotation;
 - c) ensure that a Service Provider is not provided with any information or clarification of the Specification, which is not equally provided to all other Service Providers;

Hobart City Council Code for Tenders and Contracts

- d) as far as is practicable, ensure that the Specification does not restrict competition, prevent Local Businesses from submitting a Tender or Quotation or reflect bias to any brand or proprietary system or method of work;
- e) in so far as possible, ensure that the Specification does not act as a barrier to innovation;
- f) if any particular Conditions of Participation or Conditions of Tender, or Conditions of Contract apply, advise Service Providers of these when inviting offers;
- g) advise Service Providers of the evaluation criteria, and if applicable the weightings, which will be used to evaluate offers at the time of invitation and ensure that the same criteria are used to evaluate all of the offers received;
- h) if offers are to be evaluated using weighted criteria, apply the process for Tender evaluation set out under the Tender Practices section of this Code;
- i) ensure that the Conditions of Contract are not excessively onerous; and
- j) not solicit or accept remuneration or other benefit from a Service Provider for the discharge of official duties.

2.3. Ethics and Conduct – Service Providers

- 2.3.1. Whenever participating in a Council Procurement Process in any capacity whatsoever, a Service Provider:
- a) will ensure they are acquainted with Council's Requirements and all matters relating to the Tender or the Quotation and the proposed contract;
 - b) will not submit a Tender or Quotation unless they have the financial, technical, physical, management, resource, ethical and other capabilities to fulfil the Council's Requirements;
 - c) will apply Council's Purchasing Principles and the standards and ethics required by this Code in its dealings with contractors, subcontractors, suppliers or agents;
 - d) must not engage in any uncompetitive behaviour or other collusive practices, which deny or reduce legitimate business opportunities to other potential suppliers or Council;
 - e) must at all times act in observance of all laws;
 - f) must not

Hobart City Council Code for Tenders and Contracts

- (i) engage in acceptance or provision of secret commissions,
 - (ii) collude with other suppliers, potential or otherwise,
 - (iii) submit inflated prices to advantage another potential Service Provider,
 - (iv) enter into improper commercial arrangements with other contractors, subcontractors, suppliers or agents,
 - (v) seek to influence the Procurement Process by any improper means whatsoever,
 - (vi) accept incentives to provide contracts or services to other contractors, subcontractors or agents; and
- g) must declare any matter or issue which is, or which may lead to or which could be perceived as, a conflict of interest regarding their participation in a Procurement Process or a contract to fulfil the Council's Requirements immediately upon the Service Provider becoming aware of the matter or issue.
- 2.3.2. If engaged by Council to provide goods, services or works of any nature a Service Provider will:
- a) act in a polite and courteous manner towards the Council's employees and agents and towards members of the general public;
 - b) refrain from the use of aggressive or foul language and expressions and not act in an aggressive or threatening manner towards Council's employees and agents and towards members of the general public;
 - c) in so far as is reasonably possible apply the standards and ethics required by this Code in its dealings with any contractors, subcontractors, suppliers or agents;
 - d) put in place and maintain policies, systems and procedures for workplace health and safety management; environmental management; and quality assurance, appropriate to the applicable level of complexity and risk associated with performance of the Council's Requirements;
 - e) comply with the provisions of awards and workplace arrangements which have been certified, registered or approved under relevant industrial relations legislation;
 - f) comply with all applicable legislative, regulatory and statutory requirements, including Acts of the Commonwealth and State, regulations, by-laws and proclamations made or issued under such

Hobart City Council Code for Tenders and Contracts

Acts and lawful requirements or directions of public and other authorities;

- g) make payments to employees, subcontractors, suppliers, consultants and agents in a timely manner; and
 - h) not offer gifts, gratuities, entertainment/hospitality and other benefits to a Council officer for the discharge of official duties.
- 2.3.3. Service Providers must not collude to influence the outcomes of a Procurement Process. Collusive behaviour includes, but is not limited to:
- a) agreements between Service Providers as to who should be successful in winning Council's business;
 - b) any meeting of Service Providers prior to the submission of their Tender or Quotation that may disadvantage Council;
 - c) exchange of information between Service Providers about their Tenders prior to the awarding of the contract or selection of the successful Service Provider;
 - d) agreement between Service Providers for payment of money or securing of reward or benefit for unsuccessful Service Providers by the successful Service Provider;
 - e) agreement or collaboration between Service Providers to fix prices or Conditions of Contract;
 - f) submission of a cover Tender or Quotation or any assistance to another person to submit such a cover Tender or Quotation, that is intended to advantage another Service Provider or disadvantage Council;
 - g) any unlawful or illegitimate agreement between Service Providers before submission of Tenders or Quotations such as fixing a special rate of payment to a third party where the payment of such fees is conditional on that Service Provider being awarded a Contract; and
 - h) any unlawful or illegitimate agreement providing for payment to any third party of money, incentives or other concessions contingent on the success of a Service Provider which do not relate to the provision of bona fide services relevant to that Tender or Quotation.

Hobart City Council Code for Tenders and Contracts

2.4. Breach of the Code

- 2.4.1. Council will take all reasonable steps to comply with the ethics and principles set out under this Code. However, Council will not be liable in any way to a Service Provider or any person for any breach of this Code.
- 2.4.2. If any employee of the Council, or a body controlled by the Council, breaches this Code Council may take disciplinary action if, in its absolute discretion, it considers it desirable to do so.
- 2.4.3. If a Service Provider commits a breach of this Code, Council may, in its absolute discretion, take action against that Service Provider. Action may include, but not be limited to:
 - a) giving a warning to the Service Provider;
 - b) a reduction in future opportunities for that Service Provider to bid (i.e. submit Tenders or Quotations);
 - c) Council refusing to consider any Tender or Quotation submitted by that Service Provider;
 - d) publication of the breach and identification of the Service Provider;
 - e) reporting of the breach to a statutory, professional or other relevant body;
 - f) termination or suspension of the Service Provider's engagement; and/or
 - g) legal action against the Service Provider.

2.5. Confidentiality

- 2.5.1. The confidentiality obligations of Council and Service Providers will be stated in the Conditions of Tendering and Conditions of Contract.

2.6. Dumped Goods

- 2.6.1. Dumped Goods can harm Australian businesses and can hinder the establishment of an Australian industry for the goods. Dumped Goods and goods that are under investigation by the Australian Customs and Border Protection Service as suspected of being Dumped Goods can be identified by checking the Australian Customs and Border Protection Service website.
- 2.6.2. Where Council identifies or suspects that a Tender includes Dumped Goods, the Tender may be rejected.

Hobart City Council Code for Tenders and Contracts

2.7. Ethical Standards

2.7.1. The Council has agreed to only support and /or contract companies, institutions and organisations that refuse to support or profit from practices which abuse the fundamental human rights of asylum seekers. A company that is not abusive is one which:

- a) Has zero tolerance for child abuse, in policy and practice;
- b) Respect people's fundamental rights to freedom from arbitrary and indefinite detention;
- c) Does not treat people in a cruel, inhumane or degrading manner; and
- d) Commits to transparency and independent monitoring to ensure these principles are upheld.

When submitting a Tender or Quotation Service Providers are required to complete a declaration that they or their company's holdings do not provide services to Detention Centres.

2.8. Debriefing Unsuccessful Service Providers

- 2.8.1. Unsuccessful Service Providers will be provided with an opportunity for a debriefing to assist them to improve their ability to successfully bid for future Council requirements.
- 2.8.2. Debriefings are offered in order to promote continual improvement of submissions provided to the Council by prospective Service Providers. This is achieved by offering unsuccessful Service Providers with a learning opportunity as to their capabilities relative to the Council's Requirements and expectations and by identification of where opportunities for improvement exist.
- 2.8.3. The debriefing process is not to be used as a means of contesting the outcomes of a Procurement Process, and will not be used as a means of exploring the merits of other Service Providers' submissions with an unsuccessful Service Provider.

2.9. Procurement Complaints

- 2.9.1. A complaint about procurement can be communicated to Council via the process for making a complaint contained in Council's Customer Service Charter, which may be obtained via Council's website (www.hobartcity.com.au)

2.10. Reporting

- 2.10.1. Where in a financial year, a contract, for the supply or provision of goods or services valued at or exceeding the Prescribed Amount is, entered into, or extended under regulation 23(5)(b) of the Regulations, Council's annual report for that financial year will include the following information:

Hobart City Council Code for Tenders and Contracts

- a) a description of the contract;
 - b) the period of the contract;
 - c) the periods of any options for extending the contract;
 - d) the value of any tender awarded or, if a tender was not required, the value of the contract (excluding GST);
 - e) the business name of the successful contractor;
 - f) the business address of the successful contractor; and
 - g) any other prescribed matter.
- 2.10.2. Where approval has been given for non-application of the Tender process in accordance with regulation 27(a) and (i) of the Regulations, Council's annual report will include the following information:
- a) a brief description of the reason for not inviting public tenders;
 - b) a description of the goods or services acquired;;
 - c) the value of the goods or services acquired; ; and
 - d) the name of the contractor.
- 2.10.3. Where in a financial year, a contract, for the supply or provision of goods or services valued at or exceeding \$100,000.00 (excluding GST) but less than the Prescribed Amount is, entered into, or extended, Council's annual report for that financial year will include the following information:
- a) a description of the contract;
 - b) the period of the contract;
 - c) the periods of any options for extending the contract;
 - d) the value of the contract (excluding GST);
 - e) the business name of the successful contractor;
 - f) the business address of the successful contractor; and
 - g) any other prescribed matter.
- 2.10.4. For purchases with a value equal to or exceeding the value where three written Quotations are required, the number of instances of non-application of the requirement to obtain three written Quotations according to reason will be reported to the General Manager. Such reporting will be undertaken in the course of Council's routine financial reporting activities.

Hobart City Council Code for Tenders and Contracts

2.11. Calculating the Value of a Purchase

- 2.11.1. The value of a contract must be estimated prior to seeking Tenders or Quotations and the contract value must not be underestimated in order to avoid the requirement to seek Tenders or Quotations.
- 2.11.2. The duration of a contract (including standing offers for the supply of goods, service and works, or any combination thereof) must be based on the contract period that best fits Council's business, operational and risk management requirements. A shorter contract period must not be selected in order to avoid the requirement to seek Tenders.
- 2.11.3. A purchase must not be split into multiple smaller purchases in order to avoid the requirement to seek Tenders or Quotations.
- 2.11.4. Where relevant, provisional sums, prime cost items, allowances for contingency sums and the like are to be included in the estimated value of a purchase.

2.12. Authority to Award Contracts

- 2.12.1. The authority to award Tenders and Quotations, and enter into contracts, will be in accordance with the approved Delegate under the financial delegations set out in Council's Delegation Register.

2.13. Goods and Services Tax (GST)

- 2.13.1. All procurement thresholds are GST exclusive.
- 2.13.2. Tenders and Quotations shall be sought on a GST exclusive basis.

Hobart City Council Code for Tenders and Contracts

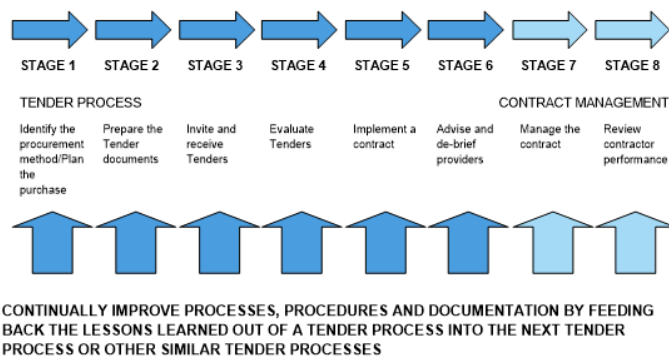
3. TENDER PRACTICES

3.1. Tender Practices – Scope and Purpose

- 3.1.1. These Tender practices must be applied to all procurements where a public Tender is required. These Tender practices may, at Council's discretion, be applied to a Quotation process.
- 3.1.2. The purpose of these Tender practices is to ensure all Council Tenders are conducted in a fair and uniform manner.
- 3.1.3. In the event of any inconsistency between these Tender practices and the Conditions of Tendering issued in respect to a Tender process, the Conditions of Tendering will prevail.

3.2. Tender Process Outline

- 3.2.1. Stages 1-6 (inclusive) of the following diagram identify the steps in the Council Tender process:



3.3. Conduct and Ethics

- 3.3.1. Generally, the Council Purchasing Principles will apply.

3.4. Exclusions

- 3.4.1. These Tender practices do not apply to the following activities:
- design and execution of works of art;
 - grants of assistance;
 - donations
 - property transactions;

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- e) leasing; and
- f) disposals, other than the sale of Council plant by way of trade-in at the time of seeking Tenders for replacement items.

3.5. Administration of Tenders

- 3.5.1. Council routinely seeks Tenders for a range of activities and requirements including consultancy work, construction and maintenance works, and the purchase of goods, equipment and general services. It is a mandatory requirement that Council's public Tendering framework is administered by the Council's Financial Services Division.
- 3.5.2. Public tender processes may be conducted on Council's behalf by Council's Financial Services Division or by procurement staff located in the Project Delivery Unit in Council's City Infrastructure Division.
- 3.5.3. Except where the Delegate has sought and has been granted an exemption from public tendering per regulation 27 of the Regulations, public Tenders must be called in accordance with the *Local Government Act 1993* for all projects or purchases with an estimated GST exclusive value equal to or greater than the Prescribed Amount.
- 3.5.4. Tenders may, at the Delegate's discretion, be called for any Council project or purchase with an estimated value less than the prescribed amount under the Act where the Delegate determines that:
 - a) use of a formal Tender process is required or advisable due to the complexity, importance or organisational impact of Council's Requirements;
 - b) it is likely or reasonably probable that Council would be exposed to a high level of risk due to the purchase; or
 - c) use of formal Conditions of Contract are required or advisable.

3.6. Administration of Quotations

- 3.6.1. It is a mandatory requirement that Council's procurement and Quotation frameworks are administered by the Council's Financial Services Division.
- 3.6.2. All Quotations being sought for the supply or provision of goods or services valued at or exceeding \$100,000.00 (excluding GST) but less than the Prescribed Amount must be issued with a unique identifier by Central Procurement, prior to the Quotation being sought.
- 3.6.3. The Financial Services Division or procurement staff located in the Project Delivery Unit in Council's City Infrastructure Division may administer Quotation processes on behalf of other Council Divisions if the

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Delegate determines that the requirement is of a complex or high risk nature, or if engagement under a formal contract is required.

3.7. Competitive Neutrality

- 3.7.1. Council will only accept Tenders from other Local Government Authorities, Government bodies or public sector suppliers where, to the extent possible, the price reflects the full commercial cost.
- 3.7.2. Before considering a Tender submitted by or on behalf of another Local Government Authority or a Government body or a public sector supplier, written confirmation that the price has been calculated on a full commercial cost basis under competitive neutrality conditions will be obtained.
- 3.7.3. If competitive neutrality cannot be confirmed, or the Local Government Authority, Government body or public sector supplier fails to provide satisfactory written confirmation as to the competitive neutrality of their Tender, the Tender shall be declined.

3.8. Tender Records

- 3.8.1. A unique identifier will be allocated to all Tenders. Once the contract is awarded the unique identifier will provide the unique identifier for the contract. The unique identifier must be referred to on all correspondence and other documentation relating to the Tender and the contract.
- 3.8.2. Appropriate records are to be maintained throughout the duration of a Tender process.

3.9. Planning the Purchase

- 3.9.1. The following actions are required prior to preparing the RFT:
 - a) verifying that the appropriate Delegate has approved undertaking the purchase;
 - b) establishing the objectives of the purchase and preparing the Specification, which will clearly convey Council's Requirements to Service Providers;
 - c) identifying the correct purchasing method, including:
 - i. determining if Council's own workforce has the capability to fulfil the Council's Requirements;
 - ii. determining if there is an appropriate common use contract; and
 - iii. determining if there is a need for a whole of Council contract arrangement;

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- d) valuing the purchase and, at a minimum, complying with the purchasing thresholds set out under this Code;
- e) confirming sufficient funds are available;
- f) the Tender has been approved by the appropriate Director;
- g) establishing the evaluation committee, their roles and responsibilities;
- h) defining any mandatory Conditions of Participation or compliance criteria that a potential provider will be required to meet in order to have their Tender considered; and
- i) defining the evaluation criteria (and weightings if applicable) which will be used to evaluate Tenders and select the successful Service Providers(s).

3.10. Preparing the RFT

3.10.1. Conditions of Tendering

3.10.1.1. The RFT must include Conditions of Tendering, setting out the terms under which a Tender will be accepted for evaluation, including at a minimum:

- a) a unique identifier number;
- b) the place for lodgement of Tenders;
- c) lodgement instructions;
- d) the Closing Time and place;
- e) specific lodgement requirements, including the information to be submitted with a Tender;
- f) a single nominated contact officer, to which all enquiries concerning the RFT must be submitted;
- g) the procedure for responding to enquiries and amending or clarifying the RFT documents;
- h) any other matters relating to the RFT process, including details of pre-tender briefings and conferences and site inspections;
- i) mandatory Conditions of Participation or compliance criteria applicable to the RFT;
- j) evaluation criteria and weightings and the method of selecting the Preferred Tenderer; and

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- k) reference to the applicable code of conduct (i.e. this Code for Tenders and Contracts or the alternative Code applicable to the RFT).
- 3.10.2. Specification
 - 3.10.2.1. A complete Specification, which describes the extent of the requirements and particulars of the manner or method of the performance of Council's Requirements, must be provided for each RFT.
 - 3.10.2.2. The Specification must, at a minimum include:
 - a) a description of Council's Requirements, which is sufficient to ensure that a Service Provider is not required to undertake an unreasonable amount of design work or other effort in preparing and lodging a Tender;
 - b) mandatory requirements and minimum fitness for purpose and quality standards; and
 - c) health and safety and environmental management requirements.
 - 3.10.2.3. The Specification must allow participation by local Service Providers wherever local capacity exists and must not restrict competition to be biased towards a particular brand or Service Provider.
- 3.10.3. Conditions of Contract
 - 3.10.3.1. Service Providers must be provided with or advised of the terms and conditions of the contract that a successful tenderer will be required to agree to.
 - 3.10.3.2. The RFT will include either:
 - a) the Conditions of Contract or other document setting out the contractual terms defining the obligations and rights of the parties to a contract; or
 - b) reference to the Australian Standard conditions of contract, or other Conditions of Contract, applicable to the RFT.
 - 3.10.3.3. Any Annexures, schedules or exhibits to the Conditions of Contract must also be issued with the RFT.

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3.10.4. Tender Forms

- 3.10.4.1. At a minimum, Service Providers must be provided with a properly structured Tender form, on which to make their Tender.

3.11. Inviting and Receiving Tenders

- 3.11.1. The Invitation to Tender must be in the form of a public advertisement, which at a minimum provides:
- a) a description of the Council's Requirements;
 - b) the Closing Time;
 - c) instructions on how to obtain the Tender documents;
 - d) details of Tender deposits or other payments tenderers are required to make in order to obtain the Tender documents (if applicable); and
 - e) the times and dates for pre-tender meetings (if applicable).
- 3.11.2. At a minimum, the Invitation to Tender will be placed in the Tenders section of the Wednesday or Saturday edition of the Hobart Mercury and will be posted on the internet.
- 3.11.3. All Tenders will be allocated with a Closing Time, specifying the time and date by which Tenders must be submitted. The Closing Time must be included in the Conditions of Tendering and the Invitation to Tender.
- 3.11.4. Tenderers will be provided with sufficient time between issuing of the Invitation to Tender and the closing date in which to prepare their Tenders.
- 3.11.5. Unless Council's operational needs require otherwise, submission of Tenders will not be required:
- a) before 2.00pm;
 - b) on a Monday or any day immediately after a day which is a declared statutory public holiday in Tasmania; or
 - c) between the dates of 24 December to 2 January (inclusive).
- 3.11.6. Council may amend the Closing Time for Tenders by issuance of a written notice to all parties in receipt of the RFT.
- 3.11.7. Council will nominate a Council officer or other representative (the "contact person") to deal with RFT enquiries. All enquiries about a RFT must be directed to the contact person.

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- 3.11.8. Information not included in the RFT documents, which is provided to a potential tenderer, will be equally provided to all other potential tenderers.
- 3.11.9. Details of potential tenderers issued with the RFT documents must be recorded in an appropriate manner.
- 3.11.10. Clear instructions on how to lodge a Tender will be provided in the Conditions of Tendering.
- 3.11.11. A tenderer must comply with the lodgement instructions given in the Conditions of Tendering. The Council may reject any Tender which is not lodged in accordance with the lodgement instructions, without consideration.
- 3.11.12. Any Tender received after the Closing Time for Tenders will not be considered unless the Council is of the opinion, and the Council's decision shall be final, binding and not open to dispute, that:
 - a) the cause of the lateness was beyond the tenderer's control;
 - b) consideration of the late Tender would not provide an unfair advantage to the tenderer submitting the late Tender; and
 - c) consideration of the late Tender would not compromise the Tender process.
- 3.11.13. Council reserves the right to amend any of the documents comprising an RFT or provide clarification of any matter relating to a RFT prior to the Closing Time.
- 3.11.14. If a RFT is amended or clarification of a RFT matter, other than clarification of the RFT process, is required, Council will issue a notice of addendum via the internet.
- 3.11.15. Tenderers will be provided with sufficient time to allow for incorporation of the requirements of any addenda issued in their Tender submission.
- 3.11.16. Council may allow tenderers, which have already submitted a Tender, to lodge an amendment to their Tender, provided that any such amendment is lodged in accordance with the Conditions of Tendering prior to the Closing Time.
- 3.11.17. A tenderer must acknowledge receipt of any addenda issued during the Tender period with its Tender submission, failure to acknowledge receipt of addenda will be grounds for rejection of Tender.
- 3.11.18. The opening of Tenders will not be public.
- 3.11.19. Council will provide the facility for lodgement of Tenders via the internet.
- 3.11.20. Tender submissions will not be opened until the time set for the closing of Tenders has elapsed.

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- 3.11.21. Tender submissions will be opened in the presence of at least three Council officers and the Tender submissions received will be clearly identified and recorded upon opening.
- 3.11.22. If a tenderer is provided with the opportunity to correct unintentional errors of form between the opening of submissions and nomination of a Preferred Tenderer, the same opportunity to correct unintentional errors will be provided to all other tenderers.
- 3.11.23. A tenderer may withdraw its Tender at any time prior to acceptance of the Tender, by providing Council with written notification.
- 3.11.24. A Tender must remain valid for the period of time required by the Conditions of Tendering.

3.12. Tender Evaluation

- 3.12.1. Unless the Conditions of Tendering expressly state an alternative method, Tender evaluation will be carried out in accordance with the principles and practices set out in this Code.
- 3.12.2. A Tender will be initially be assessed for conformance, a conforming tender will be taken to mean a Tender which:
 - a) is lodged by the Closing Time and in compliance with the requirements of the Conditions of Tendering; and
 - b) meets the mandatory requirements of the Specification.
- 3.12.3. Council will consider any conforming Tender on its merits.
- 3.12.4. Council may reject, as a non-conforming Tender, any Tender which:
 - a) is not submitted in conformance with the Conditions of Tendering;
 - b) is incomplete or which contains insufficient information to allow Council to carry out a valid evaluation in accordance with the procedure for evaluating Tenders set out in this Code; or
 - c) contains provisions not permitted or required by this Code, the Conditions of Tendering, Conditions of Contract, Specification and/or other documents issued by Council in respect to a Tender for tendering purposes.
- 3.12.5. Council reserves the right to exclude any Tender from evaluation which, in the Council's judgement, is excessively low or high in price so as to have an effect on the relativity of other Tenders.
- 3.12.6. Tenders will be evaluated with the aim of determining the Tender submission which offers the best value for money outcomes to Council.
- 3.12.7. When assessing value for money, Council may:

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- a) in addition to price, take into account any non-price criteria that it considers relevant to the successful performance of Council's Requirements and achievement of the Council's desired commercial and other outcomes, including but not necessarily limited to the Council Purchasing Principles; and
 - b) apply a weighting to the price and non-price criteria.
- 3.12.8. The evaluation criteria and weightings must be determined before finalising the RFT and must be disclosed to tenderers in the Conditions of Tendering.
- 3.12.9. Selection and manner of application of the evaluation criteria and weightings will be at the sole discretion of Council. Council will not be liable to any tenderer for the application, or non-application, of any evaluation criterion or weighting.
- 3.12.10. During the evaluation process, Council may request additional information from any tenderer in order to clarify matters in doubt or not made clear by the Tender submission. However, a tenderer will not be provided with the opportunity to revise or amend its Tender price or submit additional information in order to make a non-conforming Tender into a conforming tender.

3.13. Alternative Tenders

- 3.13.1. Council may consider any Tender which meets the Council's Requirements in an alternative and practical manner provided that it meets the totality of those requirements (i.e. Council may consider an "Alternative Tender").
- 3.13.2. Alternative Tenders may relate to the functional, performance and technical aspects of the requirements or to opportunities for more advantageous commercial arrangements.
- 3.13.3. Council may either consider Alternative Tenders on their merits or reject Alternative Tenders without consideration at its discretion.

3.14. Tender Rejection and Acceptance

- 3.14.1. Council is not obliged to accept the lowest or any Tender.
- 3.14.2. Council may reject all Tenders.
- 3.14.3. Council may accept a conforming or Alternative Tender.
- 3.14.4. If the Council rejects all Tenders, it will advise all tenderers accordingly in writing.

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- 3.14.5. Council will advise all tenderers of the outcome of the Tender process in writing. Unsuccessful tenderers will also be provided with the name of the successful tenderer.
- 3.14.6. The requirements for acceptance of Tender and contract formation will be specified in the RFT.

3.15. Tender Negotiations

- 3.15.1. During the evaluation process, Council reserves the right to negotiate with a tenderer or tenderers in order to:
 - a) assess a tenderer's understanding of the Council's Requirements, test any assumptions made by a tenderer in determining their Tender prices(s) and rectify any false assumptions;
 - b) obtain clarification of matters in relation to the tenderer's capability to fulfil the Council's Requirements;
 - c) enhance the commercial benefit to Council by achieving cost reductions or service improvements; and
 - d) finalise the commercial terms required to form a contract.
- 3.15.2. Council will not enter into negotiations which result in substantial modification to the Council's Requirements or which would lead to a non-conforming Tender becoming a conforming tender.
- 3.15.3. The outcomes of Tender negotiations will be reflected in the final contract documentation.
- 3.15.4. In the course of negotiations with a tenderer, Council will not disclose the details of any other Tender submissions.

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3.16. Glossary of Terms

Term	Definition
Alternative Tender or Quotation	A Tender or Quotation which meets all of the Council's Requirements, but in a manner different to that specified.
Approved Form	The process and format approved by Central Procurement for seeking Quotations.
Central Procurement	Located in the Financial Services Division responsible for providing centre-led guidance and compliance in relation to Council's procurement framework.
Closing Time	The closing time and date for Tenders or Quotations stated in the Conditions of Participation or Conditions of Tendering.
Common-use Contract	A whole-of-Council contract approved by Central Procurement and implemented as a result of a public tender process.
Conditions of Contract	The terms and conditions that a Service Provider will be required to agree to if their Tender or Quotation is accepted.
Conditions of Participation / Conditions of Tendering	The terms and conditions under which Council will seek receive and evaluate Tenders and Quotations.
Council	Hobart City Council including, where the context permits or requires, its employees and agents.
Council's Requirements	The goods, equipment, services or works required by Council under a RFT.
Delegate	The Council Committee or officer authorised to expend funds to the value of the Council's Requirements under the current version of the Council's Delegations Register.
Dumped Goods	Goods from overseas, imported into Australia at less than their normal value.
Invitation to Tender	The advertisement or other written advice issued by Council in order to seek Tenders.

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Local Businesses	Includes suppliers with a permanent established business location in the Hobart Municipality, operating in the southern region of the state with a permanent office or presence in southern Tasmania or based in Tasmania with a permanent business presence in the state mainly employing Tasmanian workers.
Preferred Tenderer	The tenderer adjudged by Council as best satisfying the Council's Requirements.
Procurement Process	The process whereby Council seeks to engage a Service Provider to provide Council with goods, equipment, services or construction or building works.
Quotation	An offer from a prospective Service Provider in response to an Invitation issued by Council to a selected number of prospective suppliers.
Request for Tender (RFT)	The documents upon which tenderers are to Tender.
Service Provider	Any contractors, subcontractors, consultants participating, or seeking to participate, in a Procurement Process, and where the context so permits includes a reference to the "tenderer".
Specification	The documents prepared for the purpose of describing the extent and the manner of the performance of Council's Requirements, including preliminary and general requirements, directions, schedules, programs and drawings and other documents included with or referenced in a RFT.
Tender	An offer from a prospective Service Provider in response to an open and public Invitation to Tender by Council, whereby no limit is placed on the potential number of offers.

7 COMMITTEE ACTION STATUS REPORT

7.1 Committee Actions - Status Report

A report indicating the status of current decisions is attached for the information of Aldermen.

RECOMMENDATION

That the information be received and noted.

Delegation: Committee

Attachment A: Status Report

FINANCE AND GOVERNANCE COMMITTEE - STATUS REPORT

OPEN PORTION OF THE MEETING

February 2018

Ref	Title	Report / Action	Action Officer	Comments
1.	BATTERY POINT PARKING METER INSTALLATION Council, 24/11/2014, Item 15	Consultation with traders and residents on Hampden Road occur with a view to increasing availability of short term parking.	Director City Infrastructure	The results of a survey on on-street parking in the Hampden Road Precinct and immediately surrounding streets were circulated to 135 stakeholders in August 2017. Four responses were received. It is proposed to repeat the survey in May 2018.
2.	CITY HALL – DEVELOPMENT OPPORTUNITIES – VENUES Council, 23/2/15, Item 12 CITY HALL RESTORATION Council, 22/02/2016 Item 19	1. Funding of \$400,000 in 2016/2017 and \$200,000 in 2017/2018 be listed for consideration in the City's draft 5 Year Capital Works Program to undertake a short term works package for City Hall. 2. A consultant be engaged to develop a business plan for the City Hall, as a matter of urgency to inform long term infrastructure investment, the future management and operational model for the facility, at an approximate cost of \$100,000 to be funded from 2015/2016 operational savings. 3. A brief report be provided that details the model used for the 2010-2013 Brisbane City Hall restoration works. A further report also be prepared that provides details of all Council physical building assets and their current uses including options for maximising community usage for buildings that are underutilised.	Director Community Development	A draft brief for the business/master plan has been prepared. A range of building improvements, including the painting of the main public interior spaces, rigging systems, improved fire detection systems and the upgrading of ground floor toilets have been completed. Second stage works, including a new stage rigging system, refurbished sky-lights and associated blackout systems and a temporary fencing system for the Macquarie Street entrance for major event use are being progressed.

Ref	Title	Report / Action	Action Officer	Comments
3.	TOWN HALL UNDERGROUND REFURBISHMENT Council, 24/8/2015, Item 21	<ol style="list-style-type: none"> 1. The Council approve the following works being undertaken in the Town Hall Underground, to the value of between \$37,000 and \$41,000. 2. An appropriate fee structure for the hiring of the Town Hall Underground be determined The Town Hall Underground be actively marketed as a venue for hire 3. Council officers undertake further investigation with a view to providing further clarification in respect to appropriate nomenclature for the site 	Deputy General Manager	Part 1 of the resolution is now complete as the works have been completed. The balance of the Council's resolution will be dealt with as part of the fees and charges process.
4.	SUPERANNUATION ENTITLEMENTS FOR ALDERMEN Council, 26/10/2015, Item 20	The matter be deferred until it has been considered by the Local Government Association of Tasmania.	General Manager	The Council provided a submission to the Board of Inquiry into Councillor allowances which includes a position on appropriate recognition for superannuation within the quantum of the allowance.
5.	NOTICE OF MOTION COUNCIL CAR PARKS - SECURE SHORT TERM BICYCLE FACILITIES Council, 23/05/2016 Item 14	A report be prepared on options for appropriate secure short-term cycling facilities with a focus on the 42 vacant spaces in the Argyle Street car park along with other Council car parks, for people who choose to cycle into the city.	Director Financial Services	The Group Manager Parking Operations will provide a report to the Committee following completion of the refurbishment of the foyer and ground level of the Argyle Street Car Park and the neighbouring multi-level development. Refurbishment works have now commenced and are estimated to be completed by July 2018. In the interim three new bicycle lockers have been installed in the Argyle Street Car Park, and new bicycle securing posts have been installed in Hobart Central Car Park.

Ref	Title	Report / Action	Action Officer	Comments
6.	SANDY BAY BATHING PAVILION, LONG BEACH Council, 24/7/2017 Item 15	That proposals associated with the development of a new second floor restaurant above the Sandy Bay Bathing Pavilion be proceeded with and the expenditure of \$16,800 be approved.	General Manager	Council's architects are developing a new design in conjunction with the Pavilion's original architect, Mr Dirk Bolt.
7.	ST GEORGE'S CHURCH, BATTERY POINT - REQUEST FOR FINANCIAL ASSISTANCE Open Council, 25/7/2017 Item 18	A report be prepared in respect to the opportunity to pursue a National Heritage Lottery with the Federal Government, as suggested in December 2015.	Director City Planning	<p>The concept of a national lottery to assist in funding the long-term protection and management of Australia's heritage places was first raised in the federal government's Australian Heritage Strategy released in December 2015.</p> <p>The Department of the Environment and Energy is still exploring the potential for a national lottery. The Minister for Sport has suggested publicly that the proposed lottery would be "two thirds for sports and one third for heritage and the arts."</p> <p>When further information is available from the federal agencies, it will be provided in a future report.</p>
8.	ELECTRIC VEHICLES AND CHARGING STATIONS Open Council, 25/7/2016 Item 20	<ol style="list-style-type: none"> 1. The Council identify suitable locations for the future installation of direct current fast charge stations, and actions be taken to preserve the locations until such time as it becomes viable to install the stations. 2. Council officers continue to monitor the types of electric and hybrid vehicles available on the market to determine whether any would be suitable for inclusion in the City's fleet. 	Director City Infrastructure	<p>This matter is being progressed. Officers are investigating funding support potential that may be available through TasNetworks' Electric Vehicle Fast Charger Support Scheme.</p> <p>Officers are monitoring electric and hybrid vehicle models for potential inclusion in the fleet, though the range of suitable vehicles available in Australia continues to be very limited.</p>

Ref	Title	Report / Action	Action Officer	Comments
		<p>3. City employees be canvassed to determine demand for electric bicycle charging stations at the City's corporate buildings. If there is sufficient demand, then power outlets be installed in suitable locations.</p> <p>4. Appropriate street signage be installed to direct users of electric vehicles (EV) and bicycles to the charging stations located at the Hobart Central Car park.</p> <p>5. That the Hobart Bicycle Advisory Committee be requested to consider initiatives to encourage the wider use of electric bicycles.</p>		<p>Options for canvassing employees are being considered. Charging stations have been installed in the Hobart Central Carpark on a trial basis.</p> <p>Officers are progressing the matter.</p> <p>The HBAC considered this matter at the September 2016 meeting.</p>
9.	REVIEW OF PARKING – NORTH HOBART Open Council 19/6/2017 Item 21	<p>1. An internal working group be established to review the parking needs and availability in North Hobart in the context of the Transport Strategy.</p> <p>(i) The internal work group include appropriate officers and Aldermen Zucco, Ruzicka, Burnet and Thomas and any other Aldermanic nominations.</p> <p>2. The Council approve the following to be included in the review:</p> <ul style="list-style-type: none"> • The review of on-street parking time limits in Elizabeth Street and streets adjoining the restaurant strip; • The possible installation of parking meters and in ground sensors in 	Director Financial Services	<p>The initial meeting of the working group was held on Monday 17 July 2017. A survey of vehicle usage in North Hobart was commissioned. The survey monitored the weekday and weekend vehicle use in the area during the day and of an evening. The survey results have now been provided to Council.</p> <p>Complete.</p>

Ref	Title	Report / Action	Action Officer	Comments
		<p>Elizabeth Street between Warwick and Federal Streets; and</p> <ul style="list-style-type: none"> • The introduction of evening and weekend parking Officer patrols. <p>3. Within 6 months, and following consultation with the wider community and the North Hobart Traders Group, the Internal working group report back to the Council with the findings of the review, including a list of suggested actions to improve the parking availability and a copy of this report.</p> <p>4. The list of actions include income and expenditure estimates and timeframes for implementation.</p> <p>5. The Committee's resolution be published in the Open portion of the meeting minutes, with the elements of the Report that are not confidential in nature, being made publicly available.</p>		
10.	<p>VISITOR ACCOMMODATION – RESIDENTIAL RESEARCH – RESIDENTIAL DEVELOPMENT INCENTIVES</p> <p>Open Committee 20/11/2017</p>	<p>1. The City of Hobart facilitate and chair a round table discussion with representatives from various organisations, including but not limited to Shelter Tasmania, Housing Tasmania, the University of Tasmania, Professor Peter Phibbs Senior Lecturer, University of Sydney, the State Architect, in the event the position was to be reinstated, and major employers within the City of Hobart, to identify gaps, in the data required to better understand the housing market and in particular rental needs and demand and the impact of visitor</p>	<p>Director Community Development</p>	<p>Officers are progressing this matter, taking consideration of the proposed Housing Summit recently announced by the Premier.</p>

Ref	Title	Report / Action	Action Officer	Comments
		<p>accommodation, and investigate practical ways to move forward in relation to visitor accommodation and the supply of housing.</p> <p>2. The Council defer any decision to pursue the sale and redevelopment of any Council properties until a future point in time.</p> <p>4. The Council provide a summary of the issues discussed in this report to the major political parties in Tasmania for consideration.</p>	Director City Planning	The major political parties have been provided with a summary of this report. Complete.
11.	<p>TOWN AND CITY HALLS AND WATERSIDE PAVILION - COUNCIL POLICY ON USAGE</p> <p>Open Council 18/12/2017 Item 19</p>	<p>2. The policy be reviewed to provide flexibility around use of the facilities for the sale of goods, where the activity aligns with Council strategies.</p>	Deputy General Manager	A report on the variation to the policy will be provided to the April Committee meeting.
12.	<p>COUNCIL AND COMMITTEES - STRUCTURE AND GOVERNANCE MATTERS</p> <p>Council 4/12/2017 Item 21</p>	<p>1. In relation to the public question time forum, notice period for lodgement of questions be reduced from seven to two clear days.</p> <p>(i) Questions accepted from the floor during the forum, subject to being put in writing and where a response cannot be provided, will be provided a written response as soon as possible.</p> <p>2. In respect to deputations:</p>	Deputy General Manager	Implementation is underway.

Ref	Title	Report / Action	Action Officer	Comments
		<p>(i) the discretion of committee chairmen to consider a deputation to address a meeting, as a supplementary agenda item, without the need to include a report on the agenda for the meeting, be endorsed</p> <p>(ii) a further report be prepared on an appropriate framework to facilitate such a process which ensures good governance and the effective functioning of council committees.</p> <p>3. Further consideration of the strategic realignment of its existing committee structure occur after the completion of the Council's visioning project.</p> <p>4. In respect to Questions Without Notice, the guidelines, as shown as attachment C to item 11 of the Supplementary Open Governance Committee agenda of 28 November 2017, be adopted.</p>		
13.	<p>CITY OF HOBART COMMUNITY ENGAGEMENT</p> <p>Council, 13/7/2015 Item 21</p> <p>Council 6/6/2016 Item 21</p> <p>Council 29/11/2016 Item 15</p>	The role of the Council's Traffic Committees be considered following the conclusion of the engagement process for the draft Local Retail Precinct Plan.	Director Community Development	A report relating to the Draft Community Engagement Framework and community engagement options will be submitted to the Economic Development and Communications Committee in April 2018.

Ref	Title	Report / Action	Action Officer	Comments
14.	SHAPING THE CITIES OF HOBART AND GLENORCHY – DETERMINING THE BENEFITS OF ENHANCED LAND VALUE THROUGH INVESTMENT IN A PUBLIC TRANSIT SYSTEM Council 9/2/2016 Supp Item 16	The Council initiate a Public Transit Corridor Urban Utilisation and Economic Benefit project for the current rail corridor, based on the proposal titled 'Shaping the Cities of Hobart and Glenorchy – Determine the Benefits of Enhanced Land Value through Investment in a Public Transit System', subject to the matched support of the Glenorchy City Council.	General Manager	A workshop and public forum were held on 15 February and the Steering Committee will meet on 8 March to discuss outcomes from these events.
15.	RECORDING AND PUBLISHING OF DEPARTURE TIMES FROM COUNCIL AND COMMITTEE MEETINGS Council 6/6/2016 Item 10	That a report be prepared exploring the benefits of recording and publishing the departure times of Aldermen from Council and committee meetings.	Deputy General Manager	A report in relation to this matter will be provided to the April meeting.
16.	LAUNCESTON CITY COUNCIL – MEMORANDUM OF UNDERSTANDING Council 6/6/2016 Item 19	1. The Council endorse a biannual meeting between the Lord Mayor of Hobart, the Mayor of Launceston and the General Managers of the Hobart City Council and Launceston City Council and that the arrangement replace the protocol which was adopted by the Council on 13 April 2015. 2. Aldermen receive copies of the agendas and minutes of these meetings and a six-monthly progress update.	General Manager	The General Managers are scheduled to meet informally on 14 March 2018.

Ref	Title	Report / Action	Action Officer	Comments
17.	TASMANIAN MUSEUM AND ART GALLERY BILL 2016 Council 6/2/2017 Item 19	The Lord Mayor and General Manager meet with the Director of the Tasmanian Museum and Art Gallery (TMAG) to discuss their governance structures and avenues available for the Council to continue to engage with the TMAG	Director Community Development	A further report will be submitted to the Council in April 2018.
18.	UNIVERSITIES CONFERENCE AND STUDY TOUR Council 6/2/2017 Item 17.	<ol style="list-style-type: none"> 1. The Council participate in regular meetings with the University Council and pursue an amendment to the existing memorandum of understanding with the University of Tasmania that seeks to strengthen the strategic relationship between the parties and focus on: <ol style="list-style-type: none"> (i) Joint research initiatives, including the socio-economic impacts of the University's move into the City and the movement of people in and around the City; (ii) Public realm improvements, and; (iii) City activation. 2. The development of the new vision for the City of Hobart involve extensive consultation with the University of Tasmania as well as other key stakeholders and acknowledge the importance of higher education in the City. 3. When contemplating a possible City Deal for the Greater Hobart region, the following be taken into consideration: <ol style="list-style-type: none"> (i) The City Deal be well thought through and recognise what it is hoping to 	General Manager	<p>The City of Hobart Vision exercise is currently underway.</p> <p>A Heads of Agreement for a Hobart City Deal was signed by the Prime Minister and Premier on 16 January. The Agreement calls to establish a Greater Hobart Act to provide a strategic framework of local councils in the region and the State Government to work</p>

Ref	Title	Report / Action	Action Officer	Comments
		<p>achieve; identify the issues it is seeking to address; is well resourced with appropriate, qualified staff; has a strong leadership structure and appropriate communication and PR support, and involve regional cooperation as well as commitment from the State and Australian Governments.</p> <p>4. The Council pursue a submission to the Smart Cities and Suburbs Program to gather data to assist the community with travel to work information, address congestion and improve the wider movement of people in the City.</p> <p>5. A further report be provided to investigate extending an invitation to Gehl Architects to visit the City for the purposes of reviewing the urban transformation work the City has done to date and to provide a public lecture.</p> <p>6. On receipt of the details of European Union's 'Twin Cities Urban Sustainability' project that a further report be prepared for the Council that considers the cost benefit of the project and identifies potential partner cities, including Freiburg, with whom the Council may partner.</p> <p>7. A visual presentation of the city design learnings from Bristol and Freiburg be</p>		<p>together to implement the objectives of the Hobart City Deal. The Heads of Agreement document has been placed on the HUB for the information of Aldermen. A report was considered by the Council at its 5 February meeting on this matter.</p> <p>A Senior Officials meeting, involving representatives from the Australian, Tasmanian and Local Governments, is scheduled for 20 March 2018.</p> <p>A report was considered by the Council at its meeting of 20 February 2017 and an application has been submitted and we are awaiting an outcome.</p> <p>A presentation will be arranged as soon as practicable and the Lord Mayor will invite the</p>

Ref	Title	Report / Action	Action Officer	Comments
		<p>provided to the Council, in conjunction with the University of Tasmania.</p> <p>(i) The Governor of Tasmania, or her delegate, be invited to attend the presentation.</p>		Governor of Tasmania.
19.	<p>GREATER HOBART: LOCAL GOVERNMENT REFORM FINAL FEASIBILITY STUDY</p> <p>Council 3/4/2017 Item 18</p>	<p>1. Advice be provided to the Committee after the meeting planned with Commissioner Sue Smith of the Glenorchy City Council, currently scheduled for 4 April 2017, has occurred.</p> <p>2. The Council then conduct a workshop to facilitate questions and discussion around the Greater Hobart: Local Government Reform Final Feasibility Study, prior to formal consideration of its position in respect to the report, going forward.</p>	General Manager	<p>A Heads of Agreement for a Hobart City Deal was signed by the Prime Minister and Premier on 16 January. The Agreement calls to establish a Greater Hobart Act to provide a strategic framework of local councils in the region and the State Government to work together to implement the objectives of the Hobart City Deal. The Heads of Agreement document has been placed on the HUB for the information of Aldermen. A report was considered by the Council at its 5 February meeting on this matter.</p> <p>A Senior Officials meeting, involving representatives from the Australian, Tasmanian and Local Governments, is scheduled for 20 March 2018.</p>
20.	<p>REVIEW OF BY LAWS</p> <p>Council 5/6/2017 Item 21</p> <p>BY-LAWS REVIEW - PUBLIC CONSULTATION OUTCOMES</p>	<p>1. The Council make the following by-laws, specifically:</p> <ul style="list-style-type: none"> • Public Spaces By-law • Infrastructure By-law • Car Parks By-law • Environmental Health By-law; and • Waste Management By-law <p>2. The General Manager prepare Regulatory Impact Statements for each of the by-laws listed above, with the view to presenting</p>	Deputy General Manager	<p>The by laws and regulatory impact statements were provided to the Director of Local Government for certification on 6 October 2017. Certification by the Director has not yet been provided.</p> <p>Advertising the by-laws will follow once certification is received as the by-laws cannot be advertised without certification.</p>

Ref	Title	Report / Action	Action Officer	Comments
	Council 18/09/2017 Item 15	these and the five by-laws to the Director of Local Government for a certificate of approval, pursuant to section 156A of the <i>Local Government Act 1993</i> . 3. Subject to a certificate of approval from the Director of Local Government, the General Manager give notice of the proposed by-law in order to advertise a further public consultation process, whereby the by-laws and associated regulatory impact statements are made available for inspection and comment.		
21.	ALDERMANIC DEVELOPMENT AND SUPPORT - REVIEW OF COUNCIL POLICY Council 24/07/2017 Item 18	A full review of the professional development policy be undertaken addressing best practice from relevant organisations.	Deputy General Manager	A Council workshop scheduled for 30 January 2018 was postponed due to Aldermen's unavailability, and will be rescheduled as part of Council's new workshop program.
22.	QUORUMS FOR COUNCIL COMMITTEES Council 24/07/2017 Item 19	The implementation of a procedure whereby the established quorum of each Council committee is retained at five members, but any Aldermen who may attend a committee meeting would also have voting rights, be explored.	Deputy General Manager	A report in relation to this matter will be provided at the April meeting.
23.	STATE FIRE COMMISSION - LOCAL GOVERNMENT REPRESENTATIVE - LGAT CALL FOR NOMINATIONS	The Council delegate to the General Manager the authority to nominate a suitable officer for the vacant position on the State Fire Commission.	General Manager	Nominations are with the Minister for determination.

Ref	Title	Report / Action	Action Officer	Comments
	Council 7/8/2017 Item 19			
24.	LOCAL GOVERNMENT REPRESENTATIVE - STATE GRANTS COMMISSION Council 21/8/2017 Item 22	Alderman Ruzicka, Alderman Reynolds, Alderman Denison and Alderman Cocker (subject to his consent) be nominated for the two Local Government representative members to the State Grants Commission.	Deputy General Manager	Nominations for Aldermen Ruzicka and Denison have been submitted. LGAT has been followed up to ascertain the status of the nominations.
25.	CITY OF HOBART - DRAFT CUSTOMER SERVICE CHARTER Council 18/09/2017 Item 16 Council 23/10/2017 Item 21	<p>The text for a revised draft customer service charter, shown as Attachment A to item 6.1 of the Open Governance Committee agenda of 10 October 2017, be approved for release for public comment for a four week period.</p> <p>Following the comment period, a further report be provided presenting the results of consultation and a final draft charter for endorsement.</p> <p>The Charter be further reviewed to coincide with the implementation of the Council's customer request management system in the first half of next year, so as to capture the increased functionality available from that system to enhance customer relationship management.</p>	Deputy General Manager	Public consultation was undertaken via all channels and concluded on 22 December 2017. Comments are now being reviewed and a revised draft will be submitted to the April meeting.
26.	AMENDMENTS TO THE LOCAL GOVERNMENT (GENERAL) REGULATIONS 2015 Council 4/12/2017 Item 19	3. That the Council immediately suspend its professional development policy pending an urgent workshop to be held in the new year to enable a full review of the policy provisions and no further applications be approved until such time as the review has been completed.	Deputy General Manager	Workshop scheduled for 30 January 2018 was postponed due to Aldermen's unavailability, and will be rescheduled as part of Council's new workshop program

Ref	Title	Report / Action	Action Officer	Comments
27.	COUNCILLOR ALLOWANCES - ISSUES PAPER Council 5/2/2018 Item 12	1. The Council provide a submission in response to the Board of Inquiry's review of allowances paid to Local Government Councillors specifically addressing the following principles which are to be put forward for consideration by the Board and noting that in doing so, the Council is not putting forward a definitive position on any of the particular issues: <ul style="list-style-type: none"> a) The Board's review would benefit from including member(s) with Local Government experience b) Appropriate recognition for superannuation within the quantum of the allowance. c) Introduction of a loading in recognition of the workload associated with Hobart's capital city status. d) Concept of sitting fees be explored by the Board (in line with Perth and Darwin) e) Consideration be given to incentivising ongoing learning by Aldermen. f) Deputy Lord Mayor receive the Lord Mayor's allowance when acting in the role of Lord Mayor for an extended period. 	General Manager	The Council provided a written and verbal submission to the Board of Inquiry into Council allowances, and the General Manager provided a paper to those Aldermen who attended the hearing. A copy of the information has been placed on the Hub. Complete.

Ref	Title	Report / Action	Action Officer	Comments
		<p>2. The Council wishes to provide an oral submission to the Board of Inquiry and the following Aldermen be nominated to present to the Board, subject to their availability: The Acting Lord Mayor Alderman Christie, Aldermen Briscoe, Ruzicka and Thomas.</p> <p>3. The General Manager provide a paper to assist those Aldermen providing the oral submission, which includes relevant factual information around each of the principles put forward by the Council.</p>		
28.	<p>HOBART CITY DEAL HEADS OF AGREEMENT</p> <p>Council 5/2/2018 Item 14</p>	<p>1. The Heads of Agreement for a Hobart City Deal marked as Attachment A to Item 6.4 on the Open Governance Committee meeting agenda of 30 January 2018 be noted.</p> <p>2. The General Manager be authorised to:</p> <ul style="list-style-type: none"> (i) participate in officer discussions on the formation of a City Deal for Hobart, including the scoping of a Greater Hobart Act; and (ii) provide regular reports to the Council on these matters, including the implications on Council resources and priorities. <p>3. The Acting Lord Mayor write to the Prime Minister acknowledging that the City of Hobart is interested in participating in a Hobart City Deal, and strongly supports the Stem Project being the subject of the</p>	General Manager	<p>A Senior Officials meeting, involving representatives from the Australian, Tasmanian and Local Governments is scheduled for 20 March 2018.</p> <p>Correspondence was sent to the Prime Minister, and forwarded to Federal MHA's for Denison and Franklin and all Tasmanian Senators.</p> <p>Complete.</p>

Ref	Title	Report / Action	Action Officer	Comments
		<p>Deal, and further to this the Council may make a contribution to the government's final offer upon receipt of details of the Deal, including proposed timeframes for delivery.</p> <p>(i) A copy of the letter also be forwarded to the federal MHA's for Denison and Franklin as well as all Tasmanian Federal Senators.</p>		
29.	PURCHASING CARD POLICY Council 19/2/2018 Item 12	<ol style="list-style-type: none"> 1. The General Manager be authorised to make any minor amendments and finalise the Purchasing Card Policy. 2. A proactive communications strategy be developed around the new Purchasing Card framework proposal. 3. The revised policy be communicated widely to Council officers thereafter, and made available from the Council's website. 4. That the policy provisions include the regular auditing of a sample of (statistically relevant) transactions. 	Director Financial Services	Implementation of Council's decisions is currently underway.
30.	REVIEW OF PARKING - NORTH HOBART (UPDATE ON ACTIONS) Council 19/2/2018 Item 15	<ol style="list-style-type: none"> 1. The results of the recent North Hobart parking survey be released to the North Hobart Traders Association and other interested parties for their review and comment, for a period not exceeding 30 days. 	Director Financial Services	The results of the parking survey have been provided to the North Hobart Traders Association, and an executive summary is being prepared to provide more clarity around the information provided.

Ref	Title	Report / Action	Action Officer	Comments
		<p>2. Following the finalisation of the consultation, a Council workshop open to the public be held to review all data collected and to consider all options, and potential costs, including;</p> <p>(a) additional on-street car parking spaces;</p> <p>(b) additional metered parking spaces;</p> <p>(c) better utilisation of existing City of Hobart car parks; and</p> <p>(d) development of the Condell Place car park.</p> <p>3 Prior to the conduct of the workshop, the matter be referred back to the Finance and Governance Committee to seek details of further issues it wishes to have pursued by Council Officers for presentation and discussion at the open workshop.</p>		<p>The workshop is expected to be held in April/May following receipt of comments from the North Hobart Traders Association and other interested parties.</p> <p>A further report will be provided to the April/May Finance and Governance Committee meeting.</p>
31	<p>CLIMATE LEADERSHIP CONFERENCE - 15-16 MARCH 2018</p> <p>Council 19/2/2018 Item 17</p>	<p>3. City of Hobart officers approach the organisers of the Conference and request to make a presentation based on the City of Hobart's Climate Change Strategy.</p>	Director City Planning	<p>An approach has been made by Officers. Complete.</p>

8. RESPONSES TO QUESTIONS WITHOUT NOTICE

Regulation 29(3) *Local Government (Meeting Procedures) Regulations 2015*.
File Ref: 13-1-10

The General Manager reports:-

"In accordance with the procedures approved in respect to Questions Without Notice, the following responses to questions taken on notice are provided to the Committee for information.

The Committee is reminded that in accordance with Regulation 29(3) of the *Local Government (Meeting Procedures) Regulations 2015*, the Chairman is not to allow discussion or debate on either the question or the response."

8.1 Meeting With The New UTAS Vice Chancellor
File Ref: F18/14404; 13-1-10

Report of the Deputy General Manager of 14 March 2018.

8.2 Clarifying the Council's Current Procurement Policy
File Ref: F18/20509; 13-1-10

Report of the Group Manager Rates and Procurement of 14 March 2018.

Delegation: Committee

That the information be received and noted.



City of **HOBART**

Memorandum: Lord Mayor
Deputy Lord Mayor
Aldermen

Response to Question Without Notice

MEETING WITH THE NEW UTAS VICE CHANCELLOR

Meeting: Finance and Governance Committee **Meeting date:** 14 February 2018

Raised by: Alderman Cocker

Question:

Has a meeting been organised for Aldermen to meet with the new University of Tasmania (UTAS) Vice Chancellor, Professor Rufus Black?

Response:

An opportunity for Aldermen to meet with the new Vice Chancellor and President at University of Tasmania, has been organised for Tuesday 1 May 2018. Professor Rufus Black will hold a briefing for Aldermen commencing at 5:00pm in the Lady Osborne Room.

As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.

Heather Salisbury
DEPUTY GENERAL MANAGER

Date: 8 March 2018
File Reference: F18/14404; 13-1-10



City of **HOBART**

Memorandum: Lord Mayor
Deputy Lord Mayor
Aldermen

Response to Question Without Notice

CLARIFYING THE COUNCIL'S CURRENT PROCUREMENT POLICY

Meeting: Finance and Governance Committee **Meeting date:** 14 February 2018

Raised by: Acting Lord Mayor Christie

Questions:

1. Does the current Procurement Policy only allow for the purchase of goods from Tasmanian suppliers or agents?
2. If the Procurement Policy does only allow for the purchase of goods from Tasmanian suppliers or agents, can the policy be amended to allow for the purchase of goods from all Australian suppliers or agents?

Response:

No, the City does not have a procurement policy of only allowing the purchase of goods from Tasmanian suppliers or agents.

The City has a number of procurement principles outlined in its Code for Tenders and Contracts and Purchasing Policy and Guidelines upon which the City's purchasing is to be based. These include:

- obtaining value for money;
- encouragement of open and effective competition;
- probity, ethical behaviour and fair dealing;
- accountability, transparency and reporting;
- encouragement of the development of competitive local business and industry;
- ensuring compliance with the law;
- environmental protection and sustainability;
- workplace health and safety; and

- ethical and social procurement.

Encouraging the development of competitive local business and industry means that where local capacity exists, actively seeking to engage the local market and encourage their participation in Tender and Quotation processes. It does not mean giving preferential treatment to local Service Providers.

As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.



Lara MacDonell
**GROUP MANAGER RATES AND
PROCUREMENT**



David Spinks
DIRECTOR FINANCIAL SERVICES

Date: 6 March 2018
File Reference: F18/20509; 13-1-10

9. QUESTIONS WITHOUT NOTICE

Section 29 of the *Local Government (Meeting Procedures) Regulations 2015*.
File Ref: 13-1-10

An Alderman may ask a question without notice of the Chairman, another Alderman, the General Manager or the General Manager's representative, in line with the following procedures:

1. The Chairman will refuse to accept a question without notice if it does not relate to the Terms of Reference of the Council committee at which it is asked.
2. In putting a question without notice, an Alderman must not:
 - (i) offer an argument or opinion; or
 - (ii) draw any inferences or make any imputations – except so far as may be necessary to explain the question.
3. The Chairman must not permit any debate of a question without notice or its answer.
4. The Chairman, Aldermen, General Manager or General Manager's representative who is asked a question may decline to answer the question, if in the opinion of the respondent it is considered inappropriate due to its being unclear, insulting or improper.
5. The Chairman may require a question to be put in writing.
6. Where a question without notice is asked and answered at a meeting, both the question and the response will be recorded in the minutes of that meeting.
7. Where a response is not able to be provided at the meeting, the question will be taken on notice and
 - (i) the minutes of the meeting at which the question is asked will record the question and the fact that it has been taken on notice.
 - (ii) a written response will be provided to all Aldermen, at the appropriate time.
 - (iii) upon the answer to the question being circulated to Aldermen, both the question and the answer will be listed on the agenda for the next available ordinary meeting of the committee at which it was asked, where it will be listed for noting purposes only.

10. CLOSED PORTION OF THE MEETING

The following items were discussed: -

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| Item No. 1 | Minutes of the last meeting of the Closed Portion of the Council Meeting |
| Item No. 2 | Consideration of supplementary items to the agenda |
| Item No. 3 | Indications of pecuniary and conflicts of interest |
| Item No. 4 | Committee Action Status Report |
| Item No. 4.1 | Committee Actions - Status Report
LG(MP)R 15(2)(d) and (f) |
| Item No. 5 | Questions Without Notice |