

SOUTHERN
MIDLANDS
COUNCIL



AGENDA

ORDINARY COUNCIL MEETING

Wednesday, 11th December 2019
2.00 p.m.

Municipal Offices
85 Main Street, Kempton

INDEX

1. PRAYERS	6
2. ATTENDANCE	6
3. APOLOGIES	6
4. MINUTES	6
4.1 Ordinary Council Minutes.....	6
4.2 Special Committees of Council Minutes	7
4.2.1 Special Committees of Council - Receipt of Minutes.....	7
4.2.2 Special Committees of Council - Endorsement of Recommendations	7
4.3 Joint Authorities (Established Under Division 4 Of The Local Government Act 1993) ...	8
4.3.1 Joint authorities - Receipt of Minutes.....	8
4.3.2 Joint Authorities - Receipt of Reports (Annual & Quarterly)	8
5. NOTIFICATION OF COUNCIL WORKSHOPS	9
6. COUNCILLORS – QUESTION TIME	10
6.1 QUESTIONS (ON NOTICE).....	10
6.2 QUESTIONS WITHOUT NOTICE	11
7. DECLARATIONS OF PECUNIARY INTEREST	12
8. CONSIDERATION OF SUPPLEMENTARY ITEMS TO THE AGENDA	13
9. PUBLIC QUESTION TIME (SCHEDULED FOR 2.30 P.M.)	14
9.1 PERMISSION TO ADDRESS COUNCIL	14
10. MOTIONS OF WHICH NOTICE HAS BEEN GIVEN UNDER REGULATION 16 (5) OF THE LOCAL GOVERNMENT (MEETING PROCEDURES) REGULATIONS 2015	15
11. COUNCIL ACTING AS A PLANNING AUTHORITY PURSUANT TO THE LAND USE PLANNING AND APPROVALS ACT 1993 AND COUNCIL’S STATUTORY LAND USE PLANNING SCHEME	16
11.1 DEVELOPMENT APPLICATIONS	16
11.2 SUBDIVISIONS.....	16
11.3 MUNICIPAL SEAL (PLANNING AUTHORITY)	16
11.4 PLANNING (OTHER)	16
12. OPERATIONAL MATTERS ARISING (STRATEGIC THEME – INFRASTRUCTURE) ..	17
12.1 ROADS.....	17
12.2 BRIDGES	17
12.3 WALKWAYS, CYCLE WAYS AND TRAILS.....	17
12.4 LIGHTING.....	17
12.5 BUILDINGS.....	17
12.6 SEWERS / WATER.....	17
12.7 DRAINAGE	17
12.8 WASTE.....	18
12.9 INFORMATION, COMMUNICATION TECHNOLOGY	18
12.10 OFFICER REPORTS – INFRASTRUCTURE & WORKS.....	19
12.10.1 Manager – Infrastructure & Works Report.....	19
13. OPERATIONAL MATTERS ARISING (STRATEGIC THEME – GROWTH)	20
13.1 RESIDENTIAL	20
13.2 TOURISM.....	20
13.3 BUSINESS.....	20
13.4 INDUSTRY.....	20
14. OPERATIONAL MATTERS ARISING (STRATEGIC THEME –LANDSCAPES).....	21
14.1 HERITAGE	21
14.1.1 Heritage Project Program Report	21
14.2 NATURAL.....	22

14.2.1	<i>NRM Unit – General Report</i>	22
14.2.2	<i>Natural Resource Management Unit – Updated Southern Midlands Weed Management Strategy</i>	23
4.3	CULTURAL	25
14.4	REGULATORY (OTHER THAN PLANNING AUTHORITY AGENDA ITEMS)	25
14.5	CLIMATE CHANGE	25
15.	OPERATIONAL MATTERS ARISING (STRATEGIC THEME – LIFESTYLE)	26
15.1	COMMUNITY HEALTH AND WELLBEING	26
15.2	YOUTH	26
15.3	SENIORS	26
15.4	CHILDREN AND FAMILIES	26
15.5	VOLUNTEERS.....	26
15.6	ACCESS	26
15.7	PUBLIC HEALTH	26
15.8	RECREATION	27
15.9	ANIMALS.....	27
15.10	EDUCATION.....	27
16.	OPERATIONAL MATTERS ARISING (STRATEGIC THEME – COMMUNITY)	28
16.1	CAPACITY.....	28
16.1.1	<i>Melton Mowbray Community Sub Committee Meeting – 2nd December 2019</i>	28
16.1.2	<i>Tunnack Streetscape Plan – Meeting with Tunnack Community Hall Representatives - held 3rd December 2019</i>	67
16.2	SAFETY	70
16.3	CONSULTATION & COMMUNICATION.....	70
17.	OPERATIONAL MATTERS ARISING (STRATEGIC THEME – ORGANISATION).....	71
17.1	IMPROVEMENT	71
17.1.1	<i>Mobile Food Vendors (Food Vans) – Policy Position – preliminary discussion</i>	71
17.2	SUSTAINABILITY	73
17.2.1	<i>Local Government Shared Services update (Standing Item – Information Only)</i>	73
17.2.2	<i>Ordinary Council Meeting – July 2020 – Change of Date</i>	74
17.2.3	<i>Oatlands Aquatic Centre – Deed of Variation of Grant Deed</i>	75
17.2.4	<i>Tabling of Documents</i>	86
17.2.3.1	<i>Craigbourne Road, Colebrook – Tabling of Correspondence (Information Only)</i>	86
17.2.4	<i>Elected Member Statements</i>	96
17.3	FINANCES.....	97
17.3.1	<i>Monthly Financial Statement (period ending 30 November 2019)</i>	97
18.	MUNICIPAL SEAL	98
19.	CONSIDERATION OF SUPPLEMENTARY ITEMS TO THE AGENDA.....	99
20.	BUSINESS IN “CLOSED SESSION”	101
20.1	<i>Closed Council Minutes - Confirmation</i>	101
20.2	<i>Applications for Leave of Absence</i>	101
20.3	<i>Property Matter - Kempton</i>	101
20.4	<i>Tender – Design & Reconstruction of the Woodsdale Road Bridge, over the Nutting Garden Rivulet, Bridge B3968 at Woodsdale</i>	101
21.	CLOSURE	103



Dear Sir/Madam

NOTICE OF MEETING

Notice is hereby given that the next ordinary meeting of Council will be held on

Date: Wednesday, 11th December 2019
Time: 2.00 p.m.
Venue: Municipal Offices, 85 Main Street, Kempton

The Local Government Act 1993 section 65 provides the following:

1. *A general manager must ensure that any advice, information or recommendation given to the council or a council committee is given by a person who has the qualifications or experience necessary to give such advice, information or recommendation.*
2. *A council or council committee is not to decide on any matter which requires the advice of a qualified person without considering such advice unless –*
 - (a) *the general manager certifies, in writing –*
 - (i) *that such advice was obtained; and*
 - (ii) *that the general manager took the advice into account in providing general advice to the council or council committee; and*
 - (b) *a copy of that advice or, if the advice was given orally, a written transcript or summary of that advice is provided to the council or council committee with the general manager's certificate.*

I therefore certify that with respect to all advice, information or recommendation provided to the Council in or with this Agenda:

- (1) *The advice, information or recommendation is given by a person who has the qualifications or experience necessary to give such advice, information or recommendation; and*
- (2) *Where any advice is directly given by a person who does not have the required qualification or experience, that person has obtained and taken into account in that person's general advice, the advice from an appropriately qualified or experienced person.*

Councillors please note:

- Public Question Time has been scheduled for 2.30 p.m.
- A Citizenship Ceremony will be held for Mr Joseph Harris at 3.00 p.m.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Tim Kirkwood', written in a cursive style.

Tim Kirkwood
GENERAL MANAGER

OPEN COUNCIL AGENDA

1. PRAYERS

Rev Dennis Cousens to recite prayers.

2. ATTENDANCE

3. APOLOGIES

4. MINUTES

4.1 ORDINARY COUNCIL MINUTES

The Minutes (Open Council Minutes) of the previous meeting of Council held on the 27th November 2019, as circulated, are submitted for confirmation.

DECISION		
Councillor	Vote FOR	Vote AGAINST
Mayor A O Green		
Deputy Mayor E Batt		
Clr A Bantick		
Clr A E Bisdee OAM		
Clr K Dudgeon		
Clr D F Fish		
Clr R McDougall		

4.2 SPECIAL COMMITTEES OF COUNCIL MINUTES

4.2.1 SPECIAL COMMITTEES OF COUNCIL - RECEIPT OF MINUTES

The Minutes of the following Special Committee of Council, as circulated, are submitted for receipt:

- Minutes – Lake Dulverton & Callington Park Committee – 2nd December 2019.
- Minutes - Kempton Streetscape Group – 2nd December 2019.

RECOMMENDATION

THAT the minutes of the above Special Committees of Council be received.

DECISION		
Councillor	Vote FOR	Vote AGAINST
Mayor A O Green		
Deputy Mayor E Batt		
Clr A Bantick		
Clr A E Bisdee OAM		
Clr K Dudgeon		
Clr D F Fish		
Clr R McDougall		

4.2.2 SPECIAL COMMITTEES OF COUNCIL - ENDORSEMENT OF RECOMMENDATIONS

The recommendations contained within the minutes of the following Special Committee of Council are submitted for endorsement.

- Minutes – Lake Dulverton & Callington Park Committee – 2nd December 2019.
- Minutes - Kempton Streetscape Group – 2nd December 2019.

RECOMMENDATION

THAT the recommendations contained within the minutes of the above Special Committees of Council be endorsed.

DECISION		
Councillor	Vote FOR	Vote AGAINST
Mayor A O Green		
Deputy Mayor E Batt		
Clr A Bantick		
Clr A E Bisdee OAM		
Clr K Dudgeon		
Clr D F Fish		
Clr R McDougall		

4.3 JOINT AUTHORITIES (ESTABLISHED UNDER DIVISION 4 OF THE LOCAL GOVERNMENT ACT 1993)

4.3.1 JOINT AUTHORITIES - RECEIPT OF MINUTES

The Minutes of the following Joint Authority Meetings, as circulated, are submitted for receipt:

- Southern Tasmanian Councils Authority – Minutes – Nil.
- Southern Tasmanian Councils Authority (Waste Strategy South) – Nil.

DECISION NOT REQUIRED

4.3.2 JOINT AUTHORITIES - RECEIPT OF REPORTS (ANNUAL & QUARTERLY)

Reports prepared by the following Joint Authorities, as circulated, are submitted for receipt:

- Southern Tasmanian Councils Authority – Nil.

DECISION NOT REQUIRED

5. NOTIFICATION OF COUNCIL WORKSHOPS

In accordance with the requirements of the *Local Government (Meeting Procedures) Regulations 2015*, the Agenda is to include details of any Council workshop held since the last meeting.

No workshops have been held since the last Ordinary Meeting.

RECOMMENDATION

THAT the information be received.

DECISION		
Councillor	Vote FOR	Vote AGAINST
Mayor A O Green		
Deputy Mayor E Batt		
Clr A Bantick		
Clr A E Bisdee OAM		
Clr K Dudgeon		
Clr D F Fish		
Clr R McDougall		

6. COUNCILLORS – QUESTION TIME

6.1 QUESTIONS (ON NOTICE)

Regulation 30 of the *Local Government (Meeting Procedures) Regulations 2015* relates to Questions on notice. It states:

- (1) A councillor, at least 7 days before an ordinary council meeting or a council committee meeting, may give written notice to the general manager of a question in respect of which the councillor seeks an answer at that meeting.*
- (2) An answer to a question on notice must be in writing.*

Clr Bantick - At the previous meeting Clr Bantick requested a report detailing the number of rate-exempt properties as a result of being classified as a 'charitable organisation', and the value of rate exemptions provided.

Please note that the report will be tabled at the meeting with a full listing of all rate exempted properties.

6.2 QUESTIONS WITHOUT NOTICE

Section 29 of the *Local Government (Meeting Procedures) Regulations 2015* relates to Questions without notice.

It states:

“29. Questions without notice

(1) *A councillor at a meeting may ask a question without notice –*

- (a) of the chairperson; or*
- (b) through the chairperson, of –*
 - (i) another councillor; or*
 - (ii) the general manager.*

(2) *In putting a question without notice at a meeting, a councillor must not –*

- (a) offer an argument or opinion; or*
- (b) draw any inferences or make any imputations – except so far as may be necessary to explain the question.*

(3) *The chairperson of a meeting must not permit any debate of a question without notice or its answer.*

(4) *The chairperson, councillor or general manager who is asked a question without notice at a meeting may decline to answer the question.*

(5) *The chairperson of a meeting may refuse to accept a question without notice if it does not relate to the activities of the council.*

(6) *Questions without notice, and any answers to those questions, are not required to be recorded in the minutes of the meeting.*

(7) *The chairperson of a meeting may require a councillor to put a question without notice in writing.*

An opportunity is provided for Councillors to ask questions relating to Council business, previous Agenda items or issues of a general nature.

7. DECLARATIONS OF PECUNIARY INTEREST

In accordance with the requirements of Part 2 Regulation 8 of the *Local Government (Meeting Procedures) Regulations 2015*, the chairman of a meeting is to request Councillors to indicate whether they have, or are likely to have, a pecuniary interest in any item on the Agenda.

Accordingly, Councillors are requested to advise of a pecuniary interest they may have in respect to any matter on the agenda, or any supplementary item to the agenda, which Council has resolved to deal with, in accordance with Part 2 Regulation 8 (6) of the *Local Government (Meeting Procedures) Regulations 2015*.

8. CONSIDERATION OF SUPPLEMENTARY ITEMS TO THE AGENDA

In accordance with the requirements of Part 2 Regulation 8 (6) of the *Local Government (Meeting Procedures) Regulations 2015*, the Council, by absolute majority may decide at an ordinary meeting to deal with a matter that is not on the agenda if the General Manager has reported –

- (a) the reason it was not possible to include the matter on the agenda; and
- (b) that the matter is urgent; and
- (c) that advice has been provided under section 65 of the Act.

RECOMMENDATION

THAT the Council resolve by absolute majority to deal with any supplementary items not appearing on the agenda, as reported by the General Manager in accordance with the provisions of the *Local Government (Meeting Procedures) Regulations 2015*.

DECISION		
Councillor	Vote FOR	Vote AGAINST
Mayor A O Green		
Deputy Mayor E Batt		
Clr A Bantick		
Clr A E Bisdee OAM		
Clr K Dudgeon		
Clr D F Fish		
Clr R McDougall		

9. PUBLIC QUESTION TIME (SCHEDULED FOR 2.30 P.M.)

In accordance with the requirements of Part 2 Regulation 8 of the *Local Government (Meeting Procedures) Regulations 2015*, the agenda is to make provision for public question time.

In particular, Regulation 31 of the *Local Government (Meeting Procedures) Regulations 2015* states:

- (1) *Members of the public may give written notice to the General Manager 7 days before an ordinary meeting of Council of a question to be asked at the meeting.*
- (2) *The chairperson may –*
 - (a) *address questions on notice submitted by members of the public; and*
 - (b) *invite any member of the public present at an ordinary meeting to ask questions relating to the activities of the Council.*
- (3) *The chairperson at an ordinary meeting of a council must ensure that, if required, at least 15 minutes of that meeting is made available for questions by members of the public.*
- (4) *A question by any member of the public under this regulation and an answer to that question are not to be debated.*
- (5) *The chairperson may –*
 - (a) *refuse to accept a question; or*
 - (b) *require a question to be put on notice and in writing to be answered at a later meeting.*
- (6) *If the chairperson refuses to accept a question, the chairperson is to give reasons for doing so.*

Councillors are advised that, at the time of issuing the Agenda, no questions on notice had been received from members of the public.

Mayor A O Green to then invite questions from any members of the public in attendance.

9.1 Permission to Address Council

Permission has been granted for the following person(s) to address Council:

- Nil.

10. MOTIONS OF WHICH NOTICE HAS BEEN GIVEN UNDER REGULATION 16 (5) OF THE LOCAL GOVERNMENT (MEETING PROCEDURES) REGULATIONS 2015

Deputy Mayor E Batt has submitted the following Notice of Motion:

THAT:

- a) Council consider the merits of constructing a footpath along the eastern side of Louisa Street, Kempton – extending from the corner of Old Huntingground Road and Louisa Street through to Elizabeth Court; and
- b) Assuming that there is ‘in-principle’ support, Council officers be requested to prepare a construction estimate which can be considered as part of a forward Capital Works Program.

Comments provided by Deputy Mayor E Batt:

It is noted that the development plans for the Kempton Community Health Centre include improved access and the construction of a carpark. It seems to me that it would be a good time to run a footpath from there to link up with the current footpath that finishes at Elizabeth Court along the east side of Louisa St. This would give you a footpath around a block from Main Rd down Elizabeth St to Louisa St and the back of the school, and then up to the Main Road again, finishing opposite the new works on the Town Hall.

There are a number of kids going down that route to the school as it is and I suspect there will be a bit more foot traffic once the health centre gets up and running. I reckon the type of people needing the health centre services (if they are ambulant) would appreciate/need a footpath there. It would be a good spot (along the school oval /Louisa Street boundary) to plant a row of trees too, taking care to plant ones that won't interfere with the footpath in the long term, of course.

DECISION		
Councillor	Vote FOR	Vote AGAINST
Mayor A O Green		
Deputy Mayor E Batt		
Clr A Bantick		
Clr A E Bisdee OAM		
Clr K Dudgeon		
Clr D F Fish		
Clr R McDougall		

11. COUNCIL ACTING AS A PLANNING AUTHORITY PURSUANT TO THE LAND USE PLANNING AND APPROVALS ACT 1993 AND COUNCIL'S STATUTORY LAND USE PLANNING SCHEME

Session of Council sitting as a Planning Authority pursuant to the Land Use Planning and Approvals Act 1993 and Council's statutory land use planning schemes.

11.1 DEVELOPMENT APPLICATIONS

Nil.

11.2 SUBDIVISIONS

Nil.

11.3 MUNICIPAL SEAL (Planning Authority)

Nil.

11.4 PLANNING (OTHER)

Nil.

[THIS CONCLUDES THE SESSION OF COUNCIL ACTING AS A PLANNING AUTHORITY]

12. OPERATIONAL MATTERS ARISING (STRATEGIC THEME – INFRASTRUCTURE)

12.1 Roads

Strategic Plan Reference 1.1.1

Maintenance and improvement of the standard and safety of roads in the municipal area.

Nil.

12.2 Bridges

Strategic Plan Reference 1.2.1

Maintenance and improvement of the standard and safety of bridges in the municipality.

Nil.

12.3 Walkways, Cycle ways and Trails

Strategic Plan Reference 1.3.1

Maintenance and improvement of the standard and safety of walkways, cycle ways and pedestrian areas to provide consistent accessibility.

Nil.

12.4 Lighting

Strategic Plan Reference 1.4.1a & 1.4.1b

Ensure adequate lighting based on demonstrated need / Contestability of energy supply.

Nil.

12.5 Buildings

Strategic Plan Reference 1.5.1

Maintenance and improvement of the standard and safety of public buildings in the municipality.

Nil.

12.6 Sewers / Water

Strategic Plan Reference(s) 1.6.1 & 1.6.2

Increase the capacity of access to reticulated sewerage services / Increase the capacity and ability to access water to satisfy development and Community to have access to reticulated water.

Nil.

12.7 Drainage

Strategic Plan Reference 1.7.1

Maintenance and improvement of the town storm-water drainage systems.

Nil.

12.8 Waste

Strategic Plan Reference 1.8.1

Maintenance and improvement of the provision of waste management services to the Community.

Nil.

12.9 Information, Communication Technology

Strategic Plan Reference 1.9.1

Improve access to modern communications infrastructure.

Nil.

12.10 Officer Reports – Infrastructure & Works

12.10.1 MANAGER – INFRASTRUCTURE & WORKS REPORT

Author: MANAGER INFRASTRUCTURE & WORKS (JACK LYALL)

Date: 4 DECEMBER 2019

Roads Program

Maintenance grading is currently being undertaken in the Colebrook area and other areas as required.

Roadside mowing is occurring in the Broadmarsh/Elderslie area and Glen Morey Road/Tunbridge area. It will then continue in the Bagdad area.

Hardings Road bridge (Brown Mountain area) has had a concrete pad poured in readiness for culvert units.

Town and General Maintenance

Town and general maintenance is continuing in all other areas.

Fire Hazard Abatement Notices are currently being issued.

Waste Management Program

Operating arrangements at the Waste Transfer Stations are working well.

QUESTIONS WITHOUT NOTICE TO MANAGER, INFRASTRUCTURE & WORKS

RECOMMENDATION

THAT the Infrastructure & Works Report be received and the information noted.

DECISION		
Councillor	Vote FOR	Vote AGAINST
Mayor A O Green		
Deputy Mayor E Batt		
Clr A Bantick		
Clr A E Bisdee OAM		
Clr K Dudgeon		
Clr D F Fish		
Clr R McDougall		

13. OPERATIONAL MATTERS ARISING (STRATEGIC THEME – GROWTH)

13.1 Residential

Strategic Plan Reference 2.1.1

Increase the resident, rate-paying population in the municipality.

Nil.

13.2 Tourism

Strategic Plan Reference 2.2.1

Increase the number of tourists visiting and spending money in the municipality.

Nil.

13.3 Business

Strategic Plan Reference 2.3.1a, 2.3.1b & 2.3.1c

Increase the number and diversity of businesses in the Southern Midlands / Increase employment within the municipality / Increase Council revenue to facilitate business and development activities (social enterprise).

Nil.

13.4 Industry

Strategic Plan Reference 2.4.1 & 2.4.2

Retain and enhance the development of the rural sector as a key economic driver in the Southern Midlands / Increase access to irrigation water within the municipality.

Nil.

14. OPERATIONAL MATTERS ARISING (STRATEGIC THEME – LANDSCAPES)

14.1 Heritage

Strategic Plan Reference 3.1.1, 3.1.2 & 3.1.3

Maintenance and restoration of significant public heritage assets / Act as an advocate for heritage and provide support to heritage property owners / Investigate document, understand and promote the heritage values of the Southern Midlands.

14.1.1 HERITAGE PROJECT PROGRAM REPORT

Author: MANAGER HERITAGE PROJECTS (BRAD WILLIAMS)

Date: 6 DECEMBER 2019

ISSUE

Report will be tabled at the meeting.

14.2 Natural

Strategic Plan Reference 3.2.1 & 3.2.2

Identify and protect areas that are of high conservation value / Encourage the adoption of best practice land care techniques.

14.2.1 NRM UNIT – GENERAL REPORT

Author: NRM PROGRAMS MANAGER (MARIA WEEDING)

Date: 3 DECEMBER 2019

ISSUE:

Southern Midlands Landcare Unit Monthly Report.

DETAIL

- A meeting of the Kempton Streetscape Group was held on Monday 2nd December 2019. There was no written feedback received as a result of the recent public consultation process regarding the proposed changes to the forecourt area of the Kempton Memorial Hall. The Lonicera hedge plants at the Council Chambers Kempton were planted last week by Helen Geard, Maria Weeding and Matthew Bryant. See minutes for other details.
- The concept plan for the Callington Park playground upgrade has been on display and on the Council website. The Lake Dulverton & Callington Park Management Committee held a meeting on the 2nd December 2019 and considered one written response from the public, and noted the facebook contact statistics. See minutes for details.
- The Weeds Officer Jen Milne has been busy updating the Southern Midlands Weeds Management Strategy 2017 and is seeking Council endorsement for the revised strategy 2019 edition. See separate report.

RECOMMENDATION

THAT the Landcare Unit Report be received and the information noted.

DECISION		
Councillor	Vote FOR	Vote AGAINST
Mayor A O Green		
Deputy Mayor E Batt		
Clr A Bantick		
Clr A E Bisdee OAM		
Clr K Dudgeon		
Clr D F Fish		
Clr R McDougall		

14.2.2 NATURAL RESOURCE MANAGEMENT UNIT – UPDATED SOUTHERN MIDLANDS WEED MANAGEMENT STRATEGY

Author: WEEDS OFFICER (JENNIFER MILNE)

Date: 2 DECEMBER 2019

Attachment:

Southern Midlands Weed Management Strategy 2020-2025 (DRAFT) (SMWMS Draft)

ISSUE

1. To ensure council is working towards achievable, efficient weed control with a strategic and coordinated approach.
2. To seek endorsement of Council of the updated SMWMS 2020 - 2025 (Draft)

BACKGROUND

The Southern Midlands Weed Management Strategy (SMWMS) was originally endorsed in 1999. It has been revised and updated since that time with the current version endorsed by the Southern Midlands Council on 22 November 2017 (agenda item 14.2.1).

Since the employment of a part time Weeds Officer in 2017 there has been a focus on collating existing data on weed distribution and collecting gaps in this data. There has been considerable work undertaken in weed control in the Southern Midlands since the development of the original SMWMS. The 2019 updates have been undertaken to address this progress, as well as make the prioritisation for weed control actions clearer to land managers, council staff and the general public. The updated weed data has been used to develop maps of priority weeds in the Southern Midlands which in turn assists the prioritisation for control of these weeds.

DETAIL

The main changes or additions to the SMWMS are as follows:

- Change of front cover – to reflect actions that are taking place in weed management – instead of a focus on what weeds look like.
- Updated weed background information – e.g. New incursions of Chilean needle grass.
- Update of examples or organisation roles and responsibilities (pg. 10).
- Action 4.1.9 – Add weed data to the Natural Values Atlas to ensure up to date weed information available.
- Action 4.2.8 – Ensure council programs are meeting legislative requirements for weed management - e.g. roadside slashing, spraying programs, fire abatements and information for Development Applications.
- Action 4.3.4 - Continue to advocate for local priorities to be incorporated into management actions of land managers in Southern Midlands such as State roadsides, Parks and wildlife and Crown Land Services.
- Action 5.3.4 - Encourage collaboration with neighbouring councils to manage priority weeds.

- Action 5.3.5 - Work with State Growth and land managers adjacent to roadsides to enhance roadside weed management priorities.
- Appendix 1 – Prioritisation of weed control in Southern Midlands. A list of what weeds are priority for control and the reasoning behind their classification
- Appendix 2 - Southern Midlands Council Weed Management Actions 2020-2025.
- Appendix 3 – rearranged to show Zone A and Zone B declared weeds in or recorded in SMC first, followed by entire list of declared weeds.
- Appendix 4 – updated maps and addition of photos to assist with identification of the weed on the map page.
- Appendix 5 - Photographs of all known weeds (declared) in SM.

Human resource & Financial Implications – No implications for additional funding or staffing for the updated SMWMS. The Weeds Officer position plays an integral role in overseeing progress of the SMWMS. The SMWMS identifies the need to actively look for financial opportunities and partnerships in order to undertake its objectives.

Community Consultation & Public Relations Implications – To be considered.

Policy Implications – N/A

Priority - Implementation Time Frame - Having clearer priorities for weed management in the Southern Midlands will be useful for addressing any upcoming grant rounds for the State Governments Weed Action Fund currently being rolled out (2019 - 2021). It is expected to see announcement of grant funding in early 2020.

RECOMMENDATION

THAT:

- a) the information be received;
- b) the changes noted; and
- c) Council endorse the Southern Midlands Weeds Management Strategy 2020 - 2025 (Draft).

Councillor	Vote FOR	Vote AGAINST
Mayor A O Green		
Deputy Mayor E Batt		
Clr A Bantick		
Clr A E Bisdee OAM		
Clr K Dudgeon		
Clr D F Fish		
Clr R McDougall		

14.3 Cultural

Strategic Plan Reference 3.3.1

Ensure that the cultural diversity of the Southern Midlands is maximised.

Nil.

14.4 Regulatory (Other than Planning Authority Agenda Items)

Strategic Plan Reference 3.4.1

A regulatory environment that is supportive of and enables appropriate development.

Nil.

14.5 Climate Change

Strategic Plan Reference 3.5.1

Implement strategies to address issues of climate change in relation to its impact on Councils corporate functions and on the Community.

Nil.

15. OPERATIONAL MATTERS ARISING (STRATEGIC THEME – LIFESTYLE)

15.1 Community Health and Wellbeing

Strategic Plan Reference 4.1.1

Support and improve the independence, health and wellbeing of the Community.

Nil.

15.2 Youth

Strategic Plan Reference 4.2.1

Increase the retention of young people in the municipality.

Nil.

15.3 Seniors

Strategic Plan Reference 4.3.1

Improve the ability of the seniors to stay in their communities.

Nil.

15.4 Children and Families

Strategic Plan Reference 4.4.1

Ensure that appropriate childcare services as well as other family related services are facilitated within the Community.

Nil.

15.5 Volunteers

Strategic Plan Reference 4.5.1

Encourage community members to volunteer.

Nil.

15.6 Access

Strategic Plan Reference 4.6.1a & 4.6.1b

Continue to explore transport options for the Southern Midlands Community / Continue to meet the requirements of the Disability Discrimination Act (DDA).

Nil.

15.7 Public Health

Strategic Plan Reference 4.7.1

Monitor and maintain a safe and healthy public environment.

Nil.

15.8 Recreation

Strategic Plan Reference 4.8.1

Provide a range of recreational activities and services that meet the reasonable needs of the Community.

Nil.

15.9 Animals

Strategic Plan Reference 4.9.1

Create an environment where animals are treated with respect and do not create a nuisance for the Community.

Nil.

15.10 Education

Strategic Plan Reference 4.10.1

Increase the educational and employment opportunities available within the Southern Midlands.

Nil.

16. OPERATIONAL MATTERS ARISING (STRATEGIC THEME – COMMUNITY)

16.1 Capacity

Strategic Plan Reference 5.1.1 & 5.1.2

Build the capacity of the community to help itself and embrace the framework and strategies articulated through social inclusion to achieve sustainability / Maintain and strengthen communities in the Southern Midlands.

16.1.1 MELTON MOWBRAY COMMUNITY SUB COMMITTEE MEETING – 2ND DECEMBER 2019

Author: DEPUTY GENERAL MANAGER (ANDREW BENSON)

Date: 4 DECEMBER 2019

Enclosure:

1. *Meeting Notes – Melton Mowbray Community Sub Committee Meeting 2nd December 2019*
2. *‘Concept Options and Community Discussion for Proposed Public Open Space & Significant Elements in Melton Mowbray’*
3. *Comments from Barrie Paterson due to his inability to attend the meeting*
4. *Council Report and Notes from the previous meeting – 14th January 2019*

ISSUE

To report on the outcomes of the Melton Mowbray Community Sub Committee Meeting held 2nd December 2019.

BACKGROUND

This meeting of the Sub Committee was convened on behalf of the Southern Midlands Council to discuss and address issues affecting the township of Melton Mowbray as a follow-up to the previous broader Community meeting.

DETAIL

Refer to the attached Meeting Minutes, along with their attachments which are provided for information and endorsement of the proposed actions.

Human Resources & Financial Implications – Plan development stage by Council Officers.

Community Consultation & Public Relations Implications – this is progressing the details of the initial stage of consulting with the Melton Mowbray Community.

Policy Implications – N/A

Priority - Implementation Time Frame – N/A

RECOMMENDATION

THAT the information be received and Council endorse the proposed actions to be taken on behalf of the Community.

DECISION		
Councillor	Vote FOR	Vote AGAINST
Mayor A O Green		
Deputy Mayor E Batt		
Clr A Bantick		
Clr A E Bisdee OAM		
Clr K Dudgeon		
Clr D F Fish		
Clr R McDougall		

ENCLOSURE

Agenda Item 16.1.1



Minutes

Melton Mowbray Community Sub Committee

2nd December 2019, 16.05hrs

at the

Melton Mowbray Hotel

Welcome & Introductions:

Deputy Mayor Edwin Batt welcomed the Sub Committee and asked Andrew Benson to table correspondence from Barrie Paterson, given Barrie is an apology and wished to have his views known prior to discussions being undertaken. The Sub Committee took time to read the document prior to moving on with the meeting.

1. Attendance:

Name	Address	Contact Number
D/Mayor Edwin Batt	3452 Midland Highway	0400 009471
Mandy McKenzie	5 Blackwell Road	0406 340946
Lindsay Seabrook	Melton Mowbray Hotel	0419 334446
Clr Tony Bisdee OAM	3289 Midland Highway	0418 355158
Tim Kirkwood	Southern Midlands Council - GM	
Andrew Benson	Southern Midlands Council - DGM	Scribe
Brad Williams	Southern Midlands Council - MHP	
Sue Bisdee	Observer	

2. Apologies:

Barrie Paterson
Jocelyn Tatnell

3. Previous Meeting Notes:

Consideration was given to the Notes from the previous meeting dated 14th January 2019, which were tabled at the meeting

It Was Resolved That the notes from the previous meeting were a true and accurate record of the meeting.

Minutes - Melton Mowbray Community Sub Committee on 2nd December 2019

4. Discussion Items:

Andrew Benson tabled a series of slides titled '*Concept Options and Community Discussion for Proposed Public Open Space & Significant Elements in Melton Mowbray*' seeking to maximise a design for Melton Mowbray (not necessarily only the Public Open Space) that is capable of encapsulating many of the elements that have impacted on the Village since the establishment of Melton Mowbray in the early 1800s. He said that the Concept Plan should be a strategic endeavour that is a 'blue print' of the Community expectations, which could be funded through grants as well as Council budgets in successive years. The slides are presented by way of providing a *visual cue* to elements of historical significance that can be drawn upon, to a lesser or to a greater extent in thinking through the overall Concept Plans for Melton Mowbray. For example a *silhouette* of a train could be placed alongside the railway siding shed on Highland Lakes Road.

It Was Resolved That the information be received and noted for future reference.

4.1 Park for the Sandstone Trough

Feedback on action required from inaugural meeting:

Revised concept plan to be prepared by a sub-group consisting of Deputy Mayor Edwin Batt, Councillor Tony Bisdee OAM, Mandy McKenzie, Jocelyn Tatnell and Barrie Paterson.

- 4.1a Discussion centred on the sandstone trough and the various locations that had been suggested,
- I. adjacent of the front entrance of the Hotel
 - II. under the Avenue of Honour pine trees
 - III. on the northern side of Highland Lakes Road, on the McShane property
 - IV. in the location shown on the original Development Application design from early 2010 (as shown in Slide 3 '*Concept Options and Community Discussion for Proposed Public Open Space & Significant Elements in Melton Mowbray*'

There was considerable discussion in respect of this matter, as well as reference to Barrie Paterson notes that were tabled at the beginning of the meeting.

It Was Resolved That the sandstone horse trough be positioned in the land directly opposite the hotel on the land currently part of 'Woodlands' and to be transferred to Southern Midlands Council as Public Open Space.

- 4.1b There was considerable discussion concerning whether to have a roofed structure over the trough.

It Was Resolved That the sandstone horse trough would not have a roof structure over it.

- 4.1c There was discussion of the 'park' in general

It Was Resolved That the a revised design be prepared by Andrew Benson which includes,

Minutes - Melton Mowbray Community Sub Committee on 2nd December 2019

- I. *a building up of the base material to be less inclined as viewed from the road (currently it is 'falling away' towards the creek),*
- II. *sufficient area around the trough for horses to actually drink from the trough and also horse & carriages to be accommodated*
- III. *interpretation panel.*
- IV. *seating*
- V. *post and rail fencing along with a low hedge*
- VI. *consideration of reducing the possible conflict between motor vehicles and the trough.*

4.2 Landscaping / public gardening around the area of the junction

Feedback on action required from inaugural meeting:

Agreed to request the Department of State Growth to remove the sign and paint the 'Give Way' on the road surface at the junction.

The Department have installed the Give Way Sign, which looks rather inappropriate. They have advised that they will not be painting a sign on the road.

It Was Resolved That the information be received.

Landscaping / gardening to be progressed following the determination of elements in the 'park' design.

It Was Resolved That the information be received.

4.3 Speed Limit in Melton Mowbray

Feedback on action required from inaugural meeting:

The following proposal is to be submitted to the Department of State Growth for consideration:

- *Reduce speed limit to 80 klm per hour on the eastern side of the entrance to 126 Highland Lakes Road 'Tranquillity' property (i.e. Bothwell side);*
- *further reduce the speed limit to 50 klm per hour commencing from a point prior to the first sharp corner entering the township (i.e. approximately 100 metres Bothwell side of the property at 37 Highland Lakes Road.)*
- *When exiting the Midland Highway travelling towards Bothwell, the speed limit should be 50 klm per hour.*

The Department advised that the Minister will be making a statement in the very near future in respect of the safety matters on the Highway, which includes these aforementioned matters.

It Was Resolved That the information be received.

4.4 Public Notice board for residents to receive Council Information

It Was Resolved That this matter will be progressed at a future stage of the project.

4.5 Placement of Mail Box at junction / park area

*Feedback on action required from inaugural meeting:
Request to be submitted to Australia Post for relocation.*

It Was Resolved That Tim Kirkwood to follow this matter up with Australia Post

4.6 Bus Stop

*Feedback on action required from inaugural meeting:
Deputy Mayor Batt to consult with the school bus driver to determine what process may need to be undertaken to seek approval for the relocation.*

No further action in relation to this matter

It Was Resolved That the information be received

4.7 Parking restrictions on Highland Lakes Road / Footpath and road formation

*Feedback on action required from inaugural meeting:
Request the Department of State Growth to install a rope barrier (similar to the centre barriers being installed on the Midland Highway) in order to prevent parking and create a separation between vehicles and pedestrians.*

The Department of State Growth have advised that there will not be a wire rope barrier installed. No Standing signs have been installed.

*Feedback on action required from inaugural meeting:
Onsite meeting to be arranged to enable the property owner Veronica Foale to explain the drainage problems being experienced.*

This action is yet to be progressed

*Feedback on action required from inaugural meeting:
In relation to the Midland Highway, it was also noted that there is still an issue relating to the 'acceleration lane' (i.e. length of the lane) when turning north from Highland Lakes Road onto the Midland Highway. This should also be raised with the Department, including the possibility of extending the lane when the next stage of works is undertaken on the Highway.*

The Minister's statement referred to in Item 4.3 above will cover this matter

It Was Resolved That the information be received

Minutes - Melton Mowbray Community Sub Committee on 2nd December 2019

4.8 Old Stone Bridge Repair and Presentation

Feedback on action required from inaugural meeting:

Sandstone and stabilisation works to be undertaken by Council in the short-term.

It Was Resolved That Tim Kirkwood will ask Heritage Building Solutions Pty Ltd to undertake an assessment of the structure and also to provide a cost for the required rectification works.

4.9 School and Church Building(s) - Future

Tony Bisdee advised that the Church is to be sold, with the buildings and the cemetery on separate titles.

It Was Resolved That the information be received

5. Other Business

Nil

6. Next Meeting

To be advised at a date just after the Kempton Festival in February 2020.

7. Close

In closing the meeting at 17.02hrs the Chairman extended appreciation to Lindsay for making the Melton Mowbray Hotel available for the meeting.

Appendices

1. Barrie Paterson's notes for the Sub Committee's consideration
2. Meeting Notes from the previous meeting
3. Concept Options and Community Discussion for Proposed Public Open Space & Significant Elements in Melton Mowbray – some thoughts by Andrew Benson

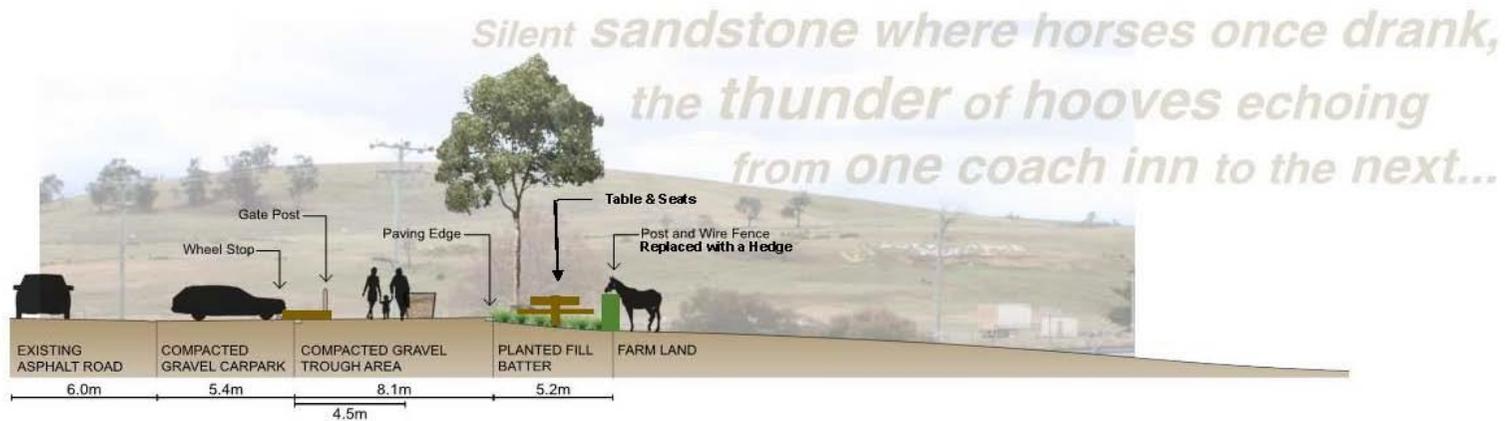
Distribution of the Minutes.

To Sub Committee Members

Council for the next Council Meeting - December 2019.



*Concept Options and Community Discussion
for
Proposed Public Open Space & Significant Elements
in
Melton Mowbray*



*Prepared by
Andrew Benson
Deputy General Manager, Southern Midlands Council*

November 2019

Significant Elements of Melton Mowbray



Heritage Horse Trough

Melton Mowbray Hotel

Historic Coaching Road

Sandstone Bridge

*Heritage Listed Church &
Church Hall (School)*

Apsley Railway

*Facts & Folklore, Interpretation,
Sculpture, eg Stag from the Hotel, et al*

*Memorial Trees from WW 1
Military Service Recognition*

*Offer of Public Open Space
from Historic Woodlands*

Public Open Space and its Elements

Road Safety

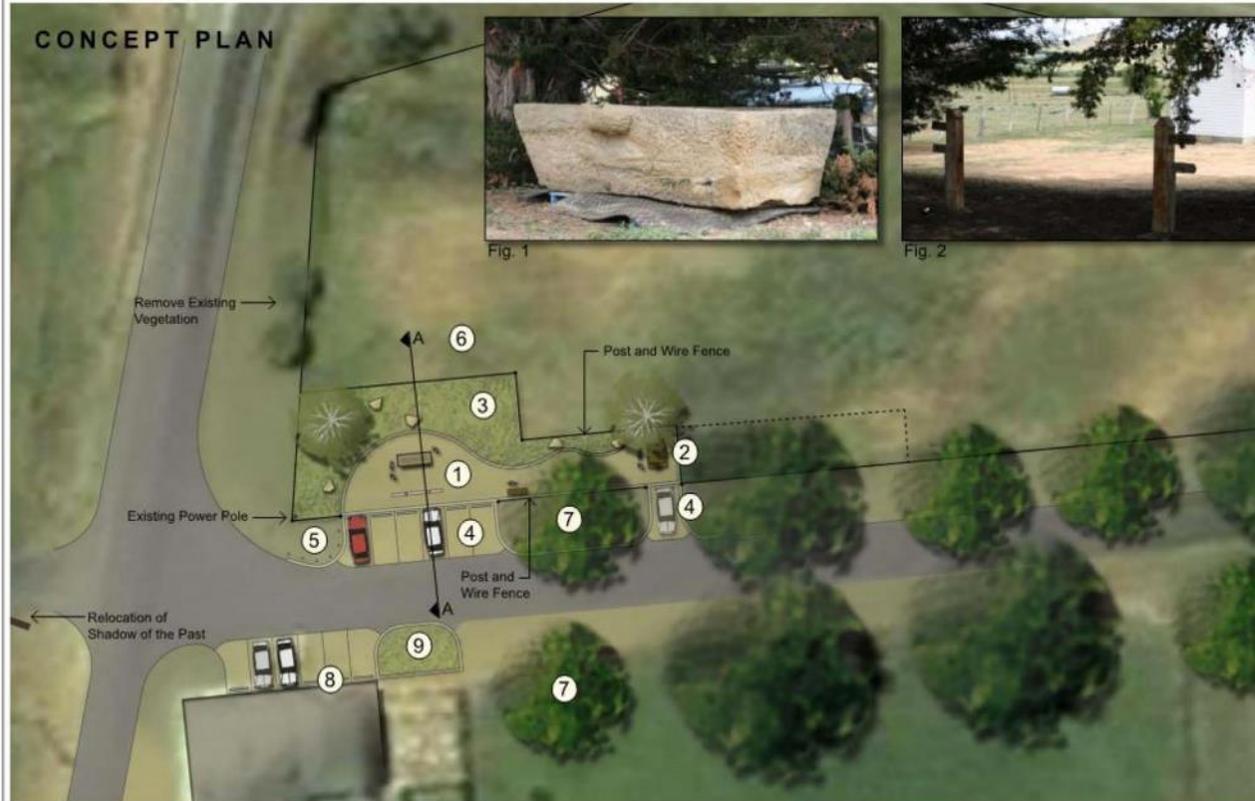
Page 2

Original Concept Plan

The Trough in the Park

KEY

- ① **Trough Area**
 Open compacted gravel area for trough (Fig. 1) with 300x500mm Thunderstone paving edge. Frame trough with steel gate posts as per the Church and Church Hall (Fig. 2). Between gate posts lay Thunderstone inscribed with 'Silent sandstone where horses once drank, the thunder of hooves echoing from one coach inn to the next...', Adjacent bench with history 'book'.
- ② **Picnic Area**
 Compacted gravel area for picnic table and bench with 300x500mm Thunderstone paving edge. Link to trough area with compacted gravel pedestrian path also with paving edge. Option for future expansion (within dotted line) including picnic table, planting and possible shelter structure.
- ③ **Planted Batter**
Eucalyptus viminalis - white gum
Lomandra longifolia - sagg
Poa labillardierei - tussock grass
 Plant at 1m centres into 200mm of imported topsoil over a ripped subgrade. Gum mulch to 75mm over weed mat. Two 2m high Eucalypts with 4 x treated pine stakes. Randomly place five large sandstone boulders. Fence area from farm land with post and wire. Timber edge to outside of fence posts to prevent invasion of pasture grasses.
- ④ **Car Park**
 Compacted gravel car park with flush access to trough area. Edge with 300x500mm Thunderstone pavers. Concrete wheel stops to prevent vehicular access beyond car park. No fence in front of carparking areas to allow clear access and views for pedestrians.
- ⑤ **Bollards**
 Positioned to prevent vehicles from cutting the corner. Bollards ~ 150x150x1000mm treated pine, match to posts of post and wire fencing. Install at 1.5m centres into concrete footings.
- ⑥ **Existing Farm Land**
- ⑦ **Macrocarpa Avenue**
 Restore avenue of *Cupressus macrocarpa* along length of road.
- ⑧ **Melton Mowbray Hotel**
 Future option to define gravel car parking at front of hotel. Secure wheel stops to ground.
- ⑨ **New Garden Bed**
 Future option for raised Thunderstone edged garden bed to improve outlook from the hotel outdoor seating area across to trough area. Planting to be designed in conjunction with hotel owner.



The Installation of the Trough - 2009



Installation of the Trough

Development Application Approved by SMC & Heritage Tasmania



Page 5



Life at the Melton Mowbray Hotel

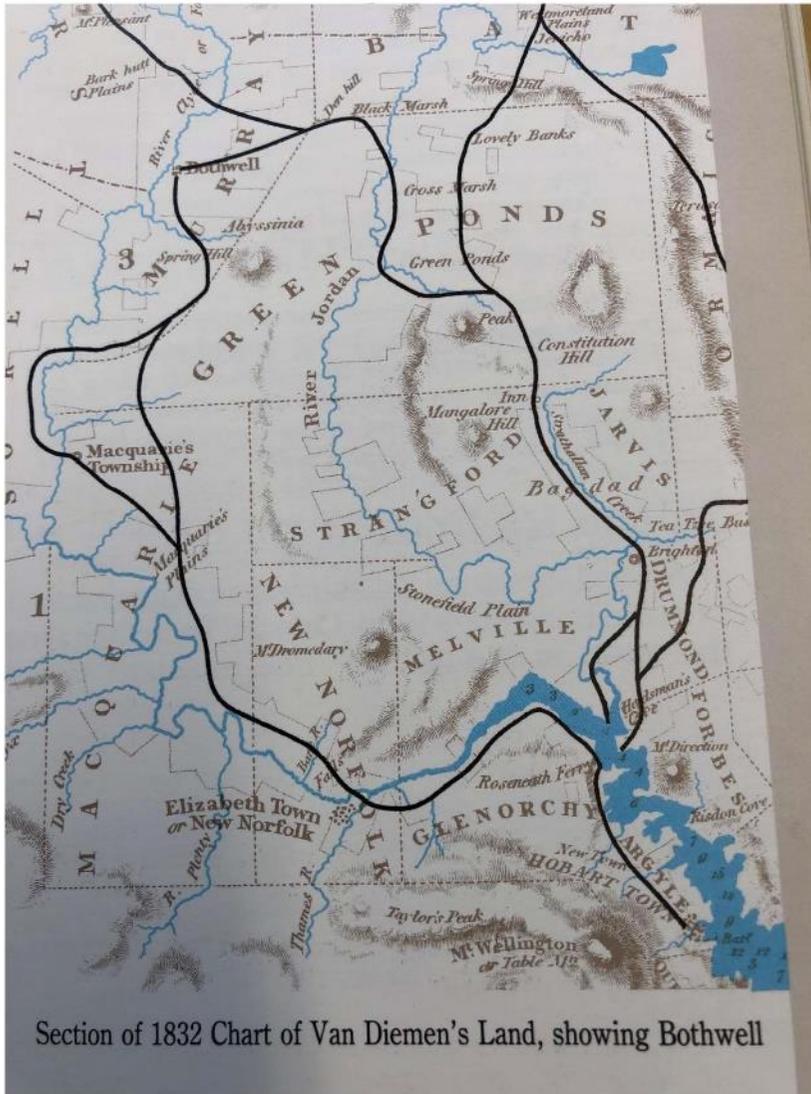


Melton Mowbray Hunt Club



Page 7

Coaching Road



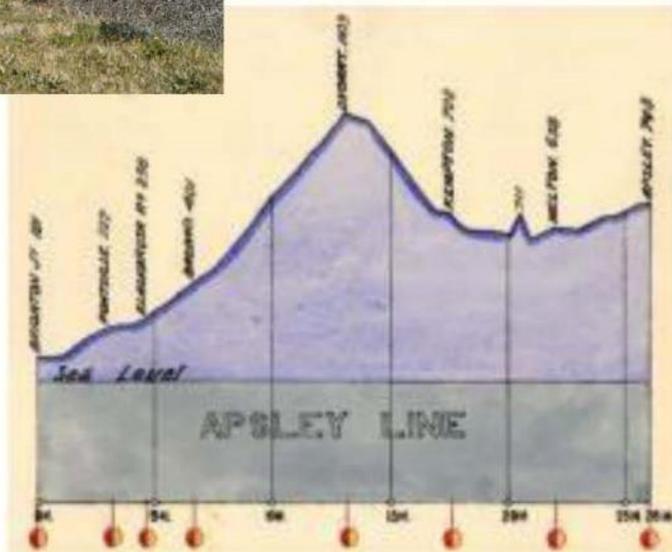
Section of 1832 Chart of Van Diemen's Land, showing Bothwell



Ecclesiastical & Scholarly Heritage



Apsley Railway



Interpretation / Art

Relevant to Melton Mowbray History or Folklore



Page 11

Avenue of Honour

World War 1 Recognition - Victoria Cross Recipients





Possible Park Elements

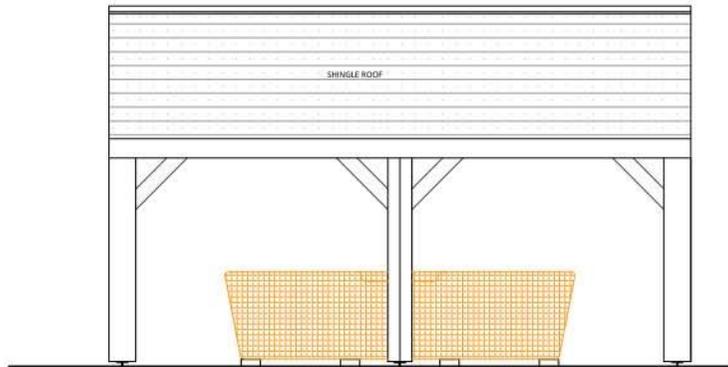
Shelter over the Trough similar to this one in Campbell Town



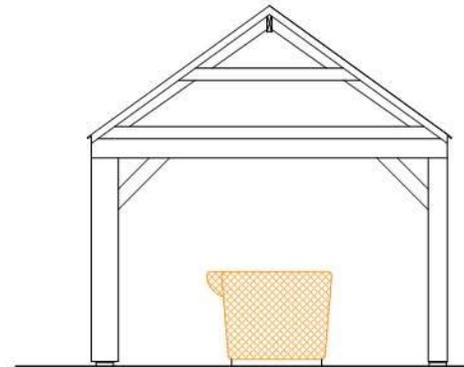
Page 14

Possible Park Elements

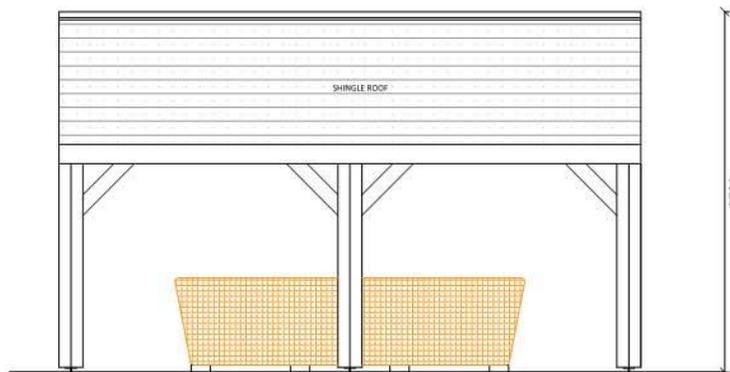
Shelter over the Trough



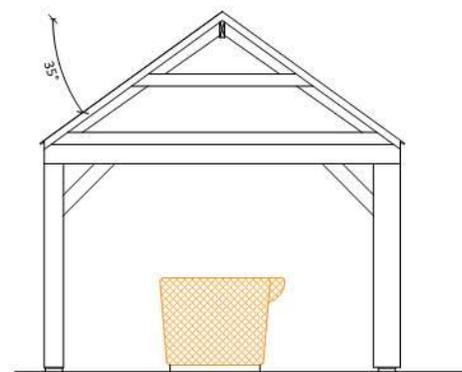
① FRONT ELEVATION
Scale: 1:50



② END ELEVATION
Scale: 1:50



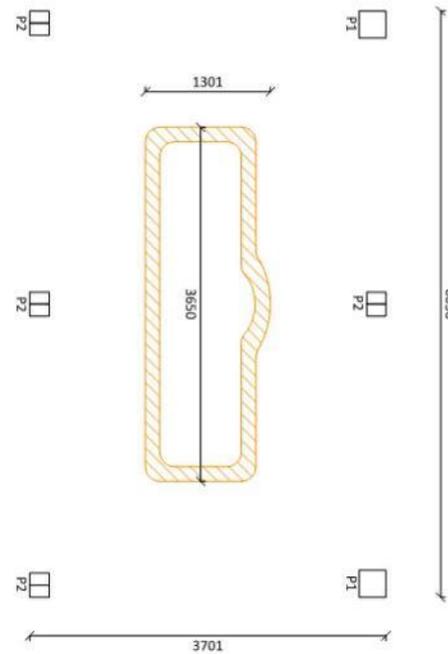
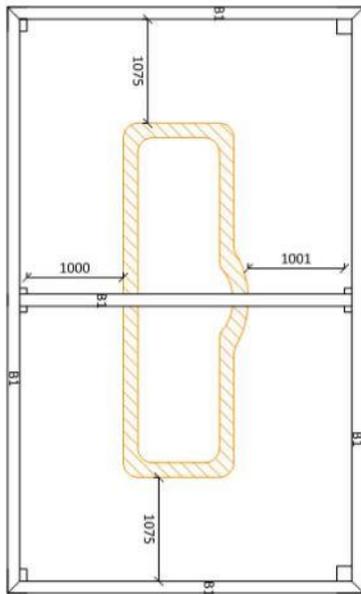
③ REAR ELEVATION
Scale: 1:50



④ END ELEVATION
Scale: 1:50

Possible Park Elements

Shelter over the Trough



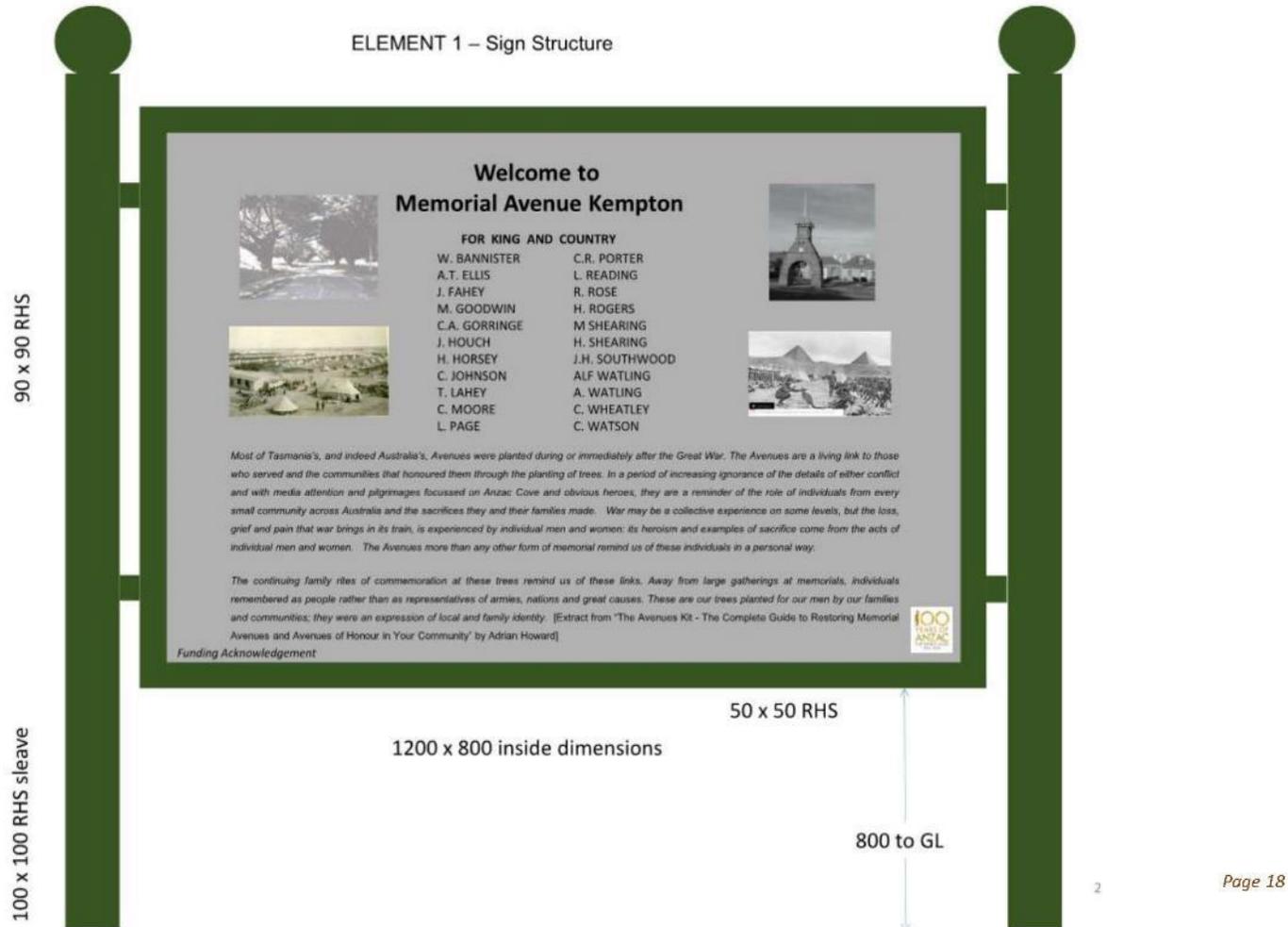
Possible Park Elements

Hedge to surround the Park to replace the existing fence



Possible Park Elements

Interpretation Panel – similar to the Memorial Ave panel



Possible Park Elements

Park seating – similar style to Campania District School table & seats



Possible Park Elements

Front fence facing Blackwell Road





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Page 21



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Page 22









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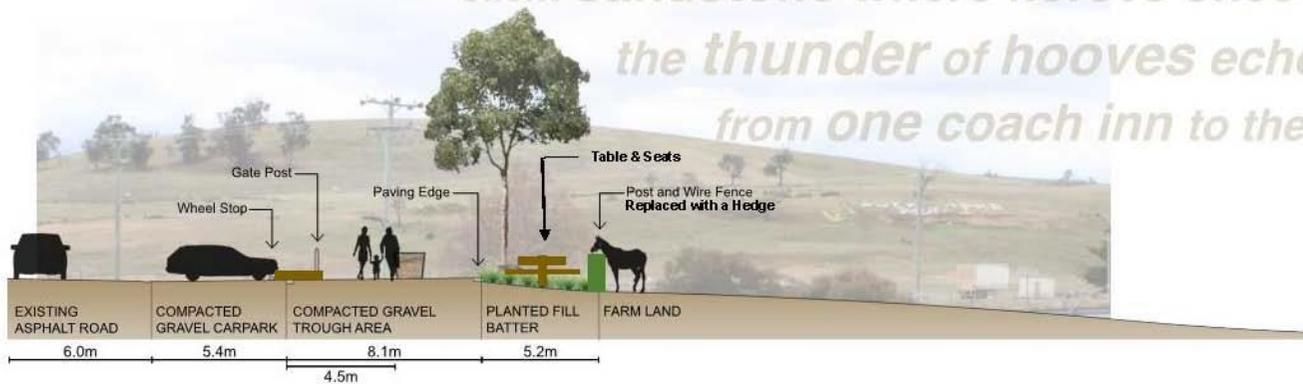
Page 26





*Concept Options and Community Discussion
for
Proposed Public Open Space & Significant Elements
in
Melton Mowbray*

*Silent sandstone where horses once drank,
the thunder of hooves echoing
from one coach inn to the next...*



*A chance for the Community to plan a meaningful integrated environment
for Melton Mowbray that will showcase its wonderful heritage attributes.*

Carpe Diem – Seize the Day

Notes and suggestions regarding the memorial park proposed for opposite the Melton Mowbray Hotel;

The main point I wish to convey to the meeting is that the sandstone horse trough and the proposed park should not be merged. They are quite distinct in character and it is a disservice to either to place them together.

The trauma associated with the theft of the trough by Bruce Townsend has been shared amongst the community, and the councillors that have been involved in its rescue. The trauma extends to my family as we were also savaged by Mr Townsend as part of the purchase of the hotel and in the lead up to the theft of the trough. All of which makes returning the trough to its place of theft singularly inappropriate. It is, at least as far as the trough is concerned, a wounded place.

Mingling memorial, community and car parking duties in a park is already a delicate balance. Neither the trough nor the park is well served by co-locating them.

The trough is [self-evidently] a piece of moveable heritage and as such is poorly protected under the current Tasmanian Heritage legislation. The legislation has at its core a location based register which could be fit for purpose but clearly failed when put in the line of fire. The Heritage office was both unable and unwilling to provide the leadership in enforcing its own legislation when the trough was stolen from a recognised and listed heritage place – the site of the proposed memorial park, no less. I suggest that serious consideration needs to focus on a solution that properly protects the trough, especially in light of the lack of courage exhibited by the Heritage Office. Placing the trough in the proposed park and then erecting a defensive structure about it is fraught. It interferes with the sight lines of the highway to the hotel, has cars around it and is simply a large object that interferes with the story lines and community purposes proposed for the park.

An obvious solution is to place the trough elsewhere. This is additionally appropriate as the trough has never been documented in the proposed park location. The most common known location is to the south of the hotel and on the hotel side of Blackwell Road. I advocate this as an appropriate place for it on the basis that;

It properly associates the trough with the hotel, the Blackwell's and its coaching history.

A location amongst the Cyprus pines at some distance south from the hotel and in the road easement provide some degree of protection from theft and collision by cars.

The trough has always been a feature of the road easement. The trough was placed in the road easement for ease of use by coaching teams and other privately owned horses. [Blackwell owned "The Bothwell Conveyance" which met Pages coaches from Hobart.] The road provides the long form structure necessary to water tethered horses; something that is lost in the confines of the proposed memorial park.

Should there be the opportunity to revive the coaches and coaching at either Kempton or Melton Mowbray the trough would make for a mighty centre piece. It has two obvious functional requirements – that it can be filled with clean water and has water and drainage to flush it out and that horses, tethered as part of a team or otherwise, are able to access it. Both can be achieved if the trough is located amongst the pines.

For your collective consideration

Barrie Paterson 2/12/2019

**Melton Mowbray Community Meeting
Melton Mowbray Hotel**

**Notes of the Community Meeting held 14th January 2019
commencing at approximately 6.00 p.m.**

1. Welcome & Introductions:

Deputy Mayor Edwin Batt opened the meeting and detailed the intent and purpose of convening the community meeting. Self-introductions followed.

2. Attendance:

Name:	Address:	Contact Number:
Edwin Batt	3452 Midland Highway	0400 009471
Mandy McKenzie	5 Blackwell Road	0406 340946
Jocelyn Tatnell	7 Blackwell Road	0488 310505
Lorraine Grace	18 Highland Lakes Road	
Jim Grace	18 Highland Lakes Road	
Barrie Paterson	Mt Vernon	0418 579164
Lindsay Seabrook	Melton Mowbray Hotel	0419 334446
Hector Bryant	37 Highland Lakes Road	
Greg Bryant	37 Highland Lakes	
Veronica Foale	33 Highland Lakes Road	62 591259
Nathan Turner	33 Highland Lakes Road	0423 815712
Tony Bisdee	3289 Midland Highway	0418 355158
Sue Bisdee	3289 Midland Highway	
Chris White	Highland Lakes Road	
Tim Kirkwood	Southern Midlands Council	

3. Apologies:

Adam Jones; Athol Blackwell

4. Discussion Items:

a) Park for the Stone Trough and Community Committee to oversee it

The meeting considered the draft Landscape Plan prepared by Inspiring Place in 2009. The following points were noted during discussion:

- 'Trough' is mobile and final design needs to ensure that the Trough is secure;
- Proposed location of the trough in a car park setting was not supported (i.e. cars directly facing the proposed siting of the Trough) – there needs to be separation between the park area and the car parking
- Discussion around 'cultural heritage landscapes' and whether broader consideration needs to be given to this element
- Park space needs to allow for an 'interpretation panel'
- Protection of the Trough requires a roofed structure – to be at a height sufficient to enable horses to access the trough (allows for historical use)
- Trough needs to be placed in a more prominent position closer to the road

- Proposed naming of the Park area as C L Batt Park (to acknowledge the late Charles Leo Batt OAM and his service to the Melton Mowbray community as a member of the Green Ponds Council plus numerous other organisations; the broader Tasmanian community as a member of the Tasmanian House of Assembly from 1974 to 1976, then a member of the Legislative Council from 1979 to 1995).

Action: Revised concept plan to be prepared by a sub-group consisting of Deputy Mayor Edwin Batt, Councillor Tony Bisdee OAM, Mandy McKenzie, Jocelyn Tatnell and Barrie Paterson.

Group to report back to the community at a follow-up meeting.

b) Landscaping / public gardening around the area of the junction

Sub-group to factor these considerations into the revised concept plan.

Issue raised: “Give Way” sign at the junction of Blackwell Road and Highland Lakes Road (directly outside Hotel) – has been damaged numerous times due to its location. Evidenced by the leaning state of the sign at the time of the meeting.

Agreed to request the Department of State Growth to remove the sign and paint the ‘Give Way’ on the road surface at the junction.

c) Speed Limit in Melton Mowbray

Current situation – 100 klm per hour speed limit through Melton Mowbray.

Following discussion, the following proposal is to be submitted to the Department of State Growth for consideration:

- Reduce speed limit to 80 klm per hour on the eastern side of the entrance to 126 Highland Lakes Road ‘Tranquillity’ property (i.e. Bothwell side);
- further reduce the speed limit to 50 klm per hour commencing from a point prior to the first sharp corner entering the township (i.e. approximately 100 metres Bothwell side of the property at 37 Highland Lakes Road.)
- When exiting the Midland Highway travelling towards Bothwell, the speed limit should be 50 klm per hour.

d) Public Notice board for residents to receive Council Information

Meeting fully supported the installation of a public notice board. This is to be incorporated in the concept plan for the Park area.

The meeting agreed that the Melton Mowbray township should adopt a theme of “THE HUNT” to reflect the history and past activities within the immediate area.

Design for the Public Notice Board should aim to reflect this theme.

e) Placement of Mail Box at junction / park area

The proposal to relocate the Mail Box to the junction of Blackwell Road & Highland Lakes Road (vicinity of planned park) was fully supported.

Action: Request to be submitted to Australia Post.

f) Bus Stop

Bus Stop issue relates to the School Bus.

It was acknowledged that there are safety issues associated with the current collection point (i.e. entrance to 'Woodlands' property). The meeting was fully supportive of seeking to move the School Bus collection point to the junction of Blackwell Road and Highlands Lakes Road.

Action: Deputy Mayor Batt to consult with the school bus driver to determine what process may need to be undertaken to seek approval for the relocation.

g) Parking restrictions on Highland Lakes Road

h) Footpath and road formation on Highland Lakes Road

The above two items were considered together. It was agreed that there was a need to erect some form of barrier to prevent parking on the road verge in the vicinity of 18 Highland Lakes Road.

It was also recognised that there is a need to protect pedestrians that are walking along Highland Lakes Road (southern side) from the Hotel to the corner (vicinity of 33 & 37 Highland Lakes Road).

Action: Request the Department of State Growth to install a rope barrier (similar to the centre barriers being installed on the Midland Highway) in order to prevent parking and create a separation between vehicles and pedestrians.

Note: It was recognised that there would need to be breaks in the barrier to allow for property entrances.

Drainage improvements could also be undertaken at the same time to address an existing problem whereby water is being directed into the property at 33 Highland Lakes Road.

Action: Onsite meeting to be arranged to enable the property owner Veronica Foale to explain the problems being experienced.

In relation to the Midland Highway, it was also noted that there is still an issue relating to the 'acceleration lane' (i.e. length of the lane) when turning north from Highland Lakes Road onto the Midland Highway. This should also be raised with the Department, including the possibility of extending the lane when the next stage of works is undertaken on the Highway.

i) Old Stone Bridge Repair and Presentation

Sandstone and stabilisation works to be undertaken by Council in the short-term.

The presentation of the Bridge should also reflect 'THE HUNT' theme adopted at this meeting.

j) School and Church Building(s) - Future

Update provided in relation to the planned sale of the Melton Mowbray Church; Old School Building; and Cemetery. It was indicated that separate Titles would be created for each to enable sale.

The issue of seeking ownership of the Old School Building in particular was raised. Whilst there was general support for the proposal, it was acknowledged that a desired (and sustainable) use would need to be identified prior to considering fundraising or financing options.

The meeting concluded at approximately 7.20 p.m.

16.1.2 TUNNACK STREETScape PLAN – MEETING WITH TUNNACK COMMUNITY HALL REPRESENTATIVES - HELD 3RD DECEMBER 2019

Author: GENERAL MANAGER (TIM KIRKWOOD)

Date: 6 DECEMBER 2019

Enclosures:

Meeting Notes – Held 3rd December 2019

ISSUE

To report on the outcomes of the meeting held with representatives of the Tunnack Community Hall Management Committee held 3rd December 2019.

BACKGROUND

This meeting followed an allocation of \$5,000 in the 2019/20 Capital Works Program.

In the first instance, the Community Hall Management Committee was seen as an ideal representative group to commence the discussion in terms of identifying the issues and priorities. It should be noted that a number of the Hall Committee representatives are also members of the Tunnack Community Club Inc.

DETAIL

Refer attached meeting Notes.

Human Resources & Financial Implications – to be determined.

Community Consultation & Public Relations Implications – refer Meeting Notes.

Policy Implications – N/A

Priority - Implementation Time Frame – N/A

RECOMMENDATION

THAT the information be received and Council endorse the proposed actions recorded in the Meeting Notes.

DECISION		
Councillor	Vote FOR	Vote AGAINST
Mayor A O Green		
Deputy Mayor E Batt		
Clr A Bantick		
Clr A E Bisdee OAM		
Clr K Dudgeon		
Clr D F Fish		
Clr R McDougall		

ENCLOSURE

Agenda Item 16.1.2

**Tunnack – Community Representatives Meeting
Tunnack Community Hall
Notes of the Meeting held 4th December 2019 commencing at approximately 2.30
p.m.**

1. Attendance:

Name:	Address:	Contact Number:
Janine Scott	216 Black Post Road	
Robyn Bourke	125 Scotts Road	
Helen Clarke	1976 Tunnack Road Email: HelenClark26@bigpond.com	
Gaylene Barry	1362 Tunnack Road	
Dave Northey		
Carol Byers	6 Pound Road	62 547232
Jack Lyall	Southern Midlands Council	
Tim Kirkwood	Southern Midlands Council	

2. Apologies:

Clr Rowena McDougall, Sue Scott.

3. Discussion Items:

a) Tunnack General Cemetery

Noting that Mrs Susan Scott was an apology for the meeting, the Group did consider the attached document prepared by Sue. This followed a brief site visit prior to discussion at the Community Hall.

In reference to the document there were eight suggestions, including comments prepared by Sue.

In the first instance, the Group determined:

1. Resurrect the headstones – decision deferred pending confirmation of what information exists and/or on-site assessment
2. Erect a noticeboard, listing names, dates and family connections – agreed with suggestion following confirmation of available information
3. Erect a boundary fence between the cemetery and the adjoining farmland – to be considered following confirmation of an overall plan for the Cemetery property (it was noted that some means of managing vegetation was necessary)
4. Build a shelter hut (noticeboard would then be sheltered from the weather) – to be further considered
5. Create a picnic ground – to be further considered
6. A track would need to be created from the road gate to the area where the graves are located - agreed with suggestion but this would follow identification and confirmation of the location of the graves.

7. A bigger sign at the road gate – to be further considered. As an interim measure, additional gravel will be placed at the entry to expand the ‘pull-off’ area.
8. Advertise widely about this idea – agreed with suggestion but promotion of the proposal would follow the initial research to determine what information and detail is currently available. This advertising process could also provide an opportunity to invite the broader community to submit any additional information / history that may be available.

In conclusion, Brad Williams and Alan Townsend will work with Sue Scott to commence an information gathering exercise.

b) Tunnack Township Improvements

By way of introduction, Tim Kirkwood informed the meeting that Council had allocated an amount of \$5,000 in the 2019/20 Budget – referred to as ‘Tunnack Streetscape Concept Plan’.

This was a general allocation, with no specific projects or activities in mind.

Council is eager to consult the community to identify the relevant issues and identify projects that could be undertaken as part of an on-going improvement plan.

The following is a dot point list of issues raised, together with proposed actions (in no particular order):

- Roadside Verge / Footpath improvements (primarily weed spraying) – to be actioned immediately.
- Planting of street trees (including tree guards – similar to Colebrook) – the plantings would extend through the township in designated locations (i.e. from boundary sign to boundary sign. Frost resistant trees. Plan to be prepared for further discussion and consultation.
- Roadside verge (opposite Hall) – can the drain be filled in which would allow for additional parking opposite the Hall and enhance overall appearance. Approval to be sought from Department of State Growth noting that this is a State maintained Road.
- Tunnack Community Hall – Painting of front Fence – agreed that Council would supply the paint and the community would undertake the work voluntarily (10 litres of white paint to be supplied).
- Tunnack Community Hall – supply of solar light to be erected on the front of the Hall to provide additional lighting to the electrical switchboard area – to be actioned immediately.
- Streetlight relocation – update provided – awaiting confirmation of timeframe from Tas Networks.
- Directional Sign(s) – traditional wooden type ‘Finger-post’ type of sign to be erected in the vicinity of the Tunnack Community Club.

To conclude, an invitation was extended to those present to consult with other members of the community and provide additional input and/or suggestions as these proposals are progressed.

16.2 Safety

Strategic Plan Reference 5.2.1

Increase the level of safety of the community and those visiting or passing through the municipality.

Nil.

16.3 Consultation & Communication

Strategic Plan Reference 5.3.1

Improve the effectiveness of consultation and communication with the community.

Nil.

17. OPERATIONAL MATTERS ARISING (STRATEGIC THEME – ORGANISATION)

17.1 Improvement

Strategic Plan Reference(s) 6.1.1, 6.1.2, 6.1.3, 6.1.4 & 6.1.5

Improve the level of responsiveness to Community needs / Improve communication within Council / Improve the accuracy, comprehensiveness and user friendliness of the Council asset management system / Increase the effectiveness, efficiency and use-ability of Council IT systems / Develop an overall Continuous Improvement Strategy and framework.

17.1.1 MOBILE FOOD VENDORS (FOOD VANS) – POLICY POSITION – PRELIMINARY DISCUSSION

Author: GENERAL MANAGER (TIM KIRKWOOD)

Date: 6 DECEMBER 2019

ISSUE

Council to give preliminary consideration to the 'principles' that could be incorporated in the development of Policy relating to Mobile food Vendors (Food Vans) servicing the municipal area on a casual basis.

BACKGROUND

In recent months Council has been approached by multiple Food Van operators seeking approval to temporarily occupy Council owned/controlled land for the purpose of setting up a Mobile Food Van, generally for a period ranging from approximately 3 to 5 hours.

It is apparent that this is going to be an ongoing issue, and being a relatively new concept for Oatlands and the Southern Midlands, warrants a formal Council policy position.

As part of determining a Council policy, Council must consider the land use planning implications; the commercial considerations; and whether from a Council perspective, they are permitted to operate on a temporary basis on Council owned/controlled land (and under what terms and conditions).

Relevant to this discussion is the need to note that there is no longer a need for Food Vans to be licensed within each municipal area where they operate. Food Vans are generally licensed by the Council where the Van is based or where it primarily operates from.

DETAIL

Permission has been granted on two previous occasions for a Food Van to operate in Oatlands on a temporary basis; the 25th August 2019 (Lake Dulverton foreshore area) & the 18th October 2019 (Pink Up Oatlands event). Monday, 16th December 2019 has also been flagged as another date for a food van to visit Oatlands.

Whilst approval was given on these occasions, the operators were informed that a Policy position would be developed by Council in the short-term that would provide direction going forward.

It was planned to submit a draft Policy to Council for consideration at the January 2020 meeting, however the issue has been listed on the Agenda for preliminary discussion in terms of the key principles.

Human Resources and Financial Implications – To be considered as part of the discussion.

Community Consultation and Public Relations Implications – This matter has been brought forward for preliminary discussion due to correspondence received from a local business operator which raises concerns about the impact on local businesses.

Policy Implications – Policy position.

Priority - Implementation Time Frame – Is there a need to take any interim measures pending the adoption of a final policy.

RECOMMENDATION

Submitted for discussion and direction in terms of the key principles which can be factored into the drafting of a Council Policy.

DECISION		
Councillor	Vote FOR	Vote AGAINST
Mayor A O Green		
Deputy Mayor E Batt		
Clr A Bantick		
Clr A E Bisdee OAM		
Clr K Dudgeon		
Clr D F Fish		
Clr R McDougall		

17.2 Sustainability

Strategic Plan Reference(s) 6.2.1, 6.2.2, 6.2.3, 6.2.4, 6.2.5, 6.2.6, 6.2.7 & 6.2.8

Retain corporate and operational knowledge within Council / Provide a safe and healthy working environment / Ensure that staff and elected members have the training and skills they need to undertake their roles / Increase the cost effectiveness of Council operations through resource sharing with other organisations / Continue to manage and improve the level of statutory compliance of Council operations / Ensure that suitably qualified and sufficient staff are available to meet the Communities need / Work co-operatively with State and Regional organisations / Minimise Councils exposure to risk.

17.2.1 LOCAL GOVERNMENT SHARED SERVICES UPDATE (STANDING ITEM – INFORMATION ONLY)

Author: GENERAL MANAGER (TIM KIRKWOOD)

Date: 6 DECEMBER 2019

At the time of preparing the agenda the Local Government Shared Services update reports for the month of November 2019 were unavailable. They will be tabled at the meeting if available.

17.2.2 ORDINARY COUNCIL MEETING – JULY 2020 – CHANGE OF DATE

Author: GENERAL MANAGER (TIM KIRKWOOD)

Date: 5 DECEMBER 2019

ISSUE

Council to change the scheduled date of the July 2020 Council Meeting to avoid a clash with the Local Government Association of Tasmania Annual General Meeting and Conference.

BACKGROUND

The 2020 Meeting Schedule was adopted at the Council Meeting held 27th November 2019.

DETAIL

The Local Government Association of Tasmania has released its 2020 Calendar of Events and the Association's Annual General Meeting and Annual Conference has been scheduled for 22nd to 24th July 2019 inclusive.

The Ordinary Council Meeting was scheduled for 22nd July 2020.

Human Resources and Financial Implications – N/A

Community Consultation and Public Relations Implications – The forward meeting Schedule will be circulated following confirmation.

Policy Implications – N/A

Priority - Implementation Time Frame – N/A

RECOMMENDATION

THAT the Ordinary Council Meeting for July 2020 be held:

- a) **Wednesday 15th July 2020; or alternatively**
- b) **Tuesday 21st July 2020.**

DECISION		
Councillor	Vote FOR	Vote AGAINST
Mayor A O Green		
Deputy Mayor E Batt		
Clr A Bantick		
Clr A E Bisdee OAM		
Clr K Dudgeon		
Clr D F Fish		
Clr R McDougall		

17.2.3 OATLANDS AQUATIC CENTRE – DEED OF VARIATION OF GRANT DEED

Author: DEPUTY GENERAL MANAGER (ANDREW BENSON)

Date: 4 DECEMBER 2019

Enclosure:

Deed of Variation to the Grant Deed

ISSUE

Signing and Sealing the Deed of Variation to the Grant Deed for the Oatlands Aquatic Centre.

BACKGROUND

This document is the second variation to the Grant Deed from the Tasmanian Government in respect of the Grant Deed obligations for the Oatlands Aquatic Centre for the two million dollar grant for the development of the Aquatic Centre at Oatlands.

Council are aware of the delays in the project and this Deed of Variation formalises the revised reporting timelines and associated arrangements as well as the subsequent dispersal of the funding to Council under the Grant Deed.

RECOMMENDATION

That Council Sign and Seal the Deed of Variation of the Grant Deed for the funding agreement between the Tasmanian Government and the Southern Midlands Council for the Oatlands Aquatic Centre.

DECISION		
Councillor	Vote FOR	Vote AGAINST
Mayor A O Green		
Deputy Mayor E Batt		
Clr A Bantick		
Clr A E Bisdee OAM		
Clr K Dudgeon		
Clr D F Fish		
Clr R McDougall		

ENCLOSURE
Agenda Item 17.2.3



Deed of Variation of Grant Deed
Specific Purpose Funding 2017-18

The Crown in the Right of Tasmania
(represented by the Department of Communities Tasmania)
(Grantor)

and

Southern Midlands Council
(Recipient)

REFERENCE AND CONTACT DETAILS
Department: Communities Tasmania
Contact Officer: Manager, Grants, Sport and Recreation Infrastructure
Telephone: 1800 204 224
Email: csrgrants@communities.tas.gov.au

Doc Ref: Deed of Variation of Grant Deed | DOC/19/8668 | Deed of Variation – Southern
Midlands Council Grant Deed

Contents

Details and recitals	1
Information Table	2
1 Definitions and interpretation	5
1.1 Definitions	5
1.2 Interpretation	5
1.3 Headings	6
1.4 No rule of construction applies to disadvantage party	6
1.5 Information Table	6
2 Variation	6
3 Confidentiality	7
4 Miscellaneous	7
4.1 Governing law	7
4.2 Severance	7
4.3 Counterparts	7
4.4 Further assurance	7
4.5 Legal costs	7
4.6 Amendment	7
4.7 No interference with executive duties or powers	7
Signing	8

Deed of Variation of Grant Deed

Details and recitals

Date:

Parties:

Name	Crown in the Right of Tasmania (represented by the Department of Communities Tasmania)
Short form name	Grantor
Notice details	C/- Department of Communities GPO Box 65, Hobart, Tasmania, 7001 Telephone: 1800 204 224 Email: csrgrants@communities.tas.gov.au Attention: Manager, Grants, Sport and Recreation Infrastructure
<hr/>	
Name	As described in Item 3
Short form name	Recipient
Notice details	As set out in Item 3

Recitals:

- A. The parties have entered into the Grant Deed.
- B. The parties have agreed to vary the terms and conditions of the Grant Deed as set out in this Deed.

Information Table

Item 1 (clause 1.1): Commencement Date	
The date of this Deed of Variation.	
Item 2 (clause 1.1): Grant Deed	
The grant deed between the Grantor and the recipient dated 6 October 2017.	
Item 3 (clause 1.1): Recipient	
Southern Midlands Council 68 653 595 894 71 High Street, Oatlands TAS 7120 Email: mail@southernmidlands.tas.gov.au Attention: Mr Tim Kirkwood, General Manager	
Item 4 (clause 2): Variation	
1.	The second dot point titled ‘Instalment 2’ referred to in Item 3 of the Grant Deed is deleted (as varied under the first Deed of Variation) and replaced with: ‘Instalment 2: \$800,000 payable not earlier than 1 July 2019 and not later than 10 Business Days following receipt of the Recipient’s Progress Report 1 in accordance with Item 11 and a provision of an approved Tax Invoice.’
2.	The third dot point titled ‘Instalment 3’ referred to in Item 3 of the Grant Deed is deleted and replaced with: ‘Instalment 3: \$400,000 payable not earlier than 1 January 2020 and not later than 10 Business Days following receipt of the Recipient’s duly executed Building Contract and the Project Plan, in accordance with Special terms and conditions (3) in Item 13 (clause 12).
3.	Item 6 (clause 4.1 (d)) of the Grant Deed is deleted and replaced with: ‘The Agreed Plan for the carrying out of the Approved Purpose is the Project Plan, in accordance with Special terms and conditions (3) in Item 13 (clause 12), the plan set out in the Project Plan.’
4.	The date for completion referred to in Item 9 (clause 4.5) of the Grant Deed is deleted and replaced with: ‘30 June 2022’
5.	The reporting requirements referred to in Item 11 of the Grant Deed is deleted and replaced with: ‘The Recipient must give to the Grantor: (a) Progress Report 1: a report due no later than 31 December 2019 including: <ul style="list-style-type: none">• a report detailing progress towards the Approved Purpose; and• financial statement detailing income and expenditure, including how the grant funds have been expended to date. (b) Progress Report 2: a report due no later than 31 March 2020 including: <ul style="list-style-type: none">• a report detailing progress towards the Approved Purpose; and• financial statement detailing income and expenditure, including how the

grant funds have been expended to date.

- (c) Progress Report 3: a report due no later than 30 September 2020 including:
 - a report detailing progress towards the Approved Purpose, including an update as against the Agreed Plan described in Item 6; and
 - financial statement detailing income and expenditure, including how the grant funds have been expended to date.
- (d) Progress Report 4: a report due no later than 31 March 2021 including:
 - a report detailing progress towards the Approved Purpose, including an update as against the Agreed Plan described in Item 6; and
 - financial statement detailing income and expenditure, including how the grant funds have been expended to date.
- (e) Progress Report 5: a report due no later than 30 September 2021 including:
 - a report detailing progress towards the Approved Purpose, including an update as against the Agreed Plan described in Item 6; and
 - financial statement detailing income and expenditure, including how the grant funds have been expended to date.
- (f) Progress Report 6: a report due no later than 31 March 2022 including:
 - a report detailing progress towards the Approved Purpose, including an update as against the Agreed Plan described in Item 6; and
 - financial statement detailing income and expenditure, including how the grant funds have been expended to date.
- (g) Final report: a report due no later than 30 September 2022 including:
 - a final report that details completion of the Approved Purpose;
 - an income and expenditure statement with respect to the Approved Purpose;
 - a signed acquittal declaration; and
 - a copy of the organisation's audited financials including an audited statement against the grant funds.

All other reports and documents that the Grantor requires under clause 7.2(b) must be provided by the Recipient within 20 Business Days of the requirement being notified to the Recipient.

The form and substance of each report or other document (including each documents submitted with, or as part of, a report) provided by the Recipient to the Grantor under this Deed must be satisfactory to the Grantor, acting reasonably.⁷

6. Additional points are added in Item 13 (clause 12) Special terms and conditions as follows:

2. Additional definition:

In this Deed, Project Plan has the meaning given in Special terms and conditions (3) in Item 13.

3. Project Plan

- (a) On or before 31 March 2020, the Recipient must submit to the Grantor:
 - (i) a comprehensive plan for carrying out the Approved Purpose, including detailed milestones (with dates for completion of those milestones); and
 - (ii) a comprehensive budget for carrying out the Approved Purpose, showing

how funding from all sources is to be used.

- (b) Following receipt of the plan and the budget the Grantor (acting reasonably and without delay) will notify the Recipient in writing of those aspects (if any) of the plan and budget that the Grantor deems deficient. The Recipient must, in consultation with the Grantor, promptly rectify any such deficiencies and resubmit the plan and/or budget (as applicable) to the Grantor.
- (c) Once the Grantor is in receipt of a plan and a budget that are each satisfactory to the Grantor (acting reasonably) with respect to both form and content, the Grantor will notify the Recipient in writing of the Grantor's approval of that plan and that budget (collectively the **Project Plan**).
- (d) The Project Plan may be amended from time to time but only by written agreement between the parties, each acting reasonably.

4. Permissions and approvals to undertake work

The Recipient must, prior to undertaking any works, obtain all necessary approvals and permits required to lawfully undertake the works to be carried out as part of the Approved Purpose.

5. Recipient responsible for further funds

Without affecting clause 2.2 of the Grant Deed as originally signed, the Recipient acknowledges and agrees that the Grant provided is only a contribution towards carrying out the Approved Purpose and the Recipient must provide, or secure from one or more other sources, all remaining funds required for the completion of the Approved Purpose.

Operative provisions

The parties agree as follows:

1 Definitions and interpretation

1.1 Definitions

In this Deed, unless the context otherwise requires:

Commencement Date means the date set out in Item 1.

this Deed means this deed and includes all its annexures, appendices, attachments and schedules (if any).

Grant Deed means the grant deed described in Item 2.

Information Table means the table titled 'Information Table' set out above.

Item means an item in the Information Table.

Recipient means the recipient described in Item 3.

1.2 Interpretation

In this Deed, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) words importing a gender include all genders;
- (c) other parts of speech and grammatical forms of a word or phrase defined in this Deed have a corresponding meaning;
- (d) a reference to a thing (including property or an amount) is a reference to the whole and each part of that thing;
- (e) a reference to a group of persons includes a reference to any one or more of those persons;
- (f) a reference to an annexure, an appendix, an attachment, a schedule, a party, a clause or a part is a reference to an annexure, an appendix, an attachment, a schedule or a party to, or a clause or a part of, this Deed;
- (g) a reference to any legislation or legislative provision includes subordinate legislation made under it and any amendment to, or replacement for, any of them;
- (h) writing includes marks, figures, symbols, images or perforations having a meaning for persons qualified to interpret them;
- (i) a reference to a document includes:
 - (i) any thing on which there is writing;
 - (ii) any thing from which sounds, images or writings can be reproduced with or without the aid of any thing else;
 - (iii) an amendment or supplement to, or replacement or novation of, that document; or
 - (iv) a map, plan, drawing or photograph;

- (j) a reference to an agreement includes an undertaking, deed, agreement or legally enforceable arrangement or understanding, whether or not in writing;
- (k) a reference to a 'person' includes a natural person, a partnership, a body corporate, a corporation sole, an association, a Government Body, or any other entity;
- (l) a reference to a party includes that party's executors, administrators, successors and permitted assigns and substitutes;
- (m) a reference to a Minister includes, as applicable, that Minister's predecessors and successors in office;
- (n) a reference to a Government Body or other body or organisation that has ceased to exist, or that has been renamed, reconstituted or replaced, or the powers or functions of which have been substantially transferred, is taken to refer respectively to the Government Body or other body or organisation as renamed or reconstituted, or established or formed in its place, or to which its powers or functions have been substantially transferred;
- (o) a reference to an office in a Government Body or other body or organisation includes any person acting in that office, and if the office is vacant, the person who for the time being is substantially responsible for the exercise of the duties, functions or powers of that office;
- (p) mentioning any thing after the words 'includes', 'included' or 'including' does not limit the meaning of any thing mentioned before those words;
- (q) a reference to a day is to be interpreted as the period of time in Tasmania commencing at midnight and ending 24 hours later;
- (r) reference to a time or date in connection with the performance of an obligation by a party is a reference to the time or date in Hobart, Tasmania, even if the obligation is to be performed elsewhere; and
- (s) references to '\$' and 'dollars' are to Australian dollars.

1.3 Headings

Headings are included for convenience only and do not affect the interpretation of this Deed.

1.4 No rule of construction applies to disadvantage party

In relation to the interpretation of this Deed, no rule of construction is to apply to the disadvantage of a party because that party was responsible for the preparation of this Deed or any part of it.

1.5 Information Table

If there is an Information Table:

- (a) an Item that has not been completed will be taken to be 'not applicable'; and
- (b) unless the context otherwise requires, expressions defined in that table have the same meanings when used in other parts of this Deed.

2 Variation

- (a) The Grant Deed is amended and varied with effect on and from the Commencement Date in the manner set out in Item 4.
- (b) In all other respects the parties confirm the provisions of the Grant Deed.

3 Confidentiality

Despite any confidentiality subsisting in this Deed, any party may publish without reference to the other party all or any part of this Deed.

4 Miscellaneous

4.1 Governing law

This Deed is governed by the laws of Tasmania.

4.2 Severance

If a provision of this Deed is or at any time becomes illegal, prohibited, void or unenforceable for any reason, that provision is severed from this Deed and the remaining provisions of this Deed:

- (a) continue to be enforceable; and
- (b) are to be construed with such additions, deletions and modifications of language as are necessary to give effect to the remaining provisions of this Deed.

4.3 Counterparts

This Deed may be entered into in any number of counterparts. A party may execute this Deed by signing any counterpart. All counterparts, taken together, constitute one agreement.

4.4 Further assurance

The parties agree to do or cause to be done all such acts, matters and things (including, as applicable, passing resolutions and executing documents) as are necessary or reasonably required to give full force and effect to this Deed.

4.5 Legal costs

Each party must bear their own costs in preparing and negotiating this Deed.

4.6 Amendment

This Deed may only be amended or supplemented in writing signed by the parties.

4.7 No interference with executive duties or powers

Nothing in this Deed is intended to prevent, is to be taken to prevent, or prevents, the free exercise by the Governor, by any member of the Executive Council, or by any Minister of the Crown, of any duties or authorities of his or her office. Any provision of this Deed that is inconsistent with this clause is of no legal effect to the extent of the inconsistency.

Executed as a deed

Signing

Signing by Grantor

Executed as a deed on behalf of the **Crown in Right of Tasmania** by the person named below in the presence of the witness named below:

Signature:
→

Being a person who has authority to sign this Deed on behalf of the Crown.

*Print name and position:

Witness' signature:
→

*Witness print name and position:

*Use BLOCK LETTERS

*Witness print address:

Signing by Recipient

The common seal of **Southern Midlands Council** was hereunto affixed in the presence of:

Common seal:
→

Signature:
→

*Print name and position held:

Signature:
→

*Print name and position held:

*Use BLOCK LETTERS

17.2.4 TABLING OF DOCUMENTS

17.2.4.1 CRAIGBOURNE ROAD, COLEBROOK – TABLING OF CORRESPONDENCE (INFORMATION ONLY)

Author: GENERAL MANAGER (TIM KIRKWOOD)

Date: 6 DECEMBER 2019

Attachment:

F Miller - Email dated 1st December 2019

Simmons Wolfhagen – Letter dated 4th December 2019

ISSUE

Tabling of correspondence relevant to the closure of Craighourne Road, Colebrook.

DETAIL

The following correspondence is tabled for information only at this meeting:

1. F Miller - Email dated 1st December 2019.
2. Simmons Wolfhagen – Letter dated 4th December 2019.

Recognising that the submission made by Simmons Wolfhagen (acting on behalf of Mr F Miller) was only received by Abetz Curtis on 4th December 2019, it is not practical to provide a detailed report to Council to enable full consideration of the issues raised and options that may be available to Council.

Simmons Wolfhagen (Karen Abey) has been informed that the correspondence will only be tabled at this meeting with the intent of formally considering the matter at the January 2020 meeting.

Human Resources and Financial Implications – Nil comment.

Community Consultation and Public Relations Implications – Nil comment.

Policy Implications – Policy position.

Priority - Implementation Time Frame – Nil comment.

RECOMMENDATION

THAT the information be received, noting that this matter will be formally considered at the meeting scheduled for 22nd January 2020.

DECISION		
Councillor	Vote FOR	Vote AGAINST
Mayor A O Green		
Deputy Mayor E Batt		
Clr A Bantick		
Clr A E Bisdee OAM		
Clr K Dudgeon		
Clr D F Fish		
Clr R McDougall		

ENCLOSURE

Agenda Item 17.2.4.1

From: Fraser Miller <[REDACTED]>
Date: 1 December 2019 at 6:10:27 pm AEDT
To: Alexander Green <agreen@southernmidlands.tas.gov.au>
Subject: Trespass and Vandalism 1 Dec 2019

Alex,

Further to our conversation this afternoon about ongoing and continual vandalism to our property as afforded by the access of Craighourne Road I wish to draw yours and Councils attention to the issues we have faced this weekend alone. I have reported these issues to the police.

- Trespassers who were riding their dirt bikes amongst my cattle who have new born calves and still in calf. This caused one of them to break their leg and had to be put down at a cost of \$3,000.
- In addition there was significant damage to pasture which as you and the Council will be aware is in short supply given the lack of rain
- There have been at least 2 groups of fisherman driving through my property to launch boats, leaving gates open and allowing cattle to escape.
- There have been illegal shooters on the property last night at 2:45am

Obviously these issues are just related to this weekend but are by no means the only instances of trespass over the preceding months to which Council seeks to ignore and deflect onto the Tasmanian Police to resolve.

The overly simplistic approach of fencing the road reserve is not something that will work as both you and Council have acknowledged previously and I would request that Council revisit its decision to close this road as it is the only practical solution to these ongoing issues.

It is simply unacceptable that I as a private citizen should have to bear these costs particularly when Council has within its power to resolve this issue once and for all.

I would welcome you and Council to attend the property on the weekend so you can see first hand these issues of trespass so you can gain a better understanding of these issues.

Cheers,

Fraser

Contact: Karen Abey
Our Ref: KMA:NAB:192490

4 December 2019

Nathan Street
Abetz Curtis

By email: nstreet@abetzcurtis.com.au

Dear Mr Street,

Closure of Craighourne Road

We refer to your letter dated 1 October 2019, which provided some information and documentation on behalf of the Council regarding Craighourne Road.

As discussed, on the weekend, there was a further trespass on our clients' land. Some members of the public passed onto our clients' land on dirt bikes. They drove through cattle owned by our clients, one of whom suffered a broken leg and had to be euthanised. The value of that stock was \$3,000. The matter has been reported to Tasmania Police.

In addition, there was damage to pasture, destroying valuable and scarce feed, two groups of fisherman who let themselves into our clients' property, well beyond the obvious roadway end to launch boats (leaving gates open and destroying pasture) and illegal hunters on the property at 2:45am.

While there is not a weekend which passes without incident, the loss of valuable stock over the past weekend has prompted our clients to again request the Council to consider closing the part of Craighourne Road which passes over their land. The background to this matter and the impact of having the Road on their land is detailed below, so that the Council has a proper understanding of the impact on our clients.

We note the Council's concerns about funding an application to the Magistrates Court if the Council decides to close Craighourne Road. Our client is prepared to pay the Council's reasonable legal fees of any such application.

Hobart Office

Address Level 4, 99 Bathurst Street
Hobart TAS 7000
GPO Box 146

Launceston Office

Address 45 Cameron Street
Launceston TAS 7250
DN Box 170

ABN 31 635 248 976
Email info@simons.com.au

Lawyers specialising in

► Business Acquisitions, Partnerships, Company & Commercial Law
► Conveyancing, Property Development, Easements & Subdivisions
► Family & De Facto Relationship Law
► Gifts, Powers of Attorney & Administration of Estates

Background

Historically, Craigbourne Road allowed for travel between Hungry Flats Road to Colebrook Road. This changed in 1986, with the creation of the Craigbourne Dam which flooded some land which had been part of Craigbourne Road. You have indicated that it is assumed the relevant parts of Craigbourne Road were closed at the time, but we have not seen any documentation to support this assumption. We would be grateful if further efforts were made to locate this documentation so that there is a clear understanding of what has occurred.

A public access point for Craigbourne Dam has been created to allow for fishing and other leisure activities, accessible from Colebrook Road. This area has proper facilities, including parking, public toilets, a boat ramp and rubbish collection points and we understand it is well used.

Craigbourne Road passes through our clients' land and abruptly stops at the Dam. The Road is in poor condition, particularly where it meets the Dam.

No works have been undertaken to create a public access point for Craigbourne Dam where it meets our clients' land, yet it continues to be accessed by some members of the public. These works have been proposed by the Mayor to the Minister for Primary Industries. Our clients are disappointed that this step was taken without consultation with them, and despite having already indicated to the Council that this would exacerbate the instances of trespass by directing more people to the area.

Impacts

The impacts on our clients having Craigbourne Road on their land are as follows:

1. members of the public trespass onto their land on a regular basis;
2. illegal logging for firewood is often carried out on our clients' land, including up a treacherous track which is very dangerous when wet, posing serious risks to those who do so;
3. illegal hunting is also carried out on our clients' land, which poses a serious risk to the public and our clients, who face the risk that they could potentially be shot at;
4. damage is caused to pasture with vehicles driving across the property in particular dirt bikes which cause significant damage;

5. rubbish and waste is regularly dumped on the property, with trespasser's regularly defecating on my land and in my buildings;
6. damage is caused to fencing and other infrastructure, again on a regular basis; and
7. costs are incurred and time is spent by our clients to repair fencing and other infrastructure, and to recover stock which has escaped due to this damage.

A significant part of our clients' land – approximately 20% – is rendered unusable because of the public incursions, which prevent our clients from planting new pasture which is necessary to feed livestock. This impacts on the overall carrying capacity of the property, the ability to rotate stock across the property and exposes our clients' livestock to theft, escape and being killed either by shooting or being run over as has happened in the past.

Unfortunately, for practical reasons (limited staffing and travel times) the Tasmania Police are of no assistance to our clients to resolve these issues. Tasmania Police are supportive of the Road being closed, which is an acknowledgement that there is nothing the Police can do to prevent the activities on our clients' land.

Council Response

The position of the Council as we understand it is, in summary:

1. members of the public have the right to travel on the section of Craighourne Road which is on our clients' land;
2. the Council has no obligation to fence the Road; and
3. the Council has no obligation to take any other steps to inform members of the public as to the extent of our clients' land or to prevent trespasses onto our clients' land.

Your letter states that "your clients fencing their boundary is an obvious and simple solution to their concerns".

Aside from this, the Council has acknowledged that the Road is outside the road reservation, as shown on the survey which was provided to us. If the Road is not closed then our clients will request the Council to realign the Road so that it is within the road reservation.

Ongoing Concerns

Unfortunately, this response fails to take into account the fact that existing fencing which has been erected has been damaged, over and over again. Vehicles have travelled well inside our clients' land – clearly outside the road reservation – to destroy fencing, camping and lighting fires, carry out illegal shooting activities and to remove firewood without permission.

Attempts to lock gates on our clients' land have resulted in the gates being driven through and destroyed, which impacts on the efficiency with which they can farm their land.

The damage is clearly caused deliberately and most likely by vehicles being driven at the fencing. The destruction of fencing seems to be carried out for reasons which can only be explained through boredom or vindictiveness, or trying to gain access further into the property to shoot, camp, log, dump rubbish etc; the damage to the fencing makes no practical difference to the ability to access the Dam.

Given these circumstances, it is impossible to create fencing which is resistant to this type of interference.

You have suggested some sort of physical barrier such as large boulders so that the public cannot pass onto our clients' land, yet this would also effectively prevent our clients from using their own land.

Our clients have already incurred significant expense to repair existing fencing and it seems utterly pointless to spend tens of thousands of dollars to erect further fencing which it is assumed will be damaged or destroyed for similar reasons.

We acknowledge that the *Boundary Fences Act 1908* does not apply to roads, pursuant to s.7. There is no other statutory power to require the Council to erect or contribute to the cost of erecting fences on either side of a road such as this. Even if there were and the Council erected fencing, this would be of no value to our clients unless there was an undertaking or requirement to continually repair the damage which is expected to be caused to the fences.

In essence, the legislation does not respond to the current scenario and provides no protection to our clients from members of the public who are prepared to trespass onto their land.

There are no physical measures, no assistance from Police, no assistance from the Council and no legislative framework upon which our clients can rely to balance their interests against the people who use this Road.

Closure of part of Craighourne Road

On 24 October 2018, the Council considered whether to close the part of Craighourne Road on our clients' land and passed a resolution pursuant to the *Local Government (Highways) Act 1982* to do so for reasons of public benefit and in the interests of public safety.

Rather than follow the statutory processes to close the relevant part of the Road, the Council sought further public input on the closure. The Council also sought legal advice on the ability to close the Road pursuant to s.14, from your firm. That advice concluded, in summary, that the requirements of s.14 were met and the Road could be closed, but that the Council could take into account matters such as the number of complaints made to the Police and the costs of closing the Road if there was opposition (which was very likely) as a basis not to close the Road.

Having acknowledged the extensive issues faced by our clients if the Road remains open, the Council was advised that it had two options:

1. proceed to close the road in accordance with the *Local Government (Highways) Act 1982*; or
2. resolve not to close the road and continue to consult with the property owner(s) (and other stakeholders) to implement measures that will address the issues being experienced.

The decision to close the Road was rescinded on 23 January 2019.

Despite the acknowledgement that the Council should consult with the property owners to implement measures that will address the issues being experienced, it is our clients' position that there are no measures to implement that will address the issues they are experiencing, other than for them to abandon 20% of their land.

We understand that the Council has appointed a consultant to try and achieve a solution to the ongoing issues. This consultant has yet to contact our clients and it is unclear what his role and remit is in this matter, but our clients are concerned that there are discussions being had without their input as the main stakeholder in this matter.

The Council has suggested the "simple solution" for our clients to fence the Road, which is completely at odds with the practical reality of what has happened on the land and is likely to continue if further fencing is erected. The Council's decision on

23 January 2019 without proper regard to the ongoing impact of the Road staying open and the risks that this poses to both members of the public and our clients.

Outcome Sought

Ultimately, our clients' position is that the part of Craighourne Road which is on their land should be closed. It is our view that the requirements of s.14 of the *Local Government (Highways) Act 1982* (the Act) are met and that the Council should reconsider this matter again, taking into account the matters raised in this letter.

For convenience, s.14(1) is as follows:

If, in the opinion of the corporation, a local highway or part of a local highway should be diverted or closed for the public benefit, in the interests of public safety or because of lack of use...

The most thorough analysis of the meaning of this section is by then Chief Magistrate Shott in *Listers Land and Golconda Road*.¹

With respect to the Chief Magistrate, it is our opinion that the parts of this decision dealing with whether this is a two limbed test or a three limbed test, would not be followed today. As you would know, there has been a substantial shift in the authorities from the High Court regarding statutory interpretation subsequent to the *Listers Land and Golconda Road* decision.² The focus is now on the text, context and purpose of legislation.³ An historical review of past legislation is no longer encouraged as an approach to the interpretation of current legislation.

It follows, in our firm view, that only one of the three matters listed in s.14 must be satisfied in order to close a highway.⁴ Regardless, we say that there are two of the

¹ Reference pursuant to the *Local Government (Highways) Act 1982 section 14: Listers Lane and Golconda Road, Scottsdale, Tasmania* [2006] TASM 4

² Including *Alcan (NT) Alumina Pty Ltd v Commissioner of Territory Revenue* (2009) 239 CLR 27; *Zheng v Cai* (2009) 239 CLR 446; *Lacey v Attorney-General (Qld)* (2011) 242 CLR 573; *Certain Lloyd's Underwriters Subscribing to Contract No IH00AAQS v Cross* (2012) 248 CLR 378

³ *Sultan Holdings Pty Ltd v John Fuglsang Developments Pty Ltd* [2017] TASFC 14 at [49]

⁴ We have successfully made an application for a road to be closed for the Break O'Day Council based only on the public benefit limb. (Magistrates Court of Tasmania, Administrative Appeals Div, file no. M/2018/1371). An order was made in those proceedings on 27 June 2018, providing the Court's authorisation to close part of Parkside Avenue. The justification provided was that closure of that road would allow a development to take place on that land, which would encourage tourism and provide a boost to the community.

matters in s.14 which are satisfied: public benefit and public safety. Your firm has already acknowledged in the advice provided by your firm to the Council on 6 November 2018, at [5.4], that there is a sufficient basis to close the road on these grounds.

Clearly, the “public benefit” element in s.14 is broad. In every other respect, the Council (as “the corporation”) under the Act has broad powers to open, maintain and regulate “highways” as it sees fit. It follows that the phrase “public benefit” should be interpreted in that context. The Council is the entity which is best suited to assess the needs and requirements of the public, and to assess the costs and benefits of keeping the relevant part of Craighourne Road open.

It should, in our view, take into account the fact that:

1. keeping the Road open has a significant financial impact on our clients which they are powerless to prevent in a practical way;
2. our clients are not able to be supported in any meaningful way by Tasmania Police, and the law of trespass provides no effective control for the actions which have taken place on their land;
3. the legislative regime provides our clients with no power to require the Council to take steps to fence and maintain that fencing – it is their burden alone;
4. our clients will not gain anything, as such, by the closure of the Road – other than to be able to enjoy the rights to use their land as any landowner should be able to do. To this extent, there is no private benefit to them by the Road being closed, merely removing the negative impacts of the Road remaining open;
5. the closure of the Road could be carried out by our clients by placing a physical barrier which could not be crossed, at the point of entry;
6. while there was a substantial resistance to the closure of the Road presented to the Council,⁵ it is understood that this level of interest is not reflected in the number of people who actually use the Road;⁶

⁵ Our clients are concerned about the impact of some incorrect information which was circulating, including that the road closure would prevent access to the Dam entirely – we can address this further, if required

⁶ For example, there were people who reside in Canada who signed the petition

SIMMONS WOLFHAGEN

7. members of the public have not respected our clients' private land rights and it is unreasonable for them to push for the Road to remain open while having the intention to continue to abuse that right.

We note the Council's concerns about funding an application to the Magistrates Court if the Council decides to close Craighourne Road. Our client is prepared to pay the Council's reasonable legal fees.

Could you please pass on this request to the Council. We understand that this matter is already on the agenda to be discussed on 11 December 2019.

If you would like to discuss this matter further, please contact us.

Yours faithfully
Simmons Wolfhagen



Karen Abey
Managing Associate | Local Government, Planning & Development Law
karen.abey@simwolf.com.au

17.2.5 ELECTED MEMBER STATEMENTS

An opportunity is provided for elected members to brief fellow Councillors on issues not requiring a decision.

17.3 Finances

Strategic Plan Reference(s) 6.3.1, 6.3.2 & 6.3.3

Community's finances will be managed responsibly to enhance the wellbeing of residents / Council will maintain community wealth to ensure that the wealth enjoyed by today's generation may also be enjoyed by tomorrow's generation / Council's financial position will be robust enough to recover from unanticipated events, and absorb the volatility inherent in revenues and expenses.

17.3.1 MONTHLY FINANCIAL STATEMENT (PERIOD ENDING 30 NOVEMBER 2019)

Author: FINANCE OFFICER (COURTNEY PENNICOTT)

Date: 6 DECEMBER 2019

ISSUE

Due to the issue date of this agenda, the financials for the period ending 30th November 2019 are not available.

18. MUNICIPAL SEAL

Nil.

19. CONSIDERATION OF SUPPLEMENTARY ITEMS TO THE AGENDA

Council to address urgent business items previously accepted onto the agenda.

RECOMMENDATION

THAT in accordance with Regulation 15 of the *Local Government (Meeting Procedures) Regulations 2015*, the following items are to be dealt with in Closed Session.

Matter	Local Government (Meeting Procedures) Regulations 2015 Reference
<i>Closed Council Minutes - Confirmation</i>	15(2)
<i>Applications for Leave of Absence</i>	15(2)(h)
<i>Property Matter – Kempton</i>	15(2)
<i>Tender - Woodsdale Road Bridge, over the Nutting Garden Rivulet</i>	15(2)(d)

DECISION		
Councillor	Vote FOR	Vote AGAINST
Mayor A O Green		
Deputy Mayor E Batt		
Clr A Bantick		
Clr A E Bisdee OAM		
Clr K Dudgeon		
Clr D F Fish		
Clr R McDougall		

RECOMMENDATION

THAT in accordance with Regulation 15(2) of the *Local Government (Meeting Procedures) Regulations 2015*, Council move into Closed Session and the meeting be closed to members of the public.

DECISION (MUST BE BY ABSOLUTE MAJORITY)		
Councillor	Vote FOR	Vote AGAINST
Mayor A O Green		
Deputy Mayor E Batt		
Clr A Bantick		
Clr A E Bisdee OAM		
Clr D F Fish		
Clr K Dudgeon		
Clr R McDougall		

CLOSED COUNCIL AGENDA

20. BUSINESS IN “CLOSED SESSION”

Regulation 15 of the Local Government (Meeting Procedures) Regulations 2015 provides that Council may consider certain sensitive matters in Closed Meeting.

The following matters have been listed in the Closed Meeting section of the Council Agenda in accordance with Regulation 15 of the Local Government (Meeting Procedures) Regulations 2015.

20.1 CLOSED COUNCIL MINUTES - CONFIRMATION

20.2 APPLICATIONS FOR LEAVE OF ABSENCE

20.3 PROPERTY MATTER - KEMPTON

20.4 TENDER – WOODSDALE ROAD BRIDGE, OVER THE NUTTING GARDEN RIVULET, BRIDGE B3968

RECOMMENDATION

THAT Council move out of “Closed Session”.

DECISION		
Councillor	Vote FOR	Vote AGAINST
Mayor A O Green		
Deputy Mayor E Batt		
Clr A Bantick		
Clr A E Bisdee OAM		
Clr K Dudgeon		
Clr D F Fish		
Clr R McDougall		

OPEN COUNCIL AGENDA

21. CLOSURE