

SOUTHERN
MIDLANDS
COUNCIL



MINUTES

ORDINARY COUNCIL MEETING

Wednesday, 23rd January 2019

Campania Community Hall
Reeve Street, Campania

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OPEN COUNCIL MINUTES

MINUTES OF AN ORDINARY MEETING OF THE SOUTHERN MIDLANDS COUNCIL
HELD ON WEDNESDAY, 23rd JANUARY 2019 AT THE CAMPANIA COMMUNITY
HALL, RREVE STREET, CAMPANIA COMMENCING AT 10:00 A.M

1. PRAYERS

Rev Dennis Cousens recited prayers.

2. ATTENDANCE

Mayor A O Green, Deputy Mayor E Batt, Clr A Bantick, Clr A Bisdee OAM, Clr K Dudgeon, Clr D Fish, Clr R McDougall

Mr T Kirkwood (General Manager), Mr A Benson (Deputy General Manager), Mr D Cundall (Manager, Development & Environment Services), Mr J Lyall (Manager, Infrastructure & Works), Mrs W Young (Corporate Compliance Officer), Miss E Lang (Executive Assistant)

3. APOLOGIES

Nil.

4. MINUTES

4.1 ORDINARY COUNCIL MINUTES

The Minutes (Open Council Minutes) of the previous meeting of Council held on the 12th December 2018, as circulated, are submitted for confirmation.

DECISION

Moved by Deputy Mayor E Batt, seconded by Clr D Fish

THAT the Minutes (Open Council Minutes) of the previous meeting of Council held on the 12th December 2018, as circulated, be confirmed.

CARRIED

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

4.1.2 SPECIAL MEETING MINUTES

The Minutes of the Special Meeting of Council held on the 19th December 2018, as circulated, are submitted for confirmation.

DECISION

Moved by Deputy Mayor E Batt, seconded by Clr K Dudgeon

THAT the Minutes of the Special Meeting of Council held on the 19th December 2018, as circulated, be confirmed.

CARRIED

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

4.1.3 ANNUAL GENERAL MEETING MINUTES

The Minutes of the Annual General Meeting of Council held on the 12th December 2018, as circulated, are submitted for confirmation.

Note: Section 72B of the *Local Government Act 1993* states that any motion passed at an Annual General Meeting must be considered at the next meeting of Council.

Motions passed at the Annual General Meeting are listed for consideration under Agenda Item 17.2.2.

DECISION

Moved by Clr D Fish, seconded by Clr A Bantick

THAT the Minutes of the Annual General Meeting of Council held on the 12th December 2018, as circulated, be confirmed.

CARRIED

Councillor	Vote FOR	Vote AGAINST
Mayor A O Green	√	
Deputy Mayor E Batt	√	
Clr A Bantick	√	
Clr A 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:

- Nil.

DECISION NOT REQUIRED

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.

- Nil.

DECISION NOT REQUIRED

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 – Nil.
- Southern Tasmanian Councils Authority – 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

Moved by Clr K Dudgeon, seconded by Clr A Bisdee OAM

THAT the information be received.

CARRIED

Councillor	Vote FOR	Vote AGAINST
Mayor A O Green	√	
Deputy Mayor E Batt	√	
Clr A Bantick	√	
Clr A 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.

Nil.

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

Clr K Dudgeon – Council Meeting, Tunbridge (February 2019) – can an update regarding the renewal / maintenance of the Tunbridge Bridge be provided to this meeting?

It was advised that a representative from the Department of State Growth will be invited to attend this meeting.

Clr K Dudgeon – SMC Municipal Boundary Sign on the Buckland Road has been vandalised. Can a replacement sign be installed?

Item will be referred to Infrastructure and Works to rectify.

Clr A Bisdee OAM – referred to the December 2018 issue of Southern Midlands Regional News (SMRN), and in particular the commentary regarding the Mayor and General Manager’s attendance at the 2018 ALGA conference. SMRN reported that costs for attendance at this conference were between \$8,000 - \$10,000.

Mayor Bisdee advised that this was inaccurate and referred to an Email sent to SMRN regarding costs for the 2017 conference. This confirmed that costs for the 2017 ALGA Conference were \$4649.42 and that the 2018 conference costs would be similar.

Clr Bisdee stated he is concerned that inaccurate costings are printed without confirmation from Council. It is an ongoing issue regarding misquoting amounts in the SMRN. Should council consider a supplement in the next edition of the Council Newsletter to accurately report such costs?

Question taken on notice. Final costings to be provided to SMRN.

Clr R McDougall – advice that the ‘No Parking’ sign on Church Street, Oatlands (opposite the MMPHC) has been partially pushed over. Request that it be straightened and would it be possible to consider erection in a more prominent location.

Item will be referred to Infrastructure and Works to rectify.

Clr R McDougall – Council seating arrangements in venues (other than the Oatlands and Kempton Council Chambers) - can the table(s) and seating be arranged in a ‘u-shape’ or similar so that Councillors are not sitting with their backs to the members of the public in attendance.

Noted.

Clr D Fish – question regarding Citizenship Ceremonies and recent information about them being held on Australia Day. Does Council need to comment on this issue?

Mayor Green commented that he doesn’t believe Council needs to formally respond to this issue as it is normal practice for SMC to conduct citizenship ceremonies on Australia Day, plus other occasions as necessary. There are no plans to change this past practice.

Mayor A Green – need for additional signage to be erected in the vicinity of Council’s Roadside Stopover areas which clearly indicate acceptable locations for motorhomes / campers. At present, there are cases being reported where visitors are occupying inappropriate locations impacting on general public use.

Noted and will be referred to the relevant committees for action (i.e. Lake Dulverton and Callington Park Management Committee and Kempton Streetscape Committee).

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*.

Nil.

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.

The General Manager reported that the following item needs to be included on the Agenda. The matter is urgent, and the necessary advice is provided where applicable:-

1. INCLUSION OF FEE FOR PROVISION OF GOODS AND SERVICE –USED WASTE AND RECYCLING BINS - AMENDMENT OF SCHEDULE OF FEES AND CHARGES 2018-2019

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

Moved by Clr A Bisdee OAM, seconded by Clr R McDougall

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

CARRIED

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

9. PUBLIC QUESTION TIME (SCHEDULED FOR 12.30 PM)

Public Question Time was held later in the meeting.

9.1 Permission to Address Council

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

- Representative from the Inland Fisheries Service will address Council at 10.45 a.m.
- Mr Fraser Miller will address Council at 11.00 a.m.

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

Nil.

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

11.1.1 DEVELOPMENT APPLICATION (DA 2018/101) FOR CHANGE OF USE FOR VISITORS ACCOMMODATION (CARETAKER'S HOUSE & 4 CARAVAN BAYS) AT CHAUNCY VALE CONSERVATION AREA, 350 CHAUNCY VALE ROAD, BAGDAD, OWNED BY SOUTHERN MIDLANDS COUNCIL

File Ref: T 5018939

Author: SENIOR PLANNING OFFICER (JACQUI TYSON)

Date: 15 JANUARY 2019

Enclosure(s):

*Development Application documents
Representations*

PROPOSAL

Application is made by Southern Midlands Council for a Permit under the *Land Use Planning and Approvals Act 1993* ("the Act") for a change of use to allow the part time use of the Chauncy Vale property for short stay Visitor accommodation.

Under the proposal the Caretaker's cottage and four bays for self-contained campervans would be made available for Visitor accommodation bookings. The proposal does not include any physical works.

The campervan bays are located in existing cleared areas. The bays are formed with gravel and marked with signs, which are exempt works under the planning scheme.

The three bedroom Caretaker's cottage would be available to one person/group at a time. The campervan bays are located along the internal access road, with one bay near the picnic shelter and three near the larger public shelter.

The historic 'Day Dawn' cottage is not subject to this proposal.

The application has been lodged under the *Southern Midlands Interim Planning Scheme 2015* ("the Planning Scheme").

The land is zoned Environmental Management and is covered by the Chauncy Vale Specific Area Plan.

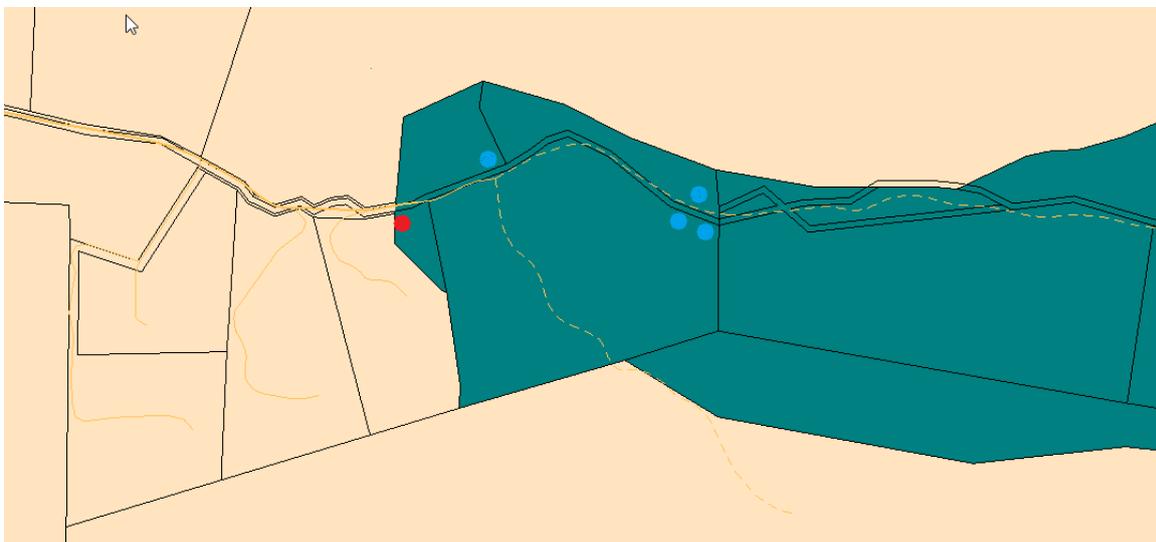
Under the Planning Scheme the proposal is defined as use for “Visitor accommodation”. A permit for this type of development is considered at the discretion of Council.

The Council gave notice of the application for public comment for 14 days. During the notification period two (2) representations were received.

This report will assess the proposal against the relevant provisions of the Act and the Scheme. It is recommended that Council approve the proposal.

THE SITE

Maps 1 and 2 below shows the location and zoning of the property and surrounding area.



Map 1_ The subject land is located in the Environmental Management Zone (dark green) and surrounding properties are in the Rural Resource Zone (cream). The approximate location of the Caretaker's cottage is marked in red and the four campervan bays in blue. Source: LISTmap



Map 2 _ Aerial image of the subject land and surrounding area.

The Chauncy Vale reserve is located at 350 Chauncy Vale Road, which is at the end of the public road.

Chauncy Vale Wildlife Sanctuary was established in 1946 by the former owners, the Chauncy family, and is now owned by Southern Midlands Council. Chauncy Vale includes approximately 380ha of land across seven titles. The adjoining Flat Rock Reserve (455ha) is owned by the Tasmanian Land Conservancy.

Chauncy Vale and Flat Rock Reserve are managed jointly by the Chauncy Vale Management Committee, which includes representatives of Southern Midlands Council, Parks and Wildlife Service, the Chauncy family and the Tasmanian Land Conservancy, primarily for conservation of natural values and associated recreational purposes.

Council have recently gained grants and invested in renovations of the Caretaker's cottage, public shelter building and associated infrastructure including tracks and signs.

The properties surrounding the reserve site are generally characterised as a mix of smaller rural lifestyle lots along Chauncy Vale Road and larger forested properties to the north and south.

THE APPLICATION

The Applicant has been submitted with the attached site plan and floor plan to accompany the Development Application form.

USE/DEVELOPMENT DEFINITION

The proposed use and development is defined, under the Planning Scheme, as 'Visitor accommodation':

Visitor accommodation

Use of land for providing short or medium term accommodation for persons away from their normal place of residence.

Examples include a backpackers hostel, bed and breakfast establishment, camping and caravan park, holiday cabin, holiday unit, motel, overnight camping area, residential hotel and serviced apartment.

Use/Development Status under the Planning Scheme

Under the Scheme, a Development Application for use or development relating to 'Visitor accommodation' in the Environmental Management Zone must be considered at the discretion of Council.

As a discretionary development, the application was advertised in accordance with Section 57 of the Act. Council has the discretion to grant a permit or refuse to grant a permit.

PUBLIC NOTIFICATION AND REPRESENTATIONS

The application was advertised on the 7th December 2018 for fourteen (14) days. During this period Council received two (2) representations. The applicant has provided a response to the matters raised in the representations. The representations and response are detailed in the table below.

Representation 1	Council Officer Comment
<p>I am writing in reply to the letter we received about application for care takers house and 4 caravan bays.</p> <p>We don't have a problem with any development at the sanctuary our road is not suitable for an increase in caravans, in some parts of the road it is already difficult to pass a car.</p> <p>You need to upgrade the road, we have already had a truck go of the road after you approved there upgrade of business and we stated our complaints of the road then also.</p>	<p><i>The proposal is not expected to generate a significant increase in traffic on Chauncy Vale Road.</i></p> <p><i>Chauncy Vale Road has recently been upgraded with some road widening works.</i></p> <p><i>Overall the road has relatively low use that is well within the capacity of the road as it is currently.</i></p>
<p>Our boundary is on the sanctuary side if you are increasing tourists you will need to define what is our boundary and what is out of bounds, maybe an upgrade of the fence at their expense we have already had people up here in the past from the sanctuary.</p>	<p><i>There is no intention to construct new boundary fences due to the cost and impact to the native vegetation required to achieve this.</i></p> <p><i>It has been agreed that some signs could be placed at intervals along the boundaries where practical to do so.</i></p>
Representation 2	Council Officer Comment
<p>I am writing regards to the proposed changes to Chauncey Vale Reserve. My family have lived next door to the reserve for over 18 years now with no concerns.</p> <p>With the proposed changes that the council want to make we are against it completely.</p> <p>Our neighbours are also concerned.</p> <p>Our concerns are the following.</p> <p>It is a reserve for wildlife and vegetation, a piece of land managed so as to preserve its flora, fauna, and physical features.</p> <p>The land was left to the people of Bagdad so it could stay natural and safe for its neighbouring animals and environment. This wildlife, nature reserve should not be a profitable area for the council.</p>	<p><i>The proposal is for a change of use to an existing building and campervan bays on existing cleared areas.</i></p> <p><i>No direct impacts to biodiversity will occur as no physical works are proposed.</i></p> <p><i>The proposed Visitor accommodation uses will occur in the zones of the reserve that are set aside for visitors, in accordance with the reserve management plan.</i></p>

<p>One main reason why we have nature reserves is to protect our biodiversity- the degree of variation of life. A sufficient biodiversity is required to keep our ecosystem in natural balance. A healthy biodiversity is of extreme importance to humanity as it provides a number of natural services for everyone.</p>	
<p>What about the extra threat of bush fires?</p>	<p><i>There is nothing to indicate that the proposed use will increase fire danger.</i></p> <p><i>Having people on site more often may be of benefit in raising alarm if a bushfire occurs and to deter inappropriate use of the reserve that may be a risk.</i></p> <p><i>Chauncy Vale is closed during high fire danger and this policy will extend to the Visitor accommodation.</i></p>
<p>I believe all residents should be concerned because of increasing traffic on an inadequate road. Are visitors aware that there is no insurance with hire cars on gravel roads, where does that leave the locals if we get run into by a tourist</p>	<p><i>As mentioned above, the expected traffic is within the capacity of Chauncy Vale Road.</i></p> <p><i>Car insurance is not a planning matter, however it is noted that day visitors to the site may also be using hire cars. It is assumed that individuals are aware of any conditions of hire.</i></p>
<p>What about toilet facilities (dumping which can run into creeks), rubbish in park and on road?</p>	<p><i>There are sufficient toilet and rubbish facilities at the site.</i></p>
<p>The biggest concern is the safety and vulnerability to our homes. Due to not having a caretaker on the reserve and strangers being there at all times.</p>	<p><i>Chauncy Vale is a public reserve already open to visitors. There is nothing to indicate that the proposed use presents a security risk.</i></p>
<p>Trespassing on neighbouring land is a big concern as it already happens from time to time.</p>	<p><i>As mentioned above, additional signage is to be installed at intervals to identify the boundaries.</i></p> <p><i>It is noted that existing visitor information signs encourage people to remain on the tracks and trails.</i></p>

ASSESSMENT - THE SOUTHERN MIDLANDS INTERIM PLANNING SCHEME

Environmental Management Zone

The subject site is in the Environmental Management Zone. The proposal must satisfy the requirements of the following relevant use and development standards of this zone:

<p>Use Standard 29.3.1 Use Standards for Reserved Land To provide for use consistent with any strategies for the protection and management of reserved land.</p>	
Acceptable Solutions	OFFICER COMMENT
<p>A1</p> <p>Use is undertaken in accordance with a reserve management plan.</p>	<p>In regard to A1, there are two relevant reserve management plans for the site:-</p> <p><u><i>Chauncy Vale Wildlife Sanctuary Management Plan 1993</i></u> This is a statutory plan under the Nature Conservation Act 1993.</p> <p><u><i>Chauncy Vale Wildlife Sanctuary and Flat Rock Reserve, Bagdad – Joint Management Plan 2010</i></u> This document was produced in conjunction with the Tasmanian Land Conservancy after they acquired Flat Rock Reserve in 2006, which directly adjoins Chauncy Vale.</p> <p>The Joint Management Plan (JMP) provides a contemporary interpretation of the 1993 plan, updated to include Flat Rock Reserve and the current ownership and management arrangements.</p> <p>The Management Plans identify five zones within the reserve, being: Zone 1 – Private Caretaker and Management Area Zone 2 – Heritage Area Zone 3 – Visitor Services Area Zone 4 – Natural Area; and Zone 5 – Restricted Area.</p> <p>The Caretaker' cottage is located in Zone 1 and the proposed campervan bays are located in Zone 3, in cleared areas close to the existing visitor facilities.</p> <p>Section 2.3.2 of the JMP addresses Recreation and Tourism. The Conservation Objective for this section is:</p> <p><i>Provide opportunities for the public to undertake recreation and tourism safely at Chauncy Vale Wildlife Sanctuary and Flat Rock Reserve, within the limits of the conservation objectives of the Management Plan and within the resources available to management of the reserves.</i></p>

	<p>Relevant Specific Management Actions include:</p> <ul style="list-style-type: none"> • <i>Consider the possibility of overnight stays by self sufficient vans without pets within the visitor services area only. If approved, develop guidelines for implementation by caretakers.</i> • <i>Employ a resident caretaker to oversee public use and visitation of Chauncy Vale Wildlife Sanctuary.</i> <p>Overnight stays by campervans as proposed is directly in accordance with the first Management Action listed above.</p> <p>However, the JMP doesn't directly address use of the Caretaker's cottage for purposes other than a resident caretaker.</p> <p>Recent issues with retaining a reliable caretaker and the desire to make the most of the renovated building have encouraged the Committee and Council to consider other options, leading to this proposal.</p> <p>While the proposal is considered to be generally in accordance with the reserve management plan, it is considered appropriate to also consider the Performance Criteria P1 for certainty.</p>
<p>Performance Criteria</p>	<p>OFFICER COMMENT</p>
<p>P1</p> <p>Use must satisfy all of the following:</p> <p>(a) be complementary to the use of the reserved land;</p> <p>(b) be consistent with any applicable objectives for management of reserved land provided by the National Parks and Reserves Management Act 2002;</p> <p>(c) not have an unreasonable impact upon the amenity of the surrounding area through commercial vehicle movements, noise, lighting or other emissions that are unreasonable in their timing, duration or extent.</p>	<p>(a) The proposed use of the existing Caretaker's cottage for part time Visitor accommodation is considered to be complementary to the ongoing protection and use of Chauncy Vale for recreational purposes. The Caretaker's cottage is located right at the entrance to the reserve and will not create any physical impact on the property.</p> <p>(b) The proposal is in accordance with the objectives for management of reserved land, specifically a Conservation area, as listed in the National Parks and Reserves Management Act 2002 and reproduced below – with particular relevance to clause (l);</p> <p><i>Conservation Area</i> <i>The following objectives:</i></p> <p><i>(a) to conserve natural biological diversity;</i> <i>(b) to conserve geological diversity;</i> <i>(c) to preserve the quality of water and protect catchments;</i> <i>(d) to conserve sites or areas of cultural significance;</i> <i>(e) to provide for the controlled use of natural resources including special species timber harvesting, and including as an adjunct to utilisation of marine resources;</i> <i>(f) to provide for exploration activities and utilisation of mineral resources;</i> <i>(g) to provide for the taking, on an ecologically sustainable basis, of designated game species for commercial or private purposes, or both;</i></p>

	<p><i>(h) to provide for other commercial or industrial uses of coastal areas;</i></p> <p><i>(i) to encourage education based on the purposes of reservation and the natural or cultural values of the conservation area, or both;</i></p> <p><i>(j) to encourage research, particularly that which furthers the purposes of reservation;</i></p> <p><i>(k) to protect the conservation area against, and rehabilitate the conservation area following, adverse impacts such as those of fire, introduced species, diseases and soil erosion on the conservation area's natural and cultural values and on assets within and adjacent to the conservation area;</i></p> <p><i>(l) to encourage appropriate tourism, recreational use and enjoyment (including private uses) consistent with the conservation of the conservation area's natural and cultural values;</i></p> <p><i>(m) to encourage cooperative management programs with Aboriginal people in areas of significance to them in a manner consistent with the purposes of reservation and the other management objectives.</i></p> <p>(c) The proposed use for Visitor accommodation is not expected to have any unreasonable impacts on the amenity of adjoining properties.</p> <p>The proposal does not include any commercial vehicle movements. The overall level of traffic to the site is not expected to be noticeably different to what is currently generated by day visitors.</p> <p>The level noise, lighting or other emissions is expected to be no different than when the Caretaker's cottage has been used as a residence and similar to that of any other residential property. The campervan parking bays are located further inside the reserve and away from neighbouring properties.</p>
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Parking and Access Code

This Code applies to all use and development.

For the Visitor accommodation use the Scheme requires one parking space for each unit.

In this case there is sufficient space available at the Caretaker's cottage to park one car, in accordance with this requirement. The campervan bays are located in existing cleared, level areas suitable for parking.

Chauncy Vale Special Area Plan

The purpose of the Chauncy Vale Special Area Plan is to ensure that development in and around the Chauncy Vale Wildlife Sanctuary maintains the natural heritage values and cultural heritage values of the Sanctuary.

The Specific Area Plan only includes Development standards, there are no Use standards.

As this proposal is for a change of use only, assessment against the standards is not required.

CONCLUSION

The report has assessed a Development Application for a change of use to allow the part time use of the Chauncy Vale property for short stay Visitor accommodation.

Two (2) representations were made to Council raising various matters, as considered in the assessment above.

The proposal has been found to comply with all the relevant standards of the Environmental Management Zone and the applicable Codes and Specific Area Plan.

It is recommended that the Application be approved and a Permit issued with conditions and advice.

RECOMMENDATION

THAT, in accordance with the provisions of the *Southern Midlands Interim Planning Scheme 2015* and section 57 of the *Land Use Planning & Approvals Act 1993*, Council APPROVE the Development Application (DA 2018/101) for Change of Use for Visitors Accommodation (Caretaker's house & 4 Caravan bays) at Chauncy Vale Conservation Area, 350 Chauncy Vale Road, Bagdad, owned by Southern Midlands Council and that a permit be issued with the following conditions:

CONDITIONS

General

- 1) The use or development must be carried out substantially in accordance with the application for planning approval, the endorsed drawings and with the conditions of this permit and must not be altered or extended without the further written approval of Council.
- 2) This permit shall not take effect and must not be acted on until 15 days after the date of receipt of this letter or the date of the last letter to any representor, whichever is later, in accordance with section 53 of the *Land Use Planning and Approvals Act 1993*.

Access and Parking

- 3) At least one (1) parking spaces must be provided for the use of the occupiers of the Caretaker's cottage in accordance with Standards Australia (2004): Australian Standard AS 2890.1 - 2004 – Parking Facilities Part 1: Off Street Car Parking; Standards Australia, Sydney.

The following advice applies to this permit:

- A. This permit does not imply that any other approval required under any other legislation has been granted.

- B. This Planning Permit is in addition to the requirements of the Building Act 2016. Approval in accordance with the Building Act 2016 may be required prior to works commencing.

DECISION

Moved by Clr A Bisdee OAM, seconded by Clr D Fish

THAT, in accordance with the provisions of the *Southern Midlands Interim Planning Scheme 2015* and section 57 of the *Land Use Planning & Approvals Act 1993*, Council APPROVE the Development Application (DA 2018/101) for Change of Use for Visitors Accommodation (Caretaker's house & 4 Caravan bays) at Chauncy Vale Conservation Area, 350 Chauncy Vale Road, Bagdad, owned by Southern Midlands Council and that a permit be issued with the following conditions:

General

- 1) The use or development must be carried out substantially in accordance with the application for planning approval, the endorsed drawings and with the conditions of this permit and must not be altered or extended without the further written approval of Council.
- 2) This permit shall not take effect and must not be acted on until 15 days after the date of receipt of this letter or the date of the last letter to any representor, whichever is later, in accordance with section 53 of the *Land Use Planning and Approvals Act 1993*.

Access and Parking

- 3) At least one (1) parking spaces must be provided for the use of the occupiers of the Caretaker's cottage in accordance with Standards Australia (2004): Australian Standard AS 2890.1 - 2004 – Parking Facilities Part 1: Off Street Car Parking; Standards Australia, Sydney.

The following advice applies to this permit:

- A. This permit does not imply that any other approval required under any other legislation has been granted.
- B. This Planning Permit is in addition to the requirements of the Building Act 2016. Approval in accordance with the Building Act 2016 may be required prior to works commencing.

CARRIED

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

ENCLOSURE

Item 11.1.1



DA 2018/101
5018939
350 Chauncy Vale Road BAGDAD

APPLICATION FOR PLANNING PERMIT – USE AND DEVELOPMENT
Residential Development

Use this form to apply for planning approval in accordance with section 57 and 58 of the Land Use Planning and Approvals Act 1993

Applicant / Owner Details:

Owner / s Name SOUTHERN MIDLANDS COUNCIL

Postal Address 350 CHAUNCY VALE ROAD Phone No: 62 59 3011
BAGDAD 7030 Fax No: 62 59 13 27

Email address mail@southernmidlands

Applicant Name (if not owner)

Postal Address Phone No: Fax No:

Email address:

Description of proposed use and/or development:

Address of new use and development: 350 CHAUNCY VALE ROAD, BAGDAD 7030.

Certificate of Title No: Volume No: 104731 Lot No: 1

Description of proposed use or development: Short stay accommodation in the 3 bedrooms of caretaker house
Up to 4 campervans in Visitor Area

Current use of land and buildings: CARETAKER HOUSE & VISITOR USE AREA.

Is the property Heritage Listed? Yes No

ie: New Dwelling /Additions/ Demolition / Shed / Farm Building / Carport / Swimming Pool or detail other etc.

Eg. Are there any existing buildings on this title? If yes, what is the main building used as?





Proposed Material	What are the proposed external wall colours		What is the proposed roof colour	
	What is the proposed new floor area m ² .		What is the estimated value of all the new work proposed:	\$

Please attach any additional information that may be required by Part 8.1 Application Requirements of the Planning Scheme.

Signed Declaration [REDACTED]

I/we hereby apply for a planning approval to carry out the use or development described in this application and in the accompanying plans and documents, accordingly I declare that:

- The information given is a true and accurate representation of the proposed development. I understand that the information and materials provided with this development application may be made available to the public. I understand that the Council may make such copies of the information and materials as, in its opinion, are necessary to facilitate a thorough consideration of the Development Application. I have obtained the relevant permission of the copyright owner for the communication and reproduction of the plans accompanying the development application, for the purposes of assessment of that application. I indemnify the Southern Midlands Council for any claim or action taken against it in respect of breach of copyright in respect of any of the information or material provided.
- I am the applicant for the planning permit and I have notified the owner/s of the land in writing of the intention to make this application in accordance with Section 52(1) of the *Land Use Planning Approvals Act 1993* (or the land owner has signed this form in the box below in "Land Owner(s) signature");

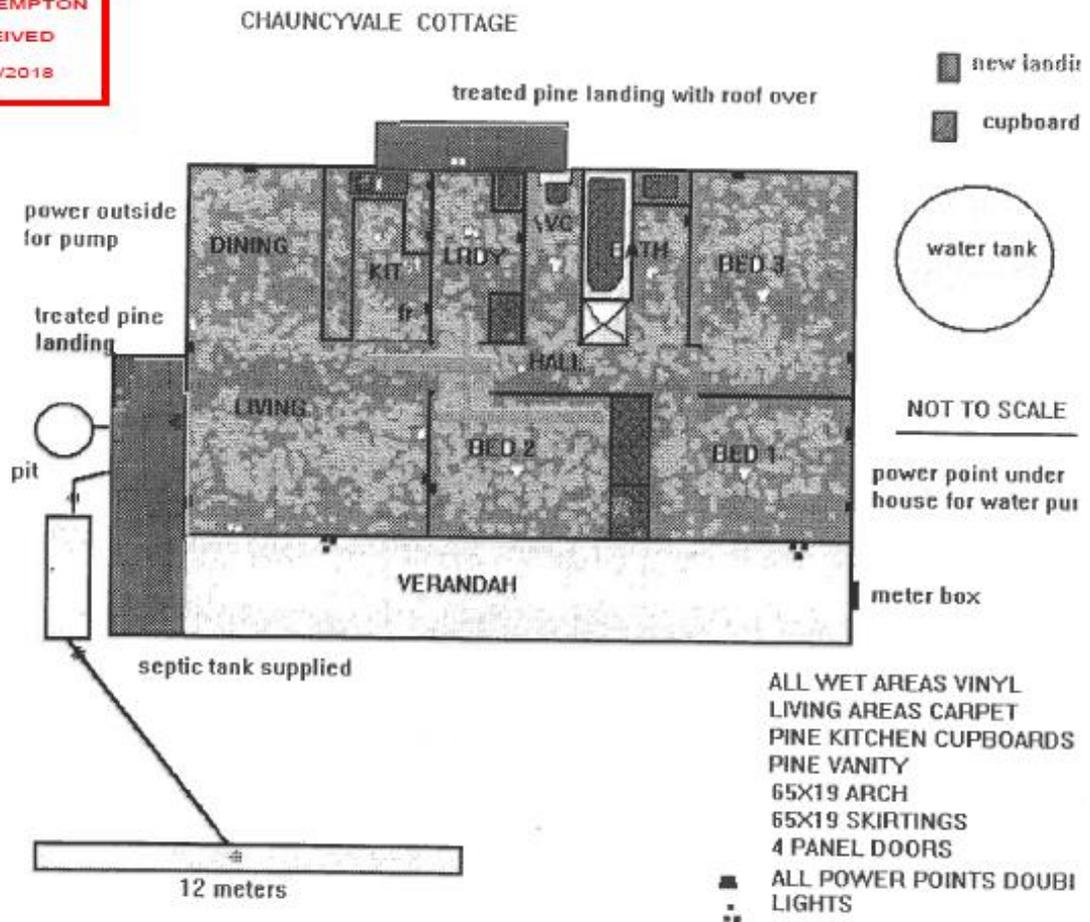
Applicant Signature <i>Graham Green</i> (if not the Owner)	Applicant Name (Please print) Graham Green	Date 29/11/18
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Land Owner(s) Signature	Land Owners Name (please print)	Date
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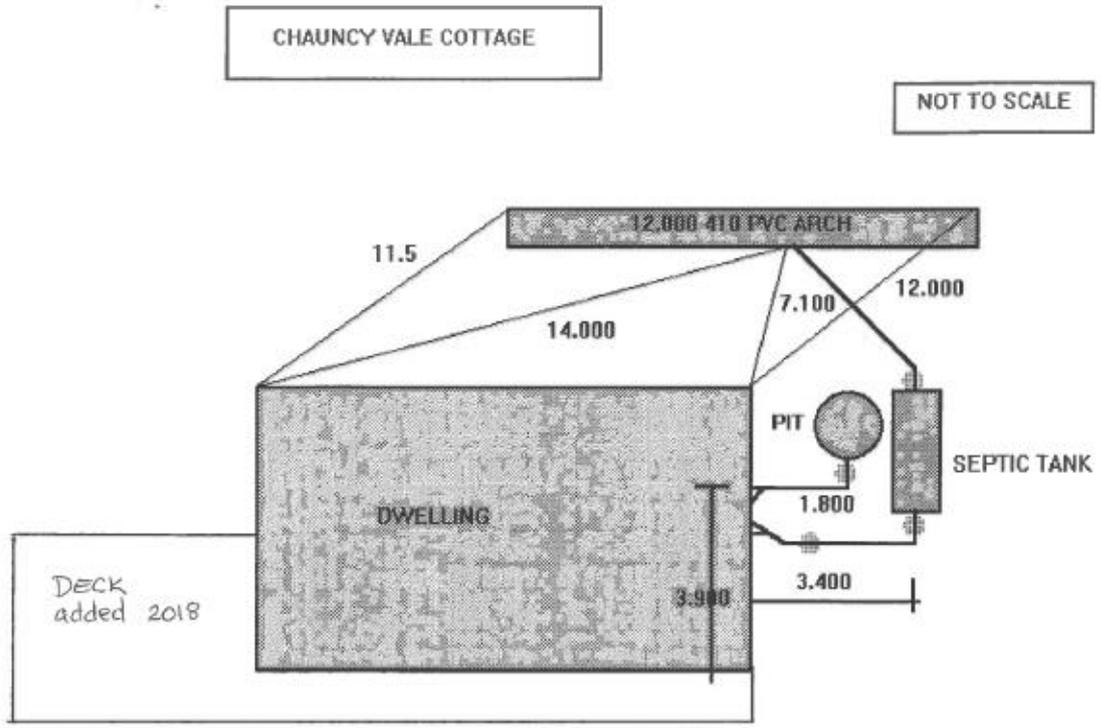
Land Owner(s) Signature	Land Owners Name (please print)	Date
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Address all correspondence to:
The General Manager, PO Box 21, Oatlands, Tasmania 7120
Development & Environmental Services Office is located at 85 Main Street, Kempton Tas 7030
Applications can be submitted by email mail@southernmidlands.tas.gov.au

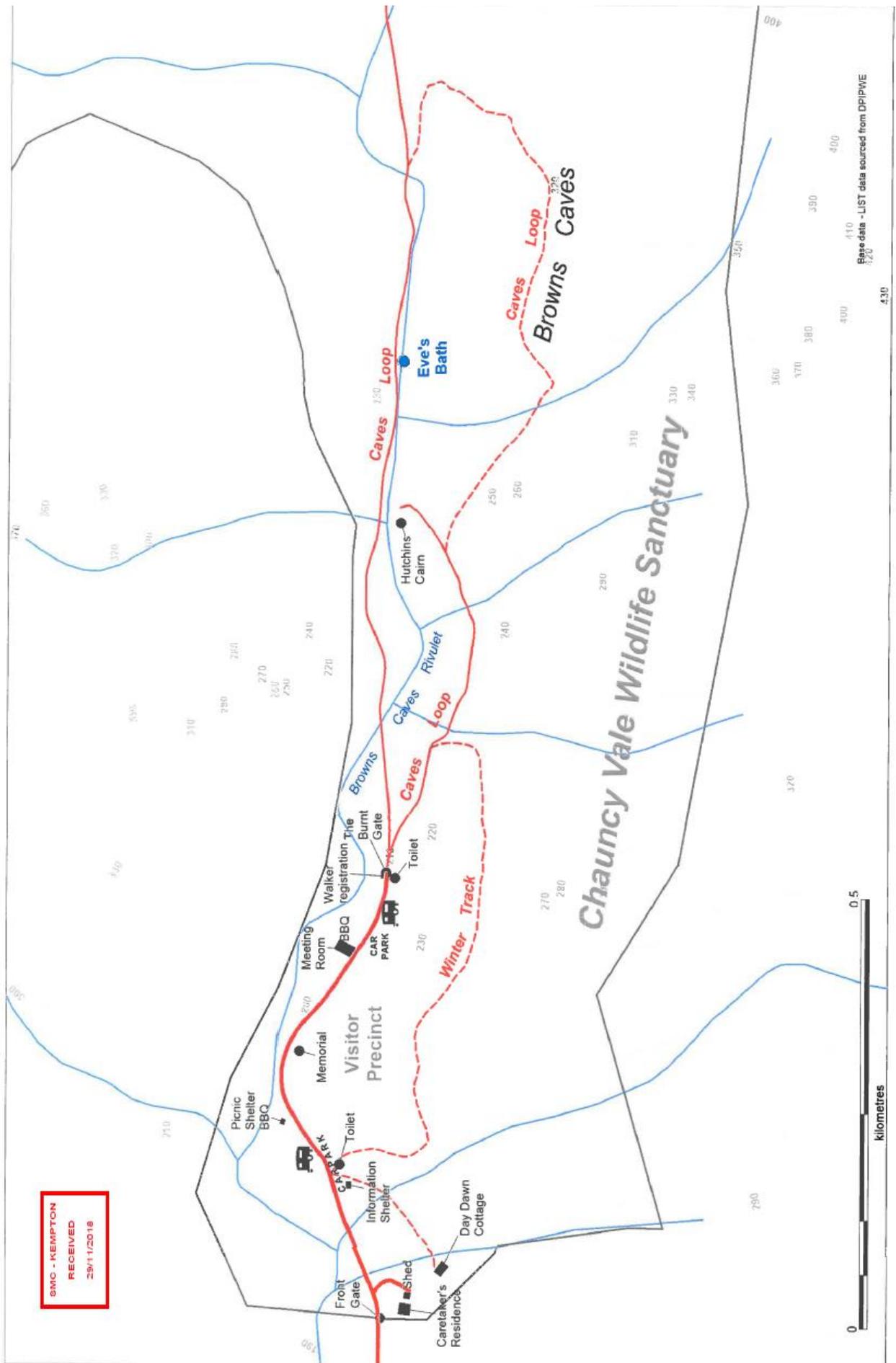
SMC - KEMPTON
 RECEIVED
 29/11/2018

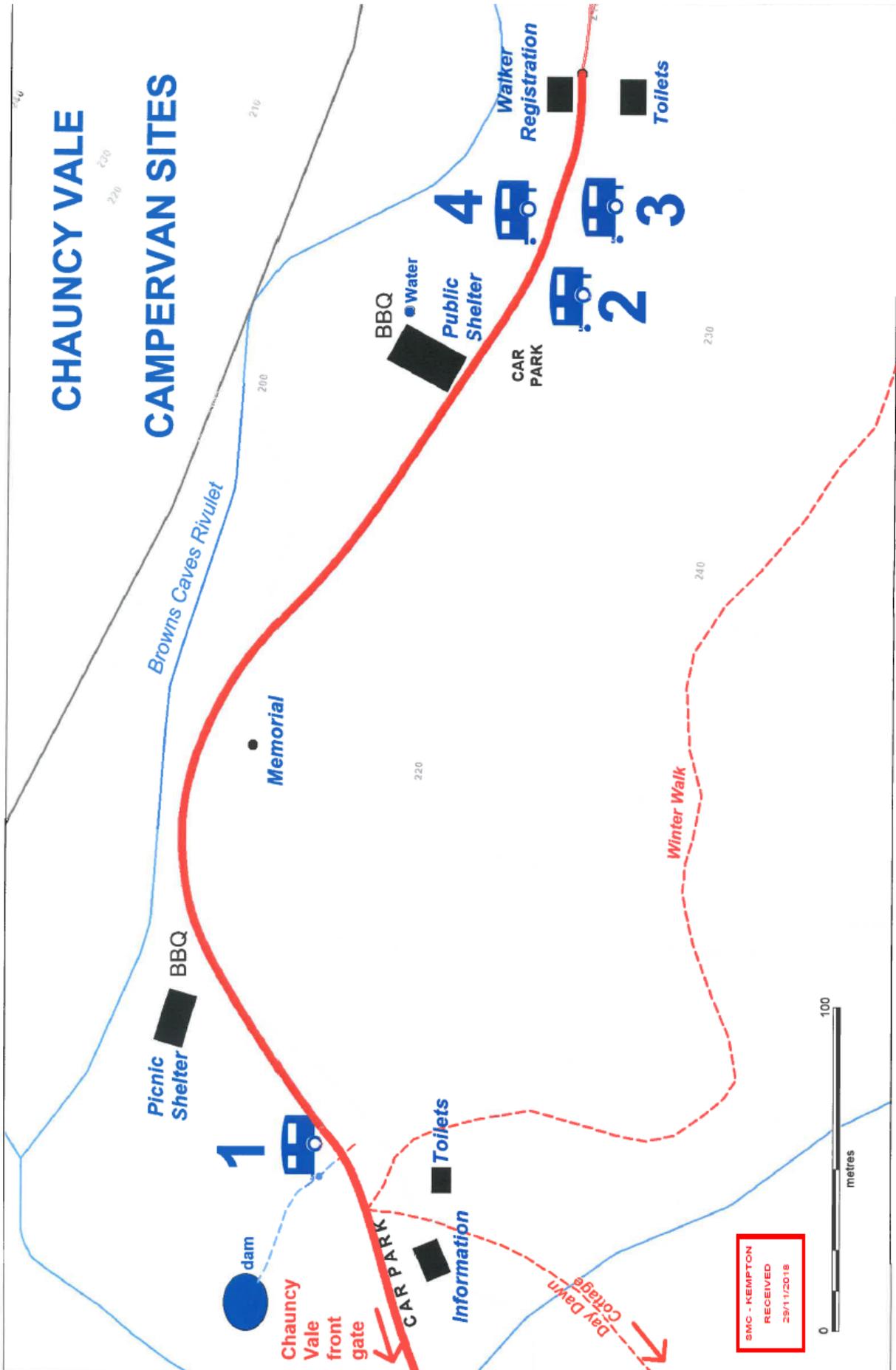


5018947 CHANCOY
RPAO



SMC - KEMPTON
RECEIVED
29/11/2018





Sent: Tuesday, 20 December 2016 9:05 PM

To: SMC Mail <mail@southernmidlands.tas.gov.au>

Subject: URGENT - Proposed Change at Chauncey Vale Reserve

To whom this may concern,

I am writing regards to the proposed changes to Chauncey Vale Reserve.

My family have lived next door to the reserve for over 18 years now with no concerns.

With the proposed changes that the council want to make we are against it completely.

Our neighbours are also concerned.

Our concerns are the following.

- It is a reserve for wildlife and vegetation, a piece of land managed so as to preserve its flora, fauna, and physical features.
- The land was left to the people of Bagdad so it could stay natural and safe for its neighbouring animals and environment. This wildlife, nature reserve should not be a profitable area for the council.
- One main reason why we have nature reserves is to protect our biodiversity- the degree of variation of life. A sufficient biodiversity is required to keep our ecosystem in natural balance. A healthy biodiversity is of extreme importance to humanity as it provides a number of natural services for everyone.
- What about the extra threat of bush fires?
- I believe all residents should be concerned because of increasing traffic on an inadequate road.
- Are visitors aware that there is no insurance with hire cars on gravel roads, where does that leave the locals if we get run into by a tourist
- What about toilet facilities(dumping which can run into creeks), rubbish in park and on road?
- The biggest concern is the safety and vulnerability to our homes. Due to not having a caretaker on the reserve and strangers being there at all times.
- Trespassing on neighbouring land is a big concern as it already happens from time to time.

We would like to be informed of any changes before they are made or decided on.

Kind Regards

Sent: Wednesday, 12 December 2018 8:24 PM
To: SMC Mail <mail@southernmidlands.tas.gov.au>
Subject: Chauncy vale sanctuary

I am writing in reply to the letter we received about application for care takers house and 4 caravan bays .we don't have a problem with any development at the sanctuary our road is not suitable for an increase in caravans , in some parts of the road it is already difficult to pass a car you need to upgrade the road , we have already had a truck go of the road after you approved there upgrade of business and we stated our complaints of the road then also.Our boundary is on the sanctuary side if you are increasing tourists you will need to define what Is our boundary and what is out of bounds, maybe an upgrade of the fence at there expense we have already had people up here in the past from the sanctuary

11.2 SUBDIVISIONS

Nil.

11.3 MUNICIPAL SEAL (Planning Authority)

Nil.

11.4 PLANNING (OTHER)

Nil.

DECISION

Moved by Clr A Bisdee OAM, seconded by Clr R McDougall

THAT Council defer consideration of Item 12.1.1 (Craigbourne Road, Colebrook – North Eastern Section Accessed via Link Road, Colebrook – Proposed Part Road Closure) until following the presentations to Council by Inland Fisheries Service and Mr Fraser Miller.

CARRIED

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

12. OPERATIONAL MATTERS ARISING (STRATEGIC THEME – INFRASTRUCTURE)

12.2 Bridges

Strategic Plan Reference 1.2.1

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

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.

12.8.1 SOUTHERN TASMANIAN COUNCIL'S AUTHORITY – WASTE MANAGEMENT STRATEGY GROUP

Author: GENERAL MANAGER (TIM KIRKWOOD)

Date: 17 JANUARY 2019

Enclosure:

Terms of Reference – Waste Management Strategy Group

ISSUE

Council to nominate its representative to the Southern Tasmanian Council's Authority – Waste Management Strategy Group.

BACKGROUND

The Terms of Reference for the STCA - Waste Management Strategy Group are included as an enclosure.

DETAIL

Councillors' will note that the Group must meet at least quarterly during the year, plus other meetings as required.

Meetings are generally held in Hobart and are of 90 minutes duration.

Relevant officers from member Councils are also invited to attend and depending upon availability, Council's Environmental Health Officer of the Manager – Development & Environmental Services attend meetings.

Human Resources & Financial Implications – Elected members are reimbursed travel in accordance with the relevant Policy.

Community Consultation & Public Relations Implications – N/A.

Policy Implications – Consistent with Council Policy.

Priority - Implementation Time Frame – N/A.

RECOMMENDATION

THAT Council nominate its representative to the Southern Tasmanian Council's Authority – Waste Management Strategy Group.

DECISION

Moved by Cllr A Bisdee OAM, seconded by Cllr D Fish

THAT Mayor A Green be nominated as the representative to the Southern Tasmanian Council's Authority – Waste Management Strategy Group.

CARRIED

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

ENCLOSURE

Item 12.8.1

Terms of Reference – Waste Management Strategy Group

Overview

The Waste Management Strategy Group is a committee of the STCA Board, responsible to the Board.

The Waste Management Strategy Group is a standing committee of the STCA Board.

The Waste Management Strategy Group is established to facilitate strategic planning for waste management in southern Tasmania, and to implement operational activities outlined in the Southern Waste Management Strategy and the Regional Action Plan.

The functions of the Waste Management Strategy Group shall include:

- advocacy and engagement with the government, community and other organisations on waste management issues
- municipal waste minimisation programs
- waste stream control and performance monitoring
- establishment of a non-municipal waste minimisation program
- monitoring of residual waste treatment technologies
- infrastructure developments
- outlining regional landfill risk and resourcing issues
- education and marketing programs
- identifying opportunities to reduce greenhouse gas emissions
- represent the southern councils' views in the implementation of waste management processes at both a state and local level
- seek funding, resources and partnership opportunities with external sources including government and other organisations
- Other functions as determined by the STCA Board

Membership

The Chairman of the Committee shall be appointed by the STCA Board, once every two years. The remaining members of the committee shall be appointed by the Board based upon the nominations received from member councils.

The membership of the Waste Management Strategy Group should reflect the diversity of the member councils of the STCA Board and be constituted as follows:

- Chair (Board member of the STCA)
- A nominated elected level representative from member councils
- Relevant officers from member councils are also invited to attend

Each elected member representative on the Group is entitled to one vote on matters presented before the Committee for decision. In the absence of the elected member representative the relevant officer from the member council will be entitled to vote on that councils behalf.

Landfill operators, including Copping, can be invited to attend the meetings as observers.

Private industry representatives are also invited to attend meetings for discussion on particular items as determined by the Group.

Other experts, guests or relevant stakeholders be invited to attend meetings on the request of the Group.

Secretarial support

The STCA will provide secretariat support to the Waste Management Strategy Group.

Quorum

The quorum necessary for the transaction of business shall be [7] voting members. A duly convened meeting of the committee at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the committee.

Frequency of meetings

The Waste Management Strategy Group shall meet at least quarterly during the year at appropriate times in the reporting, planning and budget cycle.

Other meetings can be called as required.

Notice of meetings

Meetings of the Waste Management Strategy Group shall be called by the secretary

Unless otherwise agreed, notice of each meeting confirming the venue, time and date together with an agenda of items to be discussed, shall be forwarded to each member of the committee and any other person invited to attend no later than [5] working days before the date of the meeting. Supporting papers shall be sent to committee members and to other attendees with the Notice of Meeting or on another day before the day of meeting, as appropriate.

Minutes

The secretary shall minute the proceedings and resolutions of all meetings of the Waste Management Strategy Group.

The Chair shall ascertain, at the beginning of each meeting, the existence of any conflicts of interest and have them minuted accordingly.

Minutes of committee meetings shall be circulated promptly to all members of the committee and, tabled at the next STCA Board Meeting, unless a conflict of interest exists.

Conflict of Interest

If a member of the committee has declared a conflict of interest it is the responsibility of the Chair to ensure that appropriate actions are taken to ensure that the conflict of interest does not bring into question the propriety of decisions made by the committee.

Duties

The committee shall provide the most cost effective management and facilitation of:

- advocacy and engagement with the government, community and other organisations on waste management issues
- municipal waste minimisation programs
- waste stream control and performance monitoring
- establishment of a non-municipal waste minimisation program
- monitoring of residual waste treatment technologies
- infrastructure developments
- outlining regional landfill risk and resourcing issues
- education and marketing programs
- identifying opportunities to reduce greenhouse gas emissions
- represent the southern councils' views in the implementation of waste management processes at both a state and local level
- seek funding, resources and partnership opportunities with external sources including government and other organisations

Reporting responsibilities

Following each meeting of the Committee, the Chairman shall report formally to the STCA Board on the proceedings of the Committee at the next available opportunity.

The Committee may make whatever recommendation to the STCA Board it deems appropriate on any matter within its remit where action or improvement is needed.

The Committee shall recommend a budget and set of activities to be undertaken each year for endorsement by the Board and then be charged with the implementation of this budget and associated activities.

Public comment

While the Chair of the Southern Tasmanian Councils Authority (STCA) remains the spokesperson for the Authority, the Chair may delegate that responsibility to the Chair of the Waste Management Strategy Group for matters related to the duties of the Waste Management Strategy Group.

Amended June 2017

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: 18 JANUARY 2019

Roads Program

Due to the present dry conditions, minimal maintenance grading is being undertaken.

Roadside slashing is occurring in the Rhyndaston and Mt Seymour area (as weather conditions allow).

Town and General Maintenance

Town and general maintenance is continuing in all other areas.

Waste Management Program

Operating arrangements at the Waste Transfer Stations are working well.

QUESTIONS WITHOUT NOTICE TO MANAGER, INFRASTRUCTURE & WORKS

Deputy Mayor – inspection and report on the section of Lovely Banks Road (vicinity of property owned by W Carnes). Advised that an assessment will be undertaken to determine extent of works required, which would then be costed and included for consideration as part of the 2019/20 budget process.

Clr K Dudgeon – question regarding Bridge on the Inglewood Road at Andover – what works are planned? Advised that the guard rail has broken away (damaged by machinery or similar). The guard rail is being repaired and will be extended slightly (i.e. width). The Road will be closed for one day to allow 24 hours to set concrete etc.

Clr A Bisdee OAM – congratulations to Works staff on the present condition of the roads given the extended dry conditions. Roads mentioned included Eldon Road; Link Road and Lovely Banks Road.

Clr A Bisdee OAM – expressed concern about the amount of hooning within the municipality (evidenced by tyre marks on the road). Appears to have increased in recent times and this issue should be raised with Tasmania Police.

Clr A Bantick – abandoned vehicle in the vicinity of the Bagdad Post Office / Quarry Town Road. Needs to be removed as soon as possible following release by Tasmania Police.

RECOMMENDATION

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

DECISION

Moved by Cllr D Fish, seconded by Cllr A Bisdee OAM

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

CARRIED

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

DECISION

Moved by Clr A Bisdee OAM, seconded by Clr R McDougall

THAT Council suspend the meeting at 10.42 a.m. for a short break.

CARRIED

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

DECISION

Moved by Deputy Mayor E Batt, seconded by Clr K Dudgeon

THAT the meeting be reconvened at 10.48 a.m. to receive presentation(s) by Inland Fisheries Service and Mr Fraser Miller.

CARRIED

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

Clr R McDougall returned to the meeting at 10.50 a.m.

PERMISSION TO ADDRESS COUNCIL – INLAND FISHERIES SERVICE

Mr Neil Morrow – Manager (Anglers Access) from Inland Fisheries Service was granted permission to address Council in relation to the proposed part closure of Craighourne Road, Colebrook.

The Inland Fisheries Service is the State Government agency that manages the recreational trout fishery in Tasmania. One of the responsibilities of the Director of Inland Fisheries prescribed in the Inland Fisheries Act 1995 is to ‘create, improve and maintain access to inland waters.’ Mr Morrow was speaking on behalf of the Director.

The following comments were noted:

- The Service issues in excess of 27,000 angling licences each year not including children under 14 who do not require a licence. Over 20% of licence holders are from interstate and overseas.
- Craighourne Dam is one of Tasmania’s 10 most popular lakes with over 1500 anglers fishing at the dam each year.
- Craighourne Dam is one of 10 lakes in Tasmania open to angling all year round and one of only two in the south of the state.
- The Service actively manages Craighourne Dam to improve it as a fishery and to provide an attractive destination for anglers and the Southern Midlands community.

The Inland Fisheries Service submits the following arguments against closure:

1. Public Benefit - the Inland Fisheries Service has received numerous representations by phone and in writing objecting to the recent unauthorised closures of Craighourne Road through the gate being locked and the potential permanent closure.
2. Public safety. There is no demonstrated risk to the public of the existing access or improvement to public safety achieved by the proposed closure. Many of the representations received from anglers mention that the area is protected and suitable for anglers of all ages and abilities and is one of the few areas many older and younger anglers and families can access easily and safely.
3. Lack of use. The amount of representations received by the Service and the number of anglers checked during periodic fisheries compliance patrols are evidence of a moderate level of use.

In contrast, the issues raised in support of the closure do not meet any of the three criteria. Issues associated with trespass and damage to private property are security and police matters and should be addressed accordingly.

The Inland Fisheries Service has attempted to assist by offering advice and support in managing access and will continue to do so as long as it is not to the detriment of anglers, access to a public amenity or the greater public benefit.

Following the address, Clr A Bisdee OAM enquired whether Inland Fisheries Service would consider being part of a partnership aimed at addressing the issues, which may include a turning circle/parking/signage etc.

Mr Morrow responded that the Inland Fisheries Service would be very interested in providing advice and have also spoken to the dam owner (Tas Irrigation). IFS are happy to be part of the process to improve the access, but Mr Morrow was not in a position to commit financial resources at this point.

PERMISSION TO ADDRESS COUNCIL – MR FRASER MILLER

Mr Fraser Miller was granted permission to address Council in regard to the proposed part closure of Craighourne Road, Colebrook.

Mr Miller advised that he is the property owner of Mt Baines that adjoins the road in question.

The following comments were noted:

- Mr Miller advised that he has endured verbal abuse and threats of violence; livestock shot at; shearing shed shot at and vandalised; stealing of firewood, spotlighting and shooting; dogs chasing and injuring sheep and illegal fishing practices using netting from those who are generally under the influence of drugs and alcohol.
- Inland Fisheries Service (IFS) do not maintain the present public toilets due to vandalism as they are closed.

Note: IFS responded that one side of toilets was closed 10 years ago and one side is always open to the public, there is no vehicle access to the toilets and members of the public need to walk approximately 100 m to the toilet and it is open to the public.

- Mr Miller requested that a decision by Council be deferred to the following meeting due to insufficient time to prepare for the meeting.
- Petitions that have been circulated are not indicative of public opinion and do not address the illegal activity that occurs at this site. Police are supportive of the closure and have noted serious concerns regarding public safety.
- Mr Miller believes that the petition is not valid under the *Local Government Act 1993*.
- If the roadway was upgraded to bitumen with proper signage, fencing and amenities to exclude people trespassing on his property, then the IFS should be more than willing to fund and manage the upgrades.
- Mr Miller further advised that the misconception about a few local hoons causing issues is also incorrect as anglers light fires, unleash dogs, defecate, cause damage to fences all with a sense of entitlement to use their land.
- If council decides for this section of road to remain open, are Council and IFS prepared to contribute to solve this issue?
- How is council going to ensure the safety of road users to minimise liability?

Mr Miller indicated the following:-

- a) That it is not appropriate for Council to rescind its motion of 24 October 2018;

- b) That there are sufficient grounds to close the road – there is no net public benefit and the cost to maintain the road is significant, access to the dam is not restricted and it is a costly exercise to address public safety issues;
- c) Reference to ‘unrestricted access’ should be reworded or struck out; and
- d) Reference to consulting with property owners in April 2018 and June 2018 has resulted from no action as a result of this.

Following the address, Cllr R McDougall asked Mr Miller whether he would be prepared to participate in a ‘roundtable discussion’ with relevant stakeholders to try and solve the issues and come up with a possible solution? Mr Miller indicated that he would be prepared but past discussions with relevant stakeholders has not resolved the issues.

Cllr A Bisdee OAM enquired when Mr Miller purchased the property was he aware of any such issues with this road? Mr Miller advised that he was aware that it was a public road but was not made aware of the scale of issues caused such as loss of stock or amenity.

Deputy Mayor E Batt asked why Mr Miller has not fenced along the road e.g. the property boundary to prevent some of these issues occurring. Mr Miller advised that he has not fenced due to the cost involved and believed that fencing would not resolve the issues.

12.1 Roads

Strategic Plan Reference 1.1.1

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

12.1.1 CRAIGBOURNE ROAD, COLEBROOK – NORTH-EASTERN SECTION ACCESSED VIA LINK ROAD, COLEBROOK – PROPOSED PART ROAD CLOSURE

Author: GENERAL MANAGER (TIM KIRKWOOD)

Date: 15 JANUARY 2019

Enclosure(s):

Map of proposed road closure point

Extract from Council Minutes held 24th October 2018

Legal Advice from Abetz Curtis dated 6th November 2018

Extract from Council Minutes held 28th November 2018

Attachment:

Submissions received regarding proposed closure.

ISSUE

To:

- a) Report on the outcomes of the public consultation process relating to the proposed closure of the north-eastern section of the Craighourne Road (beyond No 38 and extending through to the Dam); and
- b) Council to determine its final position in respect to this matter.

Note: Reference is now made to No 38 - as opposed to No 32 which was the original proposed closure point. This being the property owned by J & G Bailey. A discrepancy has been detected between the Council Property System (showing their property as being No 32) and the actual Rural Address affixed to their property. It is agreed that the Council Property System should align with the nominated Rural Address. The Council system has since been amended.

Irrespective, it was always intended that any road closure would be beyond the property owned by J & G Bailey.

BACKGROUND

Council, at its meeting held on 24th October 2018, considered a Notice of Motion submitted by then Deputy Mayor Alex Green relating to the proposed closure of the Craighourne Road (north-eastern section) between 32 Craighourne Road and the Craighourne Dam.

An extract from the Minutes of that meeting is enclosed. This includes all the background information.

Council resolved as follows:

THAT:

- a) the Southern Midlands Council as per the provisions of the *Local Government (Highways) Act 1982* s.14 ss. (1) close for reasons of public benefit and in the interests of public safety that section of Craighbourne Road, Colebrook, situated between 32 Craighbourne Road and Craighbourne Dam; and
- b) Prior to proceeding further, Council seek advice in terms of:
 - (1) what constitutes ‘public benefit’ and whether there is sufficient grounds for Council to rely upon in this case; and
 - (2) being able to justify the decision to close the road based on the interests of public safety.

Following that decision, legal advice was sought from Abetz Curtis (enclosed) in relation to the provisions contained within section 14 of the *Local Government (Highways) Act 1982*, and specifically in regard to the following:

- a) What constitutes ‘public benefit; and whether, in this case, there is sufficient grounds for Council to rely upon; and
- b) Being able to justify the decision to close the road based on the interests of public safety.

A further report was submitted to the Council Meeting held 28th November 2018. A full copy of the advice received from Abetz Curtis was included with that report.

An extract from the Minutes of that meeting (i.e. 28th November 2018) is also included as an enclosure to complete the record.

Council resolved as follows:

THAT prior to making a formal decision to close the road, Council seek prior input from the broader public (via a Public Notice published in the Mercury Newspaper on Saturday, 1st December 2018). The aim would be to seek written submissions in response to the possible closure of the road. Council to further consider its position following consideration of submissions received.

DETAIL

The following Notice was published in the Mercury Newspaper on 1st December 2018, and notifications were provided through the Southern Midlands Council's website and Facebook page.

SOUTHERN
MIDLANDS
COUNCIL



**Access to Craighourne Dam, Colebrook
(via the north-eastern section of Craighourne Road - off Link Road, Colebrook).**

Due to issues being experienced by the adjacent landowner(s), and in the interests of public safety, the Southern Midlands Council has been requested to consider a permanent closure of the Craighourne Road extending from No 32 Craighourne Road (i.e. approx. 320 metres from the junction with Link Road) extending through to the Dam.

Prior to making a decision in respect to this matter, Council seeks feedback from the broader community in terms of how any proposed closure may impact on users of the road.

Written submissions can be sent to the General Manager, 71 High Street, Oatlands or can be emailed to mail@southernmidlands.tas.gov.au. Written submissions will be received up until close of business on 17th December 2018.

TF Kirkwood
GENERAL MANAGER

In summary, 948 names have been recorded as providing a response to the request for feedback – 933 of which object to the closure and 15 support the closure.

It is confirmed that elected members have been provided with a full copy of all submissions received, and an electronic copy has been placed on Council's website as an attachment to this Council Agenda (refer www.southernmidlands.tas.gov.au)

In terms of opposition to the permanent closure, the comments made are too numerous and varied to report on all of them but the most common matters raised include the following:

- Highly popular public fishery destination due to close proximity to Hobart and high level stocking policy;
- Primary cause of problems being experienced by the property owner by a small minority are a direct result of their failure to properly fence their property which would deter any unauthorised access;
- Council should remove the illegal gate which is frequently locked that obstructs access to the public road and reinstate a cattle grid or have the owner erect proper fencing;
- This area is the best sheltered access for people to fish from shore (for those that don't own a boat) and to utilise kayaks and canoes – also ideal access point to fish from for the elderly, those with mobility issues, young families etc;

- Closure will damage the efforts of Inland Fisheries Service to promote the lake as a tourism drawcard and economic benefits for Southern Midlands lost;
- Disagree with public safety aspect of closure, any trespassing/anti-social issues experienced are a police matter and would be dealt with accordingly;
- Believe the closure will solely benefit one property owner only but in the process will disadvantage thousands of recreational anglers; the vast majority of anglers who visit this area do the right thing and shouldn't be disadvantaged by a very small minority who may do the wrong thing;
- Dam used to access water for firefighting purposes;
- Craigbourne Road is a public road, the property was purchased knowing this road was public access - urge Council to maintain its status as a public road.

It was also noted that among the submissions against closure the following were received:

- Submission from Inland Fishers – acting in the interests of 26,407 licensed anglers;
- Anglers Alliance Tasmania – representing some 27,000 freshwater anglers;
- Submission from 'change.org' which includes the names and addresses of 200 individuals;
- Petition letter containing 577 signatories.

In terms of support for the permanent closure, the following comments capture the sentiments contained therein:

- Express support for the permanent closure of Craigbourne Road as I am satisfied that this road serves no public use and does not impact my ability to use the Craigbourne Dam for recreational pastimes as I can use the public carpark and facilities on the southern end of the Dam – *9 signatories*;
- Person has witnessed continued vandalism and trespass on the Mt Baines and adjoining property; seen fences damaged and cut as people use this road to illegally hunt and fish the dam; person has been verbally abused and physically assaulted when asking people to leave his property (and Mt Baine's property);
- Witnessed drunken persons illegally hunting and discharging firearms; only a matter of time before someone is seriously injured or killed; have seen the dangers first hand of people putting themselves in danger trying to launch boat in the Dam from the shoreline; witnessed antisocial behaviour and for the safety of the public close the road.
- Person has lived in close proximity for some years and has had nothing but concern for their property's safety and the poor livestock that call this area home. The traffic and action of many at all hours on this road it is clear that it is not being used for its intended use and is cause for concern or all.
- Seen burn out circles on pasture; rubbish, broken bottles etc.; cutting down anything that will burn. Has been informed that a person must be on the property every night to prevent break-ins; state of the dam foreshore shows what goes on at night after the people who follow the rules leave.

- Agrees with the property owners, access to the dam over their land should be restricted. Council either buys the land to make it public access or (support the landowners) fence so that fishers must drive to the ramp. To be intimidated and suffer damage on your own land is insufferable.

General Managers' Comments:

Following analysis of each of the comments and feedback received through the public consultation process (noting confirmation that all submissions have been circulated to elected members), further reference is made to section 14 of the *Local Government (Highways) Act 1982*.

To address this matter, Council must determine whether it is of the opinion that the road should be closed for the public benefit, in the interests of public safety or because of lack of use.

Note: It has generally been accepted that there is no basis to argue that the Road should be closed due to lack of use.

In reference to the 'Summary of Advice' provided by Abetz Curtis, the following comments are provided:

- a) The advice indicates that there is a basis to argue that it is in the public benefit in the interests of public safety to close the Road, but there is also an argument against this.

Additional commentary is provided later in the advice, and raises such issues as '*net public benefit*' which is influenced by the extent of use of the road. In this regard, it is apparent that the road is still frequently used, which is evidenced by the number (and timing) of complaints received when a lock has been placed on the gate across the road.

The advice also suggests that it would be reasonable for Council to require that it be further persuaded by the owners (with reference to supporting evidence) before making a final decision to close the road. In this regard, it is unknown how many formal police reports have been made in relation to the alleged offences which would provide such evidence.

- b) The exercise of Council's discretion should keep in mind the associated costs with closing the Road (and the costs of keeping the Road open), together with the possibility of opposing legal action if an 'interested person' is aggrieved by the Road closure.

The cost of keeping the road open is considered to be irrelevant, as it is a Council maintained road for which we have a responsibility to maintain.

In relation to closing the road, advertising costs are estimated at \$1,200 (i.e. two advertisements). Other administrative costs, including notification of owners and occupiers, and other stakeholders nominated in the Act would be minimal.

It is not possible to estimate the costs that may be incurred in responding to any subsequent appeals that may be referred through to the Magistrates Court (Administrative Appeals Division) under section 14 of the *Local Government (Highways) Act 1982*. Based on past complaints, and feedback received since Council's decision made at the last meeting, it would need to be assumed that opposition to closure will be guaranteed. It follows that Council will need to be prepared to accept the cost of defending its decision which will be significant.

Having sought input from the broader public, there are now two options available to Council:

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 following comments are provided and considered to be relevant to Council reaching an opinion:

- a) There is clearly no dispute regarding this section of road being a Council maintained road and members of the public are legally entitled to use the road without any restrictions.
- b) Access to the Craighourne Dam via this section of road has raised many issues over a considerable period of time. Primarily the issues have related to vehicles straying onto private property (noting that the roadway is not fenced beyond the point where it enters the Mt Baines property), and more recently there have been reports of vandalism; damage to buildings located on the property; illegal shooting activities and non-approved removal of firewood.
- c) in so far as being in the interests of public safety, the question arises whether the issues being raised by those seeking a road closure are 'policing matters' and not necessarily public safety issues that can be addressed through closure of a road.
- d) There are numerous other instances within the Southern Midlands Council area where the roadway is not fenced and there is no physical barrier preventing vehicles from straying onto private property (for whatever purpose).
- e) Can the situation be adequately addressed by fencing of the road reserve? This being the responsibility of the property owner.

Note: Section 7 of the *Boundary Fences Act 1908* states that no local body having the administration, management, or control of any road shall be liable to make any contribution towards the erection or repair of any dividing fence between any road and the land of any occupier of land adjoining such road.

- f) It is confirmed that a check Survey has been completed and marker pegs have been installed. The Survey shows that there is an 18 metre wide reservation. Pending a site visit, it is unclear whether there is sufficient room to construct a small parking bay/turning circle within the land owned by Tas Irrigation (as owner of the Dam);
- g) Overall there is insufficient evidence that the public benefit is best served by road closure given the vast majority of the use of the road occurs in a lawful manner and that other options exist such as fencing, to address the concerns raised in the main by the adjoining landowner.
- h) Council may consider that in further discussions with the landowner, given the unique circumstances that exist, it may offer to make a contribution towards the cost of fencing if the decision is that the road is to remain open.

In conclusion, and in reference to the recommendation provided, it is considered appropriate that Council should formally rescind part (a) of the Motion passed at the meeting held 24 October, 2018. Whilst there was a proviso included in that Motion, the wording did suggest that the Council will close the road.

Recognising that the Motion was passed prior to the recent election, only a simple majority is required to rescind the original decision.

In reference to the *Local Government (Meeting Procedures) Regulations 2015*, any report provided by the General Manager to a council in respect of a proposed motion to overturn a decision of the council, or that will result in the overturning of a decision of the council, wholly or partly, is to include the following detail:

- (a) Confirmation that the proposed motion, if resolved in the affirmative, would overturn that previous decision or part of that previous decision whichever is the case;
- (b) The details of that previous decision, or the part of that previous decision, that would be overturned – refer following:

THAT:

a) the Southern Midlands Council as per the provisions of the *Local Government (Highways) Act 1982 s.14 ss. (1)* close for reasons of public benefit and in the interests of public safety that section of Craigbourne Road, Colebrook, situated between 32 Craigbourne Road and Craigbourne Dam; and

b)

- (c) Whilst this part of the decision directed that certain action be taken, part (b) of the Motion included a requirement to seek prior legal advice; and
- d) Pending further direction, no action has been taken in respect to part (a) of the Motion.

Human Resources & Financial Implications – Refer comment above.

Community Consultation & Public Relations Implications – Refer detail provided.

Policy Implications – Policy position.

Priority - Implementation Time Frame – N/A.

RECOMMENDATION

THAT:

- a) In accordance with Regulation 18 of the *Local Government (Meetings Procedures) Regulations 2015*, Council formally rescind part (a) of the Motion passed at its meeting held 24 October 2018;
- b) Council form the opinion that there are insufficient grounds to satisfy closure of the road for the public benefit in the interests of public safety;
- c) Council require that unrestricted access be maintained to the Craighourne Dam via the north-eastern section of the Craighourne Road (accessed via Link Road, Colebrook); and
- d) Council continue to consult with the property owner(s) (and other stakeholders) to implement measures that will address the issues being experienced.

DECISION

Moved by Cllr A Bisdee OAM, seconded by Deputy Mayor E Batt

THAT

- a) In accordance with Regulation 18 of the *Local Government (Meetings Procedures) Regulations 2015*, Council formally rescind part (a) of the Motion passed at its meeting held 24 October 2018;
- b) Council form the opinion that there are insufficient grounds to satisfy closure of the road for the public benefit in the interests of public safety;
- c) Council require that unrestricted access be maintained to the Craighourne Dam via the north-eastern section of the Craighourne Road (accessed via Link Road, Colebrook); and
- d) Council continue to consult with the property owner(s) (and other stakeholders) to implement measures that will address the issues being experienced.

CARRIED

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

ENCLOSURE(S)

Item 12.1.1



[EXTRACT - MINUTES OF COUNCIL MEETING HELD 24 OCTOBER 2018]

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

10.1 CRAIGBOURNE ROAD, COLEBROOK

Deputy Mayor Alex Green has submitted the following Notice of Motion:

"That Southern Midlands Council as per the provisions of the *Local Government (Highways) Act 1982* s.14 ss. (1) close for reasons of public benefit and in the interests of public safety that section of Craighourne Road, Colebrook, situated between 32 Craighourne Road and Craighourne Dam".

BACKGROUND (*Comments provided by Deputy Mayor A Green*)

Supporting comments to be provided at the meeting.

General Manager's Comments:

The Notice of Motion makes reference to the Local Government (Highways) Act 1982. The following is an extract from the Act (Division 2, Part II – section 14) relating to the permanent closure of highways.

Note: For clarification, reference to a highway includes a Council maintained road.

"14. Closure and diversion of highways

(1) 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, it may –

(a) if it is satisfied, in the case of a diversion of a highway, that standard requirements, if applicable, have been complied with; and

(b) not less than 28 days after a written notice of its intention to do so –

(i) has been served on each of the owners and occupiers affected;

(ii) has been served on the Transport Commission;

(iii) has been displayed in a prominent position at each end of the highway; and

(iv) has been published twice in separate issues of a local newspaper circulating in the municipality in which the highway is situated –

close or divert the highway in respect of all traffic or particular types of traffic or subject to the reservation of a footpath or some other highway that may be used only for limited purposes.

(2) A notice under [subsection \(1\)](#) may apply to 2 or more highways that are connected with one another.

(3) Subject to [subsection \(4\)](#), a notice under [subsection \(1\)](#) shall contain a map or plan showing the proposed closure or diversion to which it relates.

(4) A notice under [subsection \(1\)](#) that is required to be published in a newspaper may, instead of containing such a map or plan as is referred to in [subsection \(3\)](#), contain a

statement of a place in the municipality in which the highway is situated where the plan may be inspected free of charge at all reasonable hours.

(5) An interested person may, before the expiration of a notice under [subsection \(1\)](#), give written notice to the corporation of his objection to the proposed closure or diversion.

(6) The corporation is to refer each objection that it is notified of under [subsection \(5\)](#) to the Magistrates Court (Administrative Appeals Division).

(7) The Magistrates Court (Administrative Appeals Division) has power to receive and determine the objection as if it were an application to review the decision relating to the proposed closure or diversion and, in addition to its powers under the [Magistrates Court \(Administrative Appeals Division\) Act 2001](#), the Court may make a local highway order –

- (a) upholding the objection; or
- (b) authorizing the proposed closure or diversion.

(8) An order under [subsection \(7\)\(b\)](#) may prohibit, in whole or in part, the closure or diversion authorized by the order until such conditions as may be specified in the order have been fulfilled, being conditions that the Magistrates Court (Administrative Appeals Division) considers proper to impose for the provision or preservation of the means of communication by highway or the means of access to a highway.

(9) Where the Magistrates Court (Administrative Appeals Division) makes an order under [subsection \(7\)\(b\)](#), the Minister shall, as soon as possible after the making of the order, cause a notice containing particulars of the order to be published in the Gazette.

(10) A diversion of a highway that is opened under this section by a corporation is maintainable by the corporation.”

For information purposes, a full extract of Division 2, Part II is included as an attachment.

Craigbourne Road

The section of Craigbourne Road that is the subject of this Motion is the north-eastern section of the road that is accessed via Link Road, Colebrook.

Note: Prior to the construction of the Craigbourne Dam, the Craigbourne Road extended from the Colebrook Road through to the junction of Hungry Flats Road and Link Road. Construction of the Dam split the road into two separate sections and the Dam creates a physical break in the road.

It should be further noted that Council, at its meeting held 26th September 2018, resolved to request the Nomenclature Board to rename the south-western section of the Road as Craigbourne Dam Road.

A map has been included to show the section of Road situated between 32 Craigbourne Road and Craigbourne Dam. It is an approximate distance of 1.1 kilometres.

Background Comments

Access to the Craigbourne Dam via this section of road has raised many issues over a considerable period of time. Primarily the issues have related to vehicles straying onto private property (noting that the roadway is not fenced beyond the point where it enters the Mt Baines property i.e. No 32), and more recently there have been reports of

vandalism; damage to buildings located on the property; illegal shooting activities and non-approved removal of firewood.

Following an approach by the new owners (F Miller & M Nardi) of the Mt Baines property in early 2018, an initial site meeting was arranged to gain a full understanding of the issues and determine a suitable course of action. Suggestions arising from that initial meeting included:

- a) Fencing of the road reserve. This obviously creates an issue whereby vehicles are unable to turn or park (i.e. in a designated parking area);
- b) Construct a parking bay at the boundary of the Mount Baines property and restrict access to pedestrians only beyond that point. Whilst this means that any boat access would be restricted to the entry off Colebrook Main Road, it would prevent vehicles entering private property and therefore discourage illegal shooting activities and removal of firewood; and
- c) Go through a formal road closure process and close the road at the boundary of the Mount Baines property. This would mean that public access to this part of the Dam (other than by boat) ceases.

Due to the complexity of issues which had the potential to impact on a range of stakeholders, a further on-site meeting was held with the property owner/s and officers from Inland Fisheries; Tasmania Police; Tas Irrigation (as owner of the Dam) and Council.

This meeting was held on 12th June 2018 and the following outcomes of the discussion were recorded and circulated to all present:

1. Southern Midlands Council - It was confirmed that the Craighourne Road is a Council maintained road which provides access to the Dam. From a Council perspective it is apparent that there are three options:
 - B) Maintain the status quo;
 - C) Maintain the status quo and property owners fence the Road reserve. Note: Council has no obligation to contribute towards the cost of fencing between road and private property. This would prevent vehicles straying onto private property. Depending on where the road actually ends (i.e. enters the Dam), turning and parking of vehicles may become an issue;
 - D) formal Road closure (it is assumed that this would be at the point where the road enters the Mt Baines property). This process is undertaken in accordance with the provisions of the Local Government (Highways) Act 1982 – refer extract from the Act attached – Section 14.
 - E) Change the status of the road to pedestrian traffic only (again assumed to be at the point where the road enters the Mt Baines property). The property owner indicated that no land would be made available to construct a parking area where vehicles could park at that point and walk to the Dam. This process is undertaken in accordance with the provisions of the Local Government (Highways) Act 1982 – refer extract from the Act attached – Section 31.
2. Property Owners – their strongly preferred option is to close the road and purchase the reservation. There is good access to the Dam from Colebrook Main Road end where there is a boat ramp and other infrastructure.
3. Tasmania Police – they experience policing difficulties due to lack of delineation of property boundaries. They would strongly support a road closure (or restriction) to prevent

vehicle access. Unfortunately they are the agency that has to respond to the type of incidents that have been reported in previous communications.

4. *Inland Fisheries – don't support closure of the road. Previous email correspondence indicates that access to the Dam via Craighourne Road was guaranteed by the government of the day when it was constructed (1986) as the public had previously enjoyed access to the Coal River for fishing and other recreation.*

Notes:

It was acknowledged that no formal check survey has been undertaken to confirm the exact boundary between road reservation / private property and property owned by Tas Irrigation.

Actions:

Recommended that there was a need to do a check survey to confirm property boundaries (i.e. both TI and private property) and end of Council maintained road. SMC to obtain a quote to survey and consult with TI and property owner re: possibility of sharing costs;

Research background relating to the guaranteed access to the Dam given by the State Government. Was this included in any legislative provision or other documentation?

Tas Irrigation – unsure whether they had any obligation to fence their property? To be clarified.”

[End – Site Meeting Notes]

Following from the above, I can confirm that a check Survey has been completed. Marker pegs have been installed and a full copy of the survey diagram has only recently been received. The Survey shows that there is an 18 metre wide reservation. Pending a site visit, it is unclear whether there is sufficient room to construct a turning circle within the land owned by Tas Irrigation.

The next proposed course of action was to reconvene the group of representatives that attended the above meeting and determine the strategy going forward.

Concluding Comments

In order to close a 'highway', Council must be satisfied that there is a public benefit; it is in the interests of public safety or because of lack of use.

In this case, lack of use can be discounted. Whilst there are no detailed traffic numbers available, there is certainly evidence that the road is frequently used.

The Notice of Motion specifically refers to the public benefit and in the interests of public safety.

At this stage, no advice has been sought in terms of what constitutes 'public benefit'. In this instance, it is difficult to qualify the public benefit of closing the road as there is evidence that the road is still being used.

In so far as being in the interests of public safety, the question arises whether the issues being raised by the property are 'policing matters' and not necessarily public safety issues that can be addressed through closure of a road.

RECOMMENDATION

For discussion.

DECISION

Moved by Deputy Mayor A Green, seconded by Clr R Campbell

THAT:

- a) the Southern Midlands Council as per the provisions of the *Local Government (Highways) Act 1982 s.14 ss. (1)* close for reasons of public benefit and in the interests of public safety that section of Craighourne Road, Colebrook, situated between 32 Craighourne Road and Craighourne Dam; and
- a) Prior to proceeding further, Council seek advice in terms of:
- 1) what constitutes ‘public benefit’ and whether there is a sufficient grounds for Council to rely upon in this case; and
 - 2) being able to justify the decision to close the road based on the interests of public safety

CARRIED

Councillor	Vote FOR	Vote AGAINST
Mayor A E Bisdee OAM	√	
Dep. Mayor A O Green	√	
Clr A R Bantick	√	
Clr E Batt	√	
Clr R Campbell	√	
Clr D F Fish	√	

[END EXTRACT - MINUTES OF COUNCIL MEETING HELD 24 OCTOBER 2018]



6 November 2018

General Manager
Southern Midlands Council
PO Box 21
OATLANDS TAS 7120

ATTENTION: Mr T Kirkwood
BY EMAIL: tkirkwood@southernmidlands.tas.gov.au

Dear Tim,

CRAIGBOURNE ROAD CLOSURE

Thank you for your instructions on this matter.

1. Your Instructions

- 1.1 At the most recent Council meeting, Deputy Mayor Alex Green submitted a Notice of Motion proposing to close the section of Craighourne Road, Colebrook between 32 Craighourne Road and Craighourne Dam ('Road').
- 1.2 You have asked the following questions:
 - (a) For the purposes of s. 14 of the *Local Government (Highways) Act 1982*, what constitutes "public benefit"?
 - (b) Is there sufficient grounds for Council to rely on "reasons of public benefit" to close the Road?
 - (c) Is there sufficient grounds for Council to rely on the "interests of public safety" to close the Road?
- 1.3 I assume you accept there is no basis to argue that the Road should be closed due to "lack of use",¹ so I have not explored this in detail.

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¹ It is the use of the road that is causing the public safety issues.

2. Summary of Advice

- 2.1 There are only two circumstances in which a Council can justify the closure of a road, rather than three. "*Public benefit*" is a necessary element of both options, rather than being a separate option itself. This means the two options are:
- (a) When it is for the public benefit, in the interests of public safety; or
 - (b) When it is for the public benefit, because of lack of use.
- 2.2 In my view, there is a basis to argue that it is in the public benefit in the interests of public safety to close the Road, but there is also an argument against this.
- 2.3 Even if Council are satisfied that closure of the Road is for the public benefit in the interests of public safety, it is important to note that Council is not then automatically obligated to close the Road. Council has a discretion which it can exercise as it sees fit.
- 2.4 The exercise of Council's discretion should keep in mind the associated costs with closing the Road (and the costs of keeping the Road open), together with the possibility of opposing legal action if an "*interested person*" is aggrieved by the Road closure. The likelihood of opposing legal action depends on who is using the Road and why.
- 2.5 It is worth noting that there is no basis to appeal a decision not to close the road.
- 2.6 It would be reasonable for Council to require that it be persuaded further before making a final decision regarding the closure of the Road.
- 2.7 If you would like detailed advice about the balancing exercise required by s. 14 of the Act, please provide further instructions about how the public use the Road and the full extent of the risks to public safety asserted by the owners.

3. Background

- 3.1 Council are looking to close a 1.1 kilometre section of road between 32 Craighourne Road and Craighourne Dam ('Dam'). This is at the north-east of the Dam.
- 3.2 Prior to the construction of the Dam in 1986, Craighourne Road continued from Colebrook through to Hungry Flats Road. Now the road ceases at both ends of the Dam, but the north-eastern end is still used as an access road by some people to the Dam itself. There is no boat ramp at the north-east end of the Dam, and the only access for boats is at the south-west end (off Colebrook Road).
- 3.3 There are no issues with the state of the Road itself. The issues are with the inappropriate use of the Road by the public to access the Dam, which has caused the following problems:
- (a) Vehicles stray onto private property; and

- (b) Reports of vandalism, damage to buildings on the property, illegal shooting activities and the non-approved removal of firewood.

3.4 These concerns appear to affect the owners of the property surrounding the Road only. A number of options, alternative to closing the Road, have been discussed with the owners, although presumably none have been deemed suitable.

4. The Law

4.1 Section 14 of the *Local Government (Highways) Act 1982* ('Act') prescribes as follows:

14. Closure and diversion of highway

(1) 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, it may

(subject to formal requirements)

...close or divert the highway in respect of all traffic or particular types of traffic or subject to the reservation of a footpath or some other highway that may be used only for limited purposes.

4.2 One reading of s. 14 of the Act suggests that it prescribes three separate circumstances that could justify diversion or closure, being

- (a) for the public benefit;
- (b) in the interests of public safety; and
- (c) because of lack of use,

4.3 However, Chief Magistrate A G Shott in *Listers Lane and Golconda Road*² determined that there were in fact only two circumstances in which diversion or closure could be justified. He said as follows:

"In my view, when one has regard to the words of section 14(1) when read in context, the legislative history and the extrinsic material to which I have referred, it contains only two grounds, both qualified by a concept of 'public benefit.'"³ [my emphasis]

4.4 He said that the only bases upon which diversion or closure could be justified are:

² REFERENCE pursuant to the *Local Government (Highways) Act 1982* section 14: *Listers Lane and Golconda Road, Scottsdale, Tasmania* [2006] TASM 4

³ I note that this was the subject of argument from three highly experienced counsel, all of whom submitted that there were three rather than two circumstances. Chief Magistrate Shott reviewed the legislative history of s. 14 of the Act at length and reached the opposite conclusion.

- (a) When it is for the public benefit in the interests of public safety; or
 - (b) When it is for the public benefit because of lack of use.
- 4.5 This means that the public benefit and public safety must be considered together rather than separately. Chief Magistrate Shott made the following comments about the “public benefit” in *Listers Lane and Colconda Road*:
- (a) The “public” refers to all people who could be directly or indirectly affected by the change.
 - (b) What may be a benefit to some members of the public may be a detriment to others. Therefore, public benefit means “*net public benefit*” after completing a balancing process.
 - (c) This can include economic, social, cultural and political aspects of “benefit” and perhaps others.
 - (d) This is a question of fact to be determined on the evidence provided to the Court.
- 4.6 Chief Magistrate Schott did not expressly define “public safety”, but his comments regarding the “public” are clearly applicable to that term too.
- 4.7 I emphasise that s. 14 uses the word “may” rather than “must”. This provides Council with an unfettered discretion to close the road, and means it is not mandatory to close a road, even if either or both of the above two circumstances are met.⁴
- 5. Application of the Law to the Facts**
- 5.1 All previously published decisions of the Magistrates Court of Tasmania applying the “public safety” consideration in s. 14 of the Act address a risk to public safety inherent in the road itself.⁵
- 5.2 On your instructions, the question is not whether the Road itself is a risk to public safety, but whether activities of the public arising as a consequence of the use of the road are a risk to public safety.
- 5.3 It appears that the only people exposed to this risk are the current owners. However, the owners are members of the public, and in my view there is a strong argument that vandalism, damage to buildings, illegal shooting activities and the non-approved removal of firewood are of a risk to their safety, as is the potential access to their property.
- 5.4 This provides a basis to argue that it is in the interests of public safety to close the road.

⁴ The Court has this same discretion when reviewing a decision to close a road, s. 26(2) of the *Magistrates Court (Administrative Appeals Division) Act 2001*. Chief Magistrate Schott in *REFERENCE pursuant to the Local Government (Highways) Act 1982 section 14: Strickland Road at Porky Creek Bridge, King Island, Tasmania* [2009] TASM 25 at paragraph [16].

⁵ Such as, for example, the dangers inherent in a road in a state of poor repair.

- 5.5 However you could also argue that these risks are best left to be addressed by the law of trespass, rather than justifying the closure of the Road. It is also unclear whether closure of the Road would effectively prevent the risk from arising.⁶
- 5.6 The public safety risks to the owners are to be weighed up against the public benefit in the Road remaining open.
- 5.7 Whilst my instructions do not extend to the reasons why the Road is still accessed by the public, I would assume it is used to access the Dam for fishing⁷ from the north-eastern side, rather than driving 13 kilometres to the south-western side.
- 5.8 The full extent of this benefit (and whether it would be in the “*net public benefit*” to close the road in light of the above) requires more detailed instructions as to how and why the Road is still used.

6. Advice

- 6.1 There are factors in support of, and in opposition to closing the Road. It is, in my view, at least arguable that the public safety risk outweighs the public benefit in keeping the Road open, however there is also an argument to the contrary. The argument to the contrary may be stronger if further instructions suggest that the use of the Road to access the Dam is still widespread.
- 6.2 Importantly, Council are provided a discretion by s. 14 of the Act. Council are not obligated to close the Road even if Council were satisfied that the risks to public safety outweighed the public benefit of keeping the Road open.
- 6.3 It is worth noting that if Council were to close the Road, any interested person could then object to the closure by written notice to the Council, after which Council would have to refer the objection to Magistrates Court (Administrative Appeals Division). The Court would then review the objection and either uphold the objection or authorise the closure.
- 6.4 It is worth noting that there is no power within the Act for an interested person to appeal a decision by Council not to close a Road.
- 6.5 This should be taken into account when conducting the balancing exercise prescribed by s. 14 of the Act, as should costs factors associated with closing the Road (or not closing the Road).
- 6.6 Given the above, it would be reasonable for Council to require that it be persuaded further by the owners (with reference to supporting evidence) before making a final decision regarding the closure of the Road.

⁶ Closing the road would not prevent access by foot as Hungry Flats Road is only 1.1 km from the Dam.

⁷ I am aware that the Dam is open for fishing all year, and the Inland Fisheries Service regularly stock the Dam with Atlantic Salmon.

6.7 If you would like detailed advice about the balancing exercise required by s. 14 of the Act, please provide further instructions about how the public use the Road and the full extent of the risks to public safety asserted by the owners.

If you have any further queries please do not hesitate to contact Roger or myself.

Yours faithfully

ABETZ CURTIS

Per:



OLIVER ROBINSON

email: orobinson@abetzcurtis.com.au

file ref: 180561

[EXTRACT - MINUTES OF COUNCIL MEETING HELD 28 NOVEMBER 2018]

12.1.1 CRAIGBOURNE ROAD – PROPOSED ROAD CLOSURE

Author: GENERAL MANAGER (TIM KIRKWOOD)

Date: 15 NOVEMBER 2018

Enclosure:

Legal Advice from Abetz Curtis dated 6th November 2018

Extract from Council Minutes held 24th October 2018

ISSUE

To provide Council with advice (i.e. legal) in relation to the proposed closure of the Craigbourne Road (north-eastern section) between 32 Craigbourne Road and the Craigbourne Dam.

Note: The section of Craigbourne Road that is the subject of this Motion is the north-eastern section of the road that is accessed via Link Road, Colebrook.

BACKGROUND

Council, at its meeting held on 24th October 2018, considered a Notice of Motion submitted by Deputy Mayor Alex Green relating to the proposed closure of the Craigbourne Road (north-eastern section) between 32 Craigbourne Road and the Craigbourne Dam.

An extract from the Minutes of that meeting is attached. This includes all the background information.

Council resolved as follows:

“THAT:

- a) the Southern Midlands Council as per the provisions of the Local Government (Highways) Act 1982 s.14 ss. (1) close for reasons of public benefit and in the interests of public safety that section of Craigbourne Road, Colebrook, situated between 32 Craigbourne Road and Craigbourne Dam; and*
- b) Prior to proceeding further, Council seek advice in terms of:*
 - (1) what constitutes ‘public benefit’ and whether there is a sufficient grounds for Council to rely upon in this case; and*
 - (2) being able to justify the decision to close the road based on the interests of public safety.”*

DETAIL

Advice has since been sought from Abetz Curtis in relation to the provisions contained within section 14 of the *Local Government (Highways) Act 1982*, and specifically in relation to the following:

- a) What constitutes 'public benefit; and whether, in this case, there is sufficient grounds for Council to rely upon; and
- b) Being able to justify the decision to close the road based on the interests of public safety.

A full copy of the Abetz Curtis advice is included as an attachment.

In reference to the 'Summary of Advice', the following comments are provided:

- a) The advice indicates that there is a basis to argue that it is in the public benefit in the interests of public safety to close the Road, but there is also an argument against this.

Additional commentary is provided later in the advice, and raises such issues as '*net public benefit*' which is influenced by the extent of use of the road. In this regard, it is apparent that the road is still frequently used, which is evidenced by the number (and timing) of complaints received when a lock has been placed on the gate across the road.

The advice also suggests that it would be reasonable for Council to be further persuaded by the owners (with reference to supporting evidence) before making a final decision to close the road. In this regard, it is unknown how many formal police reports have been made in relation to the alleged offences which would provide such evidence.

- b) The exercise of Council's discretion should keep in mind the associated costs with closing the Road (and the costs of keeping the Road open), together with the possibility of opposing legal action if an 'interested person' is aggrieved by the Road closure.

The cost of keeping the road open is considered to be irrelevant, as it is a Council maintained road for which we have a responsibility to maintain.

In relation to closing the road, advertising costs are estimated at \$1,200 (i.e. two advertisements). Other administrative costs, including notification of owners and occupiers, and other stakeholders nominated in the Act would be minimal.

It is not possible to estimate the costs that may be incurred in opposing legal action. Based on past complaints, and feedback received since Council's decision made at the last meeting, it would need to be assumed that opposition to closure will be guaranteed. It follows that Council will need to be prepared to accept the cost of defending its decision.

It is apparent that there are three options available to Council:

1. Proceed to close the road in accordance with the *Local Government (Highways) Act 1982*, acknowledging the potential issues and costs associated with this course of action;
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; or
3. Prior to making a formal decision to close the road, seek prior input from the broader public (via a Public Notice published in the Mercury Newspaper). The aim would be to seek written submissions in response to the possible closure of the road. Council to further consider its position following consideration of submissions received.
(This process would precede any formal advertising process under the Local Government (Highways) Act 1982).

Note: The following is a draft Notice that could be placed in the newspaper:



DRAFT

**Access to Craigbourne Dam, Colebrook
(via the north-eastern section of Craigbourne Road - off Link Road, Colebrook).**

Due to issues being experienced by the adjacent landowner(s), and in the interests of public safety, the Southern Midlands Council has been requested to consider a permanent closure of the Craigbourne Road extending from No 32 Craigbourne Road (i.e. approx. 320 metres from the junction with Link Road) extending through to the Dam.

Prior to making a decision in respect to this matter, Council seeks feedback from the broader community in terms of how any proposed closure may impact on users of the road.

Written submissions can be sent to the General Manager, 71 High Street, Oatlands or can be emailed to mail@southernmidlands.tas.gov.au. Written submissions will be received up until December 2018.

Should you require further information, please contact the Council office on telephone 6254 5000.

TF Kirkwood
GENERAL MANAGER

Human Resources & Financial Implications – Refer comment above.

Community Consultation & Public Relations Implications – Refer detail provided.

Policy Implications – Policy position.

Priority - Implementation Time Frame – N/A.

RECOMMENDATION

Submitted for discussion and direction.

DECISION

Moved by Deputy Mayor E Batt, seconded by Cllr A E Bisdee

THAT prior to making a formal decision to close the road, Council seek prior input from the broader public (via a Public Notice published in the Mercury Newspaper on Saturday, 1st December 2018). The aim would be to seek written submissions in response to the possible closure of the road. Council to further consider its position following consideration of submissions received.

CARRIED

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

[END EXTRACT - MINUTES OF COUNCIL MEETING HELD 28 NOVEMBER 2018]

DECISION

Moved by Clr K Dudgeon, seconded by Clr R McDougall

THAT the meeting be suspended for morning tea.

CARRIED

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

DECISION

Moved by Clr K Dudgeon, seconded by Clr D Fish

THAT the meeting be reconvened at 12.01 p.m.

CARRIED

DECISION		
Councillor	Vote FOR	Vote AGAINST
Mayor A O Green	√	
Deputy Mayor E Batt	√	
Clr A Bantick	√	
Clr A 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).

13.3.1 ECONOMIC DEVELOPMENT & TOURISM STRATEGY

Author: GENERAL MANAGER (TIM KIRKWOOD)

Date: 10 JANUARY 2019

ISSUE

Council to consider conducting a workshop to advance the preparation of a draft Consultancy Brief for the formulation of an Economic Development & Tourism Strategy for the municipal area.

BACKGROUND

During Question Time at the previous Council Meeting, Council officers were requested to prepare a scoping report for the preparation of an Economic Development & Tourism Strategy.

DETAIL

The preparation of a scoping report is best achieved through the drafting of a potential Consultancy Brief. The engagement of an external consultant is recommended and reflects:

- a) the need to engage a person/s with specific expertise and experience in the preparation of such strategies;
- b) the need to engage a person/s that bring a fresh mindset when preparing the strategy;
- c) the need to engage a person/s that are basically independent of Council that have the ability to consult with and communicate with the community and all key stakeholders; and
- d) the limited extent of 'in-house' resources that can be dedicated to such a major strategic planning process.

Following an 'in-house' discussion relating to this issue, a number of issues were raised, the majority of which require direction from Council. This advanced planning is necessary to ensure:

- a) that there are agreed parameters;
- b) the desired outcomes are reflected in the final consultancy brief; and
- c) best value for money.

Human Resources & Financial Implications – Depending on the final scope and parameters agreed to by Council, the estimated costs of preparing a consolidated Economic Development & Tourism Strategy could be substantial.

It should be noted that a budget has not been allocated in 2018/19 and therefore preparation of the Strategy will be dependent on an available budget and can be considered as part of the forthcoming 2019/20 budget process.

Community Consultation & Public Relations Implications – The extent and process for engaging with the community (and all other key stakeholders) will be influenced by the detail to be included in the final Consultancy brief.

Policy Implications – N/A

Priority - Implementation Time Frame – subject to available funding.

RECOMMENDATION

THAT:

- a) The information be received;
- b) Council conduct a workshop to advance the preparation of a draft Consultancy Brief for the formulation of an Economic Development & Tourism Strategy - to be held on (Date to be set).....

DECISION

Moved by Clr A Bisdee OAM, seconded by Clr R McDougall

THAT

- a) The information be received; and
- b) Council conduct a workshop to advance the preparation of a draft Consultancy Brief for the formulation of an Economic Development & Tourism Strategy to be held on Monday, 25th February 2019 at Oatlands commencing at 9.30 a.m.

CARRIED

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

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: 17 JANUARY 2019

ISSUE

Report from the Manager, Heritage Projects on various Southern Midlands Heritage Projects.

DETAIL

During the month, Southern Midlands Council Heritage Projects have included:

- Completion of the works program at the Oatlands Commissariat and 79 High Street and commencement of move-in for the setup of the Heritage Hub. Currently liaising with the Commonwealth for an official opening date, likely to be late-Feb/early-March 2019. Final project acquittal report being prepared.
- Further consultation and planning is underway for the Heritage Hub.
- Finalisation of works at the Kempton Council Chambers.
- The Convict Archaeology in the Southern Midlands (CASM) project has commenced at the Picton Road Station site near Kempton under the direction of UTas Adjunct Professor Eleanor Casella. Investigations at the Oatlands Guard House are under the direction of Archaeologists Louise Zarmati and Brad Williams. Ten archaeology students are working at Picton, with five history teachers working at the Guard House. Weekly updates will be provided to Councillors via the information bulletin, and an open day will be held on Friday February 1st 2019 (invitations to be included in the bulletin).
- The Oatlands Key system is proving successful, with approx. 20 people per day using the system on average. The initial print-run of 1000 instruction postcards have run out and a further print run has been ordered and received.

RECOMMENDATION

THAT the Heritage Projects Report be received and the information noted.

DECISION

Moved by Clr A Bisdee OAM, seconded by Clr K Dudgeon

THAT the Heritage Projects Report be received and the information noted.

CARRIED

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

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 LANDCARE UNIT – GENERAL REPORT

Author: NRM PROGRAMS MANAGER (MARIA WEEDING)

Date: 15 JANUARY 2019

ISSUE: Southern Midlands Landcare Unit Monthly Report.

DETAIL

- Kempton Streetscape Group met on Tuesday 11th December 2018. The Group looked at preliminary ideas for the next phase of improving the streetscape as can be accommodated in the next budget in 2019/2020. The current budget has been expended with the exception of funding for panels for the playground area in the Recreation Ground. The panels, to match existing, have been ordered. The next meeting of the group is proposed for early February 2019.
- NRM Officers worked with the Department of Primary Industries, Parks Water and Environment (DPIPWE) to organise a landholder meeting in relation to the weed Chilean Needle Grass (CNG). The meeting was held on Thursday 6th December 2018. Approximately 30 people went to the meeting. It was decided that an immediate on ground survey would commence and that this would be resourced by DPIPWE to the extent to ensure that it was concluded by Christmas. The results of the survey show that the CNG is contained to a cluster of properties. Plans are to start working with the affected landholders. DPIPWE will take the lead with Southern Midlands Council working in a supporting role as and where practical.
- Helen Geard and Maria Weeding continue to work on Patterson's Curse matters which includes an article in the most recent Ratepayer Newsletter. DPIPWE have also contacted some landholders in regard to this weed, as there is genuine concern being expressed to DPIPWE by the wider public – reports often received from the traveling public.
- Helen Geard and Maria Weeding have worked on completing the Environment Section information as required for the Tidy Towns National Awards information. Maria will also work on the Water Section next week.

RECOMMENDATION

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

DECISION

Moved by Clr D Fish, seconded by Clr R McDougall

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

CARRIED

Councillor	Vote FOR	Vote AGAINST
Mayor A O Green	√	
Deputy Mayor E Batt	√	
Clr A Bantick	√	
Clr A 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).

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.

15.10.1 BAGDAD PRIMARY SCHOOL – VEHICLE PARKING AND TRAFFIC CONGESTION IN SCHOOL PRECINCT

Author: GENERAL MANAGER (TIM KIRKWOOD)

Date: 18 JANUARY 2019

Enclosure:

School Car Park – Amended Design Options 1 to 2

ISSUE

To provide Council with an update in relation to the proposed development of a car park off School Road, Bagdad in the vicinity of the Bagdad Primary School .

BACKGROUND

The Bagdad Primary School is situated in School Road, Bagdad. The issue of parking in School Road and traffic congestion, particularly in the peak morning and afternoon periods, has been a significant issue for many years. A number of on-site meetings have been held in the past with representatives from the School and the Department of Education with respect to this issue.

Whilst a number of improvements have been undertaken in School Road, it has always been identified that the most appropriate and long-term solution is to acquire land on the southern boundary of the school property for the purpose of constructing an off-road car park and designated bus area.

In November 2017, a letter was received from B & J Wilson and T & P Barham which offered to make their land (located on the southern side of School) available to Council in anticipation that Council would fund and project manage the construction of this infrastructure. The Bagdad Primary School Association also wrote in support of the proposal.

Following this, Council resolved to facilitate a process that brought together representatives from the Department of Education, Bagdad Primary School (and the School Association) and the property owners.

Council subsequently agreed to prepare preliminary designs and estimates for the car park. Sugden & Gee were engaged for this purpose.

DETAIL

Initial feedback from the property owners resulted in the preparation of revised design options, and the preferred Design (i.e. construction of the car park immediately adjacent to the School) was included as an option as there was a willingness by the Department of Education to consider purchasing the adjoining Church property.

Refer to amended design options (attached).

Advice has since been received from the Department of Education confirming its in principle support to acquire the Church and also construct the carpark. This support is subject to finalising the detail and negotiations.

In light of the above, final confirmation and acceptance of Design Option No 2 (refer enclosure) is being sought from the Barham family which will then enable Council to progress to more detailed engineering design and precise costing of the carpark. A meeting has been arranged and an update will be provided to the meeting.

Human Resources & Financial Implications – The revised cost estimates are:

Option 1 – \$226K

Option 2 - \$238K

Council has committed an amount of \$25,000 as its contribution.

Community Consultation & Public Relations Implications – refer detail provided.

Policy Implications – N/A

Priority - Implementation Time Frame – N/A

RECOMMENDATION

THAT the information be received.

DECISION

Moved by Cllr A Bantick, seconded by Deputy Mayor E Batt

THAT the information be received.

CARRIED

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

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 MEETING – HELD 14TH JANUARY 2019

Author: GENERAL MANAGER (TIM KIRKWOOD)

Date: 17 JANUARY 2019

Enclosure:

Meeting Notes – Melton Mowbray Community Meeting 14 January 2019

ISSUE

To report on the outcomes of the Melton Mowbray Community Meeting held 14th January 2019.

BACKGROUND

This meeting was convened on behalf of the Southern Midlands Council to discuss issues affecting the township of Melton Mowbray. The intent being to gain the views and input from residents.

DETAIL

Refer to the attached Meeting Notes which are provided for information and endorsement of the proposed actions.

Human Resources & Financial Implications – To be considered during the plan development stage.

Community Consultation & Public Relations Implications – this is 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

Moved by Deputy Mayor E Batt, seconded by Cllr A Bisdee OAM

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

CARRIED

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

ENCLOSURE
Item 16.1.1

**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 time 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.

16.2 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.

Nil.

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: 18 JANUARY 2019

Enclosure(s):

Local Government Shared Services – Council Update – November 2018

Local Government Shared Services Update – December 2018

ISSUE

To inform Council of the Common Services Joint Venture activities for the month of November and December 2018.

BACKGROUND

There are seven existing members of the Common Services Joint Venture Agreement, with two other Council's participating as non-members.

Members: Brighton, Central Highlands, Glenorchy, Huon Valley, Sorell, Southern Midlands and Tasman.

DETAIL

Refer 'Local Government Shared Services – Council Update' attached.

Human Resources & Financial Implications – Refer comment provided in the update.

November 2018 - Councillors will note that the Southern Midlands Council provided 174 hours of service to other Councils and received 6 hours of services from other Councils.

Details of services provided are included in the enclosures.

Community Consultation & Public Relations Implications – Nil

Policy Implications – N/A

Priority - Implementation Time Frame – Ongoing.

RECOMMENDATION

THAT the information be received.

DECISION

Moved by Deputy Mayor E Batt, seconded by Cllr R McDougall

THAT the information be received.

CARRIED

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

ENCLOSURE

Item 17.2.1

Local Government Shared Services - Council Update

Council

Southern Midlands

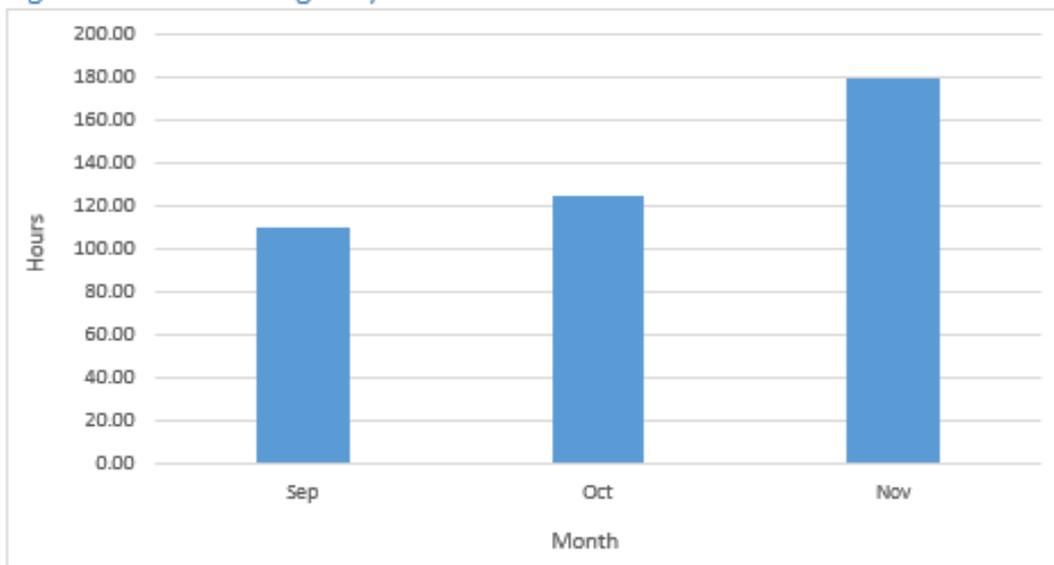
Shared Service Participation in November '18

180 hours

Summary

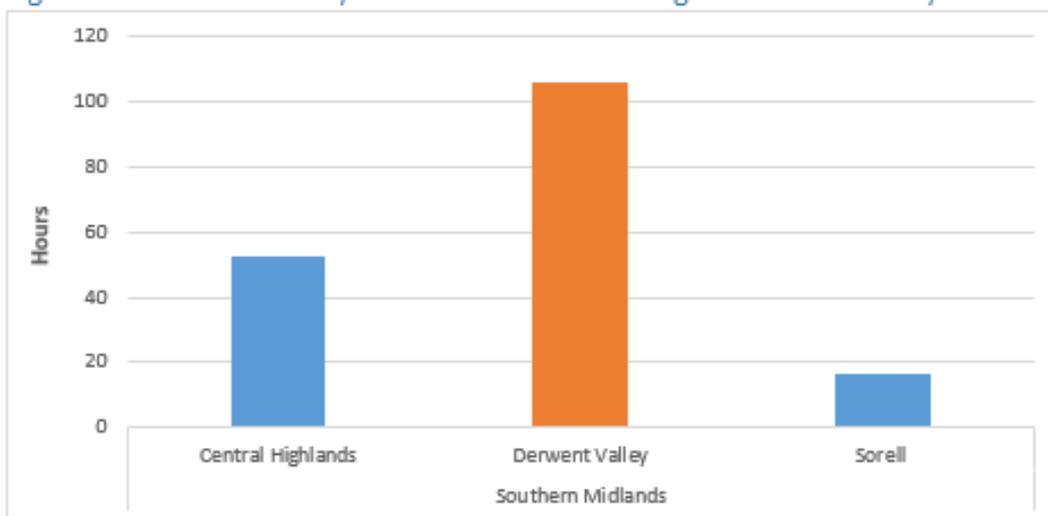
In November 2018, 180 hours of shared services were exchanged by the Southern Midlands Council. From this total, Southern Midlands provided 174 hours of services to other Councils and received 6 hours of services from other Councils. Total hours of exchange increased by 44% when compared to October and are above the three-month average of 141 hours per month.

Fig 1 – Services Exchanged by Southern Midlands Council in Recent Months



Services Provided by Southern Midlands Council

Fig 2 - Services Provided by Southern Midlands during November 2018 by Council



* Council is not currently a member of LG Shared Services

Fig 3 - Services Provided by Southern Midlands during November 2018 by Service Category

Southern Midlands	174	Summary of Services Provided
Central Highlands	52	
Planning	29	Statutory Planning Services
Animal Control	23	Animal Control Services
Derwent Valley	106	
Asset Management	35	Heritage Advice Willow Crt Subdivision
Permit Authority - Plumbing	67	Statutory Planning Services
Tourism & Promotion	4	Beacon Project
Sorell	16	
WHS / Risk Management	16	Corporate Compliance Services

* Council is not currently a member of LG Shared Services

Services Received by Southern Midlands Council

Fig 4 - Services Received by Southern Midlands during November 2018

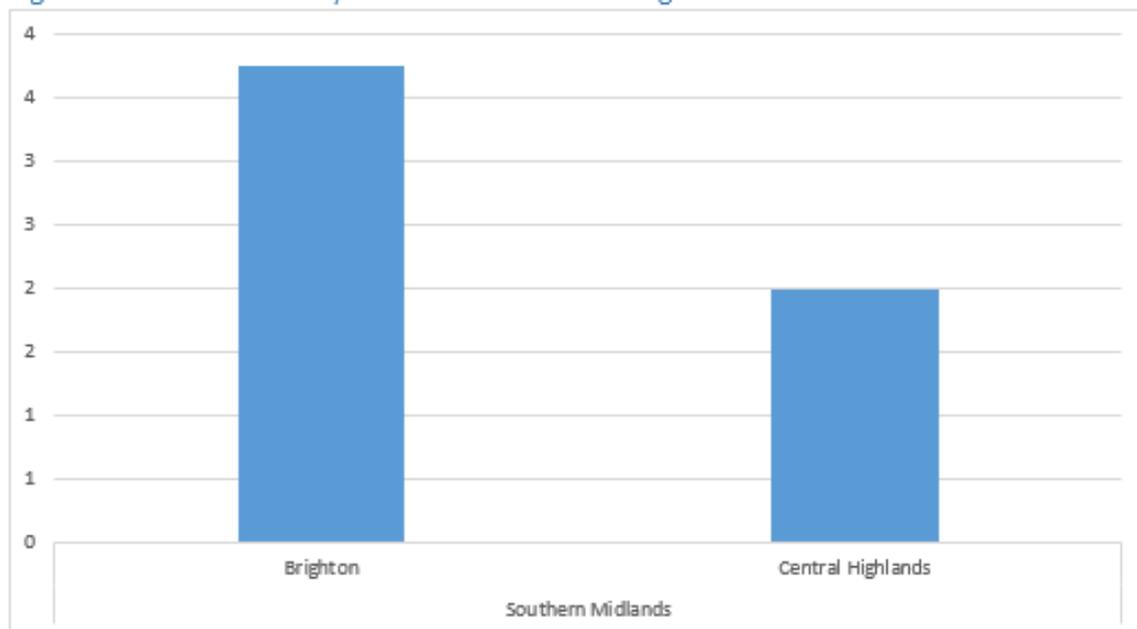


Fig 5 - Services Received by Southern Midlands during November 2018 by Service Category

Southern Midlands	6	Summary of Services Received
Brighton	4	
Development Engineering	4	Subdivision Approvals & Inspections
Central Highlands	2	
Works Services	2	Online Contractor Inductions

Cost Benefits Achieved by Southern Midlands and Other Councils

180 hours of Shared Services were exchanged by Southern Midlands Council last month. Analysis of Shared services provision has indicated that both the Provider Council and the Client Council save money through the exchange of Shared services at an approximate ratio of 50%.

In the month of November, it is estimated, Council have achieved a net benefit of approximately \$4,400. This was a result of increasing the utilisation of its current staff to earn additional revenue from providing services to other Councils, and from utilising Shared services from within Local Government as opposed to external consultants (on average LG Shared Services rates can be procured at significant discount to external consultant fees).

It is estimated that Southern Midlands Council's direct involvement in Shared services saved participating Councils (including Southern Midlands Council) approximately \$11,000 for the month of November.

LG Shared Services Update

December 2018

Summary of Recent Shared Services Activity

607 hours of Shared Services were exchanged between Councils in December 2018, which is a decrease of 33% when compared to hours exchanged in November 2018 (905 hours) and is significantly below the three-month average of 812 hours per month.

Fig 1 - Shared Service Exchange Hours in Recent Months

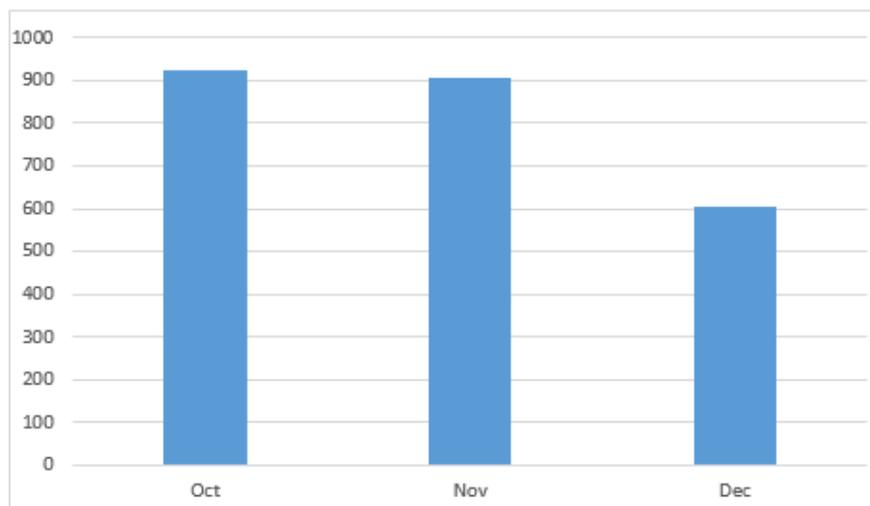
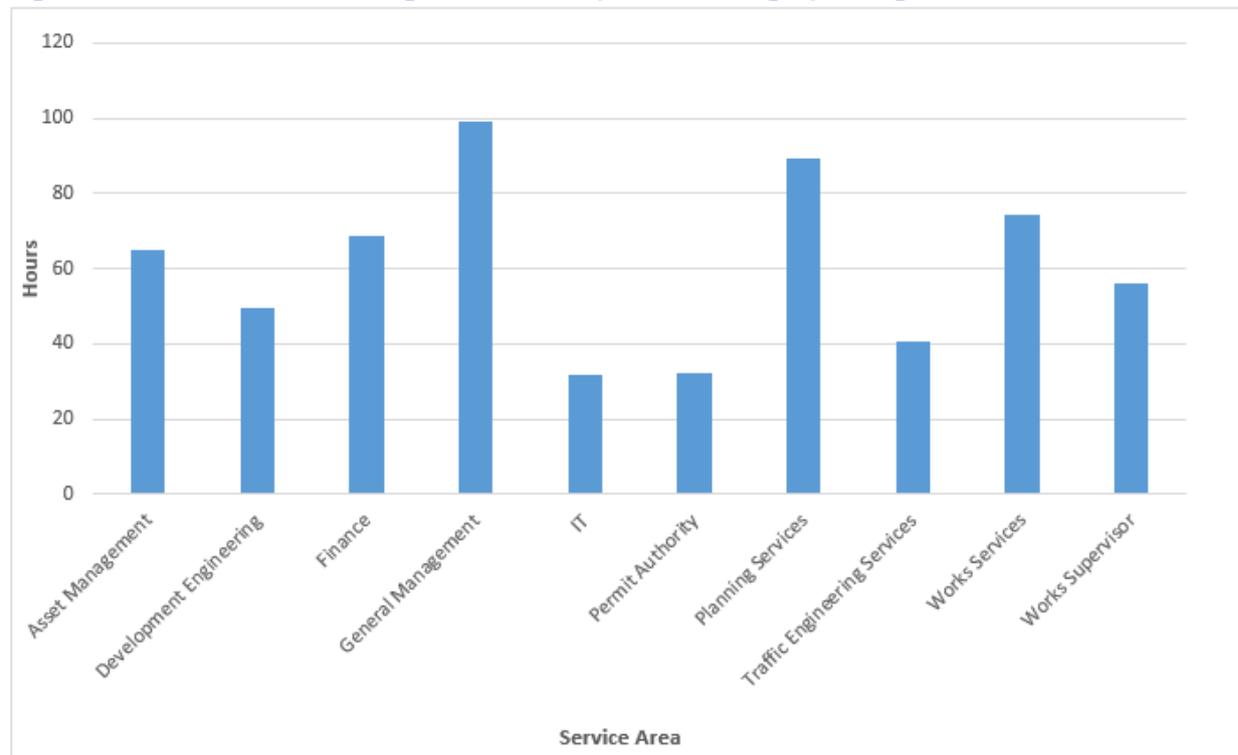


Fig 2 - Details of Current Exchange of Services by Councils during December 2018

Provider Council	Client / Organisation							
	Brighton	Central Highlands	Derwent Valley	GSB	Glenorchy	Sorell	Southern Midlands	Tasman
Brighton			63	37	30		7	203
Central Highlands	2					2	2	2
GSB								
Glenorchy								
Huon Valley								
Litchfield								
West Arnhem								
Sorell				22				237
Southern Midlands								
Tasman								

* Council/Organisation not currently a member of the Shared Services Joint Venture Agreement

Fig 3 - Details of Current Exchange of Services by Service Category during December 2018



Savings to Local Government

A total of 607 hours of shared services were exchanged between Councils last month. Analysis of Shared Services provision has indicated that both the Provider Council and the Client Council save money through the exchange of Shared Services at an approximate ratio of 50%.

Due to this, it is estimated that the provision of shared services between Councils saved participating Councils and Local Government as a whole \$41,800 for the month of December. This was a result of increasing the utilisation of current Council Staff at Councils providing services and from Client Councils utilising Shared services from within Local Government as opposed to external consultants (on average LG Shared Services rates can be procured at significant discount to external consultant fees).

17.2.2 CONSIDERATION OF MOTIONS – ANNUAL GENERAL MEETING HELD 12TH DECEMBER 2018

Author: GENERAL MANAGER (TIM KIRKWOOD)

Date: 16 JANUARY 2019

ISSUE

Council to consider the Motions that were passed at the Annual General Meeting held 12th December 2018.

BACKGROUND

The Minutes of the Annual General Meeting were listed for confirmation under Item 4.1.3 of the Agenda.

Section 72B of the *Local Government Act 1993* states that a Motion passed at an Annual General Meeting is to be considered at the next meeting of Council.

DETAIL

The following Motions from the floor of the meeting have been extracted from the Minutes:

1. Council Meeting Times

The following motion was put from the floor of the meeting.

MOTION

Moved by Terry Loftus, seconded by Martin Bloomfield

THAT the elected council trial a six month period with Council Meetings starting at 4.30 p.m. and conclude by 8.30 p.m. Then conduct a community review regarding the best time for all future Council Meetings

CARRIED

General Manager's Comments:

In reference to the Minutes of the Council Meeting held 28th November 2018 (Item 17.2.3 - Draft 2019 Council Meeting Schedule), Council resolved that Ordinary Meetings of Council continue to be held on the fourth Wednesday of every month commencing at 10.00 a.m. (Public Consultation session scheduled for 12.30 p.m.)

This was determined as being an interim arrangement (pending a community consultation process).

Following from the above, the following article was included in the January 2019 Council Newsletter and posted to Council's Facebook page and website:

PUBLIC COMMENT SOUGHT - Commencement Time of Council Meetings

Following the most recent election, the Southern Midlands Council must review and determine the commencement time for its Ordinary monthly meetings. The *Local Government (Meeting Procedures) Regulations 2015* state that a meeting is not to start before 5.00 p.m. **unless otherwise determined by Council.**

Note: The Annual General Meeting, held in December each year, does commence at 5.00 p.m.

At present, monthly meetings commence at 10.00 a.m. and the Agenda includes a 'Public Question Time' section which commences at 12.30 p.m.

Prior to making a determination in relation to future Council meeting times, **Council seeks input from the community in terms of whether there is sufficient interest to warrant meeting after 5.00 p.m., and whether this would increase the level of community attendance.**

In considering this issue, there are a number of factors that need to be considered, including:

- ◆ The anticipated level of community attendance (and interest) if meetings were held after 5.00 p.m.
(or commenced earlier and extended beyond 5.00 p.m.)
- ◆ Whether persons that may be required to address Council in respect of certain matters may be available after hours (e.g. State Government officers are generally more accessible during normal operating hours);
- ◆ Additional costs associated with Council officers attending meetings out-of-hours;
- ◆ The likelihood of late night travel if meetings extend late into the evening. This is particularly relevant where Council elects to meet in the smaller communities during the summer months; and
- ◆ The ability to source additional information during office hours if an unexpected issue arises.

Prior to making a decision in respect to this matter, Council seeks feedback from the broader community.

Written submissions can be sent to the General Manager, 71 High Street, Oatlands or emailed to mail@southernmidlands.tas.gov.au.

Submissions will be received up until the close of business on the 31st January 2019.

Recognising that the closing date for submissions was nominated as being the 31st January 2019, it would be inappropriate to consider this matter at this meeting.

RECOMMENDATION

THAT the content of the Motion passed at the Annual General Meeting be considered in conjunction with the overall feedback received as part of the broader community consultation process. To be considered at the Council Meeting scheduled for 26 February 2019.

DECISION

Moved by Clr A Bisdee OAM, seconded by Clr R McDougall

THAT the content of the Motion passed at the Annual General Meeting be considered in conjunction with the overall feedback received as part of the broader community consultation process. To be considered at the Council Meeting scheduled for 26 February 2019.

CARRIED

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

2. Public Question Time

The following motion was put from the floor of the meeting.

MOTION

Moved by Terry Loftus, seconded by Martin Bloomfield

THAT Council retain Public Question Time as Item 9 on the agenda and taken prior to the Council's determination of any reports on that day's agenda

CARRIED

General Manager's Comments:

In principle, there are no issues in terms of scheduling Public Question Time at the commencement of the meeting.

Public Question Time could be advertised as being 30 minutes following the commencement time of the meeting which allows time to complete Agenda Items 1 through to 8 being:

- 1. Prayers*
- 2. Attendance*
- 3. Apologies*
- 4. Council Minutes – Confirmation; Special Committee Minutes – Receipt and Confirmation; Joint Authority – Minutes and Reports*
- 5. Notification of Council Workshops*
- 6. Councillors – Question Time*
- 7. Declarations of Pecuniary Interest*
- 8. Consideration of Supplementary Items to the Agenda.*

The scheduled Public Question Time will be dependent on the outcome of Council's decision relating to the commencement of Meeting Times at the February Council meeting.

RECOMMENDATION

THAT:

- a) In principle, Public Question Time be held (and advertised) 30 minutes after the commencement of the Ordinary Council Meeting; and
- b) A commencement date for this practice be considered as part of the review relating to the commencement time of Ordinary Monthly Council meetings.

DECISION

Moved by Cllr R McDougall, seconded by Cllr K Dudgeon

THAT:

- a) **In principle, Public Question Time be held (and advertised) 30 minutes after the commencement of the Ordinary Council Meeting; and**
- b) **A commencement date for this practice be considered as part of the review relating to the commencement time of Ordinary Monthly Council meetings.**

CARRIED

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

PUBLIC QUESTION TIME

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 were 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 then invited questions from members of the public in attendance.

There were eleven (11) members of the public in attendance.

Rick Wilton

Question regarding Craighourne Road. As the gate to the Mt Baines property is erected across a public road, and quite often locked, will the property owner be given a specific timeframe to remove the gate?

The General Manager advised that Council are keen to bring together all relevant stakeholders and will seek a guarantee that the gate will remain unlocked in the first instance and work towards a long term solution.

Rick Wilton

Question regarding Council providing a contribution towards fencing of property adjoining a road. Mr Wilton stated that Council is not required to do so and he is totally opposed to any of his rates being used to pay for any fencing on this particular section of road.

Andrew Caddle

Question regarding the illegal gate on Craighourne Road at the entrance to Mr Miller's property. If someone went through this gate in the middle of the night, Council would be liable as there is no signage or clear markings on the gate. Mr Caddle would like to see the gate removed as soon as possible.

It was advised that Council would be seeking for the gate to be removed and unrestricted access to the dam maintained.

Mark and Jen Barrett

Commented that fencing is the only option. Whilst there is a gate erected, the property owner will always state that it keeps stock in. If necessary, a cattle grid installed (at the landowner's expense) would prevent stock roaming etc.

Terry Loftus – Southern Midlands Regional News

Question regarding Council's involvement in the High Street traders group?

Andrew Benson (Deputy General Manager) advised that Council staff member Michelle Webster (Coordinator, Heritage Hub) participates in that group given that the Heritage Hub is trading in the High Street. A Benson attended the first meeting of this group to discuss disability access parking spots in High Street and believes that monthly meetings will be held in the Heritage Hub.

Further question asking that Council had no involvement in setting that group up?

Andrew Benson (Deputy General Manager) confirmed that Council had no involvement in setting this group up.

Terry Loftus – Southern Midlands Regional News

Follow-up question regarding the issues raised by Cllr Bisdee and Cllr Fish in terms of inaccurate reporting.

It was stated that the costs reported were sourced from Council's own documents. Reference was made to the Council Agenda Item relating to the estimated cost of attending the ALGA conference (i.e. registration fees etc.); and the reported figures for the 'Cows in the Lake' project.

Can Council respond by providing actual costing amounts for 'Cows in the Lake' and the ALGA Conference?

In future, can reports include a section on costings for accountability and transparency reasons?

Public Question Time concluded at 12.44 p.m.

17.2.3 REVIEW OF TASMANIA'S LOCAL GOVERNMENT LEGISLATION FRAMEWORK (DISCUSSION PAPER)

Author: GENERAL MANAGER (TIM KIRKWOOD)

Date: 15 JANUARY 2019

Enclosure(s):

Discussion Paper – December 2018

Consultation Sessions – Program Information Sheet

ISSUE

Council to consider the enclosed Discussion Paper issued by the Local Government Division (Department of Premier and Cabinet) which is focussed on the principles of how Tasmania's local government should be legally established and elected; how it should provide services to its community; and how it should be accountable to its community.

BACKGROUND

Following the issue of the final Terms of Reference by the Minister on 22nd November 2018, the first phase of the Review of Tasmania's Local Government Legislation is underway.

This Discussion Paper has been released to seek broad input on the principles that should be embodied in a future local government legislative framework.

DETAIL

The overall objectives for the Review are to provide a clear and contemporary legislative framework that is fit-for-purpose and can adapt to future changes that:

- supports greater innovation, flexibility and productivity in the sector to improve the overall efficiency and effectiveness of the services that councils provide to the Tasmanian community;
- minimises red tape and administrative burden on councils, business and the broader community;
- enhances accountability and transparency across the sector; and increases democratic and community engagement, participation and confidence in local government.

Submissions are invited on how the sector should be governed and what should be considered in developing a new legislative framework that will best support local government and its communities into the future. Information provided as part of these submissions will help inform future reform positions.

Questions are provided throughout the Discussion Paper seeking general responses to the broad principles discussed, noting that submissions can be made on any aspect being considered during the review.

Respondents are not required to answer all questions in the Paper when making submissions.

The Local Government Division (DPAC) will be conducting a series of engagement sessions in February 2019, and it is suggested that any detailed consideration of the Discussion Paper be deferred pending the conduct of these sessions.

Recognising that submission close on 1st March 2019, this provides a further opportunity to consider the issues raised in the Discussion Paper at the February meeting.

Please note that in each region, three sessions will be held – one for Local Government Professionals; one for Local Government Elected Members and one for Industry or Interested Groups. Each session will run for 1 hour, followed by an hour dedicated to private appointments for further discussion if required.

The session for Elected Members will be for Mayors and current sitting elected members. It will provide the opportunity to discuss their challenges and options for reform from their perspective. There is an RSVP date by **1 February 2019** and if elected members would like a private appointment, notification is to be given at the time of RSVP.

All sessions aim to provide the opportunity for attendees to discuss challenges and options for reform that are likely common to them and directly impact their roles. Appointments with the Project Team give the opportunity for direct feedback, views or queries that individuals may not wish to discuss in a group environment.

The Consultation Program information sheet is included as an enclosure.

Please note that a representative from the Local Government Association of Tasmania will be attending each of these sessions with the intent of gathering the key themes and preparing a whole of sector submission on the Review.

Human Resources & Financial Implications – Not applicable to this stage of the Review.

Community Consultation & Public Relations Implications – This is the first step in the consultation process. Ongoing, the Review will involve extensive consultation with LGAT, the local government sector and the Tasmanian ratepayer and business communities through targeted stakeholder forums and the release of consultation papers at various stages. Consultation at the highest levels of Government will also occur, with the Review being a standing item on the Premier's Local Government Council agenda.

Policy Implications – N/A

Priority - Implementation Time Frame – Submissions are open until 5.00 p.m. on 1st March 2019.

RECOMMENDATION

THAT:

- a) the information be received; and
- b) Councillors indicate their interest in attending the Consultation Session(s).

DECISION

Moved by Cllr K Dudgeon, seconded by Cllr R McDougall

THAT

- a) the information be received; and
- b) Councillors indicate their interest in attending the Consultation Session(s) by contacting Council's Executive Assistant (E Lang).

CARRIED

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

ENCLOSURE

Item 17.2.3

Review of Tasmania's Local Government Legislation Framework

DISCUSSION PAPER | December 2018



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How to Make a Submission

Submissions

Questions are provided throughout this Paper seeking general responses to the broad principles discussed, however submissions can be made on any aspect being considered during the Review. You are not required to answer all the questions in this Paper when making your submission, if you do not wish to do so.

Factsheets have been provided at the back of this Paper to provide additional background information in relation to the topics covered by the Paper.

Submissions close on 1 March 2019.

Submissions can be made either by:

- completing the questionnaire survey www.dpac.tas.gov.au/LGReview or
- writing to or calling the Review Project Team.

Email: LGAReview@dpac.tas.gov.au

Post: Local Government Legislation Review Project Team
Local Government Division
Department of Premier and Cabinet
GPO Box 123
HOBART TAS 7001

Please provide your name and contact details with your submission, for publication on the Local Government Division's website. Alternatively, if your submission is being provided confidentially, please clearly state this.

Submissions should only address issues outlined in the 'Scope of the Review'. Any offensive or defamatory material will not be published.

What to Include

Submissions are invited on the principles of how Tasmania's local government should be legally established and elected; how it should provide services to its community; and how it should be accountable to its community.

This is a wholesale Review of the legislative framework that creates, empowers and provides councils with a mechanism to work within, rather than a review of the current Local Government Act. The focus of this consultation is on the broad principles that should apply to local government, rather than technical issues in the current legislation.

Queries about the use of this Paper and lodgement of submissions can be made by contacting the Local Government Legislation Review Project Team on (03) 6232 7643 or by email at LGAReview@dpac.tas.gov.au

Refer to
factsheet
#1



Minister's Foreword

The Government recognises the important, and increasingly complex, role of local government in the community. It is a vital arm of government in administering legislation and making economic, social and environmental planning decisions to support Tasmania to grow strong, sustainable and vibrant communities, both now and into the future.

It is crucial that the legal framework for the sector is reflective of this, is not unnecessarily burdensome from an administrative perspective, and is flexible and adaptable enough to allow for inevitable change and growth over the coming decades.

To help support this, the Government has committed to reviewing and developing a modern, best-practice legislative framework for local government. The Review will be broad and will deliver a contemporary framework that supports greater innovation, flexibility and productivity; improves efficiency and effectiveness of council services; enhances accountability and transparency and minimises red tape wherever possible.

I have appointed an experienced Steering Committee to guide the Review and provide me with advice. In continuing my commitment for this to be a collaborative Review, the Steering Committee includes three highly respected members of the local government sector and two senior officers from the Department of Premier and Cabinet. They will be supported by a Reference Group, selected from the sector and the community through an Expression of Interest process. I will also be updating the sector through the Premier's Local Government Council. The Terms of Reference detailing the scope of the Review and the membership of the Steering Committee can be found on the Review's webpage. www.dpac.tas.gov.au/\\LGReview

I was encouraged to see a high degree of interest and engagement with local government during the most recent local government elections, conducted in October 2018. The elections highlighted a number of challenges with the current legal framework, including the electoral system and lack of caretaker provisions.

While this is one aspect, I acknowledge there are a number of broader policy challenges which councils face. This Review will provide a platform to consider both the challenges and opportunities for Local Government and how to best support councils in meeting these.

It will involve various consultation papers and opportunities for engagement, through public forums and stakeholder consultation, starting with this Discussion Paper. I encourage all those with an interest to have their say. Make submissions, provide responses and submit ideas for how we can create a better legal framework for local government.

I look forward to continuing to work closely with the sector and the community to create a strong, practical legal framework for the future of local government.



Purpose of the Review

Refer to
factsheet

#2

It is now 25 years since the introduction of the *Local Government Act 1993* (the Act), which is the primary component of the current legislative framework governing the local government sector in Tasmania. During this time, Tasmania has evolved economically, socially and technologically. Multiple amendments have been made to the Act in an effort to keep pace with these changes. These amendments, together with the introduction of supporting subordinate legislation, have resulted in a framework which, at times, is inconsistent and overly prescriptive.

Local government has a crucial – and increasingly demanding – role in serving and representing local Tasmanian communities. The legislative and regulatory framework (the framework) that governs the Tasmanian local government sector needs to reflect and support what other levels of Government and communities expect from their local councils. The framework also needs to support councils to be able to meet requirements and expectations now, and into the future. Making continuous updates to the existing legislation is unsustainable and a more proactive, forward-looking approach is needed.

The intended outcome of this Review is a contemporary, flexible and best-practice legislative framework that will:



Support greater innovation, flexibility and productivity in the sector, to **improve the overall efficiency and effectiveness** of the services that councils provide to the Tasmanian community



Minimise the red tape and administrative burden on councils, businesses and the broader community



Enhance accountability and transparency across the sector



Increase democratic and community engagement, participation and confidence in local government.



Guiding Principles

The Review will adopt a 'first-principles' approach, taking the concept of local government back to its core purpose and fundamental values. In essence, it considers why local government was created in the first place and seeks to ensure its core objectives are recognised and supported in developing a new legislative framework.



The principles guiding the Review are to deliver a legislative framework that will:

- ① To the greatest extent that is possible and practical, be outcomes-focused;
- ② Be flexible and robust to future structural, technological and social change;
- ③ Strike an appropriate balance between ensuring councils have sufficient operational and decision-making autonomy on the one hand, and having in place adequate checks and balances on the other;
- ④ Establish clear accountabilities and provide for efficient and effective risk-based monitoring, compliance and enforcement activities;
- ⑤ Be guided by best-practice regulatory, governance and legislative approaches and, where relevant and appropriate, lessons and outcomes from reviews of local government legislation in other jurisdictions; and
- ⑥ Be drafted and presented in a way that is logically structured and easily understood by councils, businesses, and the broader Tasmanian community.



Key Assumptions

In developing this Paper, several key assumptions have been made in relation to the local government sector and the community's expectations. Where there is disagreement with these assumptions, this can be provided in submissions. The assumptions are that:

- Councils have an important role in serving the community and the expectations for their responsibilities are likely to change over the next few decades as our social, economic and technological environment continues to evolve.
- Elections are an important part of ensuring the democratic representation of local government. A robust electoral system should be accessible and equitable for all members of the community and reflect good democratic principles. It should support and encourage maximum participation to achieve a democratic result. Diverse, skilled candidates and councillors are positive for communities and should be encouraged.
- The community expects councils to operate in an efficient, effective way and make sound, ethical decisions that reflect the best interests of the community. Good governance is the foundation that supports good decision-making. Strategic decisions should be made by elected members, wherever possible, through debate in an open, public forum.
- To further achieve this, there should be mechanisms to enhance accountability and performance. Where things go wrong, the community expects that there are appropriate responses both councils and the State Government can make to improve council performance.



Overview of Local Government

Local government is one of the three tiers of government in Tasmania, together with Federal and State Government. Councils are currently made up of between seven to 12 members, elected by their municipal communities. There are currently 263 elected members and nearly 4000 employees across Tasmania's 29 councils, who serve half a million constituents.

Local government has a critical role to play in the Tasmanian economy. It has a total annual operating revenue of \$791 million; holds and manages over \$11 billion in assets; and has invested more than \$1 billion in capital expenditures over the past four years¹. The sector delivers a range of key functions. It is responsible for over 14,000 km of Tasmania's road network by length and it provides governance, planning, service delivery, community development, asset management and local regulation. It is vital in building local community infrastructure to create jobs and to improve the social life of Tasmanians.



On any given day, councils are managing land use to ensure development is consistent with community expectations and that building standards are met. They are managing and recycling waste, maintaining stormwater and drainage systems, roads, streets, public buildings, bridges and parks. They are supporting communities to prepare for natural disasters and providing cultural and sporting venues, events and opportunities. Councils are also providing social welfare programs like childcare, aged care and youth programs and supporting community health through immunisation programs and safe drinking water. They are considering environmental concerns like climate change and biodiversity and how to mitigate these for future generations.

Increasingly, local government is responsible for enforcing Commonwealth and State legislation at the local level and delivering initiatives at the grass roots. Councils act as statutory authorities under other legislation, for example under the *Land Use Planning and Approvals Act 1993* and the *Environmental Management and Pollution Control Act 1994*. They are now a fundamental part of delivering services and providing governance to Tasmania. Into the future, they will be actively working to ensure vibrant communities through infrastructure and development planning, social welfare, health services, economic development and tourism programs.

Councils determine the services they provide to their communities through their strategic planning and annual planning process, with an increasing focus on building their capacity to service their ratepayers. As the closest level of government to the community, councils' role is to identify community needs and make sure those needs are met, which highlights the importance of community engagement in council planning.

¹ Tasmanian Audit Office, *Local Government Authorities 2017-18*, No 5 of 2018-19, Auditor-General's Report on the Financial Statements of State entities, Volume 3.

Councils across Tasmania are as diverse as the communities they represent. The needs and operations of a small, rural council may be vastly different from those of a large urban council, as will the expectations of the communities they serve. A future legislative framework to support councils across Tasmania needs to consider this and be flexible enough to accommodate these differences.

The Review will offer the opportunity to consider what Tasmanians want local government to look like: how it should be elected, operate, deliver services, engage with them on issues and be accountable to its community. The community's expectations will guide the Review and what provisions are needed to enable it to meet those expectations, both now and into the future.



- What do you think councils will be responsible for in the future?
- What council activities should be driven or determined by communities?
- Given the varying sizes of councils, what consideration should be given to costs of services and the councils' capacity to deliver these?



Council Governance and Powers

Refer to
factsheet
#3

Governance is the processes and culture that guide the activities of an organisation². Good governance is fundamental to an efficient, effective and transparent council that delivers quality services. Good governance ensures robust, ethical decisions and gives the local community confidence in those decisions.

Good governance structures, across all levels of government, separate the strategic decisions from the operational decisions of an organisation. In local government, elected members (councillors, including mayors and deputy mayors) are responsible for strategic and policy decisions on issues that affect their communities, and council administration (general managers and their staff) are responsible for the operational decisions in implementing and supporting those strategic decisions.

General Managers act as a conduit between elected members and council staff, providing advice and assistance to elected members and implementing council decisions. This dual responsibility reinforces the importance of a clear governance structure to support them. An effective and functional relationship between general managers and elected members (and especially mayors) is critical to the success of the overall council.

Refer to
factsheet
#2

Councils require broad powers to make and implement their strategic and operational decisions. Powers given to local government, through the local government legislative framework which is the subject of this Review, are essential for them to exist and operate as a distinct level of government. Powers can be granted through either specific legislative provisions (such as the power to levy rates), or general competency powers (such as requiring a council to provide for the good governance of the local area). Competency powers allow councils authority in any area, unless expressly prevented³.



- What is vital to good governance in local government?
- What aspects of good governance should be prescribed in a legislative framework?
- What statutory powers do councils need to deliver the services that communities require, or expect to receive, from councils now and into the future?
- How are the strategic decisions of councils best made?
- What mechanisms best support strategic, operational and technical decisions and actions?

² Department of Premier and Cabinet, Local Government Division's *Good Governance Guide*

³ Australian Government, Department of Infrastructure, Regional Development and Cities
http://regional.gov.au/local/publications/reports/2003_2004/CI.aspx



Democracy and Engagement

Local government is a form of representative democracy. Democratically elected governments are popularly elected by the people and are answerable to them for the decisions they make. Councillors collectively make major decisions that impact their communities, including making of by-laws, provision of public services and the levying of rates.

This emphasises the importance of the community's right to engage and participate in local government decision-making. The more communities can be involved in councils' decisions and decision-making processes, the more effective, transparent and accountable these decisions will be⁴.

The ways the community can engage and participate in the local government decision-making process include: through elections, policy decisions, strategic planning and law-making processes.

Elections

Refer to
factsheet
#5

Tasmania's local government elections are conducted every four years, in October, via a three week, voluntary postal ballot. There was high community interest during the most recent elections in October 2018. This was reflected in strong voter participation which averaged 58 per cent across the State, with one municipality as high as 82 per cent⁵.

A number of issues regarding elections were raised publicly during the recent elections, including:

- compulsory vs voluntary voting;
- the three week postal polling process;
- how to reduce informal voting (incomplete or incorrectly completed ballots);
- the lack of caretaker provisions that might otherwise limit council decision-making and administration during elections⁶;
- eligibility to vote and the General Manager's Roll;
- eligibility to run as an elected member; and
- requirements for already elected members seeking re-election to declare donations, compared with requirements on candidates not currently elected. Campaign funding was also raised as an issue.

While recently-introduced gifts and benefits disclosures are applicable to councillors at all times, it is a matter for consideration whether there should be separate provisions that capture all candidates in the context of an election.

⁴ International Association of Public Participation – The United Nations (Brisbane) Declaration on Community Engagement

⁵ https://www.tec.tas.gov.au/Local_Government_Elections/LocalGovernmentElections2018/DailyReturns.html

⁶ Caretaker provisions are designed to allow the administrative functions of government to continue while safeguarding the process of making strategic or policy decisions during an election period.

Consultation

Public consultation on major decisions ensures the local community has a voice in determining what their council will do and how it will affect them. Councils are required to consult, involve and be accountable to the community in performing their functions. This places a broad obligation on councils to engage the community in their planning and decisions.

In today's environment of electronic and instant information, the public have become increasingly passive and disengaged with traditional engagement mechanisms, but more active in social media⁷. This makes effective engagement increasingly difficult. The traditional ways of engaging through public notices, open council meetings and making information publicly available for comment, frequently receive very little community feedback. Lack of consultation or feedback can result in councils developing plans for the future or making decisions, such as the level of service the community receives, without understanding if these plans and decisions align with the broader community's expectations, including for engagement through online platforms and social media.



- What is the best way to engage Tasmanians in voting for local government?
- Who should be allowed to participate in local government elections?
- How can local government attract skilled, diverse and representative electoral candidates?
- What should be required of candidates in local government elections before, during and after elections?
- What decisions should councils continue to be able to make during an election period?
- In what ways should councillors engage with, and represent, communities in the digital age?
- On what matters should councils engage with communities?
- How can community engagement be strengthened and measured?

⁷ Australian Public Service Commission 'Changing behaviour: A public policy perspective' p. 1



Council Revenue and Expenditure

Revenue is essential to councils' financial sustainability and their ability to serve their local communities. Revenue can be sought through grants, general property rates and charges, or specific purpose rates, such as for infrastructure upgrades of a bridge. Councils can invest in business or commercial activities as a source of revenue, which may reduce rates, however, may also expose ratepayers to commercial risks.

Councils have the ability to determine their own rating approach and where they seek specific purpose funds, which reflects the independence of local government. Council rates are a type of property tax levied on property owners, based on the value of property within the municipal area. Taxation principles govern how councils set rates, which have traditionally considered the value of rateable land as an indicator of the property owner's capacity to pay. Rates can also be based on the principle of equity across the municipal area. Councils' rating approaches are published in rates resolutions⁸, which outline councils' approach to distributing the tax burden across the local community.

Councils are as diverse as their communities, resulting in diversity in the services they deliver. Consequently, they require different levels of revenue to provide these services. Councils consider their forward planning activities in their annual budgets, which set out the mix and level of services to be provided and how they will be financed. Councils must consult with their communities in developing their strategic and annual forward planning, to ensure their planning is consistent with the community's expectations. Where communities are disengaged or disinterested in councils' planning processes, this can have long-term impacts on how councils raise revenue and where this revenue is spent. Communities can also have vastly differing views and priorities on how public funds should be spent. To what extent councils engage and consult with their community in planning their services, facilities and programs will be reflected in community satisfaction.

Councils constantly face expenditure decisions on competing projects and services, which may be more or less important to different members of the community. How councils can balance these interests and clearly articulate the difficult decisions of choosing to fund one service or project over another, and what this will mean for the community, is critical to this engagement process. Where a community is invested in developing infrastructure or services in their local area, they may be more willing to financially contribute to these developments. Councils must also balance the community's ability to pay rates with what they can deliver from that funding, taking into consideration rising costs of living, operating costs and inflation. Lower revenue, through reducing rates and charges, may be popular but can have hidden long-term costs for the community in deteriorating assets, such as roads, or reduced services. This can result in a need to raise specific purpose funds to address these issues.

⁸ Section 86B, *Local Government Act 1993*



Where a council invests, for example, \$10,000 in purchasing a new BBQ, it must consider the ongoing costs of maintaining and servicing that BBQ over the life of the asset. If it costs \$10,000 per year to run, maintain and clean the BBQ and the life of that asset is 10 years, the total cost of that asset becomes \$110,000, rather than the initial outlay of \$10,000. Councils must consider these long-term costs, even for seemingly small items, when making expenditure decisions to ensure financial sustainability and value for their communities.

The financial sustainability of councils is also an important consideration in raising revenue and planning expenditure. Residents and ratepayers have an interest in ensuring their councils have strong financial positions, which enable them to provide better services and facilities, as well as manage unexpected costs, such as those from a natural disaster. Transparency in the financial decisions of councils will help achieve a better understanding of where public funds are being spent and the value the community is receiving.



- How can councils ensure transparency in funding decisions; both how it is raised and spent?
- How can councils determine how best to raise revenue for specific purposes?
- How should councils engage communities when raising revenue?
- How should councils determine the services they deliver to their communities in exchange for rates and charges?
- How should councils decide where to make trade-offs (more or less rates vs more or less services)?



Performance Transparency and Accountability

Refer to
factsheet

#7

Councils are accountable to the community which elects them. The State, by virtue of local government being created through State legislation, has a role in providing the functions and powers under which local government operates. The State Government, therefore, has an interest in ensuring the local government sector operates consistently within its legislation. This accountability should be balanced between the State ensuring that councils are exercising their powers within the law, and the fact that councils are a democratically-elected, separate level of government.

The State monitors and regulates council performance. The broad rationale for regulation is to create an environment that encourages positive outcomes for communities and stakeholders. It is a mechanism for transparency and accountability and, when councils are performing well, can build trust and confidence between communities and their councils, between elected members and between council administrators and elected members⁹.

Council accountability requirements can be set out in legislation, including through reporting requirements and oversight mechanisms to ensure transparency in council performance and, where necessary, detect, respond to and manage poor performance. Acknowledging that generally, councils perform well, regulatory models should take a risk-based approach that does not unnecessarily increase bureaucratic processes.

Performance reporting is another element of accountability. It has the capacity to enhance transparency when it is available to the public and also to drive improvement by, and within, councils where it can be used for operational analysis.

Councils are constantly working to improve how effectively and efficiently they deliver to their communities and performance data is a key part of informing this. Performance data can help inform councils in their planning decisions and service delivery. Useful data that is collected and presented in meaningful ways can allow comparisons between year-to-year performances of individual councils, as well as comparisons between councils. Consistently reported performance data, across councils and performance areas, is beneficial to both councils and the community.

It is difficult to determine to what extent council reports, information and decisions are accessed by, and are useful to, the public. In theory, council reporting should encourage transparency and allow communities access to relevant information. Where reporting is not being accessed or used by the public, it can create red tape. The preparation and delivery of reports that are not effective also places a cost-burden on the community.

⁹ Victorian Ombudsman submission to the Victorian Government's Review of the *Local Government Act 1989*.

Refer to
factsheet
#7

Current information and notification requirements centre on providing hard-copy material and placing public notices in newspapers, which can be costly. With technological advancements and social changes in the way people seek out, access and use information, it is timely to consider what and how councils report. The majority of people now commonly seek out, and expect to find, information available on the internet, rather than in traditional print media¹⁰.



- How can the right balance between autonomy and accountability be delivered?
- Who should have oversight and regulation of councils' performance and how should it occur?
- What mechanisms should there be to respond or intervene when a council is not performing as required?
- What information should councils make available to the public and how should they be able to access it?
- What information would be useful to councils to drive performance improvements?

Other Matters

This Review will consider a broad range of issues facing the local government sector and consider the best ways to support it into the future. Should you wish to provide feedback on areas not raised in this Discussion Paper, please feel free to do so, noting the aspects that are outside the scope of this Review.



- What is one thing you would change about the current local government legislative framework and why?

¹⁰ Western Australia Department of Local Government, Sport and Cultural Heritage – Local Government Act Review Discussion Paper



Factsheet 1 Process and Scope

The Review Process

The Review is divided into four phases, as outlined in the diagram below.



The Review Scope

The Review will consider the following:

-  Appropriate legislation to support the transparent setting, levying, and collection of council revenue, rates and charges;
-  Local government electoral provisions, including options for enhancing both voter and candidate participation;
-  Provisions that support efficient and high-quality council operations and service delivery;
-  Performance monitoring, including financial sustainability, governance and other relevant reporting;
-  Council governance and decision-making practices, including options for community engagement, representation, and democratic participation;
-  Provisions that support public confidence in the integrity, transparency and accountability of local government; and
-  The roles, functions, powers and operation of statutory bodies that oversee local government compliance and reform.

The Review will **not** consider:

-  Council amalgamations, or changes to existing municipal boundaries.
-  The roles and functions of the State Government and local government; mayors, deputy mayors and councillors.
-  The suite of contemporary council planning and financial management arrangements; and the Code of Conduct framework.



Factsheet 2 Local Government Legislation: The Current Framework

- Local government is recognised as a level of government under the Tasmanian Constitution¹¹. For councils to exist in Tasmania, local government legislation is required to legally constitute them. The local government legislation determines what the core functions of local government are and what powers local councils have to undertake those functions.
- The current Act sets out the broad functions of councils as being:
 - To provide for the health, safety and welfare of the community;
 - To represent and promote the interests of the community; and
 - To provide for the peace, order and good government of the area.
- The Act underpins the work of councils and sets out the roles, responsibilities and powers of elected members and council administration staff. Councils work within a broad legislative framework that governs their operation and activities. These include, but are not limited to:
 - *Local Government Act 1993*
 - *Local Government (Building and Miscellaneous Provisions) Act 1993*
 - *Local Government (Highways) Act 1982*
 - *Local Government (Rates and Charges Remissions) Act 1991*
 - *Local Government (Savings and Transitional) Act 1993*
 - *Land Use Planning and Approvals Act 1993*
 - *Environmental Management and Pollution Control Act 1994*
 - *Resource Management and Planning Appeal Tribunal Act 1993*
 - *Building Act 2016*
 - *Dog Control Act 2000*
 - *Public Health Act 1997*
 - *Roads and Jetties Act 1935*
 - *Traffic Act 1925*
 - *Water Management Act 1999*
 - *Right to Information Act 2009*
 - *Water and Sewerage Corporation Act 2012*
 - *Local Government (General) Regulations 2015*
 - *Local Government (Meeting Procedures) Regulations 2015*
 - *Local Government (Content of Plans and Strategies) Order 2014*
 - *Local Government (Management Indicators) Order 2014*
 - *Local Government (Audit Panels) Order 2014*

¹¹ Part IVA, *Constitution Act 1934*



Factsheet 3 Governance: The Current Framework

- Councils are established as corporations, where
 - elected members are regarded as equivalent to the board of management with policy and planning responsibilities, with general managers being the only employees directly employed by elected members; and
 - general managers are responsible for the day-to-day administration of councils, the implementation of decisions made at council meetings, and providing qualified advice to allow the elected members to make informed decisions.



- Governance requirements for local government are set out in both legislation, which forms the 'rule book' for the activities and conduct of councils, and in the *Good Governance Guide* issued by the Local Government Division, which notes that good governance is demonstrated by elected members who:
 - act with the highest ethical standards;
 - understand their role and the role of others;
 - foster trusting and respectful relationships;
 - show a commitment to risk management;
 - engage in effective strategic planning;
 - follow a transparent and accountable decision-making process;
 - make good decisions that promote the interests of the community they serve;
 - understand and abide by the law;
 - commit to continuous improvement; and
 - have good judgement¹².

¹² Department of Premier and Cabinet, Local Government Division's *Good Governance Guide*



Factsheet 4 Consultation and Engagement: *The Current Requirements*

- There are both broad and specific requirements on councils to consult, involve and be accountable to the community in performing their functions and in their planning and decision-making processes. Specific consultation, including seeking and considering submissions, must occur when:
 - preparing strategic plans;
 - making or amending by-laws;
 - making or changing the councils' rating system; and
 - selling, leasing or exchanging public land.
- The public can also request that a council hold a public meeting in relation to issues raised in petitions. If a certain number of the municipal electorate request a meeting, the council must oblige. Notice of public meetings, including the meeting date, time, location and subjects for discussion, must be published at least twice before the meetings take place.
- Councils may also hold elector polls on any issue upon which they choose to seek community feedback. If petitions have been received at a public meeting, an elector poll must be held. Elector polls are used to gauge community interest in issues, but are not binding on councils.
- While not a requirement, some councils engage community members directly through community boards, which are regularly constituted committees that provide a voice on local issues to the council.



Factsheet 5 Elections: *The Current System*

- Elections are run by the Tasmanian Electoral Commission on behalf of councils.
- Elections are held by postal ballot, in October, every four years.
- The ballot period is open for three weeks.
- Mayors and deputy mayors must also be elected as councillors.
- Candidates can nominate for either the seat of mayor or deputy mayor, but not both.
- Election results are determined using the Hare-Clark system, which is a preferential voting system.
- Voting is voluntary. At the recent election in 2018, an average of 58 per cent of residents voted.
- There are no caretaker provisions leading into the local government electoral period in Tasmania.
- Eligibility to vote is determined by being on the General Manager's Roll or the State House of Assembly Roll¹³. Individuals must be 18 years or older. Eligibility to be on the General Manager's Roll is based on having property or business interests within the local electorate. Where an individual has both property and business interests, they may be entitled to two votes in a local government election. It is not necessary to be an Australian citizen to be on the General Manager's Roll. The General Manager's Roll is kept by the General Manager of the council.
- Eligibility to run for office is based on being a Tasmanian resident and being eligible to vote in that local government area.

¹³ Section 258 of the *Local Government Act, 1993* and Section 30 of the *Electoral Act, 2004*



Factsheet 6 Council Revenue and Rating: The Current System

- Councils predominately raise revenue through rates and charges, but also through grants and business enterprises. The breakdown of council revenue across the State is shown below.



- Grants can vary each year, as determined by the State Grants Commission, as do distributions from local government businesses, such as Taswater.
 - General property rates are a tax, rather than a fee-for-service. The current rating framework is structured to reflect the taxation principle of ratepayers' 'capacity to pay' (those with greater capacity contribute more) being determined by property value, rather than the service provided to individual properties. However, in setting their rates resolutions, councils also balance other supporting taxation principles of efficiency; simplicity (practical, cost-effective); sustainability (system can withstand changing conditions); equity principles (everyone contributes equally) or benefit principles (those who benefit more, contribute more).
 - Rates are based on the property value as determined by the State Government Valuer-General. Councils must pay for this service.
 - Councils also collect the (property-value based) fire levy on behalf of the State Government.
- Councils can choose a number of different approaches to setting rates. Rates in any municipal area can be affected by many factors, contributing to both the rates payable by the community and the revenue that councils can raise. These factors include:
 - Choice of property valuation methodology - including a choice of property valuation methodology (based on either: land value, land and property value or approximate market rental value). Six councils rate on land and property value (Capital Value) in Tasmania, while 23 rate on approximate market rental value (Assessed Annual Value).
 - Setting different rates in the dollar (and/or rate remissions) for different classes of ratepayers – e.g. commercial, residential, or industrial. While 12 councils apply a single (uniform) rate in the dollar, 17 councils use differential rating.
 - Setting 'flat-rates' or average area rates - intended to achieve consistency in rates across the local area and minimise rate fluctuations from movements in property values. Three councils use this approach.
 - Councils' capacity to choose fee-for-service based 'charges' instead of property-value based 'rates' in respect to revenue for services, construction and specific local improvements.
 - The Local Government Division and the Tasmanian Audit Office publish some comparative data to enable comparison of rates charged, but not services provided.
 - Councils may provide rates remissions for classes of ratepayers or persons experiencing financial hardship or, alternatively, allow ratepayers to defer rates payments.



Factsheet 7 Performance Monitoring and Oversight: The Current Framework

Performance Monitoring

- Performance monitoring functions, including financial sustainability, governance and other reporting, are carried out by:
 - the Auditor-General; and
 - the Director of Local Government.
- There is no specific location for publishing comprehensive performance monitoring or comparative data in Tasmania.

Access to Information

Mechanisms to ensure public access to information include:

- Public access to council meetings;
- Publicly available meeting minutes and agendas (if not audio or video recordings);
- Restrictions on closed council meetings and requirements that councillors consider what material can be publically released from those meetings;
- Public access to strategic council documents such as Strategic Plans, Annual Plans and Budget Estimates;
- Publicly available records of delegations, gifts and donations or conflict of interest registers; and
- Public question time and publishing responses to questions on notice.

Councils have important reasons for holding some discussions in closed meetings, such as commercial sensitivity or protecting the privacy rights of individuals in the community or employees.

Oversight

- A range of bodies are involved in regulating the local government sector, including:
 - the Director of Local Government;
 - the Tasmanian Ombudsman;
 - the Integrity Commission;
 - the Auditor-General; and
 - (if convened by the Minister for Local Government) the Local Government Board and Board of Inquiry.
- There are a range of possible oversight responses scaled in response to the severity of the issues concerned; with education and support at the lower end and intervention at the most serious end.
- Complaints about council performance are directed to councils in the first instance. If a complainant is still unhappy, they can take their complaint to the Tasmanian Ombudsman.
- Complaints relating to the conduct of elected members can be made through Code of Conduct and Code of Conduct Panel Processes¹⁴ (which were reformed in 2017 and are outside the scope of this Review).
- Complaints about statutory breaches or offences can be made to the Director of Local Government. The Director of Local Government has investigatory powers and the power to refer complaints for prosecution to the Director of Public Prosecutions. The Director does not have coercive investigatory powers.
- Powers for the most serious level of intervention in local government (e.g. suspension of councils, initiating reviews or inquiries) are held by the Minister.

¹⁴ http://www.dpac.tas.gov.au/divisions/local_government/local_government_code_of_conduct



Email: LGARreview@dpac.tas.gov.au

Post: Local Government Legislation Review Project Team
Local Government Division
Department of Premier and Cabinet
GPO Box 123
HOBART TAS 7001

Review of Tasmania's Local Government Legislation Framework



Consultation Sessions – Program Information

Session	Date	Time	Venue
LG Pro/GMs/Senior Staff	Thursday 14 February	9.00 -10.00am <i>Group session</i>	Foyer/Gnomon Room, Gnomon Pavilion - Wharf Precinct
		10:00- 11:00am <i>Private appointments</i>	Wharf Road Ulverstone 7315
	Friday 15 February	9.00 -10.00am <i>Group session</i>	Tamar Function Centre, Windsor Community Precinct.
		10:00- 11:00am <i>Private appointments</i>	1 Windsor Drive Riverside 7250
	Thursday 21 February	9.00 -10.00am <i>Group session</i>	Lord Mayor's Court Room Hobart Town Hall 50 Macquarie Street
		10:00- 11:00am <i>Private appointments</i>	Hobart 7000
Elected Members	Thursday 14 February	1.00pm – 2.00pm <i>Group session</i> <i>*Light lunch provided.</i>	Foyer/Gnomon Room, Gnomon Pavilion - Wharf Precinct
		2.00pm - 3.00pm <i>Private appointments</i>	Wharf Road Ulverstone 7315
	Friday 15 February	1.00pm – 2.00pm <i>Group session</i> <i>*Light lunch provided.</i>	Tamar Function Centre Windsor Community Precinct.
		2.00pm - 3.00pm <i>Private appointments</i>	1 Windsor Drive Riverside 7250

Elected Members	Thursday 21 February	1.00pm – 2.00pm <i>Group session</i> <i>*Light lunch provided.</i>	Lord Mayor's Court Room Hobart Town Hall 50 Macquarie Street Hobart 7000
		2.00pm - 3.00pm <i>Private appointments</i>	
Business/Industry/ Interested Groups	Thursday 14 February	11.00am – 12.00pm <i>Group session</i>	Foyer/Gnomon Room, Gnomon Pavilion - Wharf Precinct Wharf Road Ulverstone 7315
		12.00pm - 12.30pm <i>Private appointments</i>	
	Friday 15 February	11.00am – 12.00pm <i>Group session</i>	Tamar Function Centre Windsor Community Precinct. 1 Windsor Drive Riverside 7250
		12.00pm - 12.30pm <i>Private appointments</i>	
	Thursday 21 February	11.00am – 12.00pm <i>Group session</i>	Lord Mayor's Court Room Hobart Town Hall 50 Macquarie Street Hobart 7000
		12.00pm - 12.30pm <i>Private appointments</i>	
Public Drop-In	Wednesday 13 February	5.30pm – 7.30pm	Foyer Gnomon Pavilion - Wharf Precinct Wharf Road Ulverstone 7315
	Thursday 14 February	5.30pm – 7.30pm	Tamar Function Centre Windsor Community Precinct. 1 Windsor Drive Riverside 7250
	Tuesday 19 February	4:30pm – 7:30pm	Diamond Island Resort 69 Tasman Highway Bicheno 7215
	Wednesday 20 February	5:30pm – 7:30pm	RACV/RACF Hotel 154-156 Collins Street Hobart 7000

Contact Us:

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17.2.4 POLICY REVIEW – FRAUD CONTROL AND CORRUPT CONDUCT PREVENTION POLICY

Author: DEPUTY GENERAL MANAGER (ANDREW BENSON)

Date: 17 JANUARY 2019

Enclosure(s):

Draft Fraud Control and Corrupt Conduct Prevention Policy

ISSUE

Council to consider and approve the:

- a) Fraud Control and Corrupt Conduct Prevention Policy;
- b) Fraud Control and Corrupt Conduct Investigation Procedure;
- c) Fraud Control and Corrupt Conduct Prevention Strategy; and
- d) Fraud Detection and Risk Management Strategy.

DETAIL

The enclosed Fraud Control and Corrupt Conduct Prevention Policy along with the associated Procedures and strategies replace the existing versions.

The document that this revised version replaces has been long standing policies that has kept Council in tune with good practice for many years. This document was presented to the Audit Panel for their consideration and input at their January 2019 meeting. There was some general discussions in relation to the policy. The document was subsequently approved by the Audit Panel for consideration by Council.

As Councillors are aware, the process for any policy document being, that it is tabled at one meeting and then “lays on the table” until the next meeting, to enable Councillors sufficient time to work through and consider all of the ramifications of the strategy/policy, before the document is finally considered for adoption at the following meeting.

CONCLUSION

The draft Fraud Control and Corrupt Conduction Prevention Policy is commended to Council for its consideration.

RECOMMENDATION

THAT Council

1. Receive and note the report; and
2. Consider the draft Fraud Control and Corrupt Conduct Prevention Policy for adoption at the February 2019 Council meeting.

DECISION

Moved by Deputy Mayor E Batt, seconded by Cllr A Bisdee OAM

THAT Council

- 1. Receive and note the report; and**
- 2. Consider the draft Fraud Control and Corrupt Conduct Prevention Policy for adoption at the February 2019 Council meeting.**

CARRIED

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

ENCLOSURE
Item 17.2.4



Council Policy
**FRAUD CONTROL & CORRUPT CONDUCT PREVENTION
POLICY**

Approved by: Council
Approved date: Draft January 2019
Review date:

1. PURPOSE

Southern Midlands Council is committed to the prevention, deterrence and investigation of all forms of fraud and/or corrupt conduct. Fraud and corrupt conduct can be damaging to the Council through financial loss, bad publicity and loss in public confidence

This policy covers guidelines and responsibilities regarding appropriate actions that must be followed to increase the awareness of, and, for the investigation of fraud and/or corrupt conduct. Management of the risk of exposure is an important area to monitor and the Council needs to be assured that appropriate and transparent procedures are in place.

The objective of the policy is to:

- Protect Council's assets and reputation;
- Ensure a sound ethical culture of the Council;
- Ensure Senior Management commitment to identifying risk exposures to fraud and corrupt conduct as well as establishing procedures for prevention and detection;
- Ensure Councillors and staff are aware of the responsibilities in relation to ethical conduct.

2. DEFINITIONS

Fraud is defined as 'Inducing a course of action by deceit or other dishonest conduct, involving acts or omissions or the making of false statements, orally or in writing, with the object of obtaining money or other benefit from, or evading a liability to, the Council'.

Some examples of fraud include:

- Unauthorised use of Council's plant, furniture and equipment;
- Any misappropriation of funds;
- Accepting gifts from contractors, consultants and customers;
- Falsification of expense claims, including timesheets;
- Inappropriate use of position to obtain goods and services.

A number of these issues are specifically covered in the 'Southern Midlands Council – Code of Conduct Policy' (covering Employees, Contractors, Sub Contractors, Employees of Contractors and Sub Contractors, Employees of Labour Hire Companies that have assigned to work at Council, Outworkers, Apprentices and Trainees, Work Experience Students and Volunteers) and the Southern Midlands Council – Code of Conduct (Elected Members).



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3. ELEMENTS OF THE POLICY

- 1 Applicability
- 2 Education and Awareness
- 3 Roles and Responsibilities
- 4 Procedures
- 5 Consequences of Engaging in Fraudulent or Corrupt Conduct
- 6 Risk Management
- 7 Fraud and Corrupt Conduct Control Program
- 8 Linked Documentation

1. Applicability

This policy applies to all Councillors, Employees, Contractors, Sub Contractors, Employees of Contractors and Sub Contractors, Employees of Labour Hire Companies that have been assigned to work at Council, Outworkers, Apprentices and Trainees, Work Experience Students and Volunteers.

2. Education and Awareness

The likelihood and impact of fraudulent behaviour will be minimised by promoting a sound ethical environment. This approach reduces the risk of fraud, and allows greater reliance of the integrity of those that the policy applies to rather than on direct measures.

It is the responsibility of all applicable persons to set an example through ethical and prudent use of Council assets and resources. All have a duty to advise management of any concerns they have about the conduct of Council affairs or the use of Council assets and resources.

The Fraud Control and Corrupt Conduct Prevention Policy will be brought to the attention of all relevant persons and will be included in the induction program, as well as being included in the Request for Tender documentation. Staff with particular responsibilities such as cash handling, purchasing authority and account payment, will be given specific training in approved cash handling, purchasing and accounts payment procedures.

3. Roles and Responsibilities

3.01 Councillors

Councillors have a responsibility to abide by its Code of Conduct.

Councillors need to keep in mind the Code of Conduct when considering reports, making decisions and scrutinising Council's activities.

Council will support all policies and measures taken to prevent, deter, detect and resolve suspected instances of fraud.



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3.02 Senior Management

Senior Management is responsible for ensuring there are adequate internal controls to provide reasonable assurance for the prevention and detection of fraud and corruption.

Achievement of this is assisted by:

- Compliance with Council policies, rules and regulations;
- Ensuring Councillors are aware of their obligations as included in the "Southern Midlands Council – Code of Conduct (Elected Members)";
- Ensuring all other personnel are aware of their responsibilities through adequate induction, training, supervision and written procedures;
- Responding to issues raised by and external auditors.

All suspected cases or incidents of fraud are to be reported to the General Manager. The General Manager will promptly investigate such cases or incidents in accordance with the Fraud Control Procedure (attached).

3.03 Employees / Contractors / Sub Contractors, Employees of Contractors and Sub Contractors, Employees of Labour Hire Companies that have been assigned to work at Council, Outworkers, Apprentices and Trainees, Work Experience Students and Volunteers

All of the above persons have a duty to make management aware of any concerns they have about the conduct of Council affairs or the use of Council assets and resources. Any issues raised by them should be promptly investigated. Confidentiality of issues raised must also be maintained.

4. Procedures

The Fraud Control Investigation Procedure (attached) must be followed for all investigations of fraud.

5. Consequences of Engaging in Fraudulent or Corrupt Conduct

Council's disciplinary procedures will apply to any staff member (employee) involved in fraudulent or corrupt activities in accordance with HR disciplinary procedures.

Any issue involving conduct of this kind and pertaining to a Councillor will be subject to the procedures set out in the Code of Conduct for Elected Members or referred to an appropriate external authority for investigation and further action.

Where fraudulent or corrupt conduct is believed to have been undertaken by a contractor, sub-contractor, an employee of a contractor or sub-contractor, an employee of a labour hire company that has been assigned to work with Council, apprentice or trainee, work experience student or volunteer, the matter will be referred to the appropriate internal process or external authority for investigation and further action.



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6. Risk Management

The measures required to satisfactorily address the risk of fraud depend on the nature and extent of risks faced. It is therefore necessary to undertake a risk assessment on an annual basis of the organisation's activities. The outcome of these assessments will then be used to formulate appropriate controls to mitigate any identified risks.

The following fraud minimisation procedures are to be followed:

- 1 Accountability of Managers for the results and deviations from budget in the monthly management reporting for departments. Further independent detailed reviews of significant variances that may arise will be arranged by the General Manager or the relevant Manager.
- 2 Periodic review of Council operations and an assessment of the Council's exposure to the risk of fraud.
- 3 An ongoing review process. Internal controls supported by internal reviews on a regular basis will minimise the exposure to fraud risk and minimise the occurrence of new frauds arising.
- 4 External audit review with the focus on accountability of financial systems and reporting processes.
- 5 Maintain strict recruitment practices, including the confirmation of all relevant employees details and thorough checking of references, in addition including police checks on applicants successfully applying for senior positions, and the promotion of this policy to all new Council employees.
- 6 All assets are properly recorded and regular checks are performed to ensure that significant items are present.
- 7 Set a standard of conduct for suppliers and contractors.
- 8 Review work practices open to collusion or manipulation.
- 9 There are penalties in place should a staff member be found guilty of fraud.
- 10 Ensure that Council management have been trained in identifying indicators of fraud.

7. Early Warning Signs

The following are some behavioural warning signs all staff and managers need to be aware of relating to potential fraudulent behaviour:

- Refusing to take leave.
- Resigning suddenly or failing to attend work for no apparent reason.
- Drugs or alcohol abuse.
- A Manager/staff member who over rides internal controls.
- Persistent anomalies in work practices.
- Obvious lifestyle changes that are in conflict with employees normal financial position.



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Approved date: Draft January 2019
Review date:

4. RELATED DOCUMENTS

- Fraud Control and Corrupt Conduct Investigation Procedure (Appendix A).
- Fraud Prevention Strategy (Appendix B).
- Fraud Detection and Risk Management Strategy (Appendix C).

5. DOCUMENT ADMINISTRATION

This Instruction is a managed document and is to be reviewed bi-annually or as directed by the General Manager.

This document is Version 1.1 effective XX-XX-XXXX. The document is maintained by the General Managers Unit, for the Southern Midlands Council.

Approval Process

<i>First Council Meeting Date:</i>	<i>24th October 2012</i>	<i>Decision No.</i>	<i>C/12/10/070/19195</i>
<i>Final Council Meeting Date:</i>	<i>28th November 2012</i>	<i>Decision No.</i>	<i>C/12/11/072/19219</i>
<i>Repealed Council Meeting Date:</i>		<i>Decision No.</i>	
<i>Updated Council Meeting Date:</i>		<i>Decision No.</i>	



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Approved by:
Approved date:
Review date:

Council
Draft January 2019

APPENDIX A

FRAUD CONTROL AND CORRUPT CONDUCT INVESTIGATION PROCEDURE

This procedure covers appropriate actions and responsibilities that must be followed for the investigation of fraud.

Process

1. Any employee; contractor; sub-contractor; employee of a contractor or sub-contractor; an employee of a labour hire company that has been assigned to work at Council; Outworker; Apprentice; Trainee; Work Experience Student or Volunteer who has reason to suspect that a fraud has occurred shall immediately notify his / her Manager. If the person has reason to believe that the person's Manager may be involved, the person is to immediately notify the General Manager. The person who provides notification to his/her Manager shall keep this information confidential. (Note: Should the incident relate to the General Manager, the matter should be reported to the Mayor).
2. If the person has reason to believe that the General Manager may be involved, the matter should be reported immediately to the Mayor or in his/her absence, to the Deputy Mayor.
3. Any Councillor who has reason to suspect that a fraud has occurred shall immediately notify the General Manager. The Councillor shall keep this information confidential.
4. The Manager, when receiving notification of suspected fraud, will immediately contact the General Manager. The Manager will not attempt to investigate the suspected fraud and will keep the information confidential.
5. The General Manager will promptly investigate the fraud upon notification of the details, or alternatively, the Mayor will promptly investigate the report of fraud where there is reason to believe that the General Manager may be involved.
6. At the conclusion of the initial investigation of a Councillor, the General Manager will determine what further action may be required which may include the need to refer to an external authority.
7. At the conclusion of an investigation of an employee; contractor; sub-contractor; employee of a contractor or sub-contractor; an employee of a labour hire company that has been assigned to work at Council; Outworker; Apprentice; Trainee; Work Experience Student or Volunteer the General Manager will prepare a record.

The record will contain:

- The allegation/s
- An account of all relevant information received, and, if the General Manager has rejected the evidence as being unreliable, the reasons for this opinion being formed.
- The conclusions reached and the basis for them, and
- Any recommendation arising from the conclusions.

Following the completion of the record the General Manager will determine what further action might be required.



Council Policy
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Approved by:
Approved date:
Review date:

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Draft January 2019

APPENDIX A

**FRAUD CONTROL AND CORRUPT CONDUCT INVESTIGATION
PROCEDURE**

Related Documents

- Fraud Control and Corrupt Conduct Prevention Policy
- Code of Conduct Policy
- Code of Conduct (Elected Members)

Review of Procedure

The Fraud Control and Corrupt Conduct Investigation procedure will be reviewed biannually.

DRAFT



Council Policy
**FRAUD CONTROL & CORRUPT CONDUCT PREVENTION
POLICY**

Approved by: Council
Approved date: Draft January 2019
Review date:

APPENDIX B

FRAUD CONTROL & CORRUPT CONDUCT PREVENTION STRATEGY

Council's fraud and corrupt conduct prevention strategy involves:

Organisational Integrity and Leadership

The most effective form of fraud prevention is the establishment of an organisational culture that rejects fraudulent and corrupt practices. Commitment from Senior Management and Councillors is essential in establishing a behaviour model for all staff, committee members and volunteers.

Council will establish and maintain a fraud-resistant culture by:

- (a) employing managers and supervisors who will be positive role models for ethical behaviour;
- (b) adopting and enforcing policies that emphasise the importance of ethical behaviour;
- (c) issuing clear standards and procedures to minimise opportunities for fraudulent and corrupt behaviour, and enhance detection mechanisms; and
- (d) ensuring all staff are accountable for their own actions.

Employee Education and Awareness

Employees will be made aware of Council's ethical conduct expectations by:

- (a) the inclusion of ethical conduct requirements in information packages for new employees;
- (b) an ongoing program of inclusion of ethical behaviour expectations within all position descriptions for new and existing positions; and
- (c) develop and implement a staff Code of Conduct.

Staff with particular responsibilities, such as cash handling and purchasing authority, will be given specific training in approved cash handling and purchasing procedures.

Customer and Community Awareness

Fraudulent activity may be detected as a result of complaints from Council customers or other members of the public. It is essential that the community understands the impact of fraudulent and corrupt activity and the importance of exposing such behaviour. In order to increase community awareness and encourage the reporting of fraudulent and corrupt conduct, Council will:

- (a) publish the Code of Conduct on Council's website; and
- (b) provide feedback to all persons who report suspected corrupt or fraudulent conduct.

Regular Review of Policies and Procedures

In addition to ongoing policy development directed at emphasising ethical behaviour and fraud prevention and detection, Council is committed to the ongoing review of existing policies and procedures.



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Approved by: Council
Approved date: Draft January 2019
Review date:

APPENDIX C

FRAUD DETECTION & RISK MANAGEMENT STRATEGY

Council's fraud detection strategy involves:

Encouraging Disclosure

It is recognised that most fraudulent activity is detected by employees of Council, and to a lesser extent, by members of the public. Council will encourage the reporting of fraudulent conduct by:

- (a) The inclusion of training on fraud awareness and reporting procedures in induction of new employees;
- (b) Awareness training for all staff on Council's Code of Conduct and reporting of fraudulent and corrupt activity on a bi-annual basis;
- (c) Advertising on Council's website of the various methods by which members of the public can report instances of fraudulent conduct that they may become aware of; and
- (d) Providing feedback to people who report suspected fraud.

Internal Review

Council will minimise opportunities for undetected fraudulent activity via a robust internal review program. The General Manager shall establish and implement a detailed strategy and procedures, incorporating internal review guidelines in order to give this policy effect. Such a program shall include:

- (a) monthly reviews of purchasing and disposal transactions;
- (b) annual reviews of financial system security;
- (c) annual reviews of cash float and petty cash balances;
- (d) bi-annual stock takes of Council inventory;
- (e) annual reviews of physical asset security;
- (f) appropriate separation of duties identified;
- (g) annual reviews of compliance with adopted cash handling procedures; and
- (h) implementation and monitoring of recommendations by Council's external auditors.

17.2.5 LEGISLATIVE UPDATES – VARIOUS (INFORMATION ONLY)

Author: GENERAL MANAGER (TIM KIRKWOOD)

Date: 18 JANUARY 2019

ISSUE

To inform Council of recent legislative updates.

DETAIL

Burial and Creation Act 2002

The Burial and Cremation Act 2002 has been amended to incorporate the changes arising from the Burial and Cremation Amendment Act 2018.

The 2018 amendments are summarised below.

Key changes to the Act include:

- establishing a Regulator role for cemeteries, which will continue to be the Director of Local Government at this time;
- a strengthened sale and transfer process, which requires that:
 - o sellers obtain a certificate of compliance from the Regulator before offering a cemetery for sale;
 - o sellers must publish a notice of intention to sell a cemetery;
 - o new cemetery managers must be a body corporate with perpetual succession, meet a 'fit and proper person' test, and approved by the Regulator;
 - o new cemetery managers must notify the public when they become a new cemetery manager;
- improved compliance and enforcement powers, including:
 - o new and increased maximum penalties relating to key cemetery management responsibilities, including maintenance, record keeping, allowing access and honouring exclusive rights of burial;
 - o allowing the Regulator to issue directives to cemetery managers;
 - o allowing the Regulator to issue infringement notices;
 - o allowing the Regulator to request evidence of compliance and require cemetery managers to undertake a compliance audit;
- a strengthened cemetery closure process, including:
 - o allowing the Regulator to impose conditions on the closure of a cemetery, for example, the protection of war veteran graves;
 - o increasing the length of time from the last burial before a cemetery can be closed (from the current 30 years to 50 years), and requiring cemetery managers to obtain approval from the Regulator to close a cemetery;
 - o imposing a default time period of 100 years (but with a power to reduce on a case by case basis) since the last interment before a cemetery manager can remove monuments, apply to lay the cemetery out as a park or garden, or apply to exhume human remains;
- providing certainty as to whether land is a cemetery by:
 - o allowing land to be prescribed to be a cemetery; and

- o allowing the Regulator to declare land ceases to be a cemetery if it was being used for another purpose for at least 50 years before the commencement of the Amendment Act, or if it is in the public interest to make the declaration, and the purpose for which the land is being used is not consistent with the use of the land for a cemetery. This provision deals with historical cemeteries that have not been used as cemeteries for some time and little to no evidence that it was a once a cemetery;

The Regulations have been amended to support the changes to the Act. Cemetery managers must now request (as part of the application for interment process) whether a person is a war veteran and the details of the service or duty performed by the person and keep this information in the register of interments.

Other changes to the Regulations provide detail of the matters in the Act that are to be prescribed, including technical requirements for publishing notices that are required as part of the sale and closure processes, the detail for application processes and increased penalties for key cemetery management responsibilities.

The review of Tasmania's cemeteries legislation will continue in 2019. This work will include further consideration and analysis of broader issues raised through the public consultation process, with further consultation to occur at that time. It is anticipated that further amendments to the Act will result from this work.

Council will be notified of upcoming consultation opportunities as the review progresses.

Local Government Act 1993

Following a review of the model code of conduct framework, there have been changes made to both the *Local Government Act 1993* and the *Local Government (Model Code of Conduct) Order 2016*.

Local Government Act 1993

Amendments to the Act apply as of 10 December 2018 include:

- a new requirement that a complainant provide details of reasonable efforts made to resolve the issue that is the subject of the complaint, when lodging a complaint;
- a new requirement that a complainant (along with councillors or employees of the council) are to provide a statutory declaration verifying the accuracy of the information they provide in respect of a complaint;
- a new provision to allow the chairperson of a Code of Conduct Panel to dismiss complaints on the basis of 'triviality', as well as on the basis that the complainant has not made a reasonable effort to resolve the issue prior to lodgement of the complaint;
- a new provision requiring councils to include in their annual report the number of code of conduct complaints that were received in total, as well as the number that were upheld either wholly or in part;
- a new offence provision to explicitly prevent any person from misusing information acquired in relation to a code of conduct investigation; and

- a small number of minor amendments focused on improving the overall procedural fairness, confidentiality and transparency of the complaints handling process.

Miscellaneous Changes

Miscellaneous amendments to the Act were also made in order to address a number of minor drafting and administrative matters. Relevant changes include:

- Pecuniary interests - The Act was amended to clarify that a councillor can only vote on a matter relating to the payment of allowances or expenses if that matter relates to all councillors of the council.
- Gifts and donations register - The register of gifts and donations for elected members is required to be made permanently available at the relevant council's office, on the council's website and updated at least monthly.
- Improper use of information - Existing provisions have been extended to capture former councillors, members, members of an audit panel or employees, similar to the restrictions that apply under the Corporations Act 2001 to former directors with respect to the misuse of information.
- Vacation of office - The office of a councillor, who is elected to any Parliament in Australia, is vacated on the day on which they begin to hold office in that Parliament. This will prevent members elected to Tasmanian or Australian Parliament continuing to also serve as councillors.
- Customer service charter - A review of a council's charter needs to be undertaken within 12 months of a council election, rather than every two years.

Local Government (Model Code of Conduct) Order 2016

Amendments to the model code were approved by the Minister for Local Government on 7 December 2018 and come into effect upon Gazettal, scheduled for 26 December 2018. However, these changes will not apply until the amended model code is adopted by the relevant council. Amendments include:

- changes to make it clear that the Model Code does not apply to pecuniary interests or to the disclosure of confidential information, as these are dealt with as offence provisions under the Act; and
- the introduction of a 'reasonable person' test in relation to non-pecuniary conflicts of interest. This replaces the 'materiality' test, and is intended to provide consistency within the Code and with common law principles. Further guidance will be issued about what is the 'reasonable person'.

Human Resources & Financial Implications – Nil.

Community Consultation & Public Relations Implications – N/A

Policy Implications – N/A

Priority - Implementation Time Frame – N/A

RECOMMENDATION

THAT the information be received.

DECISION

Moved by Clr D Fish, seconded by Clr R McDougall

THAT the information be received.

CARRIED

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

17.2.6 TABLING OF DOCUMENTS

Nil.

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 (DECEMBER 2018)

Author: FINANCE OFFICER (COURTNEY PENNICOTT)

Date: 17 JANUARY 2019

ISSUE

Refer enclosed Report incorporating the following: -

- Statement of Comprehensive Income – 1st July 2018 to 31st December 2018 (including Notes)
- Current Expenditure Estimates – as at 31st December 2018
- Capital Expenditure Estimates (*refer to enclosed report detailing the individual capital projects*) – as at 31st December 2018
- Cash Flow Statement – December 2018
- Rates & Charges – 11th January 2019.

Note: Expenditure figures provided are for the period 1st July 2018 to 31st December 2018 – 50.00% of the period.

CURRENT EXPENDITURE ESTIMATES (OPERATING BUDGET)

Strategic Theme - Infrastructure

Sub-Program – Bridges – expenditure to date (\$208,658 – 55.98%). Expenditure relates to engineering assessments required for NHVR.

Sub-Program – Walkways – expenditure to date (\$124,313 – 63.79%). Costs relate to annual township mowing, spraying and litter collection.

Sub-Program – Public Toilets – expenditure to date (\$40,300 – 62.80%). Annual insurance premiums have been allocated to all facilities and there has been additional unforeseen costs associated with internal sewerage blockages at Colebrook History Room Toilets.

Strategic Theme – Growth

Nil.

Strategic Theme – Landscapes

Sub-Program – Heritage – expenditure to date (\$172,955 – 57.93%). Expenditure relates to general running, maintenance, insurance costs on Heritage Buildings.

Sub-Program – Natural – expenditure to date (\$117,955 – 67.81%). Expenditure relates to works at the Chauncy Vale Reserve i.e. safety upgrades, and land care facilitator costs. It includes annual insurance allocations.

Strategic Theme – Lifestyle

Sub-Program – Youth – expenditure to date (\$142,071 – 55.25%). Expenditure relates to the implementation of the school holiday program.

Sub-Program – Childcare – expenditure to date (\$5,130 – 68.40%). Annual donation to the Brighton Family Day Care Service.

Sub-Program – Volunteers – expenditure to date (\$24,058 – 60.14%). Costs relate to the disbursement of funds for the small community grants.

Strategic Theme –Community

Sub-Program – Capacity – expenditure to date (\$45,003 – 161.16%). Expenditure includes Council’s contribution of \$5K to the Green Ponds Progress Association (being its contribution towards the purchase of a community bus); the annual donation of \$2K to the Melton Mowbray Community Rodeo Association; and costs associated with the Heritage Festival and the Kempton Memorial Avenue event.

Strategic Theme –Organisation

Nil.

RECOMMENDATION

THAT the Financial Report be received and the information noted.

DECISION

Moved by Clr A Bisdee OAM, seconded by Clr D Fish

THAT the Financial Report be received and the information noted.

CARRIED

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

STATEMENT OF COMPREHENSIVE INCOME				
FOR THE PERIOD				
1st JULY 2018 to 31st DECEMBER 2018				
	Annual	Year to Date	%	Comments
	Budget	as at 31st DECEMBER		
Income				
General rates	\$ 5,390,741	\$ 5,336,774	99.0%	Budget includes Interest & Penalties to be imposed to end of June 2019
User Fees (refer Note 1)	\$ 730,602	\$ 504,203	69.0%	
Interest	\$ 177,000	\$ 102,442	57.9%	
Government Subsidies	\$ 24,000	\$ 11,751	49.0%	Heavy Vehicle Licence Fees & Road Rescue MAIB reimbursements
Contract Income	\$ 0	\$ 0	0.0%	
Other (refer Note 2)	\$ 162,000	\$ 63,303	39.1%	
Sub-Total	\$ 6,484,343	\$ 6,018,474	92.8%	
Grants - Operating	\$ 3,356,130	\$ 856,316	25.5%	\$851,551.50 FAGS; \$4,764 ANZAC
Total Income	\$ 9,840,473	\$ 6,874,789	69.9%	
Expenses				
Employee benefits	\$ (3,914,764)	\$ (1,818,461)	46.5%	Less Roads - Resheeting Capitalised
Materials and contracts	\$ (3,042,876)	\$ (1,768,184)	58.1%	Less Roads - Resheeting Capitalised, Includes Land Tax
Depreciation and amortisation	\$ (2,855,500)	\$ (1,427,750)	50.0%	Percentage Calculation (based on year-to-date)
Finance costs	\$ (30,723)	\$ (15,805)	51.4%	
Contributions	\$ (221,180)	\$ (55,295)	25.0%	Fire Service Levies
Other	\$ (141,075)	\$ (68,366)	48.5%	Incls Rate Discounts
Total expenses	\$ (10,206,118)	\$ (5,153,861)	50.5%	
Surplus (deficit) from operations	\$ (365,645)	\$ 1,720,928	-470.7%	
Grants - Capital (refer Note 3)	\$ 1,669,375	\$ 4,146	0.2%	
Sale Proceeds (Plant & Machinery)	\$ 353,000	\$ 41,911	0.0%	
Net gain / (loss on disposal of non-current assets)	\$ 0	\$ 0	0.0%	
Surplus / (Deficit)	\$ 1,656,730	\$ 1,766,985	106.7%	

NOTES				
1. Income - User Fees (Budget \$730,602) includes:				
- All other Programs	\$ 399,869	\$ 312,181	78.1%	Actual Income Received (i.e. excluding Debtors)
- Private Works	\$ 170,733	\$ 134,747	78.9%	
- Callington Mill	\$ 160,000	\$ 57,274	35.8%	
	\$ 730,602	\$ 504,203		
2. Income - Other (Budget \$162,000) includes:				
- Tas Water Distributions	\$ 152,000	\$ 55,269	36.36%	
- HBS Dividend	\$ 10,000	\$ -	0.0%	
- Other	\$ -	\$ 8,034	0.0%	
	\$ 162,000	\$ 63,303	39.1%	
3. Grant - Capital (Budget \$1,669,375) includes:				
- Swimming Pool	\$ 1,250,000	\$ -	0.0%	
- Kempton Comm Health Centre	\$ 75,000	\$ -	0.0%	Received 30/6/18
- Roads To Recovery Grant	\$ 344,375	\$ 4,146	1.2%	
	\$ 1,669,375	\$ 4,146	0.2%	
Note:				
Operating Grants				
FAGS		\$ 851,552		
ANZAC Memorial Grant		\$ 4,764		
		\$ 856,316		

**CAPITAL EXPENDITURE PROGRAM 2018-19
AS AT 31 DECEMBER 2018**

			BUDGET	EXPENDITURE	VARIANCE	COMMENTS
INFRASTRUCTURE						
ROAD ASSETS						
Resheeting Program	Various	Roads Resheeting	\$ 450,000	\$ 204,677	\$ 245,323	
Reseal Program		Roads Resealing (as per agreed program)	\$ 500,000	\$ -	\$ 483,200	
	C1010047	Kempton Intersections		\$ 16,800		
		Glen Morey Road	\$ 135,000	\$ -	\$ 135,000	RTR
		Woodsdale Road	\$ 135,000	\$ -	\$ 135,000	RTR
	C1020033	Yarlington Road (Smarts Hill - 150 metres)	\$ 22,500	\$ -	\$ 22,500	\$22.5K Budget c/fwd
Reconstruct & Seal	C1010001	Blackbrush Road - new seal (400 metres each end)	\$ 72,000	\$ 25,807	\$ 46,193	\$72K Budget c/fwd
		Huntington Tier (350 metres, Huntington Tier End)	\$ 52,000	\$ -	\$ 52,000	
Minor Seals (New)		Various Projects	\$ 20,000	\$ -	\$ 20,000	
		Church Road (Brighton Council end)	\$ 10,000	\$ -	\$ 10,000	\$10K Budget c/fwd
	C1020032	Hasting Street Junction	\$ 15,000	\$ 959	\$ 14,041	\$15K Budget c/fwd WIP 30/6/18 \$959
Unsealed - Road Widening	C1010077	Clifton Vale - (Cliff Section)	\$ 40,000	\$ -	\$ 40,000	\$40K Budget c/fwd
		Brown Mountain Road (vicinity of Ferniehurst)	\$ 15,000	\$ -	\$ 15,000	
		Native Corners Road (Far end, Widening/Guard Rail)	\$ 20,000	\$ -	\$ 20,000	
Junction / Road Realignment / Other	C1010037	Campania - Reeve St / Clime Street (includes Footpath)	\$ 70,000	\$ 2,617	\$ 67,383	\$45K Budget c/fwd WIP 30/6/18 \$2,617
	C1010079	Reeve St - Hall Street to Rec Ground (K&G) - 70 metres	\$ 20,000	\$ 6,887	\$ 13,114	Budget c/fwd
		Reeve Street - Footpath (continuation to Hall)	\$ 18,000	\$ -	\$ 18,000	
	C1020047	Lovely Banks Road (junction with Colebrook)	\$ -	\$ 3,230	\$ (3,230)	Survey & Acquisition Plan
	G1010002	Bagdad Primary School - Car Park (contribution)	\$ 25,000	\$ -	\$ 25,000	
	C1040022	Tunbridge Main Road - Kerb & Gutter Renewal	\$ 20,000	\$ -	\$ 20,000	
	C1010039	Woodsdale Road - Landslip Area(s) - Engineering Assessment	\$ 9,500	\$ 3,662	\$ 5,838	\$9.5K Budget c/fwd
	G1010002	Bagdad Community Club - Car Park	\$ 32,000	\$ 1,723	\$ 30,277	Grant Funded (Grant Received June 18)
			\$ 1,681,000	\$ 266,361	\$ 1,414,639	
BRIDGE ASSETS						
	C1030006	Fields Road Bridge (B1851)	\$ -	\$ 1,469	\$ (1,469)	WIP 30/6/18
	C1030049	Inglewood Road (B 4289)	\$ -	\$ 435	\$ (435)	Capitalised 16/17
	C1030056	Noyes Road (Limekiln Creek T268.00051)	\$ -	\$ 150	\$ (150)	Capitalised 17/18
	C1030057	Reynolds Road (Burns Creek B5301)	\$ -	\$ 146	\$ (146)	WIP 30/6/18
			\$ -	\$ 2,200	\$ (2,200)	

WALKWAYS	C1040003	Footpaths - General Streetscapes	\$	5,000	\$	-	\$	5,000	
		Bagdad Township							
	C1090013	- Swan Street (Blackport Rd to Green Valley Rd)	\$	110,000	\$	134,384	\$	(24,384)	\$4K Budget c/fwd WIP 30/6/18 \$2,687 Includes Asphaltting \$21,411
		Campania Township							
		- Review Management Plan (Site Plan) / Walking Tracks (Bush	\$	5,000	\$	-	\$	5,000	\$5K Budget c/fwd
		Colebrook Township							
	C1040015	- Streetscape Plan Development & Implementation (Part)	\$	15,000	\$	39,611	\$	(24,611)	\$15K Budget c/fwd
		Kempton Township							
	C1040004	- Streetscape Plan (Review & Implementation (Part)	\$	70,000	\$	79,844	\$	(9,844)	\$40K Budget c/fwd WIP 30/6/18 \$9,660
	C1040006	- Main Street Footpath Construction	\$	25,000	\$	22,363	\$	2,637	
		Parattah Township							
	C1040025	- Tunnack Main Road Kerb & Gutter	\$	14,478	\$	28,384	\$	(13,906)	Includes Asphaltting \$10,080
		Tunbridge Township							
	C1040024	- Streetscape Project (Part Implementation) - 2 yr program	\$	9,500	\$	11,057	\$	(1,557)	\$9.5K Budget c/fwd
			\$	253,978	\$	315,644	\$	(61,666)	
LIGHTING		Esplanade Project (Total Project Cost \$128k year 1-2)	\$	64,000	\$	-	\$	64,000	
			\$	64,000	\$	-	\$	64,000	

**CAPITAL EXPENDITURE PROGRAM 2018-19
AS AT 31 DECEMBER 2018**

			BUDGET	EXPENDITURE	VARIANCE	COMMENTS			
BUILDINGS	C4070037	Tunbridge Town Hall Toilets (Contribution)	\$	10,000	\$	1,495	\$	8,505	
			\$	10,000	\$	1,495	\$	8,505	
DRAINAGE		Bagdad							
		- Lyndon Road	\$	15,000	\$	-	\$	15,000	
		Campania							
		- Reeve Street Open Drain (north of Telephone Box)	\$	-	\$	4,124	\$	(4,124)	WIP 30/6/18 \$4,124 - Budget c/fwd
		Oatlands							
		- Barrack Street (towards Mason Street)	\$	10,000	\$	-	\$	10,000	\$10K Budget c/fwd
		- High St/Wellington Street Junction	\$	5,000	\$	-	\$	5,000	\$5K Budget c/fwd
		- Queen Anne Street	\$	7,500	\$	-	\$	7,500	\$7.5K Budget c/fwd
		Kempton							
		- Memorial Avenue	\$	10,000	\$	-	\$	10,000	
			\$	47,500	\$	4,124	\$	43,376	

WASTE	C110001	Wheelie Bins and Crates	\$ 17,000	\$ 176,172	\$ (159,172)	Funded Annual Depreciation
		Oatlands WTS - Concrete Pad(s)	\$ 25,000	\$ -	\$ 25,000	\$25K Budget c/fwd
		Dysart WTS - General Improvements	\$ 20,000	\$ -	\$ 20,000	\$20K Budget c/fwd
			\$ 62,000	\$ 176,172	\$ (114,172)	
GROWTH TOURISM						
	C2020005	Lake Dulverton Arts Sculpture Project	\$ 12,000	\$ 14,446	\$ (2,446)	WIP 30/6/18 \$12,000
			\$ 12,000	\$ 14,446	\$ (2,446)	
HERITAGE						
	C3010003	Callington Mill (Asset Renewals)	\$ 10,000	\$ 16,087	\$ (6,087)	
		Callington Mill (Mill Tower - Fire Detection System & Exit Lighting)	\$ 6,500	\$ -	\$ 6,500	Budget c/fwd
		Callington Mill (Restoration of Fan Tail & Sails)	\$ -	\$ 27,494	\$ (27,494)	WIP 30/6/18 \$27,494
	G3010010	Commissariat (79 High Street)	\$ 141,800	\$ 283,625	\$ (141,825)	
		Commissariat (79 High Street)	\$ 464,250	\$ 692,258	\$ (228,008)	WIP 30/6/18 \$692,258
Wood Stove (Women's Kitchen)		Oatlands Court House (Stabilisation & Gaol Cell)	\$ 8,000	\$ -	\$ 8,000	Budget c/fwd \$5k
	C3010002	Oatlands Gaol - Minor Capital Works	\$ 5,000	\$ -	\$ 5,000	Budget c/fwd
		Oatlands Gaol - Wingwall Completion	\$ 15,000	\$ -	\$ 15,000	
		Oatlands Gaol - Aluminum Temporary Steps (Entrance)	\$ 3,500	\$ -	\$ 3,500	
	G3010011	Heritage Building (Key Card System)	\$ 47,000	\$ 37,192	\$ 9,808	\$47K Budget c/fwd WIP \$37,192
		Kempton Watch House (Fitout)	\$ 7,500	\$ -	\$ 7,500	\$7.5K Budget c/fwd
	C3010011	Roche Hall Forecourt (Interps - Planning Condition of Approval)	\$ 40,000	\$ 3,845	\$ 36,156	
		Roche Hall - External Painting (excl. Gutters, Fascias & Soffits)	\$ 15,000	\$ -	\$ 15,000	
	C3010006	Parattah Railway Station	\$ -	\$ 5,700	\$ (5,700)	
			\$ 763,550	\$ 1,066,202	\$ (302,652)	
NATURAL						
	C3020007	Chauncy Vale - Improvements	\$ 15,000	\$ 3,244	\$ 11,756	
	C3020008	Mahers Point - Lanscape Plan	\$ 25,000	\$ 2,596	\$ 22,404	
		Callington Park - BBQ Replacement	\$ 5,500	\$ -	\$ 5,500	
			\$ 45,500	\$ 5,839	\$ 39,661	
REGULATORY						
	C3040001	Kempton Council Chambers - Restoration Works	\$ 46,500	\$ 17,327	\$ 29,173	\$11.5K Budget c/fwd
	C9990001	Kempton Council Chambers - Office Furniture & Equipment	\$ 8,400	\$ -	\$ 8,400	
			\$ 54,900	\$ 17,327	\$ 37,573	

			BUDGET	EXPENDITURE	VARIANCE	COMMENTS
LIFESTYLE ACCESS						
	C4070035	All Buildings (Priority Approach - Year 3 of 5)	\$ 50,000	\$ -	\$ 50,000	
			\$ 50,000	\$ -	\$ 50,000	
PUBLIC HEALTH						
	C4070035	Kempton Community Health Facility	\$ 200,000	\$ 445	\$ 199,555	
			\$ 200,000	\$ 445	\$ 199,555	
RECREATION						
	C4070005	Recreation Committee	\$ 30,000	\$ 17,664	\$ 12,336	Colebrook Hall & Oat Community Centre
	C4070034	Oatlands Aquatic Centre (New Pool)	\$ 2,000,000	\$ 125,974	\$ 1,874,026	
	C4070034	Oatlands Aquatic Centre (New Pool)	\$ -	\$ 379,803	\$ (379,803)	WIP 30/6/18 \$379,803
		Kempton Blue Place - Water/Sewerage Connections	\$ -	\$ 3,844	\$ (3,844)	WIP 30/6/18 \$3,844 Budget c/fwd
	C4070017	Kempton Hall - external repainting	\$ 50,000	\$ 63,723	\$ (13,723)	\$40K Budget c/fwd WIP 30/6/18 \$23,073
		Mangalore Hall (replace Gutters and Roofing)	\$ 18,000	\$ -	\$ 18,000	
		Recreation Ground - Campania (Nets)	\$ 45,000	\$ -	\$ 45,000	
	C4070019	Recreation Ground - Kempton (Granstand Rails & Seating)	\$ 10,000	\$ 4,042	\$ 5,958	
		Recreation Gorund - Kempton (Lighting)	\$ 10,000	\$ -	\$ 10,000	
		Recreation Ground - Mt Pleasant (Upgrade Toilets)	\$ 13,000	\$ -	\$ 13,000	\$13K Budget c/fwd
	C4070001	Rec Ground - Parattah (Facility Development)	\$ 14,000	\$ 13,305	\$ 695	\$14K Budget c/fwd WIP \$407
		Tunbridge Park - Perimeter Fence (Safety)	\$ 7,500	\$ -	\$ 7,500	\$7.5K Budget c/fwd
			\$ 2,197,500	\$ 608,356	\$ 1,589,144	
COMMUNITY CAPACITY						
	C5020001	Levendale Community Centre	\$ 8,000	\$ -	\$ 8,000	\$8K Budget c/fwd
		Memorial Avenue Development (Island: Survey, Fencing & Aquisit	\$ -	\$ 54,902	\$ (54,902)	CFIG Grant - C/Fwd WIP 30/6/18
	G4070022	Memorial Avenue Development (Interps)	\$ 19,764	\$ 29,717	\$ (9,953)	Grant of \$4,764 added to Budget
			\$ 27,764	\$ 84,620	\$ (56,856)	
SAFETY						
		Road Accident Rescue Unit	\$ 3,000	\$ -	\$ 3,000	
			\$ 3,000	\$ -	\$ 3,000	

ORGANISATION						
SUSTAINABILITY						
	C4070011	Council Chambers - Building Improvements	\$ 10,500	\$ -	\$ 10,500	\$7.5K Budget c/fwd
		Council Chambers - Works Office	\$ 5,000	\$ -	\$ 5,000	
		Floor Coverings (Works Office)	\$ 6,000	\$ -	\$ 6,000	
		Council Chambers - Damp Issues & Stonemasonry	\$ 15,000	\$ -	\$ 15,000	\$15K Budget c/fwd
	C6020009	Computer System (Hardware / Software)	\$ 42,000	\$ 20,604	\$ 21,396	
		Telephone / Comms System	\$ 55,000	\$ -	\$ 55,000	\$35K Budget c/fwd
	C9990001	Town Hall (General - Incl. Office Equip/Furniture)	\$ 8,400	\$ -	\$ 8,400	
		Photo Reframing	\$ 3,000	\$ -	\$ 3,000	
		Computers/Phones - Councillors	\$ 21,000	\$ -	\$ 21,000	
			\$ 165,900	\$ 20,604	\$ 145,296	
WORKS						
		Kempton Depot - External Painting	\$ 10,000	\$ -	\$ 10,000	\$10K Budget c/fwd
	C6020001	Depot Relocation (Site / Concept Plans/ Amneities/ Redords Stor	\$ 358,000	\$ 250,947	\$ 107,053	\$80K Budget c/fwd
		Minor Plant Purchases	\$ 9,500	\$ -	\$ 9,500	
	C6020008	Radio System	\$ 2,000	\$ -	\$ 2,000	
		Plant Replacement Program				
		Refer separate Schedule (Gross)	\$ 770,000	\$ 132,000	\$ 638,000	
		Light Vehicles (Gross)	\$ 210,000	\$ 87,588	\$ 122,412	
		(Trade Allowance - \$180K)				
			\$ 1,359,500	\$ 470,535	\$ 888,965	
		GRAND TOTALS	\$ 6,998,092	\$ 3,054,368	\$ 3,943,724	

SOUTHERN MIDLANDS COUNCIL : CURRENT EXPENDITURE 2018/19

SUMMARY SHEET

PROGRAM	TOTAL	REVISED BUDGET (GRANTS & OTHER REIMBURSEMENTS)	ACTUAL AS AT 31st DECEMBER 2018 50%	VARIANCE (+/-)	% BASED ON REVISED BUDGET 100%
INFRASTRUCTURE					
Roads	3,176,074	3,176,074	1,539,910	1,636,164	48.48%
Bridges	372,719	372,719	208,658	164,061	55.98%
Walkways	194,893	194,893	124,313	70,580	63.79%
Lighting	86,520	86,520	41,069	45,451	47.47%
Irrigation	0	0	0	0	0.00%
Drainage	80,042	80,042	32,481	47,561	40.56%
Waste	825,181	825,181	409,568	415,613	49.63%
Public Toilets	64,173	64,173	40,300	23,873	62.80%
Communications	0	0	0	0	0.00%
Signage	7,575	7,575	3,018	4,557	39.84%
INFRASTRUCTURE TOTAL:	4,807,177	4,807,177	2,389,318	2,407,859	49.91%
GROWTH					
Residential	0	0	0	0	0.00%
Business	1,173,941	423,941	219,447	204,494	51.76%
Tourism	43,950	43,950	19,110	24,840	43.48%
Agriculture	0	0	0	0	0.00%
GROWTH TOTAL:	1,217,891	467,891	238,558	229,333	50.99%
LANDSCAPES					
Heritage	298,546	298,546	172,955	125,591	57.93%
Natural	173,266	173,266	117,498	55,768	67.81%
Cultural	9,600	9,600	1,406	8,194	14.65%
Regulatory	792,083	792,083	366,694	425,389	46.29%
Climate Change	10,047	10,047	0	10,047	0.00%
LANDSCAPES TOTAL:	1,283,542	1,283,542	658,553	624,989	51.31%
LIFESTYLE					
Youth	257,126	257,126	142,071	115,055	55.25%
Aged	2,500	2,500	383	2,117	15.33%
Childcare	7,500	7,500	5,130	2,369	68.40%
Volunteers	40,000	40,000	24,058	15,942	60.14%
Access	0	0	0	0	0.00%
Public Health	10,093	10,093	2,735	7,358	27.10%
Recreation	473,710	473,710	173,241	300,469	36.57%
Animals	105,552	105,552	50,749	54,803	48.08%
Education	0	0	1,561	-1,561	0.00%
LIFESTYLE TOTAL:	896,481	896,481	399,928	496,553	44.61%
COMMUNITY					
Retention	0	0	0	0	0.00%
Capacity	27,925	27,925	45,003	-17,078	161.16%
Safety	56,650	56,650	15,954	40,695	28.16%
Consultation	23,425	23,425	6,377	17,048	27.22%
COMMUNITY TOTAL:	107,999	107,999	67,334	40,665	62.35%
ORGANISATION					
Improvement	104,984	104,984	47,447	57,537	45.19%
Sustainability	2,256,362	2,256,362	1,106,834	1,149,528	49.05%
Finances	296,680	296,680	99,157	197,523	33.42%
ORGANISATION TOTAL:	2,658,026	2,658,026	1,253,438	1,404,588	47.16%
TOTALS	10,971,116	10,221,116	5,017,129	5,203,987	49.09%

	INFLOWS (OUTFLOWS) (July 2018)	INFLOWS (OUTFLOWS) (August 2018)	INFLOWS (OUTFLOWS) (September 2018)	INFLOWS (OUTFLOWS) (October 2018)	INFLOWS (OUTFLOWS) (November 2018)	INFLOWS (OUTFLOWS) (December 2018)	INFLOWS (OUTFLOWS) (Year to Date)
Cash flows from operating activities							
Payments							
Employee costs	- 285,779.85	- 295,693.96	- 410,844.19	- 269,413.22	- 283,683.04	- 290,906.17	- 1,836,320.43
Materials and contracts	- 482,830.14	- 220,305.02	- 185,394.11	- 460,711.50	- 272,557.44	- 234,037.43	- 1,855,835.64
Interest	- 4,426.65	-	-	-	- 3,530.34	- 7,847.96	- 15,804.95
Other	- 25,671.40	- 41,219.25	- 71,621.86	- 92,680.45	- 29,909.04	- 35,452.97	- 296,554.97
	- 798,708.04	- 557,218.23	- 667,860.16	- 822,805.17	- 589,679.86	- 568,244.53	- 4,004,515.99
Receipts							
Rates	114,381.50	1,201,186.32	1,358,690.78	235,199.99	452,880.36	285,301.89	3,647,640.84
User charges	979,934.15	78,692.91	66,852.70	97,915.47	71,652.87	61,926.41	1,356,974.51
Interest received	15,678.88	19,293.05	16,295.02	18,406.88	18,528.99	14,239.46	102,442.28
Subsidies		11,751.00	-	-	-	-	11,751.00
Other revenue grants	-	425,775.75	-	-	429,921.75	-	855,697.50
GST Refunds from ATO							-
Other	7,715.98	65,480.21	45,845.86	6,626.13	129,033.57	- 40,643.48	214,058.27
	1,117,710.51	1,802,179.24	1,487,684.36	358,148.47	1,102,017.54	320,824.28	6,188,564.40
Net cash from operating activities	319,002.47	1,244,961.01	819,824.20	- 464,656.70	512,337.68	- 247,420.25	2,184,048.41
Cash flows from investing activities							
Payments for property, plant & equipment	- 140,397.25	- 369,085.11	- 311,770.44	- 132,413.29	- 180,280.39	- 590,148.80	- 1,724,095.28
Proceeds from sale of property, plant & equipment				909.09	40,909.09	92.89	41,911.07
Proceeds from Capital grants	-	-	-	4,764.00	-	-	4,764.00
Proceeds from Investments	-	-	-	-	-	-	-
Payment for Investments	-	-	-	-	-	-	-
Net cash used in investing activities	- 140,397.25	- 369,085.11	- 311,770.44	- 126,740.20	- 139,371.30	- 590,055.91	- 1,677,420.21
Cash flows from financing activities							
Repayment of borrowings	- 6,781.93	-	-	-	- 14,013.38	- 17,144.62	- 37,939.93
Proceeds from borrowings							-
Net cash from (used in) financing activities	- 6,781.93	-	-	-	- 14,013.38	- 17,144.62	- 37,939.93
Net increase/(decrease) in cash held	171,823.29	875,875.90	508,053.76	- 591,396.90	358,953.00	- 854,620.78	468,688.27
Cash at beginning of reporting year	11,567,278.62	11,739,101.91	12,614,977.81	13,123,031.57	12,531,634.67	12,890,587.67	11,567,278.62
Cash at end of reporting	11,739,101.91	12,614,977.81	13,123,031.57	12,531,634.67	12,890,587.67	12,035,966.89	12,035,966.89

SOUTHERN MIDLANDS COUNCIL				
SUMMARY OF RATES AND CHARGES LEVIED, REMITTED AND COLLECTED				
	This Financial Year 11th January 2019		Last Financial Year 11th January 2018	
Arrears brought forward as at July 1		\$ 419,894.17		\$ 379,430.89
ADD current rates and charges levied		\$ 5,297,326.00		\$ 5,108,148.01
ADD current interest and penalty		\$ 43,352.62		\$ 44,281.99
TOTAL rates and charges demanded	100.00%	\$ 5,760,572.79	100.00%	\$ 5,531,860.89
LESS rates and charges collected	59.70%	\$ 3,438,945.90	58.61%	\$ 3,242,123.79
LESS pensioner remissions	3.93%	\$ 226,238.81	4.12%	\$ 227,847.24
LESS other remissions and refunds	0.27%	\$ 15,509.49	0.23%	\$ 12,762.70
LESS discounts	0.50%	\$ 28,524.85	0.47%	\$ 26,244.14
TOTAL rates and charges collected and remitted	64.39%	\$ 3,709,219.05	63.43%	\$ 3,508,977.87
UNPAID RATES AND CHARGES	35.61%	\$ 2,051,353.74	36.57%	\$ 2,022,883.02

18. MUNICIPAL SEAL

Nil.

19. CONSIDERATION OF SUPPLEMENTARY ITEMS TO THE AGENDA

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

19.1 INCLUSION OF FEE FOR PROVISION OF GOODS AND SERVICE – USED WASTE AND RECYCLING BINS - AMENDMENT OF SCHEDULE OF FEES AND CHARGES 2018-2019

Author: MANAGER DEVELOPMENT & ENVIRONMENT SERVICES (DAVID CUNDALL)

Date: 15 JANUARY 2019

PURPOSE OF REPORT

The purpose of this report is to consider the inclusion of a new charge in the Southern Midlands Schedule of Fees and Charges 2018-2019.

The new charge is for the sale of the old 140lt green lid wheelie bins and the old 55lt black crates. These bins were previously used in the roadside collection service and are currently being stockpiled by Council. The sale of the old bins was required in the 2018 changes to the roadside collection service as approved at the January 2018 Council Meeting.

In order for Council to charge a fee it is a requirement of Division 7 of the Local Government Act 1993 (“the Act”) that Council must first specify the fee and include such a fee in the Schedule of Fees and Charges. An extract from the Act is provided as follows:

Division 7 - Fees and charges

205. Fees and charges

- 1) In addition to any other power to impose fees and charges but subject to subsection , a council may impose fees and charges in respect of any one or all of the following matters:
 - a. the use of any property or facility owned, controlled, managed or maintained by the council;*
 - b. services supplied at a person's request;*
 - c. carrying out work at a person's request;*
 - d. providing information or materials, or providing copies of, or extracts from, records of the council;*
 - e. any application to the council;*
 - f. any licence, permit, registration or authorization granted by the council;*
 - g. any other prescribed matter.**
- 2) A council may not impose a fee or charge in respect of a matter if –*

- a. a fee or charge is prescribed in respect of that matter; or
 - b. this or any other Act provides that a fee or charge is not payable in respect of that matter.
- 3) Any fee or charge under subsection (1) need not be fixed by reference to the cost to the council.

206. *List of fees and charges*

A general manager of a council is to –

- a) *keep a list of all fees and charges fixed under this Division; and*
- b) *make the list available for public inspection during ordinary hours of business at the public office.*

207. *Remission of fees and charges*

A council may remit all or part of any fee or charge paid or payable under this Division.

It is recommended that Council approve the amendment to the Southern Midlands Council - Schedule of Fees and Charges: 2018-2019 and adopt the new fee and service.

BACKGROUND

Members of the public have expressed a keen interest in purchasing the old bins for storage purposes. The bins cannot be re-used for the road-side collection service. The old bins and crates are no longer approved for roadside collection under the new contract with Thorp Waste.

The eventual sale of the old bins was factored into overall transition of the old bins for the new bins for the roadside collection service. A project that was implemented in January 2018 as part of the tender for a new roadside collection contract. The old bins were replaced with new 240lt wheelie bins collected on a fortnightly service. The transition occurred in July – August 2018.

The old bins are currently being stored by Council. Some will be re-used for special events and in our day to day operations. Council does not otherwise have a permanent solution or storage space for the old bins.

Amendment to Schedule

The following table details the proposed fees (Table 1).

Service	Current Fee	Proposed Fee	Descriptor
Provision of used 140lt bin for private use	n/a	\$15	Used green plastic wheelie bin with Council logo removed.

			Axle and wheels damaged and removed. The wheels and axle are included if required by customer ¹
Provision of used 55lt black crate for private use	n/a	\$10	Used black 55lt crate with Council logo removed.

Table 1: Proposed Fee structure

Human Resources & Financial Implications - The sale of the bins will require some short term administration and physical handling of the goods. Resources will be limited to handling the bins to customers, answering and directing enquiries and receipting the goods. No additional council resourcing is needed to sell the bins. Based on the expressions of interest for purchasing the bins (received in 2018) it is expected that the bins will be sold quickly (within a 3-6 month period).

There are no negative financial implications forecast. The sale price of the bins should offset the time and resources needed to administrate and handle the bins.

There are approximately 1500 140lt bins and crates that are being stored between the Kempton Depot and the Oatlands Depot. A number of bins will be set aside by Council's Manager Works and Technical Services for future use by Council.

This is a basic sale of old goods and does not require any in depth analysis or business case.

Community Consultation & Public Relations Implications - The community have been advised of Council's intent to sell off the old bins through Council Reports in 2018, social media and in response to public enquiries and expressions of interest.

Communications - The adopted Fees will be displayed on the website and are available at each Council Office. Ratepayers and members of the public can also request a copy of the Schedule.

A Facebook and Council website post will also be used to promote the sale.

Priority - Implementation Time Frame - Though, per the recommendation, Council will adopt a fee for the sale of the bins the actual sale will not commence until arrangements are made at the work depot or an alternative site that is safe for public access and reduce the Council resources necessary to handle the bins. A reasonable and efficient means of selling the bins may be to allocate a particular day of the week where somebody is available to assist the customer.

Risk Assessment - The transaction and administration of the sale will be through the ordinary channels for such services and does not expose Council or public to any unmanaged risks.

¹ The wheels and axles were removed from the bins for storage. This involved removing the wheel with a drill which has damaged the wheel and ability to fix to axle.

The handling of the bins will require a member of the public either going to the Oatlands Depot, Kempton Depot or some other nominated location for the collection of the old bin. A risk assessment to ensure the site is safe will be conducted by management prior to the implementation of the sale period.

There is also some risk the used bins may contain contaminants or other residue that maybe harmful to the environment or human health. Council will need to prepare a waiver agreement that we take no responsibility for the residue contents of the bins and that the bins are strictly sold for handling and storing waste or recyclables. A risk assessment will also be undertaken at the time of sale to ensure the bin is suitable for handling, transport and does not contain any waste other than residue.

The Council Logos on the bins will need to be covered or removed before sale. This is to prevent any Council association with bins when in private use.

Council's Environmental Health Officer will also inspect the bins prior to the sale and determine suitability to proceed.

CONCLUSION

The report considers minor changes to the current 2018/2019 fee schedule to include of a fee for the sale of used recycling and wheelie bins.

The report also considers the direct and indirect consequences of selling used waste bins to the public identifying a risk assessment is necessary before the sale proceeds.

The recommendation is that Council adopt the new fees and include in the 2018/2019 fee schedule and that a risk assessment is undertaken.

RECOMMENDATION

THAT

- A. This report be received by Council;
- B. The Schedule of Fees and Charges for 2018-2019 is amended to include the sale charge for the used 55lt black crates and the used 140lt green bins.
- C. The sale of the bins does not proceed until a risk assessment has been completed identifying that:
 - a. The sale and handling of the bins can be conducted safely per Council Policy and Occupational, Health and Safety Legislation; and
 - b. The bins are suitable to be re-used for private waste storage with minimal risk to the new owner.

DECISION

Moved by Deputy Mayor E Batt, seconded by Clr D Fish

THAT

- A. This report be received by Council;**
- B. The Schedule of Fees and Charges for 2018-2019 is amended to include the sale charge for the used 55lt black crates and the used 140lt green bins.**
- C. The sale of the bins does not proceed until a risk assessment has been completed identifying that:**
 - a. The sale and handling of the bins can be conducted safely per Council Policy and Occupational, Health and Safety Legislation; and**
 - b. The bins are suitable to be re-used for private waste storage with minimal risk to the new owner.**

CARRIED

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

DECISION

Moved by Clr K Dudgeon, seconded by Clr A Bisdee OAM

THAT the meeting be suspended for lunch at 1.13 p.m.

CARRIED

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

DECISION

Moved by Clr D Fish, seconded by Clr R McDougall

THAT the meeting be reconvened at 1.37 p.m.

CARRIED

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

DECISION

Moved by Clr K Dudgeon, seconded by Clr D Fish

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 (<i>Meeting Procedures</i>) Regulations 2015 Reference
<i>Closed Council Minutes - Confirmation</i>	15(2)
<i>Applications for Leave of Absence</i>	15(2)(h) <i>Applications by councillors for a leave of absence</i>
<i>Audit Panel Minutes - Confirmation</i>	15(2)
<i>Property Matter – Oatlands</i>	15(2)(f)

CARRIED

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

DECISION (BY ABSOLUTE MAJORITY)

Moved by Clr A Bisdee OAM, seconded by Clr R McDougall

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.

CARRIED

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

CLOSED COUNCIL MINUTES

20. BUSINESS IN “CLOSED SESSION”

In accordance with the Local Government (Meeting Procedures) Regulations 2015, the details of the decision in respect to this item are to be kept confidential and are not to be communicated, reproduced or published unless authorised by Council.

20.1 CLOSED COUNCIL MINUTES - CONFIRMATION

Item considered in Closed Session in accordance with Regulation 15 (2) of the Local Government (Meeting Procedures) Regulations 2015.

20.2 APPLICATIONS FOR LEAVE OF ABSENCE

Item considered in Closed Session in accordance with Regulation 15 (2)(h) of the Local Government (Meeting Procedures) Regulations 2015.

20.3 AUDIT PANEL MINUTES - CONFIRMATION

Item considered in Closed Session in accordance with Regulation 15 (2) of the Local Government (Meeting Procedures) Regulations 2015.

20.4 PROPERTY MATTER - OATLANDS

Item considered in Closed Session in accordance with Regulation 15 (2)(f) of the Local Government (Meeting Procedures) Regulations 2015.

DECISION

Moved by Clr A Bisdee OAM, seconded by Clr R McDougall

THAT Council move out of “Closed Session”.

CARRIED

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

OPEN COUNCIL MINUTES

21. CLOSURE

The meeting closed at 2.07 p.m.