

dorset
C O U N C I L

Ordinary Agenda

Council Meeting

16 October 2023

RINGAROOMA MEMORIAL HALL

it's in the making

Qualified Persons Advice

The *Local Government Act 1993*, Section 65, provides (in part) as follows: -

- A general manager must ensure that any advice, information or recommendation given to the council is given by a person who has the qualifications or experience necessary to give such advice, information or recommendation.
- A council is not to decide on any matter which requires the advice of a qualified person without considering such advice unless the general manager certifies in writing that such advice was obtained and taken into account in providing general advice to the council and a copy of that advice or, if the advice was given orally, a written transcript or summary of that advice is provided to the council with the general managers certification.

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

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

Notification of Council Meeting

NOTICE¹ is given that the next Ordinary Meeting of the Dorset Council will be held on Monday, 16 October 2023 at the **Ringarooma Memorial Hall, 4 Charles Street, Ringarooma** commencing at 6:00 pm.

Council is also holding a drop in session from 5:00 pm for any interested community members to come and meet the Commissioner and Management Team and ask questions in an informal setting.

Members of the public are invited to attend in person, however, if any member of the public is feeling unwell, **please do not attend**.

The audio recording of the Council Meeting, except for any part held in Closed Session, will be made available to the public as soon as practicable after the meeting via Council's website and social media.



JOHN MARIK
General Manager

¹ In accordance with the Local Government (Meeting Procedures) Regulations 2015

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Council Meeting Agenda 16 October 2023

Meeting Opened:

Present:

Apologies:

Item 157/23 Confirmation of Ordinary Council Meeting Minutes – 18 September 2023
Ref: DOC/23/11238

The Chair reported that he had viewed the minutes of the Ordinary Meeting held on Monday, 18 September 2023 finds them to be a true record and recommends that they be taken as read and signed as a correct record.

Recommendation

That the Minutes of Proceedings of the Dorset Council Ordinary Meeting held on 18 September 2023 having been circulated to the Commissioner, be confirmed as a true record.

Item 158/23 Confirmation of Agenda

Recommendation

That Council confirm the Agenda and order of business for the 16 October 2023 Council Meeting.

Item 159/23 Declaration of an Interest of the Commissioner or Close Associate

In accordance with Regulation 8 of the *Local Government (Meeting Procedures) Regulations 2015* and Council's adopted Code of Conduct, the Commissioner is requested to indicate whether he has, or is likely to have a pecuniary interest (any pecuniary interest or pecuniary detriment) or conflict of interest in any item on the Agenda.

INTEREST DECLARED

Commissioner Wardlaw's Calendar | 14 September 2023 – 11 October 2023**September 2023**

- 14 Citizenship Ceremony, Council Chambers
- 14 Reconciliation Tas Public Workshop – Understanding the Voice, Dorset Community House
- 18 Meeting with TasRex Pty Ltd with General Manager, Council Chambers
- 18 Meeting with ratepayer, Council Chambers
- 18 Weekly meeting with Council management team
- 18 September Council Meeting, Council Chambers
- 19 Health Consumers Tasmania: Regional Steering Group Meeting, Northbourne Community Centre, Scottsdale
- 20 Meeting with Health Consumers Tasmania, Scottsdale
- 20 Town familiarisation tour and business introductions in Winnaleah, Branxholm and Derby
- 20 Tour of Winnaleah District High School with Acting Principal, Keeley Lester, Winnaleah
- 20 Derby Community Development Association (DCDA), Annual General Meeting, Derby
- 21 Meeting with Bridget Archer MP, Scottsdale
- 21 North East Voice to Parliament Information Session, Scottsdale Mechanics Institute Hall
- 22 Meeting with Blue Derby Foundation and potential business group with General Manager, Council Chambers
- 25 Weekly meeting with Council management team
- 25 Branxholm Progress Association, General Meeting, Branxholm Hall
- 27 Meeting with Marine and Safety Tasmania (MAST) representatives with General Manager and Assistant General Manager, Council Chambers
- 27 Citizenship Ceremony, Council Chambers
- 27 Rotary Club of Scottsdale, 60th Anniversary Celebration Dinner, Scottsdale Art Gallery Café
- 28 Meeting with ratepayers with the General Manager, Council Chambers

October 2023

- 2 North East Tasmania Chamber of Commerce monthly meeting, Scottsdale Art Gallery Café
- 3 October Council Briefing Workshop with Council management team, Council Chambers
- 4 Meeting with ratepayer, Council Chambers
- 9 Meeting with Council management team
- 9 Meeting with Tasmania Police Inspector Adam Spencer with General Manager, Council Chambers
- 10 Meeting with ratepayer, Scottsdale

The purpose of this agenda item is to provide the Commissioner and the community with a briefing on matters of interest dealt with during the past month by Council's Management Team.

Draft Dorset Council Priority Projects Plan 2023-2032 Update

Council endorsed the draft Priority Projects Plan 2023-2032 at the 21 August Council Meeting and invited members of the public to make submissions on any aspect of the draft Plan. This submission period ceased on 27 September 2023, with Council Officers now reviewing submissions received on the Plan, with a report to be discussed at an upcoming Briefing Workshop. The finalised Plan will be presented for adoption by Council at a future Council Meeting.

CUSTOMER SERVICE REQUESTS

	Requests Received September	Comparison Requests September 2022	Received 2023	Comparison 2022
Animal	1	-	2	-
Bridges	-	-	-	-
Caravan Parks	-	-	3	1
Cemeteries	-	-	-	-
Community Development General	-	-	-	-
Corporate Services General	-	-	1	1
Customer Service	-	-	-	-
Emergency Services Enquiries	-	-	-	-
Environmental Management & Health	1	-	2	1
Government Relations	-	-	-	1
Licencing	-	-	-	-
Parks and Reserves	-	1	6	12
Planning & Building	-	-	3	1
Public Health	-	-	-	-
Public Online Enquiries	-	2	7	26
Public Amenities	1	2	2	7
Public Halls Buildings	-	-	4	3
Recreation Grounds	-	1	6	7
Roads	10	15	82	153
Swimming Pools	-	-	-	-
Waste Management	1	-	4	-
Total Requests	14	21	122	213

A detailed copy of the 2023 Customer Service Requests is included in the attachments.

APPROVED APPLICATIONS

	Approved September	Approved 2023 YTD	Approved 2022 YTD
Planning	7	100	117
Building²	5	73	101
Plumbing	3	49	53

See attachments for detailed information about applications approved in September 2023.

WASTE MANAGEMENT REQUESTS

	Requests Received September	Comparison September 2022	FYTD Received 2023/24	Comparison FYTD Received 2022/23
Feedback and Queries	3	-	7	6
Missed Bins – Council Fault	-	-	-	-
Request a New Service (Opt In)	-	-	-	-
Repair Bin	5	3	12	12
Replace Bin	7	6	15	15
Request a New Service	1	2	9	10
Remove Additional Bin	1	-	1	-
Request an Additional Bin	-	-	2	-
Request an Upsize/Downsize	4	1	16	4
Request to Opt Out (of Service)	1	-	2	-
Request a Collection	-	-	-	-
Total Requests	22	12	64	47

2023/24 CAPITAL WORKS PROGRAM

Ref: DOC/23/8447

	Complete 2023/24
	Completed in September 2023

PROJECT	PROJECT PHASE
BRIDGES	
Bridge 1507 Garibaldi Road, Pioneer - timber superstructure renewal (carried forward)	Beams Ordered
Bridge 1507 Garibaldi Road, Pioneer - timber renewal (additional works to carried forward)	Beams Ordered
Bridge 1508 Garibaldi Road, Pioneer – scour protection piers (flood related)	
Bridge 1514 Coffey Road / Carries Brook, Ringarooma – timber superstructure replacement	Beams Ordered

² From 15 March 2023, Dorset Council ceased providing Building Surveying services for any new building applications. Council is still providing Plumbing Surveyor services and continues to act as the Permit Authority, as required.

Bridge 1572 Haas Road / Frenches Creek, Legerwood – upgrade to concrete	Grant (BRP) Funding Application Submitted
Bridge 1550 Barnboughe Road, Jetsonville – timber re-deck	
Bridge 1599 Nook Road, Nabowla – timber re-deck	Completed
Bridge 1515 Maurice Road, Ringarooma - upgrade to concrete (carried forward)	Completed
Bridge 1617 Duncraggen Road, Jetsonville - upgrade to concrete (carried forward)	Completed
ROADS - RESHEETING	
Burns Road, Wyena	Completed
Boddingtons Road, Bridport	Commenced
Forsyth Hill Road, Ringarooma	Completed
New River Road, Ringarooma	Completed
West Maurice Road, Ringarooma	Commenced
Banca Link Road, Winnaleah	Commenced
Olivers Road, Winnaleah	Commenced
Rosier Road, Ringarooma	Commenced
Sledge Track, Springfield	Planning
Koomeela Road, West Scottsdale	Commenced
Duncraggen Road, Jetsonville (carried forward)	
ROADS - RESEALS	
Banca Link Road, Winnaleah	Commenced Preparation
Sledge Track, Briggs Road to Brid River, West Scottsdale	
Legerwood Lane, Legerwood	
Tomahawk Drive, Tomahawk	
Murphy Place, Scottsdale	
Golconda Road, Lietinna	
Golconda Road, Lietinna	
Golconda Road, Lietinna	
Banca Road, Winnaleah	
Racecourse Road, Winnaleah	
Warrentinna Road, Winnaleah	
Fenckers Road, Branxholm	
Main Road, Musselroe Bay	
Cairns Close, Tomahawk	
Telita Road, Telita (carried forward)	
Main Road, Pioneer (carried forward)	
Charles Street, Pioneer (carried forward)	
Moore Street, Pioneer (carried forward)	
Alfred Street, Pioneer (carried forward)	
STORMWATER	
Joyce Street, Branxholm – renewal	Planning
Allan Street, Derby – renewal	Planning
William Street, Scottsdale (Incitec Pivot) – investigation	Planning

Northeast Park, Scottsdale – upgrade existing network	
Murray Street, Bridport – upgrade	Commenced
William Street, Bridport – extend existing network from Richard Street	
South Street, Bridport – renew pipeline from Main Street to Thomas Street	Tender
Union Street, Scottsdale - upgrade existing pipeline lower end of Union Street (carried forward)	
Main Street, Bridport - upgrade existing 525 pipeline to 900 and install new side entry pits (carried forward)	Tender
Bentley Street, Bridport – upgrade existing 525 pipeline to 900 (carried forward)	Commenced
Bridport - stormwater pit replacements in Walter Street and Richard Street (carried forward)	Commenced
Urban Stormwater Management Plan (carried forward)	
Victoria Street, Scottsdale – upgrade (carried forward)	Completed
ROADS - OTHER	
Golconda Road, Golconda – renew pavement from Denison River 1km east	Design
Golconda Road, Lietinna – renew pavement adjacent to Moores Road	Commenced
South Street, Bridport – replace kerb from Main Street to Thomas Street	Tender
Gillespies Road, Nabowla – upgrade	Planning
Cascade Dam Road, Derby – safety upgrade	
Carisbrook Lane, Legerwood - complete works McDougalls Road intersection (carried forward)	Awaiting property owner commitment
Carisbrook Lane, Legerwood - underpass contribution (carried forward)	Awaiting property owner commitment
Old Waterhouse Road, Waterhouse - safety improvements and upgrade (carried forward)	Commenced
Golconda Road, Golconda - straighten road alignment and upgrade culvert Lone Star Creek (carried forward)	Completed
FOOTPATHS	
Alfred Street, Scottsdale – replace kerb and footpath (Ellenor to Christopher Street)	Planning
Smith Street, Scottsdale – new (Alice to Union Street)	Planning
Tomahawk Drive, Tomahawk – new (Morgan Esplanade to playground)	
BUILDINGS	
Branxholm Park – new BBQ upgrade	Ordered
Branxholm Hall – front disabled access upgrade and step handrail to side entrance	Commenced
Derby Town Hall – re-roof	Obtaining Quotes
Gladstone Hall – new hot water unit	Ordered
Ringarooma Hall – new heat pumps	Planning
Ringarooma Public Toilets – replace cisterns	Planning
Scottsdale Sports Stadium – replace roller door	Commenced
Scottsdale Visitor Information Centre – repair additional windows	Commenced
Scottsdale Aquatic Centre – amenities upgrade	Commenced
Scottsdale Depot – office renovation	
Scottsdale Depot – new storage sheds (carried forward)	Planning
Scottsdale Depot – earthworks for storage sheds (additional works to carried forward)	Planning
Scottsdale Depot – chemical spill trays	Commenced

Bridport Girl Guides Building – planning and investigation	
Bridport Seaside Caravan Park – pin code upgrades to Main, Mattingleys Beach and Goftons Beach Amenities Blocks	Completed
Bridport Seaside Caravan Park – renewal of Eastmans Beach public toilets	Planning
Bridport Seaside Caravan Park – gas upgrade to Main amenities and Eastmans Beach shower block	
Winnaleah Hall – disabled access upgrade	Planning
Blue Derby Mountain Bike Trails – new trail crew storage shed	
Scottsdale Railway Station Restoration (carried forward)	Rotary Project
Building Renovations (Proposed Workers Accommodation) - 71 Main Street, Derby (carried forward)	Blue Derby Foundation Project
Bridport Football Club viewing deck (carried forward)	Planning
Scottsdale Sports Stadium - floor recoat (carried forward)	Planning
Sideling Toilets – additional solar panels	Completed
Gladstone Hall - new septic tank (carried forward)	Planning
WASTE MANAGEMENT	
Green Waste – storage / processing investigation and implementation	
Scottsdale Waste Transfer Station – spare bin area roof covering	Planning / Quotes
Branxholm and Gladstone Waste Transfer Stations – gates	Commenced
Branxholm Waste Transfer Station – recycle bin upgrade	
LAND IMPROVEMENTS	
Scottsdale Recreation Ground – new cricket pitch covers	Planning
Scottsdale Recreation Ground – upgrade lighting and reseal road at Show Office	Lighting commenced
Scottsdale Aquatic Centre – shade cloth for external fence	Commenced
Bridport Cemetery – new grave surrounds	Planning
Main Street, Derby (near Bank House) – retaining wall to stabilise access road	
Legerwood Memorial Park – site works for new equipment	Ordered
Blue Derby Mountain Bike Trails – Relics trail bridge	Awaiting approvals
Blue Derby Mountain Bike Trails – Rusty Crusty Bridge and trail rebuild (flood related)	Awaiting approvals
Blue Derby Mountain Bike Trails – Hazy Days trail capping of stones	Awaiting approvals
Blue Derby Mountain Bike Trails – network signage redesign	Commenced
Blue Derby Mountain Bike Trails – original trailhead redevelopment (south of Main Street)	Commenced
Blue Derby Mountain Bike Trails – Tunnel lights renewal	Planning
Blue Derby Mountain Bike Trails – Kumma Gutza re-route	Commenced
Blue Derby Mountain Bike Trails – Turbo Tunnel re-route	Planning
Northeast Park - MTB Trails (carried forward)	Community Consultation
Rail Trail (carried forward)	Planning approval received and project planning commenced
Gladstone Pump Track (carried forward)	Planning

Recommendation

That the Management Team Briefing Report be received and noted.

3 October | Briefing Workshop

- Veolia Environmental Services (Australia) Pty Ltd – Recyclable Materials Facility Contract
- Sustainable Timber Tasmania Meeting Update
- Department of State Growth Meeting Update
- Blue Derby Memorandum of Understanding Update
- Briefing Reports and Question Time
 - Commissioners Communications
 - Correspondence
 - Management Team Updates

Item 163/23**Applications for Leave of Absence**

Item 164/23**Public Question Time**

The following is an **update** to a question received on notice at the 18 September Council Meeting:

Karl Willrath, Scottsdale

(This update relates to the provision of a mayoral vehicle, with questions asked at the September Council Meeting)

The total cost to Council since the mayoral vehicle (MV) was supplied equates to \$64,141.75 over the 3 year and 9 month period (the odometer reading of the MV on 20 September 2023 was 131,663). The actual kilometre cost to Council for the same 3 year and 9 month period from 2016 to 2020 cost Council \$20,508.10 (total kilometres claimed 41,682). Prior to the supply of the MV, the Mayor was only claiming for kilometres where Council business was undertaken outside the municipality. The decision to supply a MV was not based on the arrangement being cheaper for Council, but more so linked to the amount of Council activity undertaken by the Mayor and inadequacy of the allowances to cover this activity. The transcript of this decision has been supplied to yourself directly and included in the September Council Meeting minutes.

I note the MV was returned to Council on suspension of the Councillors on 2 August 2023. The MV has been returned into Council's fleet and will be utilised by Council staff for business matters. The current MV (Mitsubishi Pajero) is due for replacement as a result of its high kilometres and will be traded in shortly for a lower cost Mitsubishi Outlander. Whether a MV is provided as part of the Mayoral role, will be a decision for a future Council.

The full analysis of the MV can be found in the attachments.

The following questions were **taken on notice** at the 18 September Council Meeting:

Dale Jessup, Youngtown:

A question regarding to the Personal Information Policy review listed for discussion in tonight's agenda. Under the Policy, in the security of personal information section it states "Generally there is an intention that information is destroyed or permanently de-identified when it is no longer required". Given the data hacks that Australian businesses have experienced relating to data that was exposed that has been later shown should've been deleted, do you consider the Policy wording will guarantee data no longer required to be held is deleted?

Response from Administration Manager, Lauren Tolputt:

This statement forms part of a broader paragraph within the Policy which provides important context: *'Generally there is an intention that information is destroyed or permanently de-identified when it is no longer required. This can only be done in accordance with the Archives Act 1983 and any other relevant legislation.*' Due to this legislation the retention periods differ based on nature of information / documents.

The Personal Information Protection Policy is one component of Council's broader approach to IT governance and cyber security. Given the constantly evolving nature of IT and associated cyber risks, Council's overall approach is regularly reviewed with a view of reducing or eliminating the likelihood and impact of data breach incidents.

Louise Brooker, Bridport:

In relation to the planning application up for debate this evening, referring to the revised plan, in his response to representations about the excessive heights for parts of the Barnbogle development, why did the Town Planner not use readily available software to indicate the visual effects of the 12 metre tall build up from the various main streets?

Response from General Manager, John Marik:

The discretionary application visual amenity utilised colours that blended into the surrounding landscape and thus 3D modelling through software was not deemed necessary in the assessment of the application.

Vincent Teichmann, Pioneer:

- 1. Why does Dorset Council focus exclusively on Cascade Dam Rd, and not even offer to write a letter of support to conduct my business on roads servicing the Atlas Trailhead?*
- 2. Were any of the reasons given by the former general manager, Tim Watson, in denying my business a letter of support, namely that the road was too small to handle additional traffic; that another operator might threaten the viability of existing operators; and then later, that he and others supposedly had concerns about my driving; - were any of these valid reasons, in your professional opinions, for denying my business a letter of support?*
- 3. If so, which ones?*
- 4. Through you, Commissioner, if John Marik is of the opinion that any of them are valid, why \ did he not mention this previously, for example when we had our meeting on 24th January) this year*

when I addressed the "reasons" verbally and in writing, or at any time since when I ' brought this issue up at Council meetings?

5. *Does Council still fail to see why these so-called "reasons" are not valid, as they do not stand up to closer scrutiny or pass the pub-test?*

- If the road is too small, why are Vertigo and UDA allowed to run Coaster size buses up it when I'm just wanting to run a Commuter size shuttle?*
- Why are the other operators allowed to keep increasing their use of the roads by adding more shuttles to their fleet, but I can't even run one?*
- As the road has undergone major upgrades since I first asked for a letter of support, how is it still reasonable to deny me a letter of support on the basis of "road too small"?*

Given that businesses naturally thrive or fail as a result of how they are run and other circumstances in our free market economy, why does Council choose to interfere in this process and pick favourites, contrary to the Australian Competition and Consumer Act (2010), by preventing my business from even competing?

Given construction and maintenance of the trails and all the associated infrastructure is paid for by public funds on publicly owned land, how does Council justify denying some people and businesses free and fair access, in a free market economy?

If there were serious and valid concerns about my driving, why did the former general manager, instead of bringing these to the attention of the authorities at the time he was made aware of them, together with any supporting evidence, choose to rely, in forming his professional opinion as GM of Dorset Council, on what seems to be unsubstantiated, hearsay accusations, allegedly made partly by shuttle operators with whom I would be in direct competition, and which were never tested in Court? Does this in Council's opinion constitute 'acting in good faith'? If not, why have I not received an apology and why are these defamatory allegations still being repeated by Dorset Council, as recently as the start of this year by the Mayor at Council meetings?

6. *And why does the Council choose to add insult to injury by not providing me with a simple letter of support, rather belatedly, so that I can try to run my business?*

7. *If they were never valid reasons, should Dorset Council not issue me and my business with the requested Letter of Support, given that there was no Dorset Council policy in place at the time, to justify the refusal to issue my business with the requested Letter of support and in fact, there still isn't?! Quite to the contrary ...*

Why does it state on its website, under "Business community in Dorset": "Dorset Council is focused on providing support to potential investors to facilitate sustainable developments large and small."? Is a new family owned and run small business not deemed appropriate, and if not, why not, when it was okay for me to do the same job that I want to do for myself, for other people? Is Council not being hypocritical by putting up barriers to people having a go in business, which is the very antithesis of what they proclaim to be in favour of on their own website?

In a similar vein Dorset Council's Facebook page states in the Intro it's there to: "To facilitate & promote investment & population growth to strengthen our economic & social diversity." Is a \$40k investment not sufficient? Am I not 'diverse' enough for me and my business to be acceptable to Council? Is raising our four children here not helping enough with population growth for me to be considered eligible for Council's largesse, by way of a mere letter that I estimate would cost Council about \$20 or less of the General Manager's time? Do you know that by the same standard it must have cost hundreds or thousands of ratepayer dollars by now to refuse it, which will grow if Council drags this issue out, instead of resolving it?

Did you know, Council are even trying to attract business investment by doing the following:

- Planning approval fees for development of eligible new small businesses and existing larger businesses are discounted by 50%;
- Renewal of annual food business registration fees are waived for permanent residents; and
- New small businesses are eligible for a 50% rate remission during their first 12 months of operation.

How is it that Council is willing to do all this for businesses, but won't even give me a simple letter of support for my business, to apply for a state government NBT license?

8. *Given that, as per this month's agenda, in the 2022/23 financial year the net cost of the Blue Derby Mountain Biking trails to Dorset was about half a million dollars (\$489,249), which is projected to increase, to be over \$1000 for every resident in Dorset or \$827, 670 in 2023/24, how is it reasonable not to support long-term residents or ratepayers who have been raising their family here since before the trails were built or even being considered, with something as simple as a letter of support for a trail related business? And especially when one bears in mind that the stated goal of building the trails was to stimulate economic activity in the area and that Council is supposed to be actively encouraging business investment?*
9. *Do you, as Commissioner, not have the power and indeed the duty, as the representative of the people of Dorset acting as the Councillors and Dorset Council under Section 232, Powers and functions of Commissioner, which states: "A commissioner of a council may exercise the powers and perform the functions of the councillors." to try to right any past wrongs? In this instance could you not do this, by asking the General Manager, if he is unwilling or unable to decide to do so by himself, to write me a simple Letter of Support for my business, which the Local Government Act (1993) Section 62.(1)(b) and (i) suggest you do, and I quote:*

62. Functions and powers of general manager

(1)The general manager has the following functions:

(a) to implement the policies, plans and programs of the council;

(b) to implement the decisions of the council;

(c) to be responsible for the day-to-day operations and affairs of the council;

(d) to provide advice and reports to the council on the exercise and performance of its powers and functions and any other matter requested by the council;

(e) to assist the council in the preparation of the strategic plan, annual plan, annual report and assessment of the council's performance against the plans;

(f) to coordinate proposals for the development of objectives, policies and programs for the consideration of the council;

(g) to liaise with the mayor on the affairs of the council and the performance of its functions;

(h) to manage the resources and assets of the council;

(i) to perform any other function the council decides?

10. *How can one consider this a 'day-to-day operational matter', when it has been going on for about two years so far and has involved what seem to me to be errors in judgement of the previous General Manager, Tim Watson and the stood down Mayor, Greg Howard? Is it not high time to fix this potentially embarrassing and costly situation, and give me the chance to run my business? Or will I be forced to escalate the matter further?*
11. *Why do you, as Commissioner, not use your power to intervene, for the sake of the Council and all those involved, and allow our community to put this behind us and move forward, by simply asking the General Manager to write the requested letter? Unless you feel that there are valid reasons for refusing it, in which case, would you please tell me what they are?*

12. *If safety assessments of road traffic are needed, why am I not being allowed to participate, while the other shuttle operators are able to continue driving large shuttle buses up Cascade Dam Rd?*

Response from General Manager, John Marik:

Council Officers cannot comment on any of the questions raised by you in relation to actions or comments made by the suspended Mayor Howard, or the former General Manager Watson. As previously communicated your request for a letter of support will be reviewed by the current administration as a fresh request. Since October 2022 (I was the Acting General Manager Oct-Nov 2022 and appointed full-time Dec 2022 – current) Council officers have been reviewing the shuttle bus framework in Blue Derby including key discussions with stakeholders (senior members of Parks & Wildlife Service, Council’s Trail Operations, a selection of shuttle operators and the Blue Derby Foundation). Through this process, Council have now determined to undertake the following actions:

- Council will establish a public policy in relation to shuttle operators and this policy will go to a future Council Meeting for adoption;
- Council will initiate a meeting with current and potential future operators in October 2023 to gain feedback in relation to the proposed policy;
- Cascade Dam Road will be reviewed from a safety perspective based on existing and projected traffic movement volumes generated by increasing visitor numbers. Road counters have already been placed across the road to inform this review. Council will require road counter data for the peak season, meaning this exercise will take many months; and
- The trail head parking area will be assessed in relation to shuttle parking arrangements, currently and into the future.

The reason the above actions are required is to ensure Council:

- Provides current and possible future operators clarity and fairness in regards to shuttle operations;
- Has a consistent process for all;
- Looks to improve community safety; and
- Ensuring that the Blue Derby brand is front and centre for all future decisions.

Please note that until this review is concluded, which includes adoption of the proposed policy by Council, no further letters of support will be provided in regards to new shuttle operators / businesses. It is likely this holistic review and the resulting policy position will not be completed until early 2024.

The following questions were received **on notice** from members of the public:

Karl Willrath, Scottsdale | 6 October 2023

Does Council intend on using the same legal firm to attempted to block right to information requests from the general public again (see attached³), and is commissioner Wardlaw confident that senior staff are now complying with all statutory obligations/expectations of the local government act?

³ this reference can be found in the agenda attachments
Dorset Council | Ordinary Meeting of Council | Agenda | 16 October 2023
Ref: DOC/23/12556

Response from Commissioner, Andrew Wardlaw:

Council obtains legal advice from a range of legal practitioners depending on the type of advice and relevant experience on the subject matter. Dorset Council has predominately used three different legal firms. Legal advice is not sought for all Right to Information (RTI) as there is experienced and trained employees capable of responding to the majority of request that are received.

Council received the legal advice in regard to this matter in good faith and concurred with the information provided. The Council had an opportunity to review this advice when a draft of the Ombudsman Report was provided on 8 August 2023, and while Council maintained the view that there was merit in the advice it determined to respect the decision reached by the Ombudsman.

In response to the question the Council may continue to use the same legal advisor with future RTI requests. The General Manager has assured the Commissioner that the officer responsible for actioning any RTI requests has the appropriate experience and training.

Response from General Manager, John Marik:

Any form of legislation may lead to subjectivity and differences in legal opinion. It is for this reason that at times arbitration and courts are required to settle differences of opinion. In this case, Council's solicitors were engaged at arm's length to assess the right to information application on its merits, and not to 'block' the Right to Information request. Council have chosen not to appeal the Ombudsman's decision in this case and have released the information in a redacted form as suggested by the Ombudsman. Council officers will take learnings from the Ombudsman's verdict in future information requests from the public.

The following questions were received **without notice** from members of the public:

Item 165/23 **Deputations**

Item 166/23 **Commissioner Question Time**

The following questions were received **without notice** from the Commissioner:

Item 167/23 **Notices of Motion by the Commissioner**

Purpose

The purpose of this agenda report is to present and update Council's Fees and Charges Schedule for 2023/24 in relation to the operations of the Swim School, Aqua Fitness and Kiosk services at the Scottsdale Aquatic Centre.

Background

Council set the Fees and Charges Schedule for the Aquatic Centre during the Budget Estimates process in June. Since this time Council has employed a new Aquatic Centre Manager who based on strong community feedback from the 2022/23 season has expanded the Swim School and other services offered by the Centre. An extensive benchmarking exercise has been completed and a revision to previously established Aquatic Centre fees is proposed.

The aim of the fees and charges structure is to ensure swimming and water safety program is accessible to a greater number of the community.

Planning, Environment & Statutory Requirements

Local Government Act 1993 – Part 12, Division 7 (Fees and Charges).

Strategic and Annual Plan

N/A

Financial & Asset Management Implications

Anticipated income from Aquatic Centre Fees and Charges is included in the 2023/24 Budget Estimates. The budgetary impact of the proposed changes to the Swim School and Aqua Fitness fees is offset by the anticipated increase in numbers attending the swim school.

There is no anticipated implication to the establishment of Kiosk Pricing in the fees and charges schedule.

Community Considerations

Council saves costs to the community where possible, including through the following initiatives:

- Free use of Scottsdale Aquatic Centre facilities for community groups and not-for-profit organisations.
- Supporting local businesses by sourcing Kiosk and Swim School items through local businesses wherever possible.
- Providing free entry to Council-owned pools, including the refurbished Scottsdale Aquatic Centre.
- Scottsdale Aquatic Centre Swim School Membership of Ticket to Play. This is a state funded concession program offering two vouchers up to \$100 each for children 5-18 who are listed on a Services Australia Health Care or Pensioner Concession Card, or are in Out of Home Care.

Officer's Comments

After an extensive benchmarking exercise with other outdoor facilities in Tasmania it is proposed that the Scottsdale Aquatic Centre's fees and charges are decreased by on average \$2 per lesson. Refer Attached.

The aim of this change is to continue to improve the water safety skills of the community by improving the financial accessibility of these important education services.

The pricing set at the Aquatic Centre Kiosk is an addition to the Fees and Charges Schedule and is consistent with prior year pricing. It is the intention of Council that Kiosk prices do not compete with local businesses and ensure adequate cost recovery of Kiosk operations.

Swim School Fees

Current fees are based on \$19 per lesson and were based on benchmarking of Launceston Aquatic Centre and surrounding swim schools. We have now benchmarked to comparable outdoor facilities in Tasmania and determined a more appropriate charge is \$17 per lesson.

Current approved fees:

- 6 week, 6 lessons \$114
- 10 day intensive \$190
- 1 week 3 day intensive \$ 57

Proposed Changes:

- 6 week, 6 lessons \$102
- 10 day intensive \$170
- 1 week 3 day intensive \$ 51

Aqua Fitness class fees

Current fees were set at \$19 per class and recent benchmarking has suggested a more appropriate fee is \$17 per class with a concession fee of \$15 per class.

Kiosk

Consistent with prior years Kiosk pricing will be based on additional margin of an average of 60% to cover operating costs.

Recommendation

That Council adopts the amended 2023/24 Fees and Charges Schedule for the Scottsdale Aquatic Centre, as listed:

	Proposed Variation \$	26 June 2023 Approved \$	GST Inc
Scottsdale Aquatic Centre Standard Charges			
Learn to Swim (LTS) (Adult/Child) per class (min. of 4 per class)	17.00	19.00	Yes
Aqua Aerobic Classes (Adult/Child) per class (min. of 5 per class)	17.00	19.00	Yes
Aqua Aerobic Classes (Adult/Child) per class (min. of 5 per class) - Concession	15.00	-	Yes
Kiosk - average margin	60%	-	Yes

Purpose

The purpose of this agenda item is to update Council and the community on progress of the 2023/24 Annual Plan as at 30 September 2023.

Background

On 26 June 2023, Council adopted the Annual Plan for 2023/24. The September Quarterly Report provides an update of progress against the Plan.

Planning, Environment and Statutory Requirements

Under Section 71 of the *Local Government Act 1993*, Council is required to prepare an Annual Plan. The Plan is to be consistent with Council’s Strategic Plan and list the major activities to be completed within the year.

Strategic and Annual Plan

N/A

Risk Management

Council’s Risk Management Framework (RMF) both informs, and is informed by Council’s Strategy, the Financial Management Strategy and the Long Term Financial Plan. Council’s Annual Plan reflects and implements Council’s Strategic Plan.

Financial and Asset Management implications

See officer comments.

Community Considerations

100% compliance with the Annual Plan was achieved for the September quarter. The table below shows compliance with the Annual Plan to date:

	September Quarter
Achieved	4
In Progress	-
Not Achieved	-
Compliance Score	100%
Deferred	1

Officers Comments

Council achieved a 100% compliance with the Annual Plan for the September quarter. The Annual Plan includes activities over and above the day-to-day operational tasks undertaken by Council as per Council's budget estimates for 2023/24. The September quarter achieved four key activities which centred on the review, adoption and implementation of the following policies:

- Payment of Councillors Expenses and Provision of Facilities (No.2); and
- On Street Dining, Vending & Signage Policy (No.3); and
- Code for Tenders and Contracts Policy (No.31); and
- Personal Information Protection Policy (No.36).

The review of Council's overall Risk Management Framework, which includes Council's Risk Management Policy (No 9), was deferred to the June 2024 quarter at the 21 August Council Meeting. The decision to defer this activity was made as a consequence of Council being under a board of inquiry whom will hand down a report to the Minister by no later than 28 February 2024. This report may have implications in relation to Council's overall Risk Management Framework and thus it is prudent to defer the review. The deferral was adopted by Commissioner Wardlaw on the proviso Council Officers present the current Risk Management Framework at a future Workshop to the Commissioner. This presentation was made on 5 September 2023. The outcome of this workshop was that Council Officers will review the risk appetite and tolerance statements which will be presented to the Audit Panel on 24 October 2023.

A copy of the quarterly report is included as an attachment to the agenda.

Recommendation

That Council receive and note the attached Annual Plan 2023/24 September Quarterly Report.

Purpose

The purpose of this report is to provide an update on external grant funding received to Council and the Dorset community.

Strategic and Annual Plan

- Strategic Plan 2023-2032 – Activities 9.3 & 10.1
- Annual Plan 2023/24 – Activity 13

Financial & Asset Management Implications

The current Long Term Financial Plan for 2024-2033 projects \$65.0 million will be received through external grant funding over the next 10-year period. Of this amount, \$14.1 million is expected from capital funding sources, which will be utilised for specific projects as determined by Council's Asset Management Plans, Priority Projects plan and from master planning exercises. The 2023/24 Budget Estimates include an estimated \$8.5 million to be received from grants and contributions this financial year.

Community Considerations

Attaining external grant funding, in particular funding for capital projects, is essential for Council to ensure existing assets are maintained to a high service level, and new and upgraded assets can continue to be constructed to benefit the Dorset community.

Officer Comments

Over the past 9 years, Council has been able to achieve record infrastructure spend made possible, in part, due to the successful attainment of external grant funding. During this period Council received a total of \$68.0 million in grant funding, including \$27.4 million for capital works. The work and effort required by many Council officers to keep abreast of available funding streams, complete funding applications, and meet grant deed milestones throughout the life of a project is immense and they are to be commended for their efforts in this area.

Notable projects funded over this period include:

Roads

Project	\$'000	Funding Stream
Jarvis Link	2,900	Stronger Regions Fund (Commonwealth)
Golconda Road - Stage 4	770	Safer Rural Roads Program (State)
Golconda Road - Stage 3	678	Safer Rural Roads Program (State)
Victoria Street Reconstruction	650	Election Commitment (State)
	700	Local Roads and Community Infrastructure Program (Commonwealth)
Cascade Dam Road Safety Improvements	361	Local Roads and Community Infrastructure Program (Commonwealth)
Carisbrook Lane Upgrade - Stage 1	751	Local Roads and Community Infrastructure Program (Commonwealth)
Carisbrook Lane Upgrade – Stage 2	462	Heavy Vehicle Safety Productivity Program (Commonwealth)

Bridges

Project	\$'000	Funding Stream
Bridport Main Street Bridge	450	Election Commitment (State)
Dead Horse Hill Road Bridge	317	Bridges Renewal Program (Commonwealth)
Banks Road Bridge	155	Bridges Renewal Program (Commonwealth)

Land Improvements

Project	\$'000	Funding Stream
North East Mountain Bike Project	3,254	Community Infrastructure Fund (Commonwealth) Communities, Sport and Recreation Grant (State)
	220	
Blue Derby Trail Head Redevelopment (including the new amenities block)	481	Local Roads and Community Infrastructure Program (Commonwealth)
	227	Vulnerable Road User Program (State)
	73	Recreational Fishing and Camping Facilities Program (State)
Bridport Skate Park	349	Local Roads and Community Infrastructure Program (Commonwealth)

Buildings

Project	\$'000	Funding Stream
Scottsdale Aquatic Centre	3,000	Election Commitment (State)

The Budget Estimates for the 2023/24 financial year include \$3.8 million expected to be received from capital grant funding streams. Current capital projects funded either partially or in full from external grant funding include the upgrade of Gilliespies Road, Nabowla (\$0.6 million), the renewal of Golconda Road (\$0.5 million), the North East Rail Trail Project (Scottsdale to Lilydale) (\$0.3 million), and the upgrade of the amenities block at Eastmans Beach, Bridport (\$0.2 million).

Potential projects that Council have submitted applications and are currently being assessed include the renewal of Bridge 1572 in Haas Street, Legerwood and the Dorset Playground project, which if successful, will assist Council to complete upgrades to the Children's Reserve, Branxholm Park and Winnaleah playgrounds.

Recommendation

That Council receive and note the external grant funding update.

Purpose

The purpose of this agenda item is to provide Council with a quarterly report on the costs and revenue streams of the Blue Derby Mountain Bike Trails (MTB) and any significant adverse events relating to the performance of the Memorandum of Understanding with the Blue Derby Foundation (the Foundation).

Background

The following recommendation was adopted by Council on 18 September 2023:

“That Council be provided with a quarterly report in October 2023, January 2024, April 2024 and July 2024 on the costs and revenue streams of Blue Derby MTB and any significant adverse events relating to the performance of the Memorandum of Understanding with the Blue Derby Foundation.”

In March 2023 a Memorandum of Understanding (MoU) was established with the Foundation and the 2023/24 Annual Plan and Budget Estimates highlighted other expenses had increased by \$77,000 partly as a result of this agreement. As Council will continue to perform the function of public asset manager with respect to the management and maintenance of the Blue Derby MTB trail network, it is prudent for Council to monitor the operational costs and revenue streams of the Blue Derby MTB to ensure that actuals costs are tracking to budget and that the MoU is operating as intended. Certain information publicly provided on revenue streams may be at a level to protect any commercial sensitivities.

Planning, Environment and Statutory Requirements

Local Government Act, Part 8, Division 1

Risk Management

The MoU was developed alongside a legally binding Deed of Assignment (DoA), which allows the Foundation the full use of the Blue Derby brand and intellectual property to maximise fundraising. The MoU and DoA clearly establishes accountability and responsibilities for both the Council and the Foundation. This includes the ability for Council to revoke the agreements if the Foundation does not meet its obligations.

Strategic and Annual Plan

- The recommendation as adopted by Council on 18 September 2023 expands on Council’s 2023/24 Annual Plan, Activity 9, Blue Derby Transition which specifies Council Officers are to update the Council in the December 2023 and June 2024 quarters on this matter.
- Strategic Plan 2023-2032 - Activity 9.4

Community Considerations

The intent of the agreement between Council and the Foundation was to maximise community involvement, increase transparency and accountability of the Blue Derby mountain bike operations to ensure the model is sustainable into the future. The key objective is for the Foundation and Council to work closely together to maximise fundraising activities and to protect the Blue Derby brand to ensure Blue Derby stays at the top of world mountain biking.

Financial and Asset Management Implications

Council's 2023/24 Budget Estimates included a \$125,000 allocation to the Foundation at the start of 2023/24 to assist with the transition of the Blue Derby operations from Council to the Foundation. This funding was granted to assist the Foundation with staffing to deliver the agreed programs. The Foundation expect to contribute \$90,000 back to Council by the end of the 2023/24 financial year. The overall net impact to the overall 2023/24 budget estimates, excluding trail maintenance costs, is expected to be a net cost of \$35,000.

Officer's Comments

The Foundation was incorporated in early 2020 as a not for profit charitable entity with a primary purpose of raising funds to enhance the township of Derby, including the maintenance of the trail network to a world class standard and promoting the uniqueness of Derby.

Council passed a resolution on 20 March 2023 to endorse a MoU, and a legally binding DoA, formalising the transfer of the following Blue Derby operations from Council to the Foundation:

- a. The licensing and commercialisation of the Blue Derby Brand/intellectual property;
- b. The acquisition and management of commercial sponsorships of Blue Derby;
- c. The management of all Blue Derby marketing and social media; and
- d. Assume responsibility for Blue Derby endorsed events and other fundraising initiatives.

Up to the 20 March 2023 Council Meeting, Council managed all aspects of the Blue Derby operations, including trail build, trail maintenance, marketing, social media and website administration, sponsorship and brand commercialisation. Outside of the dedicated trail maintenance crew, all other Blue Derby operations were administered by Council Officers as part of existing roles. This was not a sustainable model going forward and one of the catalysts for the MoU and DoA.

It should be recognised that the Blue Derby MTB are a world class asset and this agreement between Council and the Foundation was intended to ensure the legacy of the trails is protected inter-generationally.

Update from the Foundation for the September 2023 Quarter:

- Much of the quarter has been characterised by the transitioning of marketing and fundraising activities from Council to the Foundation – excellent progress has been made by Council in sharing the background information and administrative details necessary for the Foundation to operate the Blue Derby marketing and online media assets and importantly, to begin the process of fundraising and sponsorship acquisition.

- The Foundation’s administrative systems continue to be put in place with the necessary insurances, conflict of interest and confidentiality procedures completed - see annexures in the attachments. Launceston based accountancy and business advisory firm ALA Partners have been retained (with a pro bono component) to further develop the Foundation’s financial reporting and compliance processes. These will be in place by the December 2023 quarter.
- The 2022/23 annual audit has been completed by Camerons and will be presented to members at the Annual General Meeting (AGM) scheduled for 27 October 2023. The 2023/24 forecast budget will also be presented at the AGM. A copy of both the audit and budget will be forwarded to Council following its approval by members.
- In July, the Foundation was pleased to collaborate with the Derby Community Development Association to celebrate the 100-year anniversary of the Derby Town Hall – the ‘Gatsby Ball’ and ‘History Afternoon’ were both well attended events generating a modest profit to be shared with the Association for future community activities. This represents the first collaboration between the two groups and is seen as an important step towards improving local community cohesion.
- A great deal of effort over the last few months has been devoted to preparing marketing strategies for fundraising from Short Term Accommodation (STA) providers and local businesses.

Update from the Council for the September 2023 Quarter:

- The winter period is the most important maintenance window for the trail crew. Soil moisture allows for effective reshaping and repair of trails. The majority of focus was on the Blue Tier, with approximately 6km’s of trail refurbished.
- Concurrent to the Blue Tier works, the Dambusters descent had a machine refurbishment and is now reopen to riders.

The BDF’s focus for the December 2023 Quarter:

- The launch of the Blue Derby Endorsed STA providers fundraising campaign.
- The launch of the Blue Derby Industry supporter and sponsor campaign.
- The development of the Blue Derby Ambassador training and professional development campaign.
- The development of the Visitor Experience research project.
- The redevelopment, with Council’s support, of ridebluederby.com.au as a destination website with the accommodation booking platform integrated into it.

Council’s focus for the December 2023 Quarter:

- Air-Ya-Garn was fully opened in early October. A little over a year ago a landslip destroyed a portion of the trail. Air-Ya-Garn is one of the most important trails for the popularity and function of the network and its re-opening is expected to have a boost to visitor numbers with Black Stump to Trail Head laps once again possible.
- Council will be working on a policy position in relation to Blue Derby Shuttle Operators, which will include a public meeting/s, which will also review the trailhead operating model.
- Council will work with the Foundation on a strategy for signage placement which will be linked to the industry and sponsor campaign devised by the Foundation.

Possible significant adverse events highlighted by the Foundation relating to the performance of the MoU:

- The impact of Council’s 2023/24 rating strategy in Derby and surrounds in relation to STA and rate increases on the Foundation’s ability to secure sponsorships, and
- Local business dissatisfaction with the former sponsorship regime which may cause challenges to sign up sponsors in the future, and
- The failure to progress over the last two years on the proposed workers’ village as a result of challenges with the waste water. Local businesses continue to struggle to attract workers to the area with a lack of accommodation opportunities in Derby cited as a key barrier. (Note from Council – a wastewater report is being prepared for the former DMR building to allow the Foundation to gauge whether the workers accommodation proposal is still feasible).
- Bookings for shuttle operators are down for the up-coming season and mountain bike sales peaked during COVID-19. This may put pressure on the Foundation’s ability to attain sponsorships with industry and commercial operators.

Despite the challenges faced by the Foundation and Council, both parties are working well together with many activities achieved to date, and thus the MoU is on schedule and the Foundation are on target to meet their budgeted financials for 2023/24.

Dorset Council have supplied Blue Derby operations financials publically, as the land manager of the Mountain Bike Trails, in the September 2023 Council Meeting. The current timeframe proposed by Council of the supply of financials in the month following the quarter puts pressure on both the Council, and the Foundation. Council meetings are the third Monday of every month, and the Council meeting agenda must be provided publically by the second Wednesday of every month. This gives the Council and Foundation less than two weeks to finalise the quarterly report. It is therefore recommended to Council that a quarterly report is provided to Council in February 2024, May 2024 and August 2024.

Recommendation

That Council:

- 1. Receive the Blue Derby Mountain Bike Trails – September Quarterly Update.**
- 2. Receive a quarterly report in February 2024, May 2024 and August 2024 on the costs and revenue streams of Blue Derby MTB and any significant adverse events relating to the performance of the Memorandum of Understanding with the Blue Derby Foundation.**

Recommendation

That the Meeting be closed to the public pursuant to Regulation 15 of the *Local Government (Meeting Procedures) Regulations 2015*, and that members of the public be required to leave the meeting room.

Time Meeting Closed to the Public:

CLOSED SESSION AGENDA ITEMS

Purpose

To confirm the Minutes of Proceedings of the Dorset Council Ordinary Meeting Closed Session held on 18 September 2023.

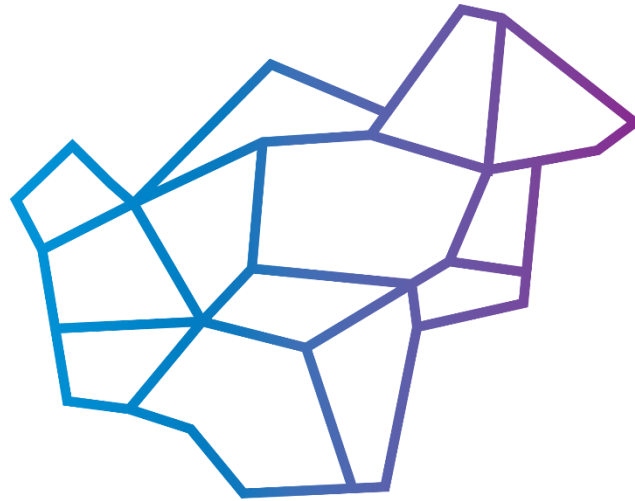
Purpose

The purpose of this agenda report is to discuss entering into a formal agreement with Veolia Environmental Services (Australia) Pty Ltd (Veolia) to process recyclable materials at a newly constructed Material Recovery Facility (MRF) in Spreyton.

This item is considered in closed session in accordance with Regulation 15 (2)(d) of the *Local Government (Meeting Procedures) Regulations 2015*

*“15 (2)(d):
contracts, and tenders.....”*

Time Meeting Closed:



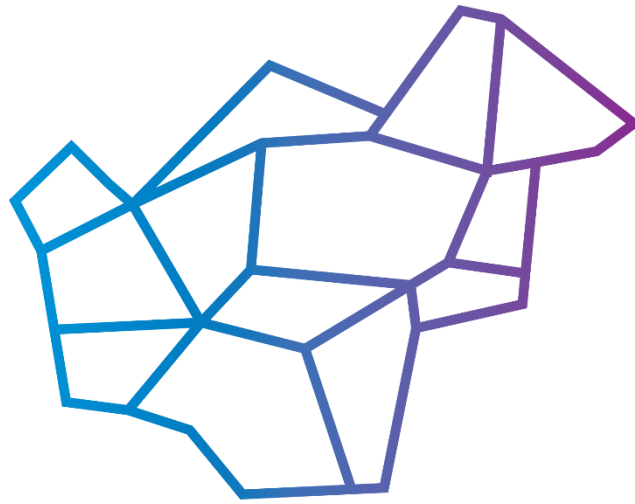
dorset
C O U N C I L

Ordinary Council Meeting

Agenda Attachments

16 October 2023

it's in the making



dorset
C O U N C I L

UNCONFIRMED
Ordinary Minutes

Council Meeting

18 September 2023

it's in the making

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Council Meeting
UNCONFIRMED Minutes
18 September 2023

Meeting Opened: 6:00 pm

Present: Commissioner Andrew Wardlaw

General Manager: John Marik, Assistant General Manager / Director – Community & Development: Rohan Willis, Finance Manager: Allison Saunders, Administration Manager: Lauren Tolputt, Regulatory Services Manager / Town Planner: Thomas Wagenknecht, Community and Development Administration Officer: Elizabeth Hadley, Executive Assistant: Sarah Forsyth

Apologies: Nil

Acknowledgement of Country

Dorset Council acknowledges the deep history and culture of the First People who were the traditional owners of the lands and waterways where we live and work. We acknowledge the clans-people who lived here for over a thousand generations on the Country where Scottsdale is built and throughout the area we know as the north east region.

Dorset Council acknowledge the present-day Aboriginal custodians and the inclusive contribution they make to the social, cultural and economic essence of the municipality.

Commissioner Wardlaw acknowledged the passing of former Mayor and Deputy Mayor, Mrs Yvonne Thorne

Item 133/23 **Confirmation of Ordinary Council Meeting Minutes – 21 August 2023**
Ref: DOC/23/9999

The Chair reported that he had viewed the minutes of the Ordinary Meeting held on Monday, 21 August 2023 finds them to be a true record and recommends that they be taken as read and signed as a correct record.

DECISION

MOVED / SECONDED: Commissioner Wardlaw

That the Minutes of Proceedings of the Dorset Council Ordinary Meeting held on 21 August 2023 having been circulated to the Commissioner, be confirmed as a true record.

CARRIED: COMMISSIONER

DECISION**MOVED / SECONDED: Commissioner Wardlaw**

That Council confirm the Agenda and order of business for the 18 September 2023 Council Meeting.

CARRIED: COMMISIONER**Item 135/23****Declaration of an Interest of the Commissioner or Close Associate**

In accordance with Regulation 8 of the *Local Government (Meeting Procedures) Regulations 2015* and Council's adopted Code of Conduct, the Commissioner is requested to indicate whether he has, or is likely to have a pecuniary interest (any pecuniary interest or pecuniary detriment) or conflict of interest in any item on the Agenda.

INTEREST DECLARED

Nil

Item 136/23**Commissioner Communications****Commissioner Wardlaw's Calendar | 15 August 2023 – 13 September 2023****August 2023**

- 16 Meeting with member of the public with General Manager, Scottsdale
- 17 Meeting with Audit Panel Chair, Ian Wright, Launceston
- 21 Weekly meeting with Council management team regarding weekly meeting and Council Workshop process, Scottsdale Bike Park project overview, Derby master planning, Scottsdale community garden project progress update and Board of Inquiry / insurance update
- 21 August Council Meeting, Council Chambers
- 23 Meeting with ratepayer, Derby
- 23 Attendance at the Dorset Coastal Working Group Meeting, Bridport
- 24 Meeting with Dorset Community House Manager, Naomi Buster, Community House
- 24 Meeting with ratepayer, Council Chambers
- 28 Attendance at the launch of the Northern Tasmania Alliance for Resilient Councils with the General Manager, Riverside
- 28 Weekly meeting with Council management team regarding 2022/23 bad debts update, MAST update, Dorset Coastal Working Group Meeting items, update on Scottsdale Bike Park from previous meeting, and other items including the Rail Trail, Tassie Scallop Fiesta and Bridport Innovations meeting request
- 29 Meeting with Future-Links Gladstone community group with John Marik, Rohan Willis and Craig Wheeler, Gladstone
- 30 Attendance and Presentation at the Rotary Club of Scottsdale Meeting, Scottsdale Art Gallery Cafe

September 2023

- 4 Weekly meeting with Council management team regarding Board of Inquiry update, Regional Development Australia meeting and other items including Scottsdale community garden project update, Future-Links Gladstone meeting, Rail Trail update,
- 4 North East Chamber of Commerce Meeting, Scottsdale Art Gallery Café

- 5 September Council Briefing Workshop, Council Chambers
- 5 Dorset Suicide Prevention Network General Meeting, Scottsdale Library
- 5 Meeting with ratepayer, Council Chambers
- 6 Meeting with ratepayer, Bridport
- 6 Dorset Community Grants Selection Meeting, Council Chambers
- 7 Meeting with ratepayer, Council Chambers
- 11 Weekly meeting with Council management team regarding Regional Development Australia update, Derby shuttle bus progress update, upcoming State Government visit to Dorset, Annual Plan 2023/24 – Road and Footpath Committee discussion, community meetings update, mountain bike framework update, Blue Derby Foundation updates on accommodation provider program and brand and additional Local Government Association of Tasmania motion for 1 November meeting.
- 12 Presentation from Northern Tasmania Development Corporation, Council Chambers
- 12 Dorset Wellbeing Network meeting, Dorset Community House
- 13 Meeting with Bridport Life Saving Club Members with General Manager, via online meeting
- 13 Inspection of Jehovah Witness Kingdom Hall renovations, Scottsdale
- 13 Site visit to the Scottsdale Waste Transfer Station with Acting Director - Infrastructure
- 13 Future-Links Gladstone, Annual General Meeting, Gladstone Hall

Item 137/23 Management Team Briefing Report

The purpose of this agenda item is to provide the Commissioner and the community with a briefing on matters of interest dealt with during the past month by Council’s Management Team.

DECISION

MOVED / SECONDED: Commissioner Wardlaw

That the Management Team Briefing Report be received and noted.

CARRIED: COMMISSIONER

Item 138/23 Council Workshops Held Since Last Council Meeting

5 September | Briefing Workshop

12 September | Special Briefing Workshop

Item 139/23 Applications for Leave of Absence

Nil

Item 140/23 Public Question Time

The following questions were **taken on notice** at the 21 August Council Meeting:

Kahlia Simmons, Scottsdale

When will the footpath on the corner of Victoria and King Street be fixed?

Response from Acting Director – Works & Infrastructure, Craig Wheeler:

Council cannot give a definite completion date based on the following. TasWater are investigating the water main including potential replacement. Council have pavers on order, which have a minimum five week lead time for delivery.

Jenny Bellinger, Pioneer

Can someone give us an update on the water allocation that we bought with the Scottsdale Irrigation Scheme and where that's at?

Response from Finance Manager, Allison Saunders:

In the 2022/23 financial year, 95ML of water rights were sold for a total of \$136,650. At 30 June 2023, 547ML remain for sale, with a carrying amount of \$766,000.

Vincent Teichmann, Pioneer

In Schedule 1 on page 17 of the agenda, it mentions that you are immune from any personal liability in accordance with Section 341 of the Act. Is there a similar provision for other Councillors and Council staff that they are immune from prosecution for personal liability?

Response from Commissioner, Andrew Wardlaw:

Councillors and employees are afforded the same personal liability protection under Section 341 of the *Local Government Act 1993* as the commissioner.

Councillors, employees and the commissioner do not incur any personal liability in respect of any act done or omitted to be done by the person in good faith in the performance or exercise of their duties.

A personal liability that may otherwise lie against councillor or employee will lie against the Council. In regard to the commissioner, the liability will lie against the Crown.

Jacki Moore, Gladstone

With the resheeting of the roads, we were told last year that Cape Portland Road, which is desperately needed, was going to be done, but I can't see it listed anywhere?

Response from General Manager, John Marik:

The resheeting of Cape Portland Road is included in Council's Road Plan for 2025/26 financial year. Council's Infrastructure team will make contact and undertake a review of the road condition, which may alter Council's maintenance schedule.

The following questions were received **on notice** from members of the public:

Lawrence Archer, Bridport | 5 September 2023

What is the total of legal costs incurred by Council since July 1 2022 and how much of those costs are attributable to advice attempting to deny Right to Information requests?

Response from Finance Manager, Allison Saunders:

Total legal fees incurred by Council since 1 July 2022 amount to \$240,409. Of these fees, \$157,060 have already or will be reimbursed to Council (\$145,478 from Council's insurer relating to the Local Government Investigation/Board of Inquiry). A total of \$1,976 relates to advice received in relation to Right to Information Requests. Amounts stated are GST exclusive.

Karl Willrath, Scottsdale | 7 September 2023

The media has reported that some of the suspended Dorset Councillors attempted to resign but these resignations were unable to be accepted due to statutory reasons. If these resignations were accepted, would the Councillors have been allowed to gain access to Dorset Council computers, email, phone records, etc. in regards to evidence/information gathering for the current board of inquiry into Dorset?

Response from General Manager, John Marik:

From a procedural fairness perspective, all parties impacted by the Local Government investigation or the Board of Inquiry will be given access to relevant records. All information requests should be submitted in writing to the General Manager. This applies to suspended Councillors, former Councillors, and former and current Council Officers.

Has the Mayoral car been sold, and could we please have a final cost benefit based on the previous three years that Mayor Howard actually claimed for via kilometres travelled in his own vehicle (previously disclosed) including fuel, tyres, repairs, services etc. and did the Mayoral car actually work out cheaper as was claimed by GM Watson at the time of the Councillors voting for the car?

Response from General Manager, John Marik:

The Mayor's car has been included as part of Council's fleet available for Council Officers for conducting day to day operations of Council.

At the 16 September 2019 Council Meeting, a resolution was passed unanimously (with the Mayor declaring an interest in the matter) for Council to provide a fully maintained motor vehicle for the Mayoral role. The following extract articulates the background and former General Manager comments from the agenda item:

"Section 340A of the Local Government Act 1993 (the Act) entitles Councillors to allowances as prescribed in the Local Government (General) Regulations 2015. Whilst the Regulations allow for reimbursement of reasonable expenses in relation to travel, there is no specific car allowance for Councillors, Mayors or Deputy Mayors.

Accordingly, it is common practice within the sector for Councils to elect to provide fully maintained motor vehicles for the Mayoral position. This practice is typically adopted to mitigate the financial impost that Mayors incur as a result of the performance of their Mayoral responsibilities. The logic being that the allowances provided to a Mayor including reimbursement of travel expenses are substantially insufficient relative to the commitment that is required of Mayors to do justice to the role and the needs of the community.

Many Councils within the sector have for many years advocated for a substantial increase in allowances for the Mayoral position, particularly for small regional Councils where the

Mayor clearly plays a critical role in advocating for the local community and securing State and Federal Government funding. Unfortunately the recent review of Councillor allowances by the Tasmanian Industrial Commission (TIC) did not propose any changes to allowances. This decision by the TIC shows a poor understanding of the importance of the role of the Mayor in regional communities and in that respect it is not a reflection of the views of those in the sector who are better placed to make judgement on the matter.

The consensus of Councillors and Senior Staff is that the level of remuneration for the Mayoral position via Councillor allowances is an anachronism from a bygone era and in no way reflects the volume of the work performed in carrying out the duties of the role. Given the geographic spread of rural Councils the demands on the Mayor in a municipality such as Dorset are in many respects far greater than that of a Mayor of an urban Council. In addition, I have personally seen the importance of the role of the Mayor in advocating for the community and securing State and Federal funding and therefore in my professional view the allowances are grossly inadequate.

Whilst Council does not have the head of power to increase the level of allowances for the Mayoral position, Council does have the ability to provide a fully maintained motor vehicle and it is my recommendation that such a vehicle be provided to the Mayor including full private use in accordance with Council's Operational Policy - Plant and Vehicle Use."

The above agenda item made no reference about the mayoral vehicle being cheaper than paying the Mayor on a cents per kilometres basis for expended business kilometres.

Council Officers have provided information previously in relation to this matter (24 April 2023), specifying the Mayor historically claimed for out of municipality kilometres only. The mayoral vehicle was provided on a fully maintained basis, which included a certain amount of private kilometres. Therefore, a cost benefit analysis would not be comparing like for like data sets.

It will be up to a future Council to decide whether this policy position requires review.

In addition to the abovementioned answer that was provided in the circulated agenda, the Commissioner referred to a transcript of this item from the 16 September 2019 Council Meeting, which is provided below:

Transcript | 16 September 2019 Council Meeting Item 160/19 – Provision of Mayoral Car

DJ – Dale Jessup (Deputy Mayor) | TW – Tim Watson (General Manager) | MC – Mervyn Chilcott (Councillor) | LS: Leonie Stein (Councillor) | EP – Edwina Powell (Councillor) | JN – Jerrod Nichols (Councillor) | WM – Wendy McLennan (Councillor)

Mayor Howard declared a pecuniary interest and asked the Deputy Mayor to take the Chair

DJ: *Thanks Mr Mayor. Councillors we have item 160/19 – Provision of the Mayoral Car. The reporting officer is the General Manager.*

TW: *Through you Deputy Mayor. I think the report is self-explanatory. I think anyone who lives in the general community would understand the importance of having an active Mayor in terms of – a) advocating for the community and I think just as importantly, is working with our political representatives at a State and Federal level and bringing funding into our area. Personally, I have observed the enormous amount of work that*

first Barry Jarvis did on behalf of this community, particularly when the community was going through a rough patch, and certainly worked closely with Greg to secure funding. One of those springs to mind is Aminya. We wouldn't of, I don't think, would have found a solution if it wasn't for Greg working with both myself and Julie Orr as a team. I get feedback all the time about just how active Greg, for example, is around the community. You guys must hear it as well. My view as a professional is I just think the allowances that councillors and certainly your mayor are paid, belong to another era. You want an active Mayor, it is ridiculous that the Mayor should be out of pocket while out representing your community. So I really think it is a no brainer to provide the Mayor with a fully maintained motor vehicle with full private use.

DJ: *Thanks Tim. Any questions?*

MC: *Is there a figure at the moment of what Greg's paid like for an allowance on his own vehicle?*

TW: *It's the same as any Councillor. So there is a cents per kilometre rate we pay for travel.*

MC: *So what would that amount to in a year that Greg would be paid? I do recognise that he does go to a considerable amount of meetings.*

DJ: *To my knowledge he doesn't claim a lot.*

TW: *He only claims out of the area.*

LS: *He only claims out of the area – only if he goes beyond the boundaries.*

TW: *It is not a lot, I couldn't put a figure on it, but it's only if he goes out of the area. So all the work he does inside the municipality, Barry was the same.*

DJ: *I know through the work I do on the Audit Panel, we see some of those claims that councillors make from time to time and yeah, certainly the claims I've seen come through from Greg for mileage is very limited.*

EP: *Was there any cost analysis made comparing what, you know, get for an allowance compared to actually having a car?*

TW: *I think you've answered that Dale. What Greg claims....*

EP: *I'm not asking what Greg claims, but in terms just in general, what would be the percentage? It is cheaper to provide a car compared to claiming an allowance?*

TW: *No it's not. The Mayor is not claiming all of his travel. So it will cost the community more than what is being paid now.*

LS: *When you look at....*

DJ: *Councillor Stein is this a question?*

LS: *It will be, I will put a question mark at the end.*

LS: *When you look at what the Mayor in other communities or Councils get in comparison to what our Mayor gets, with the amount of work our mayor does, I can't understand how it can even be disputed. It is not warranted and for what he has achieved it is a good thing. My question is, how could it be seen to be against the community to have someone representing us as well as they do?*

DJ: *Thank you Councillor Stein, do you need an answer for that?*

LS: *No, I think I answered it for myself.*

DJ: *If there are no further questions, can I call for a mover of the motion?*

LS: *I am happy to move.*

DJ: *Moved by Councillor Stein.*

DJ: *Secunder?*

JN: *I will.*

DJ: *Seconded by Councillor Nichols.*

DJ: *Councillor Stein.*

LS: *I don't think I have anything left to say now.*

DJ: *Councillor Nichols.*

JN: *Nah, I think that it has all pretty well been explained. I think he goes above and beyond what is required and it is more than justified.*

DJ: *Any discussion?*

WM: *Only I don't think we are in a position to compare what other Mayors do as we don't know, but obviously Greg does a good job.*

DJ: *I think from my position, I see the work that the Mayor does, it is just astounding and every organisation meeting, pretty well, in the north east Greg goes to. I know we've had personal conversations about it before, how he doesn't feel right about putting in applications for coverage of mileage, but I certainly think with the work that Greg does, that Council providing him with a car is easily justified. I suppose the only hesitation I have with it is the, that I wouldn't be so convinced that the next Mayor would deserve a car. So I think it's something that maybe the next round of Council need to think about, if you have a Mayor that didn't put in the level of work and diligence that our current Mayor does. Another Council may need to consider whether the provision of a mayoral car continues. What I wouldn't like to see is that, just start it from this day forward forever and a day that a mayor in Dorset always has a vehicle, which is something that future Councillors would need to consider. Certainly with what Greg does, I have no hesitation supporting the motion.*

DJ: *Councillor Stein would you like to sum up?*

LS: *I am quite happy to support what you just said as my sum up.*

DJ: *Thank you. I call for the motion to be put to the meeting. All those in favour? (Aye's heard)*

DJ: *Any against?*

DJ: *Carried unanimously*

The following questions were received **without notice** from members of the public:

Dale Jessup, Youngtown:

At the August Council Meeting, the Council's Priority Projects paper was approved. One of the items listed was to advocate for realignment of stage 2 of the Sideling upgrade through Corkery's Road. Given stage 2 is currently being assessed, can Council outline what activities have been undertaken since the August meeting?

Response from General Manager, John Marik:

Council have a meeting scheduled with the Department of State Growth next week to discuss this matter, amongst others.

Commissioner, at the last Council Meeting you stated you would be in the position of Commissioner until 28 February 2024. Given the Board of Inquiry is due to provide its report on the 28 February, who do you expect to be representing Dorset ratepayers come 1 March 2024?

Response from Commissioner Andrew Wardlaw:

If I gave the impression it would be until the end of February, that's the expectation, but it's not a fixed appointment, it's associated with other events happening. In relation to the Board of Inquiry, what it finds, what it presents to the Minister, and the Minister will make those decisions moving forward about what happens post that. I am expecting to be here until 28 February, but it could be shorter or it could be longer.

A question regarding to the Personal Information Policy review listed for discussion in tonight's agenda. Under the Policy, in the security of personal information section it states "Generally there is an intention that information is destroyed or permanently de-identified when it is no longer required". Given the data hacks that Australian businesses have experienced relating to data that was exposed that has been later shown should've been deleted, do you consider the Policy wording will guarantee data no longer required to be held is deleted?

QUESTION TAKEN ON NOTICE

Louise Brooker, Bridport:

In relation to the planning application up for debate this evening, referring to the revised plan, in his response to representations about the excessive heights for parts of the Barnbogle development, why did the Town Planner not use readily available software to indicate the visual effects of the 12 metre tall build up from the various main streets?

QUESTION TAKEN ON NOTICE (as per Policy No.41)

Vincent Teichmann, Pioneer:

Are Councillors still bound by the Council Code of Conduct while they are stood down?

Response from General Manager, John Marik:

No

To clarify my question from last month, if a Councillor, Council employee or Commissioner was not acting in good faith, would they then be liable? Clearly it said that if they are acting in good faith, they are covered, but if they aren't, would they be liable personally?

Response from Commissioner Andrew Wardlaw:

I think you've answered your own question. It would be a matter subject to a range of laws, etc. if they have acted in good faith, but yes, essentially the obligation is to make decisions in good faith and if that occurs then liability is protected.

Is it your professional opinion, either directly or through you to John Marik, General Manager, that any of the reasons given to me by the former General Manager when he was refusing my request for a letter of support originally – and just to refresh that was apparently that the road was too small to handle any more traffic, that was reason one. That adding another operator might threaten the viability of existing operators – reason 2, then later he suggested that, supposedly, he and other operators had concerns about my driving, without providing any evidence or taking the appropriate action to refer that matter

to the Police. Would you consider any of these three constitutes valid reasons for refusing a letter of support?

Response from Commissioner Andrew Wardlaw:

First of all, decisions that were made in the past about, I am not in a position to talk about and there will be other places for that to happen. I understand that you have received a letter outlining the process the Council are going to work through. I am not going to get into hypotheticals, etc. but I think that is the position I and the General Manager are taking at the moment, and I support the General Manager's decision. I am not sure if you are participating in other things at the moment, such as the Board of Inquiry, but those suggestions you probably should direct in that direction.

I think there has been a misunderstanding. Because historically this matter was directed to Dorset Council two years ago, and you are now Dorset Council, I am asking you whether you think that was appropriately handled at the time. This isn't a hypothetical, this is a very real question as the three reasons were given, in my opinion, are not valid, and I would like your position as to whether you believe they are valid reasons or not?

Response from Commissioner Andrew Wardlaw:

I think that what is important in relation to what we are talking about, which is uplift of mountain bike riders at Derby to the head, is that we provide fairness and we ensure that there is a community safety, etc. I am satisfied that the process that is being undertaken now will achieve that going forward. I am not going to comment on whatever has happened in the past.

So you think I am being treated fairly at this point in time? After waiting for two years for a simple letter of support? I don't feel I am being treated fairly, but I am asking you whether you feel I am being treated fairly being asked now to wait further, and wait for a policy to be developed by this Council that currently does not exist so that it can be applied to considering to grant me a letter of support, which two years ago I was told I wasn't going to get, with reasons you aren't willing to stand up and say they were valid at the time. I am being put in a position where my business and my livelihood can't proceed, through no other reason or fault of my own. I am just wanting a letter of support so I can run my business and I am being told that I should be patient and kick this down the road for another year or two.

Response from Commissioner Andrew Wardlaw:

There are more than just yourself that are in the same situation and we have communicated to others in relation to that point and I believe that the process in place is fair and will ensure that if we have a situation going forward, that we have a clear position and we can protect the safety of the community.

Item 141/23

Deputations

Mr Jeff Jennings

Planning Application (Item 148) (Ref: DOC/23/11292)

Representor

Mr Jay Wilson

Planning Application (Item 148) (Ref: DOC/23/11478)
Representor

Mr Richard Sattler

Planning Application (Item 148) (Ref: DOC/23/11533)
Property Owner

All deputations are attached to the Minutes

Item 142/23 Commissioner Question Time

The following questions were received **with notice** from the Commissioner:

7 September 2023 | Blue Derby Mountain Bike Trails

Since being in my role as Commissioner the community has been seeking clarification on the costs associated with the Blue Derby Mountain Bike Trails (Blue Derby MBT). I am also aware that there was a significant landslip event that incurred major expense and that this has been partly recouped from a disaster recovery grant.

1. *In 2022/23 was all expenditure associated with Blue Derby MBT costed to this activity?*

Response from Finance Manager, Allison Saunders:

Yes

2. *What was the actual net cost of maintaining the Blue Derby MBT in 2022/23?*

Response from Finance Manager, Allison Saunders:

Including associated income and expenditure from Blue Derby MTB Events, Camping and Shower facilities at Derby Pay and the Blue Derby Accommodation Booking Platform, the net cost of managing Blue Derby MTB was \$489,249. A Statement of Profit and Loss is attached.

3. *What is the 2023/24 Budget for Blue Derby MTB?*

Response from Finance Manager, Allison Saunders:

The 2023/24 Budget Estimates for Blue Derby MTB show a net cost of \$827,670. This cost includes \$280,000 required for extensive maintenance on the Air-Ya-Garn and Blue Tier trails, which is the first major maintenance required since their construction in 2016 and is in addition to the regular maintenance schedule for the mountain bike trail network.

The budget estimates also include a once-off payment of \$125,000 required to assist with the transition of commercial operations to the Blue Derby Foundation (BDF), as determined in the Memorandum of Understanding (MOU) adopted by Council at the March 2023 Council meeting. All revenue streams from Sponsorships, Blue Derby merchandise, camping and shower facilities, and commissions from the Derby Accommodation Booking Platform have also been transferred to the BDF as part of the MOU, however, it is expected that the BDF will contribute \$90,000 back to Council by the end of the 2023/24 financial year. As result of this contribution, the net impact to the overall result in the 2023/24 financial year is estimated to be \$35,000.

It is also important to note that this is the first year of the agreement with the Blue Derby Foundation and it is anticipated that additional funds will be contributed back to Council to assist with funding the maintenance of the Blue Derby trails in future.

A Statement of Profit and Loss is included in the attachments.

4. *What was the cost of the landslip and how much of this cost was recouped?*

Response from Finance Manager, Allison Saunders:

The total cost for rehabilitating the landslip area is expected to be \$363,010. Of this amount, Council expect to recoup costs of \$272,258.

Overall, the October 2022 Flood Event caused significant damage to the Blue Derby Mountain Bike Trails, with estimated costs of repairs amounting to \$619,168 (including the landslip costs outlined above). Council expect to receive approximately \$464,376 back from the Tasmanian Relief and Recovery Arrangements administered by the Department of Premier and Cabinet, and Council would like to thank the State Government for their assistance and contribution towards the cost of this flooding event.

Details of actual and forecast flood related expenditure for the Derby Mountain Bike Trails is included in the attachments.

5. *What is the estimated economic value of Blue Derby MBT in 2022/23 and how is this calculated?*

Response from General Manager, John Marik:

Mountain bike visitations to Derby peaked in the 2018/19 financial year with 51,199 interstate and international room nights stayed in Derby. More recently international and interstate visitations were impacted by COVID-19 and subsequent border restrictions from March 2020 until December 2021, however visitations have started to recover to 2018/19 levels.

The economic impacts of the Blue Derby MBT conservatively contribute \$20 million per annum directly to Derby from accommodation, transport, experiences and food and beverage. However, this figure would be closer to a \$50 million contribution when a multiplier effect is taken into account, including positive impacts of employment and construction in the area required to service the demand. Blue Derby's importance to the region cannot be overstated and must be protected in light of the expansion of mountain biking within Tasmania and nationally. High level assumptions for Blue Derby economic impacts can be seen below.

Visitor Category	Room Nights / Visitors	Spend per Day <i>(per Tourism Tasmania average for accommodation, car hire, shuttle bus hire, food and beverage)</i>	TOTAL
International and Interstate (account for 1/3 of visitations to Derby)	90% of 2018/19 peak = 46,079 room nights (11,520 visitors)	\$230 per night	\$10.6 million
Intrastate (account for 2/3 of visitations to Derby)	17,454 visitors (assume 2.5 night stay per visitor)	\$230 per night	\$10.0 million
TOTAL			\$20.6 million

Council is currently lobbying the State Government to undertake a Tasmanian mountain bike economic and social impact study. This study would highlight the positive impacts of mountain biking not only for the state, but by each regional mountain bike trail. This would allow Council to ascertain the true economic and social impacts of the Blue Derby MTB on the Dorset municipality. The study would help Council attain further state and federal grant funding for the Blue Derby MTB, and give current and future commercial operators and sponsors the confidence to invest in the area.

The following questions were received **without notice** from the Commissioner:

Nil

Item 143/23 **Notices of Motion by the Commissioner**

See Item 144.

Item 144/23 **Notice of Motion | Commissioner Andrew Wardlaw – Blue Derby Mountain Bike Trails**
Ref: DOC/23/11177 | NoM: DOC/23/11045

Purpose

The purpose of this agenda item is to consider a notice of motion proposed by Commissioner Andrew Wardlaw.

Recommendation

That Council be provided with a quarterly financial report in October 2023, January 2024, April 2024 and July 2024 on the costs and revenue streams of Blue Derby MTB and any significant adverse events relating to the performance of the Memorandum of Understanding with the Blue Derby Foundation.

Amended Recommendation

That Council be provided with a quarterly report in October 2023, January 2024, April 2024 and July 2024 on the costs and revenue streams of Blue Derby MTB and any significant adverse events relating to the performance of the Memorandum of Understanding with the Blue Derby Foundation.

DECISION

MOVED / SECONDED: Commissioner Wardlaw

That Council be provided with a quarterly report in October 2023, January 2024, April 2024 and July 2024 on the costs and revenue streams of Blue Derby MTB and any significant adverse events relating to the performance of the Memorandum of Understanding with the Blue Derby Foundation.

CARRIED: COMMISSIONER

Purpose

The purpose of this agenda item is to present the recommendations of the Community Grants Selection Panel to Council for approval.

Organisation	Project	Project Cost (Incl. GST)	Grant Requested (Excl. GST)	Grant Recommendation
Families Tasmania	Breathe, Nurture and Play – Guided mediation and creative expression through art play	\$2,620	\$2,000	Recommended
Ringarooma Community Cultural Heritage Association Inc.	Data Presentation Equipment	\$1,272	\$1,157	Recommended
Ringarooma Golf Club	Purchase 50 new chairs for clubhouse	\$4,400	\$2,000	Recommended
Lions Club of Bridport	Megaphone Equipment	\$1,712	\$1,556	Recommended
Scottsdale Amateur Swim Club	Swim Club Development Program	\$1,879	\$1,709	Recommended
Scottsdale RSL Sub Branch	RSL Military Museum Display Cabinets	\$1,399	\$1,090	Recommended

N.B. All figures have been rounded up to the nearest dollar.

Recommendation

That Council approve the following funding contributions under the Community Grants Program:

- \$2,000 to Families Tasmania;
- \$1,157 to Ringarooma Community Cultural Heritage Association Inc.;
- \$2,000 to Ringarooma Golf Club;
- \$1,556 to Lions Club of Bridport;
- \$1,709 to Scottsdale Amateur Swim Club; and
- \$1,090 to Scottsdale RSL Sub Branch.

DECISION

MOVED / SECONDED: Commissioner Wardlaw

That Council approve the following funding contributions under the Community Grants Program:

- **\$2,000 to Families Tasmania;**
- **\$1,157 to Ringarooma Community Cultural Heritage Association Inc.;**
- **\$2,000 to Ringarooma Golf Club;**
- **\$1,556 to Lions Club of Bridport;**

- \$1,709 to Scottsdale Amateur Swim Club; and
- \$1,090 to Scottsdale RSL Sub Branch.

CARRIED: COMMISSIONER

Item 146/23

2023/24 Matching Funds Grants Application Assessments – Round 1

Reporting Officer: Community and Development Administration Officer, Elizabeth Hadley

Ref: DOC/23/11200 | Summary: DOC/23/11176

Purpose

The purpose of this agenda item is to present the recommendations of the Community Grants Selection Panel to Council for approval.

Organisation	Project	Project Cost (Incl. GST)	Grant Requested (Excl. GST)	Grant Recommendation
Blue Derby Foundation Limited	Blue Derby Destination Website Redevelopment	\$8,800	\$4,000	Recommended
Bridport Golf Club	Security Cameras	\$4,137	\$1,881	Recommended
Musselroe Bay Community Group Inc.	Ride-on Lawn Mower	\$8,000	\$4,000	Recommended
Dorset Community Association	Children's Space at Dorset Community House	\$29,859	\$13,573	Recommended

N.B. All figures have been rounded up to the nearest dollar.

Recommendation

That Council approve the following funding contributions under the Community Grants Program:

- \$4,000 to Blue Derby Foundation Limited;
- \$1,881 to Bridport Golf Club;
- \$4,000 to Musselroe Bay Community Group; and
- \$13,573 to Dorset Community Association.

DECISION

MOVED / SECONDED: Commissioner Wardlaw

That Council approve the following funding contributions under the Community Grants Program:

- \$4,000 to Blue Derby Foundation Limited;
- \$1,881 to Bridport Golf Club;
- \$4,000 to Musselroe Bay Community Group; and
- \$13,573 to Dorset Community Association.

CARRIED: COMMISSIONER

Item 147/23**2023/24 Discretionary Grants Application Assessments – Round 1**

Reporting Officer: Community and Development Administration Officer, Elizabeth Hadley

Ref: DOC/23/11201 | Summary: DOC/23/11176

Purpose

The purpose of this agenda item is to present the recommendations of the Community Grants Selection Panel to Council for approval.

Organisation	Project	Project Cost (Incl. GST)	Grant Requested (Excl. GST)	Grant Recommendation
Tomahawk Community Association	Replacement of Tennis Net at Tomahawk	\$467	\$425	Recommended

N.B. All figures have been rounded up to the nearest dollar.

Recommendation

That Council approve the following funding contribution under the Community Grants Program:

- \$425 to Tomahawk Community Association;

DECISION

MOVED / SECONDED: Commissioner Wardlaw

That Council approve the following funding contribution under the Community Grants Program:

- \$425 to Tomahawk Community Association;

CARRIED: COMMISSIONER

**** Council acted as the Planning Authority for Item 148*

Item 148/23**Planning Application – Visitor Accommodation (20 Units) | 429 Waterhouse Road BRIDPORT**

Reporting Officer: Regulatory Services Manager, Thomas Wagenknecht

Ref: DOC/23/11217 | PLA/2022/107 | Assessment Report: DOC/23/11227

Purpose

The purpose of this report is for Council to consider a proposal for the use and development of twenty visitor accommodation units at 429 Waterhouse Road Bridport.

Recommendation

It is recommended that the proposal for the use and development of Visitor Accommodation (20 Units) at the subject land, be approved subject to the following conditions:

DECISION

MOVED / SECONDED: Commissioner Wardlaw

It is recommended that the proposal for the use and development of Visitor Accommodation (20 Units) at the subject land, be approved subject to the following conditions:

1. *Basis of Approval*

The use and development is approved and must be undertaken in accordance with the Endorsed Documents, except where specified otherwise in this permit and documents lodged with this application (PLA/2022/107). Any substantial variation from this application will require the further planning consent of the Council.

2. *Amended Plans*

Prior to the commencement of the approved works, and to the satisfaction of Council's General Manager, the responsible person must submit:

- (a) an Amended Site plan, informed by a check survey undertaken by a suitably qualified person, detailing and notating:
 - i) the number of each unit;
 - ii) the boundary setbacks of all buildings from the northern boundary;
 - iii) the boundary setback of Unit 1 from the western boundary;
 - iv) all buildings being located behind the rear toe of the primary dune;
 - v) sufficient area at the western end of the vehicle access to provide for at least a three point turn;
 - vi) new sewer connection under road connected back to the existing treatment plant;
 - vii) underground power connection to the units running eastward and connected back to existing site connection;
- (b) Amended Elevations showing:
 - i) a minimum finished floor level for all proposed buildings at height of at least RL 3.1m AHD; and
 - ii) notated building heights above existing natural ground level and post-fill ground level; and
 - iii) setbacks of all buildings from the rear toe of the primary dune; and
- (c) Amended Floor Plans clearly notating the number of the unit being depicted.

When approved by the Council's General Manager, the amended plans will be endorsed and will then form part of this permit.

3. *External Appearance*

- (a) Prior to the commencement of building works, a printed sample and schedule of external building materials, finishes and colours, including details of cladding and roofing materials, must be submitted to Council's General Manager for approval.
- (b) The external building materials of all buildings and structures applying to the development must be non-reflective and of types and colours that will blend rather than contrast with the surrounding landscape.
- (c) When approved by the Council's General Manager, the schedule of will be endorsed and will then form part of this permit.

4. *Site Landscaping Plan*

Prior to the commencement of works, a site landscaping plan comprising native species suitably representative of local vegetation communities must be submitted to the Council's General Manager, to the satisfaction of the Council's General Manager, for approval. The plan must be

prepared by a suitably qualified person, must be drawn to scale and must include the following details:

- (a) major identifying site features such as building footprints, topography, contours, drainage lines and existing vegetation;
- (b) show proposed garden areas and plantings (including a schedule of proposed trees, shrubs, and groundcover including common name, botanical name and likely size at maturity);
- (c) show all proposed garden beds, fences, retaining walls, lawn, sealed surfaces and pathways;
- (d) details of revegetation of areas of bare soil exposed due to construction activities associated with the approved works, ensuring that no declared weeds or environmental weeds or non-endemic plants with highly invasive reproductive characteristics/qualities are to be planted;
- (e) any additional stabilisation works required as a result of tree or vegetation removal; and
- (f) the planting of a continuous vegetation buffer commencing from the north-western corner of along the western boundary of F/R 200350/1 and continuing south alongside the western boundary of the title, for a length of approximately 100 metres and a depth of 3 metres, to integrate the approved development into the coastal landscape when viewed from Main Street. The vegetation buffer must comprise native individuals suitably representative of the TASVEG Community SAL 'acacia longifolia coastal scrub' and be comprised of approximately 95% coastal wattle (*acacia longifolia subsq. sophorae*). All individuals planted in accordance with the plan are to be continuously maintained in a healthy condition to the satisfaction of Council's General Manager. Where individuals perish within five (5) years of the commencement of the approved use, replacement individuals are to be planted in the same position and to the satisfaction of Council's General Manager.

Once approved by the Council's General Manager the plan will be endorsed and will form part of the permit.

The landscaping:

- (a) must be installed in accordance with the endorsed plan; and
- (b) must be completed during construction of the buildings and prior to the use commencing;
- (c) maintained throughout the lifetime of the development; and
- (d) must not be removed, destroyed or lopped without the written consent of the Council's General Manager.

5. **Construction Environmental Management Plan**

Prior to the commencement of works, a Construction Environmental Management Plan must be submitted to Council's General Manager, to the satisfaction of Council's General Manager. The plan must be prepared by a suitably qualified person(s) and must include the following details:

- a) a soil and water management plan that details how soil and water is to be managed on the site during the construction process to prevent the escape of soil and sediments from the development site, including:
 - i. the proposed location of any topsoil stockpiles;
 - ii. the erosion and sediment control practices to be used on the site or otherwise for the purpose of the use;
 - iii. revegetation of areas of bare soil, including timing of any site rehabilitation or landscaping programs;
 - iv. compliance with the requirements of the *Wetland and Waterways Works Manual* (NRE Tasmania 2003), particularly for the siting and designing of stream crossings;

- b) a weed and management and hygiene plan that details how weeds are to be managed on the site during construction works to control weed establishment and prevent weed spread, including:
 - i. control of weeds in areas of bare soil, prior to and following construction, where appropriate;
 - ii. wash-down and inspection of vehicles, machinery and boots before leaving/entering the site to avoid transporting viable plant materials or large clods of soil;
 - iii. wash-down to be conducted in accordance with the *Tasmanian Weed and Disease Planning and Hygiene Guidelines* (DPIPWE 2015);
- c) measures that will ensure native vegetation outside the development area is satisfactorily protected during construction works;
- d) noise mitigation measures to be implemented during construction, including traffic noise and mitigation of noise impacts to fauna; and
- e) the mitigation and management measures recommended for implementation by the pre-construction fauna survey report referred to in Condition 6 below.

When approved by the Council's General Manager, the Construction Environmental Management Plan will be endorsed will then form part of this permit.

6. *Pre-construction Fauna Surveys*

- (a) Prior to the commencement of works, pre-construction surveys must be undertaken by a suitably qualified person for:
 - (i) eagle nests (wedge-tailed eagle [*Aquila audax subsq. fleayi*] and white-bellied sea eagle [*Haliaeetus leucogaster*]) within 1 km of the boundary of the subject site and on the land itself. The nest survey must be undertaken outside of eagle breeding season (July to February);
 - (ii) New Holland Mouse (*Pseudomys novaehollandiae*). The survey must be undertaken within potential habitat identified within the development footprint and in accordance with the Department of Natural Resources and Environment Tasmania (2022) Management and Survey Guidelines for Wild Populations of New Holland Mouse (*Pseudomys novaehollandiae*);
 - (iii) eastern-barred bandicoot (*Perameles gunnii gunnii*) within potential habitat identified within the development footprint;
 - (iv) Tasmanian devil dens within the identified potential habitat within the development footprint. The survey must be undertaken in accordance with the Natural and Cultural Heritage Division (2015) Survey Guidelines and Management Advice for Development Proposals that may impact on the Tasmanian devil (*Sarcophilus harrisii*).
 - (v) shoreline birds within 500 metres of the development area, including, but not limited to, the following:
 - i. white-fronted tern
 - ii. fairy tern;
 - iii. little tern;
 - iv. red knot;
 - v. curlew sandpiper;
 - vi. eastern curlew;
 - vii. great crested grebe;

- viii. azure kingfisher;
 - ix. hooded plover; and
 - x. bar-tailed godwit.
- (b) Prior to the commencement of works a pre-construction fauna survey report, prepared by a suitably qualified person, must be submitted to Council's General Manager for approval that:
- (i) outlines the findings of the pre-construction surveys referred to in (a) above; and
 - (ii) recommends appropriate mitigation and management measures to ensure that the proposed development will not unduly compromise the representation of species of significant within the bioregion during construction and throughout the lifetime of the development.

When approved by the Council's General Manager, the report will be endorsed and then form part of this permit.

Any mitigation and management measures identified as part of this condition must be implemented as directed in writing by Council's General Manger.

- (c) Unless otherwise undertaken in accordance with the endorsed mitigation and management measures referred to in (b) above, construction activities must not occur between 1 September to 31 March, inclusive, to avoid disruption to incubation and hatching activities to nearby shorebird breeding.

7. Exterior and Security Lighting

- (a) To ensure low impact or subdued lighting is used, exterior lighting and security lighting must be designed, baffled and located in accordance with Australian Standard AS4282-1997 "*Control of the obtrusive effects of outdoor lighting*" such that no direct light is emitted outside the boundaries of the subject land.
- (b) Prior to commencement of works, a detailed lighting plan must be submitted to Council's General Manager, to the satisfaction of Council's General Manager, that details how lighting will comply with (a) above. When approved by the Council's General Manager, the lighting plan will be endorsed and then form part of this permit.

8. Coastal Erosion Hazard Management Plan

Prior to the commencement of works, a Coastal Erosion Hazard Management Plan must be submitted to Council's General Manager, to the satisfaction of Council's General Manager. The plan must be prepared by a suitably qualified person(s) and must detail how the coastal dune system, where within the bounds of the subject site, will be monitored and managed during the construction process and throughout the lifetime of the approved use to mitigate the risk of coastal erosion through strengthening the natural protection provided by the coastal dune system, including:

- (a) the erosion and sediment control practices to be used on the site or otherwise for the purpose of the use;
- (b) stabilisation of the coastal dune system, particularly primary dunes, through establishing and maintaining native vegetation ground cover;
- (c) revegetation of areas of bare soil, including timing of any site rehabilitation or landscaping programs; and
- (d) ongoing monitoring, including procedures, timing and reporting:
 - (i) during construction;

- (ii) post-storm events; and
- (iii) at least annually.

When approved by the Council's General Manager, the Coastal Erosion Hazard Management Plan will be endorsed will then form part of this permit.

9. Coastal Inundation Mitigation

Prior to the commencement of the approved use, and to the satisfaction of Council's General Manager, the following works must be undertaken and completed:

- (a) the minimum finished floor level of all habitable buildings must be greater than RL 3.1 AHD;
- (b) the minimum ground level within the curtilage of the approved units must be greater than RL 2.8 AHD;
- (c) the proposed access road, and the broader development footprint to the north of the proposed access road, must be control filled to a height greater than of RL 2.0m AHD at any point;
- (d) site filling must use natural sand from the locality that is clean and free of weeds;
- (e) building foundations must be adequate for the site conditions and include allowance for sea level rise; and
- (f) the broader area of the development footprint must well drained in a manner consistent with Condition 5 and Condition 11.

10. Construction of Unsealed Vehicle Parking and Internal Access

Prior to the commencement of the approved use, and to the satisfaction of Council's General Manager, areas set aside for the parking of vehicles, together with the aisles and access lanes, must be designed and constructed to be:

- a) provided with an impervious all weather seal of adequate thickness as necessary to prevent the formation of potholes and depressions according to the nature of the subgrade and vehicles which use the areas;
- b) constructed, drained and maintained in a continuously useable condition; and
- c) marked or provided with clear physical means to delineate vehicle parking spaces.

11. Stormwater Management

Storm water discharged from the impervious areas (including vehicle areas, paving and building roofed areas) of the development must be managed within the subject land so as to ensure that:

- a) flooding, erosion and environmental nuisance is minimised to the satisfaction of the Council's General Manager; and
- b) points of discharge do not give rise to pollution as defined under the *Environmental Management and Pollution Control Act 1994*.

NOTE: Pollutant includes:

- (a) a gas, liquid or solid; or
- (b) an odour; or
- (c) an organism (whether alive or dead), including a virus; or
- (d) energy, including noise, radioactivity and electromagnetic radiation; or

(e) a combination of pollutants –

that may cause environmental harm

NOTE: Pollute means:

(a) discharge, emit, deposit or disturb pollutants; or

(b) cause or fail to prevent the discharge, emission, depositing, disturbance or escape of pollutants

12. Native Vegetation Removal

The removal of native vegetation must be limited to occur within:

- (a) the approved development footprint; and
- (b) the adjacent curtilage of the approved buildings, only where it is directly incidental to the development approved in this permit and not otherwise restricted by any other condition within this permit.

No other native vegetation is to be felled, lopped, topped, ring-barked, uprooted, or otherwise wilfully destroyed or removed, without:

- (i) the further written consent of the Council's General Manager; and
- (ii) being in accordance with a bushfire hazard management plan prepared by a certified Bushfire Hazard Practitioner.

13. Use Limitation – Visitor Accommodation

The approved visitor accommodation units must not be continuously occupied by the same person(s) for more than three months within any twelve month period and must not be considered a primary place of residence.

NOTE: For the purpose of this permit “**the person responsible**”, depending on the context, means:

- a) The person who has and takes the benefit of this permit for the undertaking of the use or development authorised pursuant to it;
- b) The person or persons who undertake development or use pursuant to this permit; and
- c) Servants, agents and contractors, in each case of such persons.

ADVISORY NOTES

(i) Permission in Writing

Any reference to the need for Council approval of a matter or thing prescribed under the conditions pertinent to this permit requires such approval to be given in writing.

(ii) Objections to Proposal

This permit has no effect until the expiry of the period for the lodgement of an appeal against the granting of the permit or, if an appeal is lodged, until ten days after the appeal has been determined by the Resource and Planning Stream of the Tasmanian Civil and Administrative Tribunal (TASCAT).

(iii) Appeal Provisions

Attention is directed to sections 61 and 62 of the Land Use Planning and Approvals Act 1993 (as amended) which relate to appeals. These provisions should be consulted directly, but the following provides a guide as to their content:

- *A planning appeal may be instituted by lodging a notice of appeal with the Resource and Planning Stream of the Tasmanian Civil and Administrative Tribunal (TASCAT).*
- *A planning appeal may be instituted within 14 days of the date the planning authority serves notice of the decision on the applicant.*

(iv) Permit Commencement

This permit takes effect 14 days after the date of Council's notice of determination or at such time as any appeal to the Resource and Planning Stream of the Tasmanian Civil and Administrative Tribunal (TASCAT) is abandoned or determined. If an applicant is the only person with a right of appeal pursuant to section 61 of the Land Use Planning and Approvals Act 1993 and wishes to commence the use or development for which the permit has been granted within that 14 day period, the Council must be so notified in writing.

(v) Period of Approval

Pursuant to Section 53(5) the Land Use Planning and Approvals Act 1993, this approval will lapse after a period of two (2) years from:

- (a) the date on which the permit is granted; or*
- (b) if an appeal has been instituted against the planning authority's decision to grant the permit, the date of the determination or abandonment of the appeal,*

if the use or development is not substantially commenced within that period.

(vi) TasNetworks Advice

TasNetworks advised on 8 June 2022 that:

'Based on the information provided, the development is not likely to adversely affect TasNetworks' operations.

The standard arrangements will apply for connection to the electricity network. For further information, please refer to TasNetworks' website: [New electricity connections - TasNetworks.](#)'

(vii) Other Approvals

This permit does not imply that any other approval required under any other by-law or legislation has been granted. At least the following additional approvals may be required before construction commences:

- (a) Building approval*
- (b) Plumbing approval*

(viii) Aboriginal Heritage

If any Aboriginal relics are uncovered during works;

- (a) All works are to cease within a delineated area sufficient to protect the unearthed and other possible relics from destruction,*
- (b) The presence of a relic is to be reported to Aboriginal Heritage Tasmania [Phone: **1300 487 045** (ask for Aboriginal Heritage Tasmania) Email: aboriginalheritage@dpac.tas.gov.au]; and*
- (c) the relevant approval processes will apply with state and federal government agencies.*

(ix) Ongoing Coastal Monitoring

The Coastal Erosion and Inundation Risk Assessment provided as part of the application recommends that monitoring of vegetation, shoreline erosion and dune levels (primary and ridge) should be maintained to monitor seasonal and progressive changes over periods of time. It is advisable that a suitably qualified person/s be engaged on an annual basis to undertake site investigation and provide necessary advice. If any recommendations provided during this process would result in substantial variation/s to the approved development, you should contact the Council's Town Planner prior to undertaking any such works as planning approval separate of this permit may be required.

(x) Acid Sulfate Soils

The subject site is mapped as possessing a high probably of occurrence (>70%) of coastal acid sulfate soils (ASS). There is no legislation directly relevant to ASS in Tasmania, however, all persons have a general environmental duty under the Environmental Management and Pollution Control Act 1994 to take such steps as practicable or reasonable to prevent or minimise environmental harm or environmental nuisance caused, or is likely to be caused by an activity conducted by that person. NRE Tasmania have prepared the Tasmanian Acid Sulfate Soil Management Guidelines that provides technical and procedural advice to avoid environmental harm from ASS, including the preparation of an ASS Management Plan. The application is thereby strongly encouraged to consider the active management of ASS soils throughout the construction process.

CARRIED: COMMISSIONER

Item 149/23**2023/24 Budget Estimates Variation – Financial Assistance Grants**

Reporting Officer: Finance Manager, Allison Saunders

Ref: DOC/23/11185

Purpose

The purpose of this report is to approve a variation to the 2023/24 Budget Estimates of \$309,000 expected to be received under the Financial Assistance Grant program.

Statement of Profit and Loss (Extract)

	2023/24 Original Budget	2023/24 Revised Budget	Budget Variance
Financial Assistance Grants - General	1,747,000	1,921,000	174,000
Financial Assistance Grants – Roads	2,338,000	2,481,000	143,000
Underlying Surplus/(Deficit)	4,085,000	4,402,000	317,000
Add: Financial Assistance Grants adjustment	181,000	173,000	(8,000)
Statutory Surplus/(Deficit)	4,266,000	4,575,000	309,000

Recommendation

That Council approve a variation to the 2023/24 Budget Estimates of \$309,000 to be received under the Financial Assistance Grant program.

DECISION

MOVED / SECONDED: Commissioner Wardlaw

That Council approve a variation to the 2023/24 Budget Estimates of \$309,000 to be received under the Financial Assistance Grant program.

CARRIED: COMMISSIONER

Item 150/23**Review of Policy No. 3 – On Street Dining, Vending and Signage**

Reporting Officer: Director – Community & Development, Rohan Willis

Ref: DOC/23/11186 | Policy: DOC/23/11187 | Guidelines & Form: DOC/23/11188 and 11189

Purpose

The purpose of this report is to review Policy No. 3 - On Street Dining, Vending and Signage.

Recommendation

That Council adopt the revised On Street Dining, Vending and Signage Policy (Policy No. 3), as provided in the Agenda Attachments.

DECISION

MOVED / SECONDED: Commissioner Wardlaw

That Council adopt the revised On Street Dining, Vending and Signage Policy (Policy No. 3), as provided in the Agenda Attachments.

CARRIED: COMMISSIONER

Item 151/23**Review of Policy No. 31 – Code for Tenders and Contracts**

Reporting Officer: Administration Manager, Lauren Tolputt

Ref: DOC/23/11196 | Original and Reviewed Policy: DOC/19/6677[v1] and DOC/19/6677[v2]

Purpose

The purpose of this report is to review Policy 31 – Code for Tenders and Contracts (the Code).

Recommendation

That Council adopt the revised Policy 31 – Code for Tenders and Contracts as provided at the Agenda Attachments.

DECISION**MOVED / SECONDED: Commissioner Wardlaw**

That Council adopt the revised Policy 31 – Code for Tenders and Contracts as provided at the Agenda Attachments.

CARRIED: COMMISSIONER**Item 152/23****Review of Policy No. 36 – Personal Information Protection**

Reporting Officer: Administration Manager, Lauren Tolputt

Ref: DOC/23/11191 | Existing Policy: DOC/18/1707[v1] Reviewed Policy: DOC/18/1707[v2]

Purpose

The purpose of this report is to review Policy 36 – Personal Information Protection (the Policy).

Recommendation

That Council adopt the revised Policy 36 – Personal Information Protection as provided at the Agenda Attachments.

DECISION**MOVED / SECONDED: Commissioner Wardlaw**

That Council adopt the revised Policy 36 – Personal Information Protection as provided at the Agenda Attachments.

CARRIED: COMMISSIONER**Item 153/23****Closure of Meeting to the Public****DECISION****MOVED / SECONDED: Commissioner Wardlaw**

That the Meeting be closed to the public pursuant to Regulation 15 of the *Local Government (Meeting Procedures) Regulations 2015*, and that members of the public be required to leave the meeting room.

Time Meeting Closed to the Public: 7:31 pm

CARRIED: COMMISSIONER

Meeting Adjourned: 7:31 pm

Reason: Tea break with the public

Meeting Resumed: 7:47 pm

CLOSED SESSION AGENDA ITEMS

The following matter was listed in the Closed Session Meeting section of the Council Agenda in accordance with Regulation 15 of the Local Government (Meeting Procedures) Regulations 2015:

Item 154/23 Confirmation of Ordinary Council Meeting Closed Session Minutes – 21 August 2023

Item 155/23 Contract 2023/24-01 | Bituminous Sealing of Roads

The reports on these matter were listed in the Closed Meeting section of the Council Agenda in accordance with Regulation 15 of the *Local Government (Meeting Procedures) Regulations 2015* as the detail covered in the respective reports relates to:

- Overview and update of the Local Government Investigation including the Board of Inquiry and acknowledgement of receipt of the Final Investigation Report and Attachments from the Director of Local Government
- Awarding of contract for bituminous sealing of roads within the municipality

Time Meeting Closed: 7:54 pm

Minutes Confirmed: 16 October 2023

Minute No:

.....
Commissioner Wardlaw

Deputation – Jeff Jennings

16 September 2023 Council Meeting

My objections to the approval of this application are on three grounds.

Preamble

In previous developments at the Barnbougle sites, Mr Sattler has taken great care to retain the natural values of the coastal rural landscape. Buildings were set back from the coastline, built on high dunes or merged into dune profiles. All buildings were located up to 5km from Bridport. Care was taken to protect wildlife from disturbances and habitat loss.

1. However, this has changed with the recent proposal. Buildings are 3 time higher, built on artificially raised land, in closer proximity to a changing coastline and much more visible to Bridport less than 1km away.
This development will be discordant with the existing coastal rural landscape which includes buildings. The area is highly visible from most parts of Bridport, particularly elevated sites. A professionally constructed visualization of the impact of his development needs to be made and advertised to the public before any decision to approve the development is given.
2. The consultants maintain, that through a desktop study, the coastline is stable even with predicted sea level rises. However no rigorous, on ground study has been conducted to ascertain the vulnerability of the area to damage and shoreline regression. This coastline is constantly undergoing changes from storms and tidal surges. These events are predicted to increase in severity and frequency and every day we are witness to this. A comprehensive study of this coastline needs to be made by independent coastal expert, to ascertain the true risks involved before any approval is given.
3. Although a detailed study of the fauna has been listed as a condition before work starts there is no mention of eagle roosting and feeding sites included. The site contains roosting and feeding sites for White Bellied Sea Eagles and Wedgetailed Eagles. Some of these sites would be destroyed if the development is permitted. Previous developments in this area have protected this type of sensitive use and this policy should be mandatory for this development. Buildings should not be permitted within 200m of known eagle roosting and feeding sites.

Jeff Jennings

18/9/2023

Deputation – Jay Wilson

16 September 2023 Council Meeting

I would like to speak to my submission for Planning Application 22/107.

Richard Sattler has made a significant contribution to the Bridport community with his Barnbogle golf course development, and, like many others, I am reluctant to be critical of further development at the site. The Barnbogle development has provided economic, social and environmental benefits for our community. **Until now, site infrastructure has been sensitively constructed away from the foreshore to maintain the beautiful and iconic view of Anderson Bay from Bridport and to mitigate the risk of coastal erosion, inundation and sea level rise. However, this development application marks an important change of circumstances.**

There are positive elements of the development application that should be acknowledged. The powerline will now be moved to a less sensitive location. Vegetation management prescriptions, fauna surveys and a soil and water plan will, if implemented, help protect biodiversity and habitat at the building site and the adjacent wetland.

Approval is being recommended for a development comprising 20 visitor accommodation units to be built up to an allowed height of 12 meters on a narrow and fragile seafront sand dune. The proposed development is in a rural area and it will be highly visible from the nearby Bridport township. The building height, scale and density of this development will forever alter the precious viewscape for scores of local residents whose houses were constructed to take advantage of the view over Anderson Bay. **Projections of the visual impact of this development from Bridport and Edward Street, had they been either required or provided as requested, would have given Bridport residents a clear understanding of the visual impact this development would have on their seaward view.** The proposed solutions to mitigate the visual impact will have little effect for a development of this scale and density. In respect to the visual impacts of the development, the proponent, states that “The proposed use and development is expected to have a visual appearance that will be consistent with the local area”. The Town Planner further states that when completed “the visual appearance of the use would be in broad harmony with that of the local area”. How can this **possibly** be the case when the nearest significant buildings at Barnbogle are approximately 2km away.

The proposed buildings and associated infrastructure are to be built on erodible sand on a narrow and vulnerable frontal dune. The proposed buildings and associated infrastructure are demonstrably at risk of coastal erosion, tidal inundation and sea level rise. These risks are clearly identified by coastal mapping and are conceded by the proponent’s consultants. The risks are further acknowledged by the recommendation for a Coastal Erosion Management Plan. The need for this plan demonstrates the fact that the planning conditions may well provide very little long term protection from predicted sea level rise and extreme weather events. It is now almost a daily occurrence around the world that similar infrastructure is being swept away in a single extreme weather event. **This complex development application for highly visible accommodation in such a fragile and vulnerable environment, needs further consideration before being approved, if only for the precedent it will set. Surely, in an era of climate change, sensitive coastal infrastructure should be required to be built lower in height, farther from the sea and at higher elevations, as it has been previously at this site.**

Deputation – Richard Sattler

16 September 2023 Council Meeting

I would like to point out that we have been working on this project for approximately two years. We've consulted with Burbury Consulting, who are recognised as the best coastal engineers in Tasmania, especially in areas where there is sand movement. They are experts in the area, we spent the money, studied that location, and there is very little erosion there. We've been monitoring it for the thirty years we've lived at Barnbogle. Further around the coast, yes there is substantial erosion, but that is nowhere near the location. We had a surging storm here Saturday week ago, we went down and filmed it, absolutely no erosion – further around the coast, yes, but not in that area.

We've received town planning advice from recognised town planners and received expert reports, so this project isn't something that is willy nilly or loosely identified. We've studied it over this period to ensure that we are abiding by all the regulations. We acted when we were told to move the power lines as people didn't want them going straight across the coast. We've realigned them at a huge cost from Barnbogle. Happy to have all the colour tones of the buildings so they mixed in with the surrounding, like we've done with other developments.

I should go back to the original time when we started Barnbogle. We copped the same criticism then but when we proved what we are doing is so assimilated with nature, in all aspects, not just the viewing but with birds, wildlife. We pride ourselves on what we have done. Being successful has been based on making Barnbogle a very natural habitat for animals which is part of the attraction. We have created what was just a farm and run down coastline into one of the world's top golfing attractions. We are now doing something that adds to accommodation and we want to be at the top end of the market. We are not going to build something that is second rate, we don't want to fail. We can only do the best and that's why we have spent the money on this proposal so that we make sure that every aspect is covered and I know it's very hard to convince the gentleman that we will do it properly and it won't be an eyesore because that's not part of our success. We try and do the exact opposite, but blending it in with the environment and still have guest satisfaction. To go for this top end market which has a huge hole and it's been proven the value of it by Saffire and some of the other Australian isolated locations for tourist experiences, we are trying to be that same tourist experience for the golf industry. So far we've been recognised worldwide for that, so what we want to do is work with the rules and also with the environment. I think we have done this with this proposal even though some people don't agree. I think the final result, everyone will be able to stand back and say yes and have no fears we didn't realise that it would be done that way. It is part of our success, we have to make it satisfactory to the guests and the neighbourhood to be successful otherwise we will be another failed place, and that is not our intention, or the way we operate. I would like to assure everyone that we will be doing it do the absolute best of our ability, like we have done the rest and we've created something that people originally said would never happen or couldn't happen. We are not one of the top rated resorts in Australia because we make mistakes.

In regards to the eagles, since we've been at Barnbogle there was hardly an eagle on the property, now we have a really active population of wedge-tailed eagles and sea eagles that very happily fly around the buildings and perch on the buildings. We will create a safety zone for them because the pictures of the sea eagles there are all within 20-30 metres of houses in that estuary, because the houses are on the other side. These houses are 650 metres from any other house, in an area not close to where they are nesting at present. I've offered to place dead trees in, at a height that they are familiar with and will be comfortable roosting.

DORSET COUNCIL – Planning Approvals

1 September 2023 to 30 September 2023

DEV-2022/107	6ty Pty Ltd Waterhouse RD BRIDPORT 429 Waterhouse RD BRIDPORT	Lodged 10/08/2022 Value of Works - \$5,000,000	Visitor Accommodation (20 Units) Determined APPD on 19/09/2023
DEV-2023/90	Urban Design Solutions 13 Westwood ST BRIDPORT	Lodged 03/08/2023 Value of Works - \$1,200,000	Demolition of Single Dwelling and Construction of Multiple Dwellings (Three Units) with relaxation of (i) private open space, (ii) parking number; and (iii) parking design and layout standards Determined APPD on 01/09/2023
SUB-2023/1298	Mr S A Beattie 100 Richard ST BRIDPORT 103 Westwood ST BRIDPORT	Lodged 18/08/2023	Boundary Adjustment (2 Lots) Determined APPD on 14/09/2023
DEV-2023/109	Bison Constructions 61 West Minstone RD SCOTTSDALE	Lodged 06/09/2023 Value of Works - \$60,000	Construction of a (replacement) hay shed Determined APPD on 06/09/2023
DEV-2023/110	Prime Design 14 Thomas ST SCOTTSDALE	Lodged 08/09/2023 Value of Works - \$80,000	Construction of an alfresco to a single dwelling Determined APPD on 08/09/2023

DEV-2023/113	Mr J S James 103 Westwood ST BRIDPORT	Lodged 08/09/2023	Change of Use (Visitor Accommodation to Single Dwelling) Determined APPD on 08/09/2023
DEV-2023/115	Mr P Wynwood Mrs J M Wynwood 91 Richard ST BRIDPORT	Lodged 18/09/2023	Change of Use (Residential) Determined APPD on 18/09/2023

DORSET COUNCIL – Building Approvals

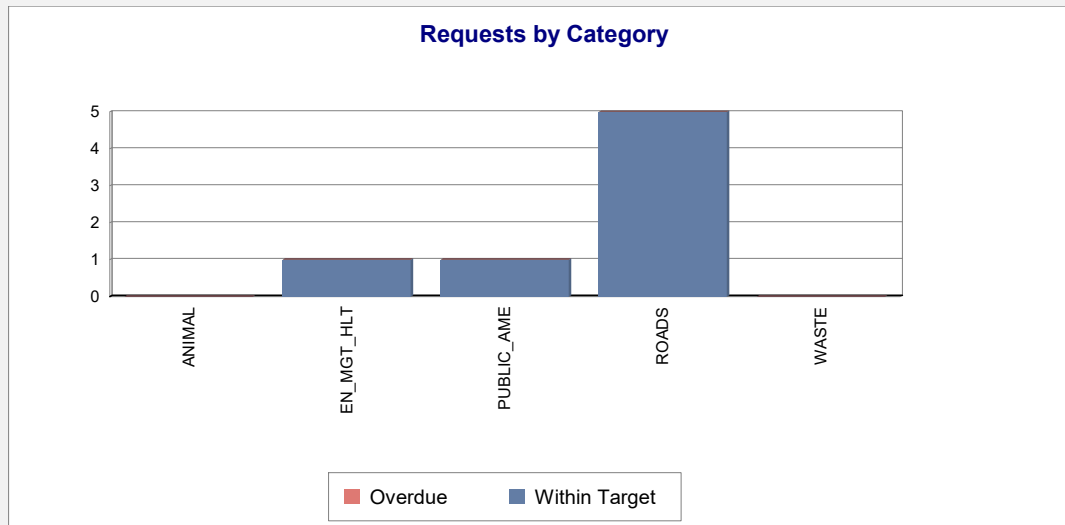
1 September 2023 to 30 September 2023

OTH-2023/82	Bison Constructions 223 Pennells RD SPRINGFIELD	Lodged 23/08/2023 Value of Works - \$175,000	New Farm Shed Determined APPR on 06/09/2023
OTH-2023/83	Podmatrix 23 Spotswood DR SCOTTSDALE	Lodged 25/08/2023 Value of Works - \$104,400	New Dwelling Determined APPR on 06/09/2023
BLD-2023/92	Adams Building Design 96 King ST SCOTTSDALE	Lodged 22/09/2023 Value of Works - \$1,200,000	New Dwellings x 12 (Container Units) Determined APPR on 27/09/2023
OTH-2023/86	Crawford & Company Pty Ltd 79 Main ST BRIDPORT	Lodged 18/09/2023 Value of Works - \$137,429	Replacement Awning Determined APPR on 18/09/2023
OTH-2023/89	Mr C Travers 11 Westwood ST BRIDPORT	Lodged 22/09/2023 Value of Works - \$25,000	New Outbuilding Determined APPR on 22/09/2023

DORSET COUNCIL – Plumbing Approvals

1 September 2023 to 30 September 2023

OTH-2023/83	Podmatrix 23 Spotswood DR SCOTTSDALE	Lodged 25/08/2023 Value of Works - \$104,400	New Dwelling Determined APPR on 06/09/2023
SP-2023/85	Dorset Council 54 Ringarooma RD SCOTTSDALE	Lodged 08/09/2023	New Office & Warehouse Determined APPR on 08/09/2023
SP-2023/92	Adams Building Design 96 King ST SCOTTSDALE	Lodged 22/09/2023 Value of Works - \$1,200,000	New Dwellings x 12 (Container Units) Determined APPR on 27/09/2023



Customer Request Summary by Category

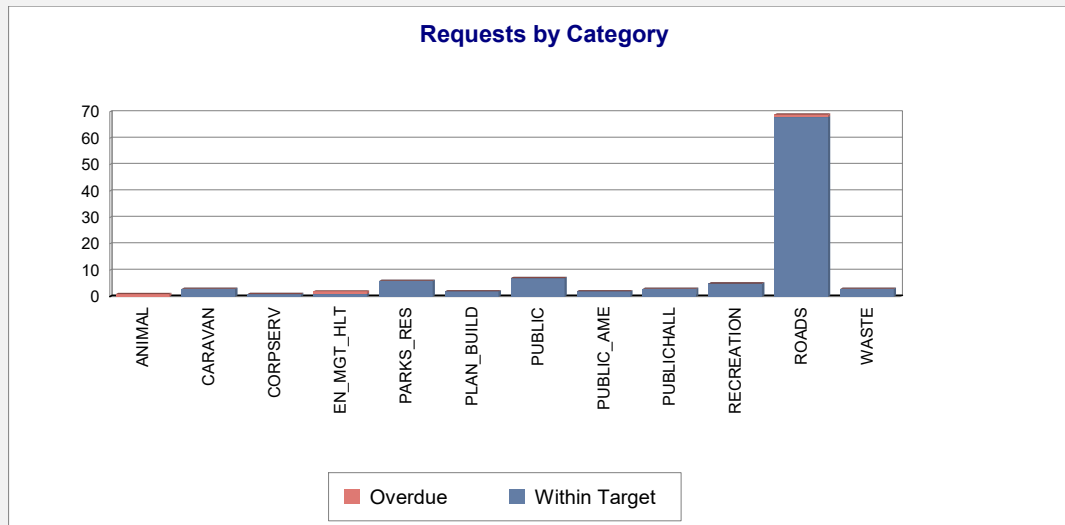
For period 01/09/2023 to 30/09/2023

Double click onto the Minor Category to access Request detail

Dorset A7 *live*

Report Created: 09/10/2023 9:48:00AM

Major / Minor Category	New Requests Received	Total requests closed this period	Closed Within Target	%	Closed, but Over Target	%	Open Within Target	Open, but Over Target
Animals	1	0	0	0%	0	0%	1	1
Animal Enquiry	1	0	0	0%	0	0%	1	1
Environmental Management and Health	1	1	1	100%	0	0%	0	0
Fire Hazards	1	1	1	100%	0	0%	0	0
Public Amenities	1	1	1	100%	0	0%	0	0
Public Amenities Maintenance	1	1	1	100%	0	0%	0	0
Roads	10	5	5	100%	0	0%	5	0
Roads Enquiries	1	0	0	0%	0	0%	1	0
Roads Rural - Maintenance	1	0	0	0%	0	0%	1	0
Roads Rural - Potholes/Patching Maintenance	3	2	2	100%	0	0%	1	0
Roads Rural - Tree/Vegetation Maintenance	1	1	1	100%	0	0%	0	0
Roads Rural - Verge Mowing/Slashing	1	0	0	0%	0	0%	1	0
Roads Urban - Footpath Maintenance	2	1	1	100%	0	0%	1	0
Roads Urban - Maintenance	1	1	1	100%	0	0%	0	0
Waste Management	1	0	0	0%	0	0%	1	1
Littering	1	0	0	0%	0	0%	1	1
GRAND TOTAL	14	7	7	100%	0	0%	7	2



Customer Request Summary by Category

For period 01/01/2023 to 30/09/2023

Double click onto the Minor Category to access Request detail

Dorset A7 *live*

Report Created: 09/10/2023 9:50:21AM

Major / Minor Category	New Requests Received	Total requests closed this period	Closed Within Target	%	Closed, but Over Target	%	Open Within Target	Open, but Over Target
Animals	2	1	0	0%	1	100%	1	1
Animal Enquiry	1	0	0	0%	0	0%	1	1
Animal Welfare	1	1	0	0%	1	100%	0	0
Caravan Parks	3	3	3	100%	0	0%	0	0
Bridport Holiday Park	2	2	2	100%	0	0%	0	0
Caravan Parks Maintenance	1	1	1	100%	0	0%	0	0
Corporate Services General	1	1	1	100%	0	0%	0	0
Right To Information	1	1	1	100%	0	0%	0	0
Environmental Management and Health	2	2	1	50%	1	50%	0	0
Fire Hazards	2	2	1	50%	1	50%	0	0
Parks & Reserves	6	6	6	100%	0	0%	0	0
Parks & Reserves Enquiries	1	1	1	100%	0	0%	0	0
Parks & Reserves Maintenance	4	4	4	100%	0	0%	0	0
Playground Maintenance	1	1	1	100%	0	0%	0	0
Planning & Building Services	3	2	2	100%	0	0%	1	1
Building Enquiries	1	1	1	100%	0	0%	0	0
Environmental Management Enquiries	1	1	1	100%	0	0%	0	0
Land Use & Economic Development Enquiries	1	0	0	0%	0	0%	1	1
Public	7	7	7	100%	0	0%	0	0

Customer Request Summary by Category

For period 01/01/2023 to 30/09/2023

Double click onto the Minor Category to access Request detail

Dorset A7 *live*

Report Created: 09/10/2023 9:50:35AM

Major / Minor Category	New Requests Received	Total requests closed this period	Closed Within Target	%	Closed, but Over Target	%	Open Within Target	Open, but Over Target
Public	7	7	7	100%	0	0%	0	0
Online Enquiries	7	7	7	100%	0	0%	0	0
Public Amenities	2	2	2	100%	0	0%	0	0
Public Amenities General Enquiries	1	1	1	100%	0	0%	0	0
Public Amenities Maintenance	1	1	1	100%	0	0%	0	0
Public Halls Buildings	4	3	3	100%	0	0%	1	1
Public Halls Buildings Enquiries	1	1	1	100%	0	0%	0	0
Public Halls Buildings Maintenance	3	2	2	100%	0	0%	1	1
Recreation Grounds	6	5	5	100%	0	0%	1	1
Recreation Grounds Enquiries	1	1	1	100%	0	0%	0	0
Recreation Grounds Maintenance	5	4	4	100%	0	0%	1	1
Roads	82	69	68	99%	1	1%	13	4
Roads Enquiries	2	1	1	100%	0	0%	1	0
Roads Rural - Kerb & Gutter Maintenance	3	2	2	100%	0	0%	1	0
Roads Rural - Maintenance	13	11	11	100%	0	0%	2	0
Roads Rural - Potholes/Patching Maintenance	20	18	18	100%	0	0%	2	1
Roads Rural - Shoulder Maintenance	3	3	3	100%	0	0%	0	0
Roads Rural - Signage & Guide Posts Maintenance	2	1	1	100%	0	0%	1	1
Roads Rural - Spraying/Pest Plant Control	4	4	4	100%	0	0%	0	0
Roads Rural - Tree/Vegetation Maintenance	5	5	5	100%	0	0%	0	0
Roads Rural - Verge Mowing/Slashing	2	1	1	100%	0	0%	1	0
Stormwater Maintenance	1	1	1	100%	0	0%	0	0
Roads Urban - Footpath Maintenance	7	4	4	100%	0	0%	3	0
Roads Urban - Maintenance	14	12	11	92%	1	8%	2	2
Roads Urban - Tree/Vegetation Maintenance	5	5	5	100%	0	0%	0	0
Roads Urban - Verge Mowing/Slashing	1	1	1	100%	0	0%	0	0
Waste Management	4	3	3	100%	0	0%	1	1
Littering	2	1	1	100%	0	0%	1	1
Waste Management Enquiries	2	2	2	100%	0	0%	0	0
GRAND TOTAL	122	104	101	97%	3	3%	18	9

Mayoral vehicle analysisPrivate car use

Kilometres claimed: Only approximately 25% of kilometres claimed via reimbursement

Financial Year	2016	2017	2018	2019	2020	Total months
Months	12	12	12	12	4	52
No. of Kilometres Claimed	7,935	14,460	8,189	7,965	3,133	
\$ of Kilometres Claimed	\$ 3,798.48	\$ 6,922.00	\$ 3,920.08	\$ 4,045.42	\$ 1,822.12	\$ 20,508.10
Average cost per month	\$ 316.54	\$ 576.83	\$ 326.67	\$ 337.12	\$ 455.53	\$ 394.39
Cents per kilometre rate	0.478699433	0.478699862	0.478700696	0.507899561	0.581589531	

Council provided vehicle:

Plant expenses - P5044	Ownership - 3 years + 9 months	Total Kilometres	131,663 @ 20th September 2023			
Financial Year	2020	2021	2022	2023	2024	Total months
Months	8	12	12	12	1	45
Depreciation	\$ 4,569.32	\$ 6,882.24	\$ 6,882.24	\$ 2,312.76	\$ -	*Expected disposal value
Fuel	\$ 2,906.45	\$ 4,982.88	\$ 7,328.83	\$ 9,722.55	\$ 729.61	\$30,000
Employee costs	\$ 26.99	\$ -	\$ -	\$ -	\$ -	
Registration/Stamp duty	\$ 2,793.38	\$ 530.01	\$ 550.98	\$ 566.95	\$ -	
Tyres	\$ 40.91	\$ 1,237.27	\$ 31.82	\$ 1,320.91	\$ -	
Insurance	\$ -	\$ 320.12	\$ 243.75	\$ -	\$ -	
Maintenance (unscheduled)	\$ 4,325.14	\$ 47.59	\$ 450.00	\$ -	\$ -	
Maintenance (scheduled)	\$ 170.00	\$ 1,092.96	\$ 1,652.63	\$ 1,943.46	\$ 480.00	
Maintenance Expenses Total	\$ 14,832.19	\$ 15,093.07	\$ 17,140.25	\$ 15,866.63	\$ 1,209.61	\$ 64,141.75
average cost per month	\$ 1,854.02	\$ 1,257.76	\$ 1,428.35	\$ 1,322.22	\$ 1,209.61	\$ 1,425.37
Plant Hire recovered	-\$ 8,000.00	-\$ 11,000.00	-\$ 12,800.00	-\$ 12,000.00	-\$ 1,000.00	
Total per plant module	\$ 6,832.19	\$ 4,093.07	\$ 4,340.25	\$ 3,866.63	\$ 209.61	
	\$ -	\$ -	\$ -	\$ -	\$ -	

Cents per km
\$ 0.49

**Right to Information Act Review****Case Reference:** R2202-124
O2002-034**Names of Parties:** Karl Willrath and Dorset Council**Reasons for decision:** s48(3)**Provisions considered:** s30, s35, s36

Background

- 1 On 22 June 2018, Mr Tim Watson, then General Manager of Dorset Council (Council) lodged a Code of Conduct complaint under the *Local Government Act 1993* against then Councillor Lawrence Archer, alleging he had been bullied and harassed by Mr Archer. The complaint related to a series of emails between Mr Archer and Mr Watson in which Mr Archer sought information from Mr Watson. The complaint was investigated by the Code of Conduct Panel and a determination was made on 24 September 2018 dismissing the complaint.¹
- 2 Mr Willrath is a resident in the Dorset Council local government area and is a person interested in council affairs as they concern the local community.
- 3 Mr Willrath first attempted to obtain information from Council and filed an application for assessed disclosure under *Right to Information Act 2009* (the Act) on 15 April 2019. However, as there was an error in the processing of that application, Mr Willrath filed a new application to Council dated 26 November 2019, which is the application relevant to this review. Mr Willrath reiterated his request for information as it was set out in his first application dated 15 April 2019, specifically indicating that:

I am making this request in relation to the code of conduct complaint made by general manager, Tim Watson against councillor Lawrence Archer dated 22 June 2018. I am requesting all emails relating to this matter including the emails from Archer to Watson where it was alleged the code of conduct was breached. As Watson appears to be dissatisfied with the result, I argue that all (as in all) this information is in the general public interest, thus I ask that application fee be waived [sic].

- 4 Although the April 2019 application included the request for a fee waiver, Mr Willrath did not persist with this request in his new application and Council issued a receipt for the application fee on 26 November 2019.

¹ The determination report is available at www.dpac.tas.gov.au/divisions/local_government/local_government_code_of_conduct/code_of_conduct_panel_determination_reports/determination_reports_2021, accessed 17 July 2023.

- 5 On 18 December 2019, Council issued its decision to Mr Willrath. A delegate for Council under the Act, Mr John Marik, determined that the information that Mr Willrath had requested was exempt from disclosure. Mr Marik referred to the *Local Government Act 1993* in coming to his decision, however he did not cite any specific provisions of the Act to justify the claim for exemption from disclosure.
- 6 On 8 January 2020, Mr Willrath wrote to Council seeking an internal review of the decision.
- 7 On 5 February 2020, Council issued its internal review decision to Mr Willrath. The then General Manager and Principal Officer under the Act, Mr Tim Watson, advised that he concurred fully with the conclusions made in the first decision and with the decision of Mr Marik. Again, reliance was placed on the *Local Government Act 1993* rather than any exemption under the Act.²
- 8 On 10 February 2020, Mr Willrath submitted the decisions to this office for external review. His application was accepted on the basis that Mr Willrath was in receipt of an internal review decision and it was submitted to this office within 20 working days of his receipt of it.
- 9 Pursuant to s47(1)(n) of the Act this office wrote to Council on 24 March 2023, requesting it to provide better reasons for its decision in relation to Mr Willrath's application for assessed disclosure under the Act, namely that it nominate the exemption it was relying upon. There followed a series of communications between this office and Council regarding extensions of time for Council to provide better reasons. An extension of time was granted to 20 June 2023.
- 10 On 20 June 2023, Council provide its response with better reasons for the decision. Council's Right to Information Officer, Ms Carly Hall, advised that Council maintained its view that the information sought is exempt information under the Act, and relied on ss30 (information relating to enforcement of the law) and 35 (internal deliberative information) of the Act.

Issues for Determination

- 11 I must determine whether the information which was not released by Council is eligible for exemption under sections 30 or 35, or any other relevant section of the Act.
- 12 As section 35 is contained in Division 2 of Part 3 of the Act, my assessment is subject to the public interest test under section 33. This means that, if I determine that the information is prima facie exempt under section 35, I am then required to determine whether it would be contrary to the public

² I note that Mr Watson conducted the internal review despite the relevant information being in relation to a complaint he had made regarding an alleged breach of the Code of Conduct for Councillors. While this is highly irregular and reflects an unmanaged conflict of interest, it is not a matter I am able to consider in my determination of this external review.

interest to release it, having regard to, at least, the matters contained in Schedule I.

Relevant legislation

- 13 Copies of ss30, 35 and 36 are at Attachment A.
- 14 Copies of s33 and Schedule I are also attached.

Submissions

- 15 In an email to this office dated 9 February 2020, Mr Willrath criticised Council's handling of the matter and refuted Council's claim that responding to his request wasted resources. Specifically, he submitted: (verbatim)

As per attached i am requesting a review of the RTI. I am after the 13 emails from former Cr Archer to GM Watson that ended up with a Code of Conduct complaint against Archer. This complaint was dismissed, thus i suspect that the refusal by GM Watson not to release these emails because they had been evidence at a hearing is incorrect.

...

It should also be noted that John Marik has instructed me directly not to take any more RTI out as i am taking up too many resources. To date i have only taken out two. I am still email blocked from Council so this instruction was given verbally.

- 16 On 20 December 2019, Mr Willrath responded in writing to Council saying:

Mr Marik, as you are aware, I am after the emails from Archer to Watson that prompted the unjust code of conduct complaint against Archer. The fact they ended up in the conduct panel is not relevant to blocking this RTI.

- 17 Mr Willrath also submitted, in his initial application for assessed disclosure, that the matter was one of public interest.

- 18 Ms Hall of Council provided the following submissions in support of Council's previous decisions on 20 June 2023:

a. Given the changes to Council's resourcing structure since the initial lodgement of this RTI request, I consider it appropriate that I respond in the capacity of Council's current Right to Information Officer.

b. It is believed that the exemption relied upon in accordance with the Right to Information Act 2009 (RTI Act) to support the decision made by Mr Marik, and upheld by Mr Watson following his internal review of Mr Marik's decision to refuse the release of the documentation requested in the abovementioned RTI request was section 30(1)(a)(ii) and/or (iv) of the RTI Act.

- c. Council decided to seek legal advice on this matter due to a number of potentially relevant circumstances that have arisen since the RTI request was initially lodged with Council, and it is appreciated that an extension of time was offered to enable this to occur.

Upon further review of this matter and considering the legal advice received, there are additional bases upon which it may be concluded that information within the scope of Mr Willrath's application is exempt information under the RTI Act. I would like to provide the following submission detailing these considerations and subsequent determination on the above RTI request.

Information relating to the enforcement of the law – prejudicing the proper administration of the law (section 30 RTI Act)

The Code of Conduct Panel Determination Report dated 24 September 2018, which was table at the 15 April 2019 Council Meeting, provided a detailed summary of the substance of the emails exchanged between Mr Watson and Cr Archer which formed the basis of Mr Watson's complaint against Cr Archer.

The Determination Report confirms that the factual circumstances were not disputed by either Mr Watson or Cr Archer. The Code of Conduct Panel assessed those emails and determined that Cr Archer had not breached the Code of Conduct. This may, in my view, compromise the proper functioning and jurisdiction of the Code of Conduct Panel for those emails to be publicly disclosed and interrogated when they were analysed by the Panel and determined not to comprise a breach of the Code.

It may also be considered that public release of correspondence, would prejudice the proper administration of the law by serving as a deterrent to members of the public considering making a Code of Conduct complaint.

I further note that section 339(2A) of the Local Government Act 1993 (LG Act) provides that it is an offence for a person to make improper use of information acquired by the person in relation to a code of conduct investigation. A fine of up to 50 penalty units may be imposed. "Improper use of information" is defined to include using the information to cause any loss or damage to a council or person (s. 339(2A)(3)(b) LG Act).

Given the following comment on Mr Willrath's RTI application "As Mr Watson appears to be dissatisfied with the result, I argue that all (as in all!) this information is in the general public interest", I believe that this statement creates a reasonable apprehension that any information obtained in accordance with his RTI request would be used for

“improper purpose” as defined under the LG Act. The fact that disclosure of the information could therefore risk the potential for Mr Willrath to commit an offence under the LG Act provides a further basis upon which it may be concluded that the disclosure of the information would prejudice the proper administration of the law in this instance.

Information relating to the enforcement of the law – (section 30(1)(d), RTI Act)

Section 30(1)(d) of the RTI Act provides that information is exempt information if its disclosure would, or would be reasonably likely to endanger the life or physical, emotional or psychological safety of a person, or increase the likelihood of harassment or discrimination of a person.

Following acceptance of Mr Willrath’s RTI application in 2019, issues between Mr Willrath and Council employees escalated. This escalation led to a decision by Mr Watson to restrict Mr Willrath’s access to Council offices, Council employees and Council meetings.

In light of the above, I consider that section 30(1)(d) of the RTI Act would also now apply to characterise the information as exempt information. It was likely not evident to Mr Marik or Mr Watson when making their determination on Mr Willrath’s application and conducting an internal review of that decision in 2019-2020 as the matters referred to in the previous paragraph had not occurred at the time of their decisions.

Information comprising the opinion of an office of a public authority (section 35(1)(a), RTI Act)

In the course of, or for the purpose of, the deliberative processes related to the official business of the public authority is exempt information, if the additional public interest test is also met.

I am of the opinion that this section applies to the documentation requested as it relates to internal consultations between Cr Archer and Mr Watson (or his assistant) relating to a Councillor’s requests for information and documents in the course of deliberative processes relating to the official business of the Council. The documentation is considered to comprise deliberative processes on behalf of both Cr Archer (as they identify what information he considered to the performance of his functions as a councillor) and the General Manager (as they identify what information Mr Watson considered was necessary to release in accordance with sections 28A-28D of the LG Act)

Public Interest Test

Clause (b) requires consideration of whether disclosure would contribute to debate on a matter of public interest. Although the matter of

Council's General Manager having lodged a Code of Conduct complaint against a Councillor may itself be of public interest, I do not believe that the release of the emails themselves would contribute to debate on the matter. The fact was that the Panel found that the emails did not constitute a breach.

Clause (c) requires consideration of whether the disclosure would inform a person of the reasons for a decision. I do not consider that the disclosure of the particular information would aid this process.

Clause (j) requires consideration of whether the disclosure would promote or harm the administration of justice including the enforcement of the law. As the Code of Conduct Panel has already issued its Determination Report in response to Mr Watson's complaint, the disclosure of that information could harm the enforcement of the law as it relates to the Code of Conduct Panel's decision. This is consistent with the reasons provided in Mr Marik's initial decision.

Clause (n) considers whether the disclosure would prejudice the ability to obtain similar information in the future. The public release of internal consultations between a Council's General Manager and a Councillor, a matter which is of such importance to the proper functioning of a Council that there are detailed provisions included within sections 28A-28D of the LG Act governing this pipeline of communication, would prejudice the effectiveness of requests and exchanges of information between the Council's operational arm (via the General Manager) and the Council's governance (its Councillors).

In closing, after reviewing the documentation and considering the further merits detailed above, I am of the opinion that the original determination along with the above further considerations supports Council's decision to not disclose the information requested in this instance.

Analysis

Section 30 – Information relating to enforcement of the law

Section 30(1)(a)

- 19 Council has claimed that the emails are exempt pursuant to s30(1)(a)(ii) and/or (iv) of the Act.
- 20 For s30(1)(a)(ii) or (iv) to apply, I must be satisfied that disclosure of the information under the Act, would, or would be reasonably likely to, prejudice:
 - (ii) the enforcement or proper administration of the law in a particular instance; or*
 - (iv) the impartial adjudication of a particular case.*

- 21 The word prejudice is not defined in the Act and is therefore to be given its ordinary meaning. The Macquarie Dictionary relevantly defines it as meaning to *affect disadvantageously or detrimentally*.³
- 22 I do not consider that paragraph (iv) applies here, as the adjudication of the case by the Code of Conduct Panel has concluded, and the time allowed for appeal has also long expired. I do not have any information before me regarding any other impending proceedings arising out of these events. Therefore, I conclude that there is no case to be prejudiced by any disclosure.
- 23 With regard to exemption under paragraph (ii), Council argues that the public disclosure and interrogation of the relevant emails after they had been analysed by the Code of Conduct Panel, and determined not to amount to a breach of Council's Code of Conduct, would *compromise the proper functioning and jurisdiction* of the Panel.
- 24 Council also argues that *the public release of the correspondence would prejudice the proper administration of the law by serving as a deterrent to members of the public considering making a Code of Conduct complaint*.
- 25 As pointed out by Ms Hall, the Code of Conduct Panel Determination Report dated 24 September 2018 provides a very detailed summary of the substance of the email communications between Mr Watson and Mr Archer which formed the basis of Mr Watson's complaint against Mr Archer.
- 26 That being the case, it is difficult to see how the release of the actual emails would compromise the proper functioning and jurisdiction of the panel. The existence and the majority of the content of the emails is in the public domain. The Panel's determination has already been made, and the Determination Report has been publicly tabled and is available online.
- 27 Council also argues that the public release of correspondence which has been the subject of a Code of Conduct complaint and investigation would prejudice the proper administration of the law by serving as a deterrent to members of the public who may be considering filing a complaint under Council's Code of Conduct.
- 28 While this may be a valid concern, it is to be noted that the correspondence in this particular instance is between officers of Council concerning Council business. These are persons undertaking public roles whose work is usually subject to the Act and remain accountable to the electorate in any case. The information does not concern private citizens and the protection of their privacy which may well be a factor that is relevant in other circumstances.
- 29 The Council's final argument in relation to s30(1)(a)(ii) is that the disclosure of the information would prejudice the proper administration of the law in this instance because it would be in breach of s339(2A) of the *Local Government Act 1993*. Section 339(2A) provides that:

³ Macquarie Dictionary Online, 2022, www.macquariedictionary.com.au.

A person must not make improper use of any information acquired by the person in relation to a code of conduct investigation.

- 30 The delegate refers to the following comment by Mr Willrath in his application for assessed disclosure:

As Mr Watson appears to be dissatisfied with the result, I argue that all (as in all!) this information is in the general public interest.

- 31 The delegate submits that the comment:

... creates a reasonable apprehension that any information obtained in accordance with his RTI request would be used for "improper purpose" as defined under the LG Act. The fact that disclosure of the information could therefore risk the potential for Mr Willrath to commit an offence under the LG Act provides a further basis upon which it may be concluded that the disclosure of the information would prejudice the proper administration of the law in this instance.

- 32 Council appears to be arguing that the mere release of the email communications to Mr Willrath under this Act may compromise the proper functioning and jurisdiction of the Code of Conduct Panel, as the evidence on which it relied may be publicly disclosed and interrogated.

- 33 Breach of s339(2A) carries a penalty of up to 50 penalty units. *Improper use of information* is defined to include using the information to cause any loss or damage to a council or person.

- 34 Section 339(2A) was inserted into the Act by the *Local Government Amendment (Miscellaneous) Act 2018* to address a perceived deficiency in the section. The explanatory material presented to Parliament during the tabling of the *Local Government Amendment (Miscellaneous) Bill 2018 (No. 49)* contains the following:

A new provision that explicitly prevents all relevant parties from misusing information they obtain as part of a code of conduct investigation. The act does not currently deal with the misuse of information obtained by panel members or complainants, only elected members and this needs to be addressed.⁴

- 35 In my view, the mere act of disclosure of the information under this Act cannot amount to an improper use of information. If a person validly exercises their legal right under the Act to access information it could not be improper. Disseminating and commenting on any information released would similarly not be an improper use of information, provided any comments were not defamatory or otherwise contrary to law.

- 36 I do not consider that it is appropriate to speculate as to a person's future behaviour and make a decision based on what he may or may not do. Indeed, the relevant section of the Local Government Act already referred to would

⁴ Hansard Legislative Council Debate (27 November 2018), available at <https://www.parliament.tas.gov.au/hansard>

appear to be sufficient deterrent to anyone considering making improper use of any information acquired in relation to a Code of Conduct investigation.

- 37 I note that Division 3A of the Local Government Act, which deals with Code of Conduct complaints, does not provide that the investigation of such complaints is excluded from the provisions of the Act. There are other instances where the Act is overridden by other statutes and the Local Government Act itself provides some instances of this. However, Parliament has not applied an express provision in the Division concerning Code of Conduct proceedings. Indeed, Parliament has laid out very narrow and specific circumstances where parts of the proceedings and reports must remain confidential.
- 38 Accordingly, I am not satisfied that all evidence considered by a Code of Conduct panel would be exempt under s30(1)(a)(ii) as a general rule. It must be considered whether this is appropriate and the likelihood of prejudice assessed in each particular circumstance.
- 39 This exemption is not subject to the public interest test and its use must be restricted to when it is truly necessary, otherwise the intention of the Act to allow for the release of the maximum amount of official information could not be fulfilled.
- 40 Taking into account all of the above, I find that Council has not discharged its onus under s47(4) to show that the information sought is exempt under s30(1)(a).

Section 30(1)(d)

41 Council has further sought to exempt this information under s30(1)(d).

42 Section 30(1)(d) provides that:

Information is exempt information if its disclosure under this Act would, or would be reasonably likely to, endanger the life or physical, emotional or psychological safety of a person, or increase the likelihood of harassment or discrimination of a person.

- 43 As I have said in previous decisions,⁵ the phrase *emotional or psychological safety* needs to be read in its context, including the preceding words. It is my view that these words denote a risk of harm sufficiently serious as to be commensurate with the endangerment of a person's life or physical safety.
- 44 Similarly, the words *increase the likelihood of harassment or discrimination of a person* should be read in the same context.
- 45 This approach is consistent with Parliament's expressed intention that the Act be interpreted so as to further the object set out in subsection 3(1). That object being to improve democratic government in Tasmania by:

⁵ See for example, *Simon Cameron and Department of Natural Resources and Environment Tasmania*, Case No. O1801-016, 21 January 2022, <https://www.ombudsman.tas.gov.au/right-to-information/reasons-for-decisions>

(a) increasing the accountability of the executive to the people of Tasmania; and

(b) increasing the ability of the people of Tasmania to participate in their governance; and

(c) acknowledging that information collected by public authorities is collected for and on behalf of the people of Tasmania and is the property of the State.

46 The object is to be pursued by giving members of the public the right to *obtain information held by public authorities and Ministers*⁶ and to *obtain information about the operations of Government*.⁷ It is also expressly stated in s3(4) that *discretions conferred [should] be exercised so as to facilitate and promote...the provisions of the maximum amount of official information.*

47 The words *would, or would be reasonably likely to* in s30(1)(d) require an objective assessment of whether there is a reasonable possibility of endangering a relevant aspect of a person's safety, as opposed to a possibility that is farfetched or irrational.

48 The Federal Court has said, in its analysis of corresponding Commonwealth legislation, that a personal or subjective belief is not determinative. Rather, it is necessary to determine whether the documents have such a character that their release would, or could be reasonably expected to, endanger the life or physical safety of any person. It is thus necessary to judge objectively whether there is a possibility that the disclosure of the documents could endanger the life or physical safety of other persons, and if so whether that possibility is a reasonable one as distinct from one which is irrational, absurd or ridiculous.⁸

49 In claiming information contained with the relevant communications to be exempt information under s30(1)(d), the Right to Information Officer and delegate under the Act relied on a version of events involving Mr Willrath and Council employees, specifically:

Following acceptance of Mr Willrath's RTI application in 2019, issues between Mr Willrath and Council employees escalated. This escalation led to a decision by Mr Watson to restrict Mr Willrath's access to Council offices, Council employees and Council meetings.

50 As part of his submissions on 9 February 2020 supporting his application for external review, Mr Willrath advised that he had been blocked from Council, but insinuated that this act of censure was unreasonable and unwarranted on the part of Council. Mr Willrath also said that he was told to cease filing applications for assessed disclosure as he was wasting Council's resources. Mr

⁶ s3(2)

⁷ s3(3)

⁸ *Centrelink v Dykstra* [2002] FCA 1442 at [24]-[25]. The Federal Court considered the equivalent provision in the *Freedom of Information Act 1982 (Cth)* – s37(1)(c).

Willrath advised this office that he had filed two (2) applications for assessed disclosure under the Act.

- 51 I am unable to agree that the release under the Act of the information claimed to be exempt under s30(1)(d) would cause Council employees *substantial emotional and psychological harm*. Nor do I agree that the relevant information would, or would be reasonably likely to, endanger the emotional or psychological safety of any of the persons involved.
- 52 I have no doubt that, at times, interactions between members of Council, employees of Council, and the general public can be trying or fraught. I consider that Councillors and council executives would be used to robust debate, and other employees in local government would be familiar with such situations as being part of the overall Council environment.
- 53 I have no material, independent or otherwise, that would support any suggestion that any specific person might be even reasonably likely to have their emotional or psychological safety endangered by the release of the relevant information. The delegate's assertion stands alone in that regard and constitutes mere speculation.
- 54 In relation to whether the release of the information would increase the harassment of or discrimination against a person, again there is insufficient specific detail from Council of the person(s) against whom harassment or discrimination is feared. Neither Mr Archer or Mr Watson are now formally involved with Council and the information that is the subject of this request has already been set out in summary form in the determination report of the Code of Conduct Panel. Mr Willrath is already subject to restrictions on his contact with Council and his application pre-dates those restrictions.
- 55 Accordingly, despite the difficult relationship between the parties, it does not follow as a matter of course that disclosure of the information that is the subject of this review, would, or would be likely to, endanger the emotional or psychological safety of any relevant employee, or increase the likelihood of harassment or discrimination of such a person.
- 56 Consequently, I am not satisfied that s30(1)(d) of the Act is applicable to the information responsive to Mr Willrath's request, and I determine that the information is not exempt from disclosure under s30(1)(d).

Section 35 – Internal deliberative information

- 57 Council also relies on s35 to exempt the information comprising the relevant emails. For information to be exempt under this section, I must be satisfied that it consists of an opinion, advice or recommendation prepared by an officer of a public authority or is a record of consultations or deliberations between officers of a public authority.

- 58 If I find that this is the case, I must then determine whether the information was prepared in the course of, or for the purpose of, the deliberative processes related to the official business of the Department.
- 59 According to the Act, the outlined exemption above does not apply to the following:
- purely factual information;⁹
 - a final decision, order or ruling given in the exercise of an adjudicative function;¹⁰ or
 - information that is older than 10 years.¹¹
- 60 As to the meaning of 'purely factual information' in s35(2), I refer to *Re Waterford and the Treasurer of the Commonwealth of Australia (No 1)*¹² where the Commonwealth Administrative Appeals Tribunal (AAT) observed that the word 'purely' in this context has the sense of 'simply' or 'merely' and that the material must be 'factual' in quite unambiguous terms.
- 61 The meaning of the phrase 'in the course of, or for the purpose of, the deliberative processes' has also been considered by the Administrative Appeals Tribunal. In *Re Waterford and Department of Treasury (No 2)* the Tribunal adopted the view that these are an agency's 'thinking processes - the processes of reflection, for example, upon the wisdom and expediency of a proposal, a particular decision or a course of action'.¹³
- 62 As mentioned above, the Code of Conduct Panel summarised the relevant emails in its Determination Report. They substantially concern four separate subjects: the TasWater situation in Bridport; a contract between Council contract and May Shaw; the employment contract of the general manager; and the expenses of elected members and general manager. The summary contains the following:

Part One: TasWater correspondence

On 4 May 2018 Cr Archer requested the General Manager's Assistant to provide any correspondence from Council to TasWater in the previous five years, in which Council had requested that TasWater address the matter of Bridport water restrictions.

On 7 May the staff member emailed Cr Archer to say she would do it that week.

On 10 May 2018 Cr Archer again emailed the General Manager's Assistant to ask if she had found any correspondence between TasWater

⁹ Section 35(2).

¹⁰ Section 35(3).

¹¹ Section 35(4).

¹² *Re Waterford and the Treasurer of the Commonwealth of Australia (No 1)* (1984) AATA 518 at 14.

¹³ *Re Waterford and Department of Treasury (No 2)* (1985) 5 ALD 588.

and Dorset Council over the previous five years, and telling her that he needed the information as he intended to submit a Notice of Motion for the next council meeting (to be held on 21 May 2018).

On 11 May the General Manager's Assistant provided a list of correspondence to Cr Archer with a summary of the content of the correspondence.

On 12 May Cr Archer submitted a Notice of Motion to the General Manager regarding the possible alleviation of TasWater's water restrictions in Bridport.

On 18 May the General Manager's Assistant emailed Cr Archer advising that the General Manager did not agree to provide copies of the correspondence listed in her email of 11 May 2018, but that the matter would be discussed at a workshop in June. ...

On 22 May 2018 Cr Archer requested correspondence between Council and TasWater over the previous five years which in any way relates to the Bridport water supply.

On 23 May the General Manager responded that for various reasons, the Mayor would lead a discussion on the matter at a workshop on 5 June 2018. ...

Cr Archer responded to the General Manager on the same day, reiterating his request for information in accordance with s28D of the Local Government Act 1993 (the Act).

On 31 May the General Manager wrote to Cr Archer, apologising for his delay in responding, and saying that the requested information would be provided in confidence to all councillors at the workshop on 5 June 2018.

On 1 June Cr Archer emailed the General Manager, saying that this was not 'satisfactory', and again requesting that in accordance with the Act, he be provided with the information. He said that he would call into the council chambers to collect the documents at noon on 4 June.

On 4 June the General Manager emailed Cr Archer, again stating that the information would not be available to him that day, but requesting that Cr Archer meet with himself and the Mayor over a number of matters concerning your ongoing conduct.

At 2.07 pm on 4 June Cr Archer emailed the General Manager to say that he had read his email, and that he would come to the General Manager's office on 5 June to collect the requested documents and discuss any matters of concern.

At 4 pm on 5 June, before the workshop which was to commence at 4.30 pm, Cr Archer went to the General Manager's office and asked for the documents. The General Manager declined to give them to him....

Part 2: Contract with May Shaw

... On 7 June Cr Archer requested a copy of the draft contract before the General Manager recommenced negotiations with May Shaw. The General Manager refused to provide the draft. Cr Archer reiterated his request, quoting s28(2)(e) of the Act to justify his request. Later the same day, the General Manager again emailed Cr Archer, suggesting that councillors had been briefed on the contract, and that Cr Archer should go back through previous council documents on the council portal to find the information about the contract.

On 8 June Cr Archer again asked for the draft contract and said that if the General Manager refused to provide him with a copy, he would have no option but to lodge a complaint with the Local Government Division.

In response, also on 8 June, the General Manager told Cr Archer that he would not provide a copy of this draft of the contract until after he had met representatives of May Shaw and had a final draft of the contract. He intended then to present this to Council at a workshop and at a subsequent council meeting. He said that in accordance with s28A (3)(a) and s28A (3)(d) of the Act he refused to provide the current draft of the contract. He again advised Cr Archer that all councillors had been briefed in detail on the matter on two separate occasions.

On 11 June Cr Archer asked the General Manager for copies of the briefings he referred to.

Part 3: General Manager's Contract of Employment (CoE)

On 9 June 2018 in response to a request from Cr Archer for a copy of the General Manager's CoE, the Mayor told Cr Archer that the request should be directed to the General Manager, and that he did not see why Cr Archer required a copy.

After receiving the email from the Mayor, Cr Archer emailed the General Manager on 9 June, requesting a copy of his CoE in accordance with s28 of the Act.

On 15 June the General Manager responded to Cr Archer, requiring him to articulate why he, as an individual councillor, found it necessary to monitor his performance as General Manager. The CoE was not provided.

Part 4: RTI request

On 16 June Cr Archer sent an RTI request to the Information Officer at Dorset Council, asking for a list of the monthly allowances and expenses incurred by individual Dorset elected members for the period 1 July 2017 to 31 May 2018; and also the credit card statements for cards issued to the Mayor and General Manager for the same period. The request was sent from Cr Archer's personal email address, not his council email address.¹⁴

- 63 While three of the subject categories covered in the emails involve Council business, I do not consider that the emails are part of a deliberative process. They are emails relating to the provision of information and are administrative in nature, rather than part of a deliberative process. The final email, a request for information under the Act, is clearly not an internal email but a private request from Mr Archer. Accordingly, I am not satisfied that any of the information is eligible for exemption under s35. It is to be released to Mr Willrath, subject to my consideration of s36 as follows.

Section 36

- 64 While Council has not asserted any information to be exempt under s36, I consider that provision to be relevant and should also be discussed here. For information to be exempt under s36, I must be satisfied that its release would reveal the identity of a person other than Mr Willrath, or that the information would lead to that person's identity being reasonably ascertainable.
- 65 The only personal information contained in the documents is that of Mr Archer, Mr Watson and the Assistant to the General Manager and Mayor. All were public officers performing their regular duties at the time the information was created.
- 66 When considering personal information, I have been consistent in my approach and my previously expressed view that the names of public officers performing their regular duties are not usually exempt under s36.¹⁵ The personal information of public authority employees, including name, position, and work contact details, will only be exempt when there are specific and unusual circumstances identified which justify it.
- 67 I do not consider that the circumstances of this case provide an exception to the general rule that the names and email addresses of public authority staff performing their regular duties are not exempt from disclosure. Council has not argued to the contrary. Accordingly, I am not satisfied that this information is exempt under s36 and it should be made available to the applicant.

¹⁴ Code of Conduct Panel Report, Dorset Council Councillor Code of Conduct, Complaint against Cr Lawrence Archer, 24 September 2018.

¹⁵ See *Suzanne Pattinson and Department of Education* (August 2022), *Simon Cameron and the Department of Primary Industries, Parks, Water and Environment* (January 2022), *Camille Bianchi and Department of the Health* (November 2021) and *Clive Stott and Hydro Tasmania* (February 2021), available at www.ombudsman.tas.gov.au/right-to-information/reasons-for-decisions.

- 68 I do consider that there are some different considerations regarding direct telephone and mobile numbers of public officers. Direct telephone numbers are often not provided to the public, to ensure that calls are received through established channels. Mobile phones may be used for personal use in addition to work functions and are not necessarily appropriate to release.
- 69 I am content for the direct and mobile telephone numbers of Mr Watson and the Assistant to the General Manager and Mayor to be redacted, as their release would not provide any additional useful information but has the potential to cause harm to the interests of an individual for the reasons discussed above. I find the telephone numbers redacted are exempt under s36 and are not to be released to Mr Willrath.
- 70 Mr Archer's home and personal email addresses are also included in the information. These were provided in his private capacity and I am satisfied that they are exempt under s36 and should not be released to Mr Willrath. Their release would not provide any additional useful information but has the potential to cause harm to the interests of an individual.
- 71 I have not further considered the content of Mr Archer's information request under the Act in relation to potential exemption under s36 (or s39 regarding information obtained in confidence), as the details of this request have been published in my past decision on external review regarding this request and are in the public domain.¹⁶

Preliminary Conclusion

- 72 For the reasons set out above, I determine that:
- the exemptions claimed by Council under ss30 and 35 are set aside; and
 - information is exempt under s36.

Conclusion

- 73 As the above preliminary decision was adverse to Council, it was made available to it on 8 August 2023 under s48(1)(a) of the Act, to seek its input before finalising the decision.
- 74 On 29 August 2023, Council advised this office that would respect the decision made by this office and made no submissions in response.
- 75 Accordingly, for the reasons set out above, I determine that:
- the exemptions claimed by Council under ss30 and 35 are set aside; and
 - information is exempt under s36.
- 76 I apologise to the parties for the inordinate delay in finalising this decision.

¹⁶ See Lawrence Archer and Dorset Council (17 June 2021), available at www.ombudsman.tas.gov.au/right-to-information/reasons-for-decisions

Dated: 30 August 2023

A handwritten signature in blue ink, consisting of a large, stylized 'C' with a smaller 'R' inside it, followed by a long horizontal stroke.

Richard Connock
OMBUDSMAN

Attachment A

Relevant Legislation

Section 30 – Information relating to enforcement of the law

- (1) Information is exempt information if its disclosure under this Act would, or would be reasonably likely to –
- (a) prejudice –
 - (i) the investigation of a breach or possible breach of the law; or
 - (ii) the enforcement or proper administration of the law in a particular instance; or
 - (iii) the fair trial of a person; or
 - (iv) the impartial adjudication of a particular case; or
 - (b) disclose, or enable a person to ascertain, the identity of a confidential source of information in relation to the enforcement or administration of law; or
 - (c) disclose methods or procedures for preventing, detecting or investigating, or dealing with matters arising out of, breaches or evasions of the law, the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures; or
 - (d) endanger the life or physical, emotional or psychological safety of a person, or increase the likelihood of harassment or discrimination of a person; or
 - (e) disclose information gathered, collated or created for intelligence, including but not limited to databases of criminal intelligence, forensic testing or anonymous information from the public; or
 - (f) hinder, delay or prejudice an investigation of a breach or possible breach of the law which is not complete.
- (2) Subsection (1) includes information that –
- (a) reveals that the scope of a law enforcement investigation has exceeded a limit imposed by law; or
 - (b) reveals the use of an illegal method or procedure for preventing, detecting or investigating, or dealing with a matter arising out of, a breach or evasion of the law; or
 - (c) contains a general outline of the structure of a program adopted by a public authority for investigating breaches of or enforcing or administering the law; or
 - (d) is a report on the degree of success achieved in a program adopted by a public authority for investigating breaches of or enforcing or administering the law; or
 - (e) is a report prepared in the course of a routine law enforcement inspection or investigations by a public authority with the function of

enforcing and regulating compliance with a particular law other than the criminal law if the inspection or investigation is complete; or

- (f) is a report on a law enforcement investigation, if the substance of the report has been disclosed to the person or the body that is the subject of the investigation –

if it is contrary to the public interest that the information should be given under this Act.

- (3) The matters which must be considered in deciding if the disclosure of information under subsection (2) is contrary to the public interest are specified in Schedule 1 but are not limited to those matters.
- (4) The matters specified in Schedule 2 are matters that are irrelevant in deciding if the disclosure of information under subsection (2) is contrary to the public interest.

Section 35 – Internal Deliberative Information

- (1) Information is exempt information if it consists of –
- (a) an opinion, advice or recommendation prepared by an officer of a public authority; or
 - (b) a record of consultations or deliberations between officers of public authorities; or
 - (c) a record of consultations or deliberations between officers of public authorities and Ministers –

in the course of, or for the purpose of, the deliberative processes related to the official business of a public authority, of a Minister or of the Government.

- (2) Subsection (1) does not include purely factual information.
- (3) Subsection (1) does not include –
- (a) a final decision, order or ruling given in the exercise of an adjudicative function; or
 - (b) a reason which explains such a decision, order or ruling.

Subsection (1) ceases to apply after 10 years from the date of the creation of the information referred to in that subsection.

Section 36 – Personal Information of a Person

(1) Information is exempt information if its disclosure under this Act would involve the disclosure of the personal information of a person other than the person making an application under [section 13](#).

- (2) If –
- (a) an application is made for information under this Act; and

- (b) the information was provided to a public authority or Minister by a third party; and
 - (c) the principal officer or Minister decides that disclosure of the information concerned may be reasonably expected to be of concern to the third party – the principal officer or Minister is to, if practicable and before deciding whether the disclosure of the information under this Act should occur, by notice in writing to the third party –
 - (d) notify that person that the public authority or Minister has received an application for the information; and
 - (e) state the nature of the information that has been applied for; and
 - (f) request that, within 15 working days from the date of the notice, the person provide his or her view as to whether the information should be provided.
- (3) If a public authority or Minister, after receipt of a person's view referred to in [subsection \(2\)\(f\)](#), decides to provide the information, the public authority or Minister must, by notice in writing given to that person, notify that person of the decision.
- (4) A notice under [subsection \(3\)](#) is to –
- (a) state the nature of the information to be provided; and
 - (b) if the decision was made on behalf of a public authority or Minister, state the name and designation of the person who made the decision; and
 - (c) inform the person to whom the notice is addressed of –
 - (i) that person's right to apply for a review of the decision; and
 - (ii) the authority to which the application for review can be made; and
 - (iii) the time within which the application must be made.
- (5) A public authority or Minister must not provide the information referred to in a notice given to a person under [subsection \(3\)](#) –
- (a) until 10 working days have elapsed after the date of notification of that person; or
 - (b) if during those 10 working days the person applies under [section 43](#) for a review of the decision, until that review determines that the information should be provided; or
 - (c) until 20 working days after notification of an adverse decision under [section 43](#); or
 - (d) if during those 20 working days the person applies for a review of the decision under [section 44](#), until that review determines that the information should be provided; or
 - (e) if the information is information to which a decision referred to in [section 45\(1A\)](#) relates –
 - (i) during 20 working days after the notification of the decision; or
 - (ii) where the person applies for a review of the decision under [section 45\(1A\)](#) – until that review determines the information should be provided

33. Public interest test

(1) In this Division, information is exempt information if the principal officer of the public authority or Minister considers, after taking into account all relevant matters, that it is contrary to the public interest to disclose the information.

(2) The matters which must be considered in deciding if the disclosure of the information is contrary to the public interest are specified in Schedule 1 but are not limited to those matters.

(3) The matters specified in Schedule 2 are matters that are irrelevant in deciding if the disclosure of the information is contrary to the public interest.

SCHEDULE 1 - Matters Relevant to Assessment of Public Interest

(1) The following matters are the matters to be considered when assessing if disclosure of particular information would be contrary to the public interest:

- (a) the general public need for government information to be accessible;
- (b) whether the disclosure would contribute to or hinder debate on a matter of public interest;
- (c) whether the disclosure would inform a person about the reasons for a decision;
- (d) whether the disclosure would provide the contextual information to aid in the understanding of government decisions;
- (e) whether the disclosure would inform the public about the rules and practices of government in dealing with the public;
- (f) whether the disclosure would enhance scrutiny of government decision-making processes and thereby improve accountability and participation;
- (g) whether the disclosure would enhance scrutiny of government administrative processes;
- (h) whether the disclosure would promote or hinder equity and fair treatment of persons or corporations in their dealings with government;
- (i) whether the disclosure would promote or harm public health or safety or both public health and safety;
- (j) whether the disclosure would promote or harm the administration of justice, including affording procedural fairness and the enforcement of the law;
- (k) whether the disclosure would promote or harm the economic development of the State;
- (l) whether the disclosure would promote or harm the environment and or ecology of the State;
- (m) whether the disclosure would promote or harm the interests of an individual or group of individuals;
- (n) whether the disclosure would prejudice the ability to obtain similar information in the future;

- (o) whether the disclosure would prejudice the objects of, or effectiveness of a method or procedure of, tests, examinations, assessments or audits conducted by or for a public authority;
- (p) whether the disclosure would have a substantial adverse effect on the management or performance assessment by a public authority of the public authority's staff;
- (q) whether the disclosure would have a substantial adverse effect on the industrial relations of a public authority;
- (r) whether the disclosure would be contrary to the security or good order of a prison or detention facility;
- (s) whether the disclosure would harm the business or financial interests of a public authority or any other person or organisation;
- (t) whether the applicant is resident in Australia;
- (u) whether the information is wrong or inaccurate;
- (v) whether the information is extraneous or additional information provided by an external party that was not required to be provided;
- (w) whether the information is information related to the business affairs of a person which if released would cause harm to the competitive position of that person;
- (x) whether the information is information related to the business affairs of a person which is generally available to the competitors of that person;
- (y) whether the information is information related to the business affairs of a person, other than a public authority, which if it were information of a public authority would be exempt information.

Scottsdale Aquatic Centre Lesson price benchmarking					
<u>Swimming Pool</u>		<u>\$ per block</u>	<u>\$ per lesson</u>	<u>\$ Aqua Fitness</u>	<u>Comments</u>
New Norfolk Pool - Outdoor					
	1 week blocks of 4 lessons	\$ 68	\$ 17		No make up lesson offered
	10 week block	\$ 170	\$ 17		
Huonville Pool - Outdoor					
	6 week, 6 lessons	\$ 102	\$ 17		
	10 day intensive	\$ 170	\$ 17		
Cressy - Outdoor Pool - swimming lessons are an external contractor who leases the pool					
	10 day intensive - January only	\$ 145	\$ 15		2022/23 price
	45 min lesson		\$ 15		2021 price
Indoor Swim Schools					
Just swim - Launceston	30 min lesson		\$ 19	\$ 15	
Launceston Swim School	30 min lesson		\$ 18		
Launceston Aquatic Centre	30 min lesson		\$ 19		
Burnie Aquatic Centre	30 min lesson - per term pricing	\$ 180	\$ 18		
Clarence Aquatic Centre	30 min lesson		\$ 21	14.2/12.20	Concession for aquafit
Hobart Aquatic Centre				\$ 19.5	
Kingston				\$ 17	
Scottsdale Aquatic Centre					
	6 week, 6 lessons	\$ 114	\$ 19		
	10 day intensive	\$ 190	\$ 19		
	1 week 3 lesson intensive 6mth to 3yrs	\$ 57	\$ 19		
	Aqua Aerobics		\$ 19		
Scottsdale Aquatic Centre - recommended					
	6 week, 6 lessons	\$ 102	\$ 17		
	10 day intensive	\$ 170	\$ 17		
	1 week 3 lesson intensive 6mth to 3yrs	\$ 51	\$ 17		
	Aqua Aerobics - Standard / Concession			\$17/\$15	
Ticket Play offered as opposed to concession rates	<ul style="list-style-type: none"> ^ - Eligible for 5-18yr olds - Centrelink healthcare card or pensioner concession or be in out of home care <p>Ticket to Play provides two vouchers worth up to \$100 each towards club membership fees for children aged 5-18 years who are listed on a Services Australia Health Care or Pensioner Concession Card or are in Out of Home Care. Vouchers can be used at two different activity providers, or both can be used at one activity provider.</p>				



dorset
C O U N C I L

2023/24

Annual Plan

September Quarter Update

Introduction

Councils are required each financial year, under Section 71 of the *Local Government Act 1993*, to prepare an Annual Plan.

The Annual Plan outlines Council's high level actions for the year and is directly linked to Department Plans that identify tasks associated with meeting the Actions outlined in the Annual Plan and strategies identified in the Strategic Plan.

The Annual Plan Quarterly Update provides Council and the community with an update on progress with the Annual Plan. Where tasks have been identified for a quarter, a status of Achieved, In Progress or Not Achieved are assigned.

As at 30 September 2023, the following results were achieved:

	September Quarter
Achieved	4
In Progress	-
Not Achieved	-
Compliance Score	100%
Deferred	1

Priority Action Plan

The following pages of the Annual Plan provide details on additional goals, outcomes and objectives that the Council is seeking to undertake and complete as priority activities in addition to its annual business.

No.	Activity	Strategic Plan #	30 September	31 December	31 March	30 June	Responsibility
1	Dorset Strategic Plan	-				Commence annual review of Strategic Plan	Governance
2	Waste Management	14.2, 14.4		Planning for State Government Container Refund Scheme	Prepare draft Green Waste Strategy		Governance / Infrastructure
3	Asset Management	10.3			Review and update Stormwater Asset Management Plan		Infrastructure / Finance
4	Scottsdale and Derby Structure Plans	7.2			Finalise Structure Plans		Regulatory
5	Austins Road Residential Development	7.2				Preparation of Master Plan and Stage 1 Subdivision plan	Regulatory / Infrastructure
6	Scottsdale Light Industrial Rezoning	7.2				Complete draft Master Plan for industrial rezoning at Scottsdale Depot site	Regulatory / Infrastructure
7	Bridport Structure Plan	7.2				Prepare draft Structure Plan	Regulatory

No.	Activity	Strategic Plan #	30 September	31 December	31 March	30 June	Responsibility
8	Derby Master Plan	7.2				Commence draft Master Plan for Derby	Regulatory / Governance
9	Blue Derby Transition	9.4		Update to Council		Update to Council	Governance
10	Municipal Revaluation	10.4				Application of new property valuations and review of Council's Rates Strategy	Administration
11	Rail Trail Project	8.2		Update to Council		Tender approved and project works commenced	Governance / Regulatory / Infrastructure
12	Road and Footpath Representation Committee/Panel	9.2, 9.3		Establish a representative panel of industries to assist with future planning and review of Council's Road Plan			Governance / Infrastructure
13	Projects of Significance	8.3, 9.3			Establish a Project of Significance report to ascertain grant funding / advocacy / election promise priorities		Governance
14	Payment of Councillors Expenses and Provision of Facilities (No.2)	10.1	Review, adopt and implement ACHIEVED				Finance / Governance

SEPT 1/4 NOTE: The Policy was reviewed and adopted by Council at the 21 August 2023 Council Meeting.

No.	Activity	Strategic Plan #	30 September	31 December	31 March	30 June	Responsibility
15	On Street Dining, Vending & Signage Policy (No.3)	9.1, 10.1	Review, adopt and implement ACHIEVED				Regulatory
SEPT 1/4 NOTE: <i>The Policy was reviewed and adopted by Council at the 18 September 2023 Council Meeting.</i>							
16	Sponsorship of Sporting and Cultural Representatives Policy (No.4)	4.3, 10.1				Review, adopt and implement	Governance
17	Contribution of Boundary Fences Policy (No.7)	10.1		Review, adopt and implement			Infrastructure
18	Risk Management Policy (No.9)	10.1, 10.2	Review, adopt and implement Policy Review and implement Risk Management Framework DEFERRED				Administration
SEPT 1/4 NOTE: <i>This activity was deferred to the June 2024 quarter at the 18 September 2023 Council Meeting.</i>							
19	Electronic Communications Policy (No.16)	10.1, 13.1				Review, adopt and implement	Administration
20	Customer Service Charter (No. 18)	10.1, 13.4		Review, adopt and implement			Administration
21	Code for Tenders and Contracts Policy (No.31)	9.1, 10.1	Review, adopt and implement ACHIEVED				Infrastructure / Administration
SEPT 1/4 NOTE: <i>The Policy was reviewed and adopted by Council at the 21 August 2023 Council Meeting.</i>							

No.	Activity	Strategic Plan #	30 September	31 December	31 March	30 June	Responsibility
22	Public Interest Disclosures Act 2002 Procedures (No.32)	10.1, 13.1				Review, adopt and implement Model Procedures as provided by Ombudsman Tasmania	Governance / Administration
23	Personal Information Protection Policy (No.36)	10.1	Review, adopt and implement ACHIEVED				Administration
SEPT 1/4 NOTE: <i>The Policy was reviewed and adopted by Council at the 21 August 2023 Council Meeting.</i>							
24	Social Media Policy (No.44)	5.1, 10.1			Review, adopt and implement		Governance / Administration
25	Wood Encouragement Policy (No.54)	9.1, 10.1		Review, adopt and implement			Governance
26	Bridport Seaside Caravan Park – Annual Site Policy (No.56)	10.1		Review, adopt and implement			Governance / Administration
27	Managed Grassland Fire Risk Abatement Policy (No.57)	10.1		Review, adopt and implement			Regulatory

APPROVED VARIATIONS TO THE 2023/24 ANNUAL PLAN

Item 126/23 – 18 September 2023 Council Meeting

That Council

1. *Defer Activity 18 “Risk Management Framework and Policy” to the June 2024 quarter.*



**Annexure B: Confidentiality Agreement
Director/Employee/Contractor**

Name:

Foundation Role:

Email:

Phone:

Definition of Confidential Information:

Information of the Blue Derby Foundation Limited, its commercial partners, sponsors, and other related parties, associates, members and contracted parties, and any other Information indicated as confidential at the time of disclosure which relates to business development, product development, marketing, business operations, research and development, financial operations including pricing, human resources management, and general know-how.

Confidential Information includes information contained in membership databases and client lists.

Terms and Conditions of Disclosure:

1. I agree to only use Confidential Information for the purpose of carrying out my role with the Foundation (unless the Foundation consents to any other use).
2. I agree not to disclose, reproduce, publish, copy, or deal with Confidential Information in any manner whatsoever except in the authorised and proper exercise of my role with the Foundation.
3. I agree not to use or attempt to use Confidential Information for my own use or the use or benefit or advantage of any other person or corporation, either during the term of my role with the Foundation or at any time thereafter.
4. I have read and understood the Foundation’s Code of Ethical Conduct and agree to act at all times in accordance with that Code.
5. I understand I personally do not have any right in respect of any Foundation intellectual property and am only permitted to use such property to the extent required to perform my role with the Foundation.
6. I undertake to notify the Chair of the Foundation Audit and Ethical Conduct Committee if I am uncertain whether information is Confidential Information and to treat any information as confidential until advised otherwise by that committee.
7. If I am required by law to disclose any Confidential Information, I agree to notify the Foundation as soon as I become aware of a requirement to disclose any of the Confidential Information and prior to disclosure.
8. I understand all Confidential Information remains the property of the Foundation or its commercial partners, sponsors, and other related parties, associates, members, and contracted parties and will be returned to the Foundation , or destroyed, upon request. I undertake to provide proof of destruction to the Foundation if requested.
9. I acknowledge that any intellectual property created by me in my work for the Foundation becomes the property of the Foundation on creation and forms part of Foundation’s Confidential Information, and I will do all things required to vest such ownership in the Foundation.
10. I agree to ensure any agents or sub-contractors with whom I negotiate on behalf of the Foundation which involves access the Confidential Information signs a confidentiality agreement prior to disclosure.
11. If I am in default under this agreement, I understand I may be required to indemnify the Foundation against any liability or loss including reasonable legal fees and other costs arising from any such default.
12. I agree that any proceedings arising out of this Agreement must be commenced in Tasmania.

EXECUTED this day

On behalf of Blue Derby Foundation Limited:

Director/Employee/Contractor:

Signed

Signed

Name

Name

Position.....

Position

Annexure C: Declaration of interests

DECLARATION OF PERSONAL FINANCIAL AND OTHER INTERESTS

This declaration of interests has been prepared for submission to the Foundation's Audit and Ethical Conduct Committee by:

Name:

Address:

Date:

And I hereby declare as follows:

1. I am aware of my responsibilities as a Director of Blue Derby Foundation Limited particularly with relation to the Corporations Act 2001 and the Australian Charities and Not-for-profits Commission Act 2012.
 2. I have read and understand that the Foundation's Code of Ethical Conduct requires me to:
 - a. act with honesty and integrity
 - b. to take reasonable steps to avoid conflicts of interest, real, potential, and perceived, and to declare any conflicts
 - c. to not disclose confidential information as described by the Code, and
 - d. to not make any improper use of information or my position for personal gain or the unfair benefit of others.
 3. I undertake to inform the Chair of the Foundation's Audit and Ethical Conduct Committee of any changes in my personal interests that might affect my responsibilities as a Director of the Foundation, and if required, provide an amended disclosure form to reflect such changes.
- I have no material personal interests to declare.
 - I have declared my material personal family interests on the following page.

Action required, if any:

Director's Signature:

Chair's Signature:

Date:

Annexure C: Declaration of Material Personal & Family Interests

List any material interests which could or could be seen to influence the decisions you are taking or the advice you are giving.

Interests and relationships that may need to be disclosed include real estate investments, shareholdings, trusts or nominee companies, company directorships or partnerships, other significant sources of income, significant liabilities, gifts, private business, employment, voluntary, social, or personal relationships that could or could be seen to impact upon your responsibilities. Note: only interests RELEVANT to your responsibilities with the Blue Derby Foundation need to be listed.

Material Personal Interests

Material Family Interests

Declared by me this day:

Date:

Signature: