

Dr John Gray
22 Black Point Drive,
BLACK POINT S.A. 5571



29th August, 2017

Ms. Felice D'Agostino,
Partner,
Norman Waterhouse,
Level 15, 45 Pirie Street,
ADELAIDE S.A. 5000

Submission to Norman Waterhouse, Lawyers, re: LGA Section 270 – Review of Councils decision regarding Black Point Land Revocation.

Dear Ms. D'Agostino,

I provide the following individual submission in relation to the appointment of Norman Waterhouse, Lawyers, by YP Council under Section 270 of the LGA, 1999 seeking review of Councils decision re Revocation of the community land classification over lots 201, 202, 203 & 204 at Black Point.

I have been holidaying at Black Point since 1961 and lived there full time since 2008. I have a good knowledge of the Peninsula and Black Points history and development. I have provided general medical practitioners services for every doctors' practice on Yorke Peninsula for 20 years and have treated many of the local residents and visitors. I have provided 2 submissions and spoken before Council, (**attachment 1**) have attended every relevant Council meeting, have read every publically available Council Agenda and Minute document including the 51 submissions and written to every Councillor throughout the land revocation process. All documentation relating to my involvement in the community engagement process is on the public record on Councils website. I believe these experiences and knowledge enable me to provide you with credible information in relation to Councils proposal to sell our community land for their financial gain.

Current Lots 201, 202, 203 & 204 are the shack sites adjoining those who held crown leases on shack sites 19/20, 72, 90/91/92 and 119/120/121. These Lots were reserves created during the freeholding of Black Point in 1996 and were vested to Council to be held in trust for the future benefit of the local community and visitors to Black Point. They provide beachfront green open spaces that act as natural wood lot buffers between the shacks and provide access and sea views to the beach. These reserves, (parklands) should be developed for the benefit of the local community and visitors to Black Point and not sold by Council for a short term financial gain.

I have attached summaries of the 51 submissions and petition (**attachment 2**) which demonstrates the overwhelming community opposition to Councils proposal. Approximately 97% of a 60% ratepayer sample is opposed.

I have also attached copies of 12 articles which have appeared in the local newspaper (County Times) which also demonstrates community opposition (**attachment 3**).

I find it almost incomprehensible how 7 elected Councillors voted to revoke the classification of our community land and to seek Ministerial approval so that the land could be sold for Councils financial gain. There appears to have been a lack of due diligence and corporate governance in arriving at their decision. These Councillors have either not read or comprehended or worse, ignored their own Council Policy documents and also the relevant Section 194 of the LGA pertaining to the Revocation of Classification of Community Land. They haven't listened to the affected communities concerns and their decision may have been influenced by information fed to them by an administration seeking to achieve its desired outcome. Some of the information provided by Administration to Council has been misleading (e.g. that they only wish to sell 2.4% of the total reserve land when in fact this represents 100% of the beach front land in the bay at Black Point), some false (e.g. Administrations claim that there are public facilities already available in the Caravan Park for public use, yet Councils own signage states that the facilities are available for paying campers only) and Administrations 8 key issue summary (**attachment 4**) is dismissive of ratepayers real concerns.

I have concerns regarding the process and outcome.

1. I cannot find any report from Councils delegated Town Planner, David Hutchinson regarding the impact on water and sewerage infrastructure in relation to creating 9 additional residences. Yet interestingly in the recent sub-division of Lot 3003, the 15 blocks were excluded from connection to the common effluent system and are required to have their own individual septic treatment systems.
2. Council Policy/Community Engagement Policy P0057. (**attachment 5**)
Council have clearly not followed their own policy. Their own documents state that Lots 201 and 202 were level 2 consult, and Lots 203 and 204 were level 3 participate. (Attached YP Council Agenda document 8 February 2017, pages 186 to 189 and pages 222 to 225) (**attachment 6**) Given the high level of interest in this matter I would suggest that the entire process should have been level 3 participate. That being said a level 3 process did not occur regarding any of the Lots. The "people were not involved so that Council could understand their needs, concerns and aspirations", the community was not asked what they would like to see happen, nor able to provide input as to how Council should proceed, there were no facilitated workshops or focus groups, there were no community forums or public meetings, there was no involvement with the representative body, the Black Point Progress Association and there was no survey of affected ratepayers. All of the above are required under Councils own Level 3 participate Community Engagement Policy. Council controlled the Community Engagement Process and received submissions but provided no opportunity for anyone other than Councillors and Council Staff to have any real input into the process.
3. Community Engagement Plan (**attachment 7**)
"Elected members to make decision based on any submissions received from the extended community engagement process". That certainly didn't happen. They were ignored.

4. Council Policy/ Disposal of Land & other Assets Policy P0072. (**attachment 8**)
Council's proposal to sell the 9 Allotments now would be financially negligent and not achieve true market value for the rate payers' assets as this would only be achieved on an open market when current crown lease holders' properties have been removed and the Lots sold unencumbered of buildings and land management restrictions.
5. Council Policy/Risk Management Policy P0091 (**attachment 9**)
Council have provided no risk assessment in relation to the financial compensation that many of the disaffected authors of submissions have indicated that they will pursue if sales were to proceed and negatively impact on their property values, beach access and sea views for which they have paid a premium. The original developer, Prodec, have also indicated they will seek compensation as they feel that Council obtained these blocks under duress during the original freeholding.
6. Councils' decision does not appear to comply with the LGA 1999. Sections 193 & 194 Community Land Classification. 193 (2) states "before the Council resolves to exclude land from classification as community land under Sub-section (1)(a), it must follow the relevant steps set out in its public consultation policy. It hasn't.
Revocation of Classification of Land as Community Land, 194
Sub-section (2)(a)(iv) which states "an assessment of how implementation of the proposal would affect the area and the local community" nor does it appear to comply with Section 194 (2)(b) "the Council must follow relevant steps as set out in its public consultation policy. (**attachment 10**)
7. LGA 1999, Section 63 (1) Code of Conduct of Council Members (**attachment 11**)
Have the 7 elected members who voted in favour of revocation complied with this Code? Part 1 Principles:-
 1. Higher Principles – "to discharge their duties conscientiously to the best of their ability, and for public not private benefit at all times". "Will uphold the values on honesty, integrity, accountability and transparency, and in turn, foster community confidence and trust in Local government". "Council members are committed to considering all relevant information and opinions giving each due weight".
 2. Behavioural Code –
 - 2.2 "Act in a way that generates community trust and confidence in the Council".
 - 2.6 "Comply with all Council policies, Codes and Resolutions".
 - Conflict of Interest
 - 3.13 "Council members must be committed to making decisions without bias".
8. Council Policy/Internal Review of a Council Decision P0037 (**attachment 12**)
4.4 Reviewer's Role
It states "the role of a reviewer is to review the decision in question to ensure that the decision maker complied with the following requirements and made the best possible decision in the circumstances". I don't believe that all relevant matters were considered nor were existing policies adequately considered and applied.

Based on the evidence and merits and lack of compliance by Council with its own policies and the Local Government Act, 1999 I believe that Councils decision is in error and should be overturned.

Yours faithfully,

J R Gray

Dr John Gray

Cc Andrew Cameron CEO YP Council

Revocation speech 10th May, 2017

I would like to acknowledge and thank you Mayor Agnew, Councillors and staff for the opportunity to talk to you tonight regarding the proposed revocation and sale of land at Black Point and for allowing me sufficient time to do so. My name is John Gray. I have been holidaying at BP for 55 years and have lived there full time for the last 9 years. I have been and am once again a Committee member of the BP representative body now known as the Black Point Progress Association. I am a medical practitioner that has provided services to every medical practice on the Yorke Peninsula for the last 20 years and have had the opportunity to meet many of the residents and visitors. I have a good knowledge of BP's history and its development and of the views of the locals regarding your proposal. To ignore history or to fail to listen before acting is perilous.

The 4 Lots under consideration are the 9 sites behind those who held those foreshore crown leases. These reserves were paid for by the residents of BP as part of the original sub division process and then entrusted to council to be held for the future benefit of the community and visitors to BP. They are beach front green open spaces and act as natural wood lot buffers between the shacks. They provide access and sea views to the beach for both residents and visitors. Should the proposal to sell off these "Parklands" proceed, then Council would need to consider the impact on the disaffected stakeholders. I feel that they should be developed for the benefit of the local community, tourists and day visitors to Black Point. This was the original intent. They should not be under sold for a short term financial benefit to council.

You have listed 9 key issues but neglected others that are important to the stakeholders. Regarding your key issues I make the following comments.

Point 1.

It would be financially negligent for council to sell these lots now. It would only be after the extinguishment of the current crown leases with the blocks cleared that true market value could be achieved. The revocation process has been instigated at the request of a few of the current crown lease holders desiring to purchase a freehold site. On 8 of these 9 sites, the crown lease holder either declined or did not respond to the opportunity to freehold the site within the allotted time frame. Why, now some 20 years later, should they be entitled to a windfall capital gain at the expense of others? There are already at least 10 freehold blocks of land for sale at BP

that these crown lease holders could purchase. In fact 3 of these original crown leaseholders have purchased a freehold site including 1 who now requests to also purchase the site behind his crown lease.

Point 2.

I disagree with your statement that “open space reserves have minimal value”. They have significant value as parklands and for the unencumbered views they provide for residents at BP. You have overlooked residents concerns regarding visual amenity, the premium paid on their blocks and compensation they may seek if disaffected.

Point 3.

Councils comment that “Council’s development plan will ensure that any further development will be in keeping with the character of the area, if the revocation were to proceed” shows that Council does not understand that the loss of ones view would negatively impact on the affected property owners and would devalue their properties. The submission from Mr. Brian Harmer (who was Secretary of the BPPA in 1996 at the time of freeholding) confirms that as part of the freeholding Council required provision of these reserves which were to provide public access to the beach and views for future shack owners. It was acknowledged that these blocks would not be fully utilized until after the crown leases had expired and the shacks removed.

Point 4.

Linking revocation and sale of **all allotments** to fund boat ramp issues is heavy handed and misses the point. It has caused significant distress to BP residents. These are two separate issues which need to be dealt with by separate processes and on their own merits.

Point 5.

Your comments and I quote “It is noted that the caravan park area contains a BBQ and tables with chairs for public use” is not only false but again misses the point. Caravan Park facilities are for caravan park residents only. **YP Council has erected signage clearly making the point that the facilities are for paying campers only. In fact I took a photo of your sign yesterday.** Visitors use of caravan park facilities is frowned upon. Plus you need a key code to use the showers!

Point 6.

I suggest that an alternative beachfront reserve with facilities including parking, BBQ, picnic tables, shelter, toilet and showers would encourage tourists and visitors to Black Point and the Peninsula including those 'walking the Yorke'

I believe that the unencumbered site 20 (part lot 201) would be an ideal location for such facilities. It could rectify the injustice afforded to the family of Des Lodge and acknowledge one of the areas past councillors and farmer by naming it "The Des Lodge Reserve". Funding arrangements could be sourced in partnership with the local community and council for the benefit of all.

This was the 9th site on which the crown leaseholder (Des Lodge and his family) did not purchase the freehold land but this was not because they declined or failed to respond in a timely manner. It was because council in error deemed that the crown lease had been surrendered, despite the fact that the family had paid all rates and crown lease taxes up until the freeholding in 1996. The family were astounded and expressed many other emotions when they learnt that as freeholding was being offered, their site was not available. It had in fact been converted into part of lot 201 reserve. Rather than seeking compensation or wishing to profit from this injustice, the Lodge family supports my view.

Other issues not addressed are:-

1. The overwhelming local communities vote against the proposal.
2. The future provision of a foreshore community facility as more and more residents become permanent has been ignored.
3. That the sale would limit beach usage by non residents and only reinforce the feeling by some that BP is for the elite only. Sure walkways would be provided but who would set up for the day on the beach in front of an existing shack.

Notwithstanding the above, the most obvious reason your revocation proposal should not proceed is that it lacks community support. In fact, looking at the 38 individual submissions and the single petition reported on your web site,

means that approx. 60% of BP residents have responded, with an overwhelming >97% of respondents voting against your proposal.

I have also corresponded with our State Member (Mr Steve Griffiths) regarding the proposed revocation at Black Point. He states on the 23rd December, 2016 and I quote "it is the opinion of the community that has to drive the decision made". "With now having read the BP Progress Association review, as a representative body, I am working on the basis that YP Council will **NOT** support the proposal". (end of quote).

Personally, I understand and acknowledge Council's right to review their land assets and to create management plans for community land. I have spoken with and listened to many of the affected stakeholders and after their feedback I have come to the conclusion that none should be sold.

The Local Government Act, 1999, Section 194-Revocation of Classification of Land as Community Land, States:-

1. "Community Land cannot be revoked unless the Minister approves the Revocation" and
2. "requires an assessment of how implementation of the proposal would affect the area and the local community".

Sale of the community land reserves at Black Point would clearly be negative and divisive for both our local community and visitors, both now and in the future.

No informed Minister would sign off on this proposal.

If council requires additional funds to pursue its road renewals and other projects then a look at Section 207, Register of Community Land, will show you that Council has vast land assets that they could consider for revocation and sale.

You have engaged your community and they have spoken. You are now in a position to make an informed decision regarding the land revocation.

I respectfully request that Council listens to the community and votes **AGAINST** the revocation proposal tonight, by voting for recommendation B on all 4 lots. Prolonging this process or voting otherwise will harm the good relationship that the community enjoys with Council.

Thank you.

Do you have any questions?

Dr John Gray

8 February 2017

Council Agenda documents

Attachment 2.

Summary for initial submissions received.

Black Point Revocation of Community Land - Submissions Summary					Attachment 1
	Name/Resident	Black Point property	Property in the vicinity of	Summary	For/Against
1	Kim Lodge	A150	A201	Is in agreement with Dr Gray's submission. Disappointed and against the revocation proposal. Will seek compensation if revocation proceeds.	Against
2	Dr John Gray	A22	A201	There are negative impacts on selling all the properties. Outlines a detailed solution/way to move forward which includes - retaining A201 & A202 as reserve, 1 site on A203 & A204 as reserves, transfer ownership of one site on A201 to BPPA for future community facility; and create fund from 25% of land sales for BP projects. Sees the revocation as a short sighted cash grab by Council. Request to appear before Council.	Against
3	Kym Woolford	A46	A201/202	Provides background history of reserves with past plans of BP & notice from BP Shackowners Assoc. dated 15/2/1996. The reserves are a community asset vested to Council. Strongly asks Council to remove the revocation application for all allotments. Is willing to appear before Council.	Against
4	Vin & Deb Callery	A1072	A202	A1072 is behind A202. Are not in favour of the revocation. Council has an obligation to provide adequate and safe beach accesses and if revocation went ahead this would be compromised. Revocation not in the best interest of the community.	Against
5	Andrew Derrington	A372	A202	A372 is in front of A202. Was never offered freehold of the adjoining allotment due to it being left as a reserve. Due to size of the block it should not be included in the proposal. Strength of the community will depend in part on limiting further development. Concerned that the sale of A202 will significantly affect the enjoyment of the amenity and potentially interfere with the enjoyment of his shack.	Against
6	Robert and Janet Potter	A404	A202	A404 is behind A202. Assured A202 could not be further developed nor would beach access be restricted which reflects in the increased land value. Does not support the revocation as the proposal will potentially restrict their sea views and beach access. There may be compensation claims directed at Council if revocation is approved. Strongly oppose.	Against
7	Graham Derrington	A407	A202	A407 is behind A202. Of the understanding that A202 was designated as beach access and public carpark. Feels there is already inadequate car parking and notes there is currently signage in front of shacks stating that vehicles cannot park on private property, indicating a lack of parking space.	Against

Black Point Revocation of Community Land - Submissions Summary					Attachment 1
	Name/Resident	Black Point property	Property in the vicinity of	Summary	For/ Against
8	Andreyev Lawyers on behalf of Geoffrey Stock	A408	A202	A408 is behind A202. Council has misled client and the Black Point community about the status and continued land use. Believed that they would always have access to the beach and unobstructed views. It was this expectation, reinforced by the Council's representations that enabled the developer to successfully conclude the development and the sale of the allotments. Requests to appear before Council.	Against
9	Paul Ware	A409	A202	A409 is located behind A202. Of the belief that A202 would become a carpark with clear access to the beach. Current beach access is very small and not practical. Strongly objects to the sale of the block because they want a decent beach access. Requests to appear before Council.	Against
10	Rodney and Kay Fox	A390	A203	A390 is in front of A203. Are pleased with the revocation proposal. 2/12/2016 - Kay contacted the office to say that she is only in favour of the revocation if she is given the first right to purchase one of the allotments.	Maybe
11	Arch Thorne	A391	A203	A391 is in front of A203. Applauds the idea of the revocation. Money raised would benefit rate payers and make the boat ramp safer. There would be no additional strain on amenities as they are currently using them. Would like to buy one of the allotments and believes current lease holders should be given the first right to purchase the allotments. In favour of the revocation.	For
12	Ian Bonnin	A392	A203	A392 is in front of A203. Insufficient information to make decision if they support or oppose revocation. Would certainly oppose the revocation if it meant any risk to the security of their current tenure and access to life tenure. However, if subdivided may be interested in purchasing land depending on a number of factors. Addresses issues raised by BPPA, which author does not agree with.	Not sure
13	John Morgan	A502	A203	A502 is behind A203, Totally against revocation proposal. Purchased his land in 1999 with the belief that these allotments were reserves and would stay that way. Land value will drop without walkway access to the beach. A very nasty precedent will be created by the proposal which will spoil the amenity of Black Point. Goes against many land principles detailed in Council's development guidelines.	Against

Black Point Revocation of Community Land - Submissions Summary					Attachment 1
	Name/Resident	Black Point property	Property in the vicinity of	Summary	For/ Against
14	Karren and Warren Corbett	A503	A203	A503 is behind A203. Council has never maintained the properties therefore they look to the public, as being private properties. Suggests that Council collaborate with BP Progress to rehabilitate the reserve for environmental, recreational and leisure pursuits. Paid a premium for A503 with knowledge that A203 was to be created into a reserve therefore A503 would be severely devalued if the revocation went ahead. Is a desperate measure to raise revenue therefore the revocation is not justified. Requests to appear before Council.	Against
15	Rob and Greta Lake	A91	A203	A91 is behind A203. Believe they paid a premium for their land with knowledge that A203 would be created into a reserve in the future. Lack of development & access of reserve is reason for underutilisation. An open reserve would provide parking for visitors and easier access to the beach. Creation of open space creates a community meeting place for existing property owners to congregate & children to play. The revocation is a quick 'cash grab' without consideration by Council as to how it will affect the existing BP community. Strongly objects & will consider legal position if revocation is approved.	Against
16	George Kourlis	A505	A203	A505 is behind A203. Is against the revocation and has concerns about losing beach accesses and community space. It is common sense to preserve the allotments as was agreed on when development occurred. A201 - sell one block only. A202 - leave as is. A203 & A204 - sell one block only from each allotment Remaining lots could be cleared for open car parking. In the process of building at Black Point and not confident anymore due to the mistrust of Council. Requests to appear before Council.	Against
17	David Hindmarsh	A121	A204	A121 is behind A204. Totally disagrees with revocation. Revocation will put further stress on water & sewerage services and amenities. Paid a premium price for the property as it is situated behind a reserve & has sea vistas so sale of reserve will reduce the value of A121. Will be seeking compensation from Council if revocation goes ahead. If he knew the revocation was going to happen then he would have purchased a property in Wallaroo instead.	Against
18	Wayne Stringer	A419	A204	A419 is in front of A204. Submission states A119 however property is A419. Expresses interest in purchasing A204.	For
19	Diane McGrath	A420	A204	A420 is in front of A204. Is upset that a two storey dwelling could potentially be built behind her shack. Request to purchase land behind her shack approx. 4 years ago was refused. Raises privacy concerns of buildings behind her shack and that beach access could be compromised.	Against

Black Point Revocation of Community Land - Submissions Summary					Attachment 1
	Name/Resident	Black Point property	Property in the vicinity of	Summary	For/Against
20	The Fire Service Fund	A604	A204	A604 is behind A204. The Funds house is single storey and substantial drop in value of their property would be certain if A204 was sold & up to 3, two storey homes were built, blocking their view across A204. The Fund urges Council not to revoke the land. Property is used for the exclusive use for the Rest & Rehabilitation of SA MFS employees & families.	Against
21	Cosimo Cardone	A606	A204	A606 is behind A204. The revocation may consequently obstruct views & devalue his property. When A606 was purchased he was told that nothing would be built in front of A606, on Crown land. Strongly opposes the revocation at Black Point.	Against
22	PD & BJ Sanders, JK White, BJ Dare, MWD Sanders	A122	A204	A122 is next to A204. Against the revocation. Understanding was that several parcels of land would remain community land to ensure permanent public access to the beach. If the revocation was to go ahead they believe the sale of the freehold allotments should be offered to the current shack owners who have the lease on the beach side of the allotments at a similar price to what they would have paid 20 years ago.	Against
23	S T Greenslade & V F Hodges	A124	A204	Adjacent to A204. Against the revocation. Revocation proposal is a contradiction to how the freeholding plans were proposed & presented to shack owners at the time.	Against
24	Graham Dickson	A607	A204	Writing on behalf property owners who have signed a petition. Believes the reserve classification designated, should remain. Ratepayers behind the reserves, feel a revocation is a betrayal of the conditions that they purchased their land under. The petitioners reserve the right to appear before Council.	Against
25	Black Point Progress Association		All	Overwhelming response from BP survey, for opposition to the revocation. Provides history of the four reserves. Unable to support the revocation proposal. Feels that Council has breached the trust of the BP community, would be diminishing public space & there is insufficient infrastructure for development. Council is opportunistic with no regard for community interest. Will pursue legal counsel if Council chooses to ignore the issue and concerns raised. Further letter received requesting to appear before Council.	Against

Black Point Revocation of Community Land - Submissions Summary					Attachment 1
	Name/Resident	Black Point property	Property in the vicinity of	Summary	For/ Against
26	Burke Urban		All	<p>Provides a precise account on the background & process of the creation of the reserves.</p> <p>Councils strong desire to open the beach to the public. This enabled car parking areas and public access, sufficient space and orderly breaks in the free-holding lots so that the long linear nature of the shack environment would be broken, with the objective of making the area more public friendly.</p> <p>Creation of the reserves resulted in the inability to offer freeholding opportunities for some future purchasers. Provides comment on Council's reasons for the proposed revocation in particular on the statement on interest expressed by adjoining properties, the current use of the reserves by shack owners & the reserves having little or no impact on future recreational opportunities.</p> <p>Requests to appear before Council.</p>	Against
27	Petition			104 signatures tabled at the 14th December 2016 Council Meeting	

2nd Round of submissions.

Attachment 2.

Included in Council's agenda documents re meeting of 10th May 2017



Agriculturally rich - Naturally beautiful

Proposed Revocation of Community Land – Black Point Submissions Received from Extended Community Engagement Process

13 Submissions received from authors of previous submissions

(1 submission author has nominated not to have their submission made public)

12 New submissions received from Black Point Property Owners (all against)

Submissions Summary From Extended Consultation Process - Proposed Revocation of Community Land - Black Point		
SUBMISSIONS RECEIVED FROM AUTHORS OF PREVIOUS SUBMISSIONS		
Name/Resident	Summary	For/ Against
1 Kym Woolford	Feels that the Key Issues and Council Comments document appears to have a dismissive nature towards the community concerns.	Against
2 Dr John Gray	Makes comment on 9 Key Issues. Attaches email correspondence between himself and Member for Goyder, Steven Griffiths regarding the community views of the proposed revocation.	Against
3 Karren and Warren Corbett	Finds the Key Issues and Council Comments document very simplistic and lacking in strong reasoning to defend the obviously strong objections by a majority of shack owners and invested stakeholders at Black Point.	Against
4 John Morgan	Totally against the proposed revocation, particularly Allotment 203. A very nasty precedent will be created by this proposal which will spoil the amenity and goes against Councils land principles as detailed in Councils development guidelines.	Against
5 Geoff Stock	Remains opposed to the proposed revocation. Requested for submission to remain confidential.	Against
6 The Fire Service Fund	Key Issue number 4 does not adequately address The Funds concerns. The fear is that should the revocation proceed, the amenity of The Funds single storey property will be 'built out' in front of the property. They were not permitted at the time of building to build a two storey property. Would like confirmation if Council intends to sell the land to finance the Black Point boat ramp walkways.	Against
7 KM, RW, AG, LG, DP Fox	The family is delighted to hear that Council is considering the proposed revocation of community land, making the land adjoining their leased site possibly available for purchase.	For
8 Arch Thorne	Feels that the Key Issues and Council Comments document has adequately addressed the identified key issues. However in relation to Key Issue number 1 - would like to see the sale of the Allotments negotiated with the persons/residents who have pre-existing interest in the land. Supports the proposed revocation.	For
9 Rob and Greta Lake	Are extremely concerned by Councils apparent intent to continue to push for the revocation despite overwhelming opposition to the revocation as outlined by the Black Point Progress Associations survey whereby 92% of the community were opposed to the revocation.	Against
10 George Kourlis	Addresses the key issues from the Key Issues and Council Comments document - Mr Kourlis would like the opportunity to purchase Allotment 203 to transform the allotment into a recreational park that will benefit the community and other stakeholders.	Against
11 Roger Sexton - Karibu Pty Ltd	The Council should not view Black Point as a 'hollow log' which it can use as a cash grabbing vehicle to fund its excessive expenditures. The Council, like all small businesses should learn to live within the constraints of its annual budget and not seek to liquidate lands reserved for community use at Black Point.	Against
12 Kim Lodge	Disappointed and against the revocation proposal. If the revocation proceeds the Lodge family will be looking for some form of compensation.	Against
13 Black Point Progress Association	The BPPA reaffirmed that they remain strongly opposed to the proposed revocation of community land. Concerns are expressed about the Council's response to the community engagement process.	Against
NEW SUBMISSIONS RECEIVED		
1 Brian Hamer	Mr Hamer concludes that present Councillors and executive staff are not aware of the long term purposes that the former DCYP required the allotments to be set as reserves back in 1994. If Council needs additional revenue then Council should increase ordinary rates.	Against
2 Tom Germein	Selling the community land at Black Point to fund the boat ramp walkways should not be linked. Against the proposed revocation, it's a money grab by Council.	Against

**Submissions Summary From Extended Consultation Process - Proposed Revocation
of Community Land - Black Point**

SUBMISSIONS RECEIVED FROM AUTHORS OF PREVIOUS SUBMISSIONS

Name/Resident	Summary	For/ Against
3 Richard and Shirley Lindner and Family	Precious spaces are already being lost around the Maxine Hawke Reserve. These spaces create a necessary balance in this small fragile environment. Does not support the proposed revocation.	Against
4 Jean Wheare	Is opposed to more settlement. Does not support revocation.	Against
5 James Vandeppeer	A short term money grab in the sale of allotments will have long term implications for the wider Yorke Peninsula community to enjoy the amenity of Black Point.	Against
6 Dave and Jen Wright	Would like the proposed revocation reconsidered. Is against the proposed revocation.	Against
7 Neil and Jenny Brown	From the past submission and the petition it is obvious that the majority of shackowners are against the revocation. Is against the proposed revocation.	Against
8 Adrian Sutter	Objects to any of the allotments being sold by Council for future development. They should be retained for the purpose they were intended for.	Against
9 Toby Hill	This land was put aside for community use and access during the freehold agreement. Is against the proposed revocation.	Against
10 John McFarlane	Is against the revocation of community land at Black Point as the location is already chronically over developed.	Against
11 Michael Gee	The proposed revocation is a breach of trust and must not occur.	Against
12 Sally Ann Agars	Believes it was a condition of the Council during the free-holding process to leave the vacant land to provide public access. Against the proposed revocation.	Against

Black Point land sale proceeding

Jenny OLDLAND
JOURNALIST

YORKE Peninsula Council is pushing ahead with plans to sell community land at Black Point.

Motions to proceed with and seek ministerial approval for the revocation of community land classification on four allotments were passed at last Wednesday night's meeting.

During an extensive public consultation period, 39 submissions plus petitions were received as well as a number of presentations made to council meetings by Black Point residents.

If ministerial approval is granted, the decision about the best option to sell the land — either through public advertising or auction — will be made by council. The capital

value of the four allotments combined is about \$1.79million.

"Council would ensure any sale or disposal would be transparent, the best price is obtained and all potential purchasers are given equal opportunity to purchase the land or assets," YPC director development services Roger Brooks said.

"There will be no changes to the current tenure arrangement with the Crown.

"Land Management Agreements would be registered on Certificates of Title of any new freehold allotments created, preventing any development from occurring until the Crown lease shack sites in front of the allotments being sold are removed.

"Council acknowledge adequate, safe provision of beach access

and the rights of way will need to be established and maintained by council as part of any land division process, and alternative beach access and public walkway routes were identified as part of our initial concept plans.

"Only 2.4 per cent of Black Point's total reserve area is proposed for the revocation process, while 97.6 per cent of reserve land would remain available for potential future recreational facility development."

If revocation is approved, funds from the sale of the allotments would contribute to community projects on application from the Black Point Progress Association and wider community.

The balance would be injected into council's accelerated road renewal program.

Community to fight on

BLACK Point Progress Association is not happy with Yorke Peninsula Council's decision to proceed with the revocation of community land within the settlement.

"The association remains strongly opposed to the land revocation, and we are bewildered by the way councillors voted given submissions from the community clearly demonstrated there was no support for this process," chairperson Bill Gill said.

"Certainly the lack of community support is the key issue here.

"The public reserve lands were paid for by the residents

as part of the original land subdivision process, and entrusted to council to be held for the benefit of the community, now and in the future.

"This was fundamental to the agreement between the then council and developers Prodec.

"They were not given to council to be used as council's own asset to be liquidated at their discretion.

"In our opinion there has been no real due process, and the next step will see us pursuing every avenue needed to make sure our voices are heard, and that will also involve contacting the minister's office.

"We will be making sure all the facts are on the table, although evidence points to the fact that it won't get through the government approval process."

16 May 2017

Attachment 3.

23rd May 2017

Crunching the numbers

SOME months ago, I sent a letter to District Council of the Copper Coast asking it to explain how are our rates determined, and to ask for justification about why they continue to increase.

Unfortunately, I haven't had a reply, so when I read the recent article in the Country Times (9-5-17) regarding council rate capping, I thought I would send a letter.

The proposed rate cap of the state government is entertaining in thought, but I would like to know why rates locally haven't actually dropped in recent years?

Our rates are based on the value of our hard-earned asset, whether it be our house or land. Since the peak of local real estate around 2011 to 2012, the value of this asset, as reported in our rates by the council, has decreased between five and 10 per cent. Decreased!

You would think this would have meant our rates would have subsequently decreased also, but instead they have increased 20-30 per cent, or between three and five per cent annually.

The major factor in this increase has been the 'rate in the dollar'. I would be interested to know what this actually is, and who decides it?

To the innocent ratepayer, it would read as though it was an imaginary figure plucked out of the air to ensure our council rates continued to increase at its annual three to five per cent!?!

Why isn't 'rate in the dollar' a constant factor, and hence our rates are determined by the asset value?

If any individual or business was faced with decreasing income, like the council would be in this instance, they would have to cut spending.

Rates really hurt the ratepayer and it pains me how the local councils justify increases. It was pleasing though to read our northern neighbours foresee their rates to be less than forecast, and may even decrease (the percentage rate rise) in the future.

I will leave the public with a final thought.

What will happen when our real estate market takes off again and our asset values increase?

Will the local councils decrease the 'rate in the dollar' then to keep rates only rising at three to five per cent annually? Probably not.

This will be when some real pain will be felt.

Until ratepayers start saying something about this, we will continue to be at the mercy of our local councils.

Chris Davey
Kadina

Wrong decision

THE community and I are appalled and disgusted that seven elected councillors have chosen to make a mockery of, trivialise, and ignore the real concerns of an overwhelming 97 per cent who are opposed to Yorke Peninsula Council's proposal to revoke the classification of community land at Black Point with the aim of selling this land for financial gain.

This outcome would be negative for our community and has been documented in more than 50 submissions and petitions.

After a six-month community engagement process, the community's voice against revocation was dismissed and ignored.

If those seven councillors fail to reconsider they should be ashamed of, and shamed for, their actions by the community whose wishes they have treated with contempt.

Council got this decision terribly wrong and the outcome is unjust.

This is community land that had been entrusted to council for the future benefit of all residents and visitors to Black Point.

If council has its way it will be gone for community benefit forever, and for those who have no interest in this issue, beware, it may be your community land next time.

These seven councillors owe the community an explanation as to why the community's views have been disregarded.

Was the community engagement process a sham? Have they followed due process? Has there been a breach of trust? Have they adhered to Section 194 of the Local Government Act which states that revocation of classification of land as community land "requires an assessment of how the implementation of the proposal would affect the area and local community"?

This matter is far from over. It may be prudent for councillors to reconsider their vote on this matter and prevent a deterioration in the relationship between council and the affected community.

I would like to acknowledge and thank Councillors Meyer, Brundell and Headon who rejected the proposal to pursue the process of selling our community land, and Cr Stock who abstained due to a declared conflict of interest.

They demonstrated a willingness to listen to, be informed and to act in accordance with the views of the community they have been elected to represent.

Dr John Gray
Black Point

23rd May 2017

Black Point disappointment

WE are writing to express our utter disappointment with Yorke Peninsula Council's vote to put forward a proposal to revoke community classified land in Black Point.

Some 20-plus years ago when the developer opened up additional land for subdivision at Black Point, a number of caveats were attached to the development approvals.

One of the key conditions was some of the beachfront land be set aside for community use. Community access to open space was, and still is, a fundamental principal of good development planning.

The land set aside currently has shacks situated at the front portion of the blocks which will expire in coming years. At the cessation of these leases, the land will then be developed as open reserve for community use.

Unfortunately, YP Council has seen an opportunity to raise revenue by proposing to revoke the community title status and selling off these blocks — the method of sale now looking likely to be to public tender/auction.

Despite an overwhelming level of objections after two rounds of community consultation, YP Council has voted against its community and will forward this matter onto the state minister.

If the revocation proceeds the entire foreshore of Black Point will be developed with no open beachfront land left for community access.

If the blocks are developed, the general concern is any opportunity for open land will be replaced with large dwellings which could block the horizon from the road and rear dunes.

We feel like our local ward councillors and Yorke Peninsula Council have not listened or respected the community consultation process and have let down their ratepayers and community on this issue.

Greta Lake
Black Point



30th May 2017

Consultation ignored

MANY YP Country Times readers would be aware Yorke Peninsula Council has completed a "community engagement process" at Black Point and other locations around the peninsula, which includes advertising by media and signage, and requests for public submissions in regards to council's revocation and subsequent sale of community land assets.

This process is very engaging to the community in feeling you are providing valuable feedback for councillors' consideration.

At Black Point, two submission requests gathered 51 submissions with about 90 per cent of responses opposed to the council's proposal. Additionally, a community petition was presented to council with 104 signatures also opposing the proposal.

Besides submissions from affected residents, the Black Point Progress Association submissions were also presented by both the original development planner and the project developer of the land subdivision in question of 1997. Both stated how the community land was developed because of the requirements by council and if there were no community reserves, then no development would occur. Hence why the reserves were created.

Progress opposed the revocation on behalf of its members after receiving feedback from a survey whereby 92 per cent opposed the revocation proposal, in most cases strongly. Many informed progress they would take legal action against council if required.

Now this is where the engagement process by council disappears.

Bewilderingly, most councillors ignored the community consultation responses and voted to proceed with the revocation. How can a council ask for input and then ignore it when 90 per cent of responses are against the proposal?

Actions like this destroy community spirit and build a me-and-them attitude which is so prominent in society today.

Kym Woolford, Black Point

Rate cap debate

Council spending concerns

AT the public meeting held in the Kadina Town Hall on Wednesday, May 17, it was apparent the ratepayers who attended were very concerned as to where we are headed financially with the proposed Annual Business Plan 2017/18 put forward by the District Council of the Copper Coast.

The general consensus seemed to be council is just going to keep up its spending spree and not try to economise on anything. Council's selling point is we need to just spend, spend, spend and expect the ratepayers to say nothing and just keep upping the rates. Too much is happening too quickly for anyone to digest and the borrowing that is ailing us now will just keep rising.

Council is going to construct roadworks in the new Wallaroo Shores development. Why are we even considering using council equipment for this? Private enterprise would expect to make at least a 25-30 per cent profit margin to even get involved. The council's plant and equipment will be too busy and too worn out to carry on with other more important necessary maintenance in our district. Is there any other motive for this project council is afraid to tell us about?

Council needs to reduce debt, then see what we can afford a little further into the future.

As for the CEO's comments about "the same small group" turning up to meetings (YPCT 23-5-17), I would suggest he shows the same respect he asks for as this group is passionate about its area and also some of the very people who pay his current income. He will have to work with a different council after the elections next year, so I would recommend he show more understanding and not ridicule any constituents.

Maybe an apology to past candidates would be a good start. They may get elected next time. What will you say to them then?

Neil Windsor, Moonta Bay

Mullighan's roadworks plan

AFTER reading Stephen Mullighan's comments (YPCT 23-5-17), I am wondering if he has driven his own vehicle on the Yorke Highway between Port Wakefield and Ardrossan with a quarry truck travelling behind him trying to force him to drive faster than the 100km/h limit.

Has he ever driven on the Yorke Highway between Port Wakefield and Ardrossan?

Does he know of the undulating road between Port Clinton and Ardrossan?

Does he know if there are any safe passing sections of the road between Port Clinton and Ardrossan?

Has he ever, in his own vehicle, tried to overtake a road train on the open road? I have. It is not easy. They do have three trailers on behind.

Where would he try to pass a road train on the Yorke Highway between Port Wakefield and Ardrossan?

Is he planning and implementing overtaking lanes between Port Clinton and Ardrossan? We need them now with just cars and the quarry and salt trucks using the highway.

The idea of a single-lane roundabout at Federation Corner is somewhat crazy. How does he expect a road train to use it with safety? Will it be on his head if it causes accidents and deaths? This intersection will add to the black spot list.

Road trains in the Northern Territory have come to grief turning left off the highway just north of Alice Springs and road trains are a very big part of the NT.

Merle Fairlie, Price

Slipping health standards

MY late wife was readmitted to Wallaroo Hospital on February 21, 2017.

She could hardly walk without a walker, and

Causing more distress

MY family and I are fifth-generation locals and have once again become distressed by Yorke Peninsula Council's proposal to sell 100 per cent of the community land reserves on the beachfront at Black Point. This is not only financially negligent but a short-sighted cash grab that has ignored the overwhelming majority of the locals' views.

My family held the crown lease over part of one of these sites and, at the time of freeholding in 1996, council in error assumed we had surrendered our lease despite the fact we had paid all rates, taxes and lease fees up until the freeholding proposal. We were astounded and distressed we couldn't freehold the land associated with our lease.

Council deprived us, and is now proposing to sell this land for its benefit and distress us again.

During the flawed community engagement process, which appeared controlled and manipulated by council, council took no notice of the local community's voice.

I provided two written submissions and also appeared before council. My concerns fell on deaf ears.

My father Des Lodge, who held the lease, was a farmer and YP councillor, who for many years served our community. He devoted his efforts and represented ratepayers by making informed and just decisions. He has since passed but I know he would have been angry and appalled with this process and its outcome.

How can council claim to engage its community, seek their views and then totally disregard their voice? This is not democracy at work.

I seek no financial gain but justice needs to prevail. Our family has been previously distressed by council's actions and YPC is now proposing to do it all over again. The seven councillors who voted to again cause us distress should be ashamed of their actions. My father would roll over in his grave if he was aware this was transpiring.

Kimber Lodge, Maitland

Mother's Day

30 May 2017

Reconsider decision

I WRITE as a disaffected stakeholder and to voice my concerns about Yorke Peninsula Council's proposal to change the zoning of, and then sell, all the beachfront reserves in the bay at Black Point.

These reserves were created during the freeholding process some 20 years ago and placed in trust with council for the future benefit of the locals and wider community.

My family members are fifth-generation local residents of YP and previously owned a freehold shack at Black Point. We, and our children, grew up enjoying that beautiful and safe beach. Now council is proposing to deny future generations the ability to do so.

Sure, we could still access the beach via walkways, but by selling these open space reserves there would be nowhere to sit on the beach except in front of an existing residence. Who would set up for the day on the beach in front of an existing dwelling? We would feel intimidated if we did, and the landowner may feel we were trespassing even though I acknowledge the beach is Crown land.

Council's claim there are facilities in the caravan park for public use by day visitors is confusing. Council has erected a sign indicating the caravan park facilities are for paying campers only.

Council acknowledges the importance of tourism to our peninsula but its proposal does not seem to support this and is unfair to those who have residences at Black Point, as well as tourists and local visitors.

I urge councillors to listen to, and respect, the views of the community they have been elected to represent and to reconsider this proposal.

Bruce Jarrett, Ardrossan

6th June 2017

100 per cent of beachfront land

I HAVE visited Black Point regularly during the past 40 years and recently purchased my own shack for the enjoyment of my family.

My father is a life member of Black Point Progress Association and I am well informed regarding the history of the land freeholding. At the time of freeholding, these sites were originally vested to council to be held in trust for the future benefit of our community and visitors to Black Point.

Why has Yorke Peninsula Council not listened to the overwhelming vote against its proposal to sell our community land? One has to question the council's motivation to continue to push for the sale of this land despite such opposition.

The land in question is significant. The beachfront reserves YPC is proposing to sell represents nine original shack sites. YPC director of development services Roger Brooks made statements in your publication including that these beachfront reserves represented "only 2.4 per cent of Black Point's total reserve area" (YPCT 16-5-17). However, to put it another way, they represent 100 per cent of the land reserves in the bay on the beachfront at Black Point.

Toby Hill, Black Point

Missing KL info

WHAT a wonderful effort was put in for the Kernewek Lowender!

We enjoyed several functions of the festival despite having difficulty finding all the information in the programs. Fortunately, KL executive officer Tayla Daniel's contact number was readily available to investigate and establish the missed information.

A musical artist, who has supported the KL for 34 years, and was again providing beautiful harp melodies at The Gathering of the Bards, was not listed anywhere in the programs. She did not appear in the YP Country Time photo album last week either. Very disappointing!

Also, there was no mention of our Premier and mayor attending the opening of the KL in the program. I'm very curious as to whether these were deliberate omissions or oversights, as both functions were integral to the KL. I observed others having similar confusion and difficulty with the program.

Kathryn Whitbread
Port Hughes

Curb spending

I ATTENDED the protest rally and District Council of the Copper Coast meeting on Wednesday, May 17.

It was encouraging to see I was not the only person against yet another proposed rate rise, among other issues.

As I sat and listened to the CEO espouse his business plan and expenditure for 2017/18 for an hour, I felt the likelihood of council dropping the rates slowly slip away. The decisions had already been made for the revenue raised and its projects.

What followed at question and answer time was a farce.

The CEO, when asked a question, continually referred to his graphs and charts as an explanation as to where money was being spent. The fact that the popular consensus was to curb spending and start budgeting for projects rather than hit ratepayers with rate increases all the time was completely ignored.

The meeting did get very vocal at times which was not pleasant to sit through, but I understand everyone's frustrations, including my own with this council and CEO.

It appears their only answer to any new venture is to throw the cost to us. The fact we pay our rates is not enough. Apparently, they still want more. When is enough enough? I know the cost of living has skyrocketed but that is more reason to run the council on a business model and start reducing overheads before burdening ratepayers. At least council let it be seen you are trying.

My conclusion at the end of the meeting was it was a meeting council had to have, to go through the motions so it could tick the box. It was a foregone conclusion in favour of council. Not one ratepayer walked away with a positive outcome.

Council's budget and annual business plan remain unchanged. Nothing said changed a thing. Very disappointing DCCC, not even a compromise came from you.

Chris Mail
Moonta Bay

Paper out Wednesday

NEXT week's Yorke Peninsula Country Times will be published on Wednesday, June 14.

This is due to the Queen's Birthday public holiday on Monday, June 12. The deadline for personal notices and action ads is 10am Wednesday for next week only.

Our View

Taking feedback on board

YOU hear grizzles about council rates often but the impending budget period has people more vocal than usual, with three protests in the Copper Coast and counting.

So, is anybody listening?

District Council of the Copper Coast staff and elected members are showing signs they have taken people's concerns on board. It seems likely they will reduce the rate rises – perhaps this year even, and definitely into the future.

Council has been adamant it needs to keep increasing rates until 2020, when it expects to be running the community at a breakeven level. After that, increases more in line with CPI will be on the table.

Now indications are the planned rises of five per cent until 2020 could also be lowered. That will only be possible if DCCC's budget situation is far better than it had predicted several years ago when staff and elected members first started working toward breakeven.

If council can manage to rein in the rises whilst still getting to the critical breakeven point it will be a big win for everyone. Those expressing their concerns will have helped achieve a good outcome for ratepayers, whilst DCCC will have shown it is willing to take public feedback on board.

Yorke Peninsula Council is facing strong criticism after voting to revoke the community land classification of blocks at Black Point, which council could then sell.

Elected members made their decision despite the vast majority of feedback about the proposal being negative.

Councillors have no obligation to vote in line with the public's point of view and may consider they are doing the right thing even if ratepayers have a different perspective. However, the Black Point issue shows what can happen when councillors make that choice.

Will YPC reconsider now the Black Point decision has come under such scrutiny?

Nick Perry
Editor

14th June 2017

From page 2

6

Now the wrong time to sell

FURTHER to my previous letter (YPCT 6-6-17), if the sale of the Black Point reserves was to go ahead, there are strong reasons why now is not the right time. Selling these reserves now would result in the disposal of community-owned assets below the true potential market price and ratepayers would be the financial losers.

Mr Brook also stated, "Land Management Agreements would be registered on certificates of title of any new freehold allotments created, preventing any development from occurring until the crown lease shack sites in front of the allotment being sold are removed". He said, "Council would ensure any sale or disposal would be transparent, the best price is obtained and all potential purchasers are given equal opportunity to purchase the land or assets."

This means only the existing leaseholder in front of these reserves could purchase the site and build before 2037. It follows the true market value of about \$1million per unencumbered and vacant site (not the total rated value Mr Brooks quotes of "about \$1.79 million" for the nine sites) would not be achieved by selling them now.

The only financial winners would be the current leaseholders who would achieve a windfall gain, or a prudent investor who purchased a site now and held it for 20-plus years. Despite Mr Brooks' claim, other potential purchasers who wished to purchase a site and build now would not bid because they could do nothing for at least 20 years. Sale now would limit the pool of potential purchasers and therefore the sales prices achieved.

Council also needs to recognise the original property developer as well as a number of disaffected landowners (whose property values would be diminished by the loss of their sea view) have stated they will seek financial compensation if the sales were to proceed. Any money council receives may well be consumed in legal fees and compensation claims.

Surely council can't be cash strapped. Hasn't it recently spent in the order of \$6million building new offices in Maitland? Perhaps it could review expenditure, or consider selling assets from the enormous bank of land it holds elsewhere?

Toby Hill
Black Point

Jenny OLDLAND
JOURNALIST

THE revocation of community land at Black Point, which Yorke Peninsula Council could then sell, is on hold.

Council has engaged Norman Waterhouse Lawyers to hold an independent review into the processes leading to council's decision regarding the four allotments.

That report is expected to be considered at YPC's August meeting.

Black Point Progress Association continues to strongly oppose council's decision and has engaged prominent Adelaide planning lawyer Brian Hayes QC.

The association has also written to Premier Jay Weatherill, Minister for Planning John Rau and other relevant ministers to express its concerns.

Progress representative Dr John Gray said he looked forward to the independent review.

"Council certainly hasn't been listening to our association and, although we don't know the terms of reference and what it will include, as a committee we certainly welcome the review," Dr Gray said.

"We now need to be fully involved in the process in the interests of transparency.

"In our opinion council failed to engage via a working party of council, representative bodies and locals, which may have seen a plan



■ **BEACH ACCESS...** Black Point Progress Association committee members Kym Woolford and Dr John Gray believe part of lot 201, one of four allotments Yorke Peninsula Council hopes to revoke and sell, should instead become a reserve with facilities to encourage tourists.

formulated that was acceptable to all stakeholders.

"For me personally I have nothing to lose from the sale of the land, this is about supporting and protecting community access to the beach.

"An offer is still on the table to work with council to establish facilities on one of the allotments which would include parking, a barbecue, picnic tables, shelter and toilet facilities to encourage tourists and visitors to Black Point."

Correspondence from three Black Point residents

will be presented at tonight's (Wednesday) council meeting, requesting councillors consider rescinding the motion to proceed with the revocation.

Dr Gray said the fact public concerns were not heard, plus issues regarding due process and a potential breach of the original agreement for the land, should be enough for councillors to revisit their decision.

"There will be no winners if council pushes ahead with its decision to sell the land," Dr Gray said.

14th June 2017

Our View

What's the point?

YORKE Peninsula Council may have bitten off more than it can chew by voting to revoke community land at Black Point.

If the revocation is granted by the state, which is no certainty, council would then aim to sell blocks for a substantial cash injection.

The folks at Black Point were not happy about the idea when it was first raised and it was surprising most councillors voted to proceed despite largely negative feedback.

Black Point residents should not be treated differently to any other community group, nor would they want to be. But YPC certainly realises Black Point is the peninsula's most affluent area by no small margin. When residents say they are willing to take the matter to court, they undoubtedly have the means to carry that through. Perhaps YPC has picked the wrong community to upset.

This leaves us with two questions. Will council put up a fight? And, perhaps more importantly, would the fight be worth it?

The first question remains up in the air. YPC has wisely lawyered up and may opt to renege on its decision rather than face the prospect of lengthy and expensive court proceedings.

The second question is more interesting.

Council's application will have caused a lot of angst for nothing if Minister for Planning John Rau says the allotments should remain community land. Mr Rau will have to consider the overwhelming opposition encountered during council's public consultation efforts. That alone may be enough to have the revocation denied.

Even if the state permits council to take ownership of the land, selling it won't be as easy as you might imagine. There will likely be state-imposed restrictions on some blocks so they can't be developed until the crown lease shacks nearby are removed, and that could be up to 20 years away. It stands to reason council would either have to wait decades before selling, or sell for less than what the blocks would eventually be worth.

Council may continue to fight but, all things considered one might wonder, what's the point?

Nick Perry, Editor



PAGE
5

NEWS:

BLACK POINT LAND FIGHT

Your View www.ypct.com.au

14th June 2017

Black Point support

I REFER to your recent article (YPCT 16-5-17) about Yorke Peninsula Council voting to change the status of community land at Black Point.

I am suspicious of the reasoning and purpose for the revocation of community land anywhere.

My reasons are simple. In my brief time as a councillor at training sessions for councillors this matter came up several times.

Experienced local government personnel, lawyers, development specialists, et cetera, were presenters. I cannot remember one who supported rededicating public lands such as parklands or open space, including any community land with sporting facilities and caravan parks, et cetera. The reason was simple: once changed it could then never be repealed. The dedication of these lands is generally for that singular purpose and cannot easily be changed. It also needs, of course, the approval of the relevant minister and crown lands.

The apparent reason in council's proposal is for short-term monetary gain with no genuine, qualified and asset-driven outcome that benefits the community. If this gets final approval it creates an undesirable and precarious precedent fraught with inherent and unwelcome risk.

I fully support the Black Point Progress Association, residents and holiday home owners in their overwhelming opposition to council's decision. I am also disappointed council has seen fit to ignore an agreement a previous council passed for further development and to freehold land at Black Point. This helped create and include vacant land set aside for the benefit of residents and the public.

I also refer to many parcels of land originally dedicated as public and park lands syphoned off, sometimes allegedly temporarily many of which have become permanent, in Adelaide.

I doubt the full facts have been presented and councillors advised for the matter to be properly debated by council.

Grantley H. Dodd, Stansbury



Presentation of Key Issues and Council Comments

Proposed Revocation of Community Land Black Point

Key Issue 1

Can the freehold of the blocks be offered to the Life Tenure Leaseholders and those shacks adjacent to the Reserves only? Current leaseholders should be given first right of refusal.

"Concerns of risk to security of the current tenure and access to life tenure"

"Council regulations in regard to building on freehold land where shack is still under lease"

Council Comment

If the revocation proceeds and is approved, there will be no changes to the current tenure arrangements with the Crown. Land Management Agreements would be registered on Certificates of Titles of any new freehold allotments created, preventing any development from occurring until the Crown lease shack sites in front of the allotments being sold is removed.

Furthermore, if the revocation proceeds, the provisions of the Local Government Act do not place any direct restrictions on the price which must be obtained by the Council for the sale of Council land. Council would ensure that any sale or disposal would be transparent and ensure that Council obtains the best price and that all potential purchasers are given equal opportunity to purchase the land or assets. Council would have the following options available as described below:

- sale by public advertising or public auction or
- negotiate directly with persons who have a pre-existing interest in the land

As part of any sale process Council would obtain 2 independent valuations of each of the proposed allotments (on the basis of a subdivision taking place), which can be used to set the reserve price for auction or for direct negotiation.

Council does not yet have a position on the method that would be used if the revocation process does proceed.

Key Issue 2

Council has an obligation to provide adequate and safe beach access. Community members believed they would always have accesses to the beach.

“Restricting public access to 3km of beach”

“Has Council considered future outcomes of public access and retreating from the public beach, with more residents at Black Point”

Council Comment

Council acknowledge that adequate, safe provision of beach accesses and rights of way will need to be established and maintained by Council as part of any land division process.

As part of the scoping process and initial concept plans if the revocation were to proceed, alternative beach access and public walkway routes were identified. These were outlined in the Community Engagement Report – Revocation of Community Land Classification, September 2016 (‘Community Engagement Report’), available on the Council website.

Key Issue 3

Council has misled the Black Point Community about the status and continued land use. Council states in the 2016 Community Engagement report that reasons Council obtained the reserves was so that public access to the beach could be secured for the future and the balance of the land could be utilised for recreational purposes. The negotiations about the original development between the Council and the developer Prodec, were contingent on Prodec granting Council the Reserves for those reasons. This is evident from the Council’s Statement of Requirement dated September 1994, which required the reserves to be acquired by the Council before the original development could proceed.

Council Comment

The Community Engagement Report was drafted to provide information to the community in relation to the potential revocation at Black Point.

The section of the recent Community Engagement Report questioned in Issue 3, refers to a historical decision made by the former Central Yorke Peninsula Council and reflects the position of the Council at that time.

As noted in the Community Engagement Report, Council have noted that since the creation of the reserves, the primary use of the reserves is by the adjacent shack owners for access and storage of vehicles and boats.

The open space reserves have minimal value from a recreational or leisure perspective and have little or no impact on future recreational opportunities for the local or wider community. The land is not being utilised in this manner due to the location of the reserves being at the rear of the existing leasehold shacks and the adjoining properties being residential.

Key Issue 4

Some community members have expressed that they paid a premium for their property due to the fact that the land (Allotments) situated behind or next to their property. If the land was built on, then views could be obstructed and therefore severely devalue these properties.

"If I had have known Councils intentions to revoke the land then I would have purchased a property elsewhere".

Some community members have stated that they will seek compensation if views are obstructed and properties devalued.

Council Comment

Black Point has lineal development along the entire foreshore. The blocks concerned will create a natural infill of the existing allotments along the streetscape. Current design guidelines within Council's Development Plan will ensure that any further development will be in keeping with the character of the area, if the revocation were to proceed.

Key Issue 5

"Revocation is a quick cash grab without consideration as to how it will affect the existing Black Point community".

What will Council do with the funds raised from the sale of the Reserves if they are sold?

Council Comment

Council has a duty of care to its entire community. It is part of good governance to consider all opportunities to minimise annual rate increases and offer value for money at every opportunity.

As reported in the Community Engagement Report, if the revocation were to proceed on all proposed allotments the sale of the reserve would contribute to the following projects -

- Installation of fixed walkways on both sides which may minimise any future safety concerns and assist with launching and retrieval activities.
- \$150k - Community projects on application from Black Point Progress/Black Point community.
- Road renewals – The balance of all other proceeds to be injected into Council's unsealed road network, above and beyond those currently identified and projected in Council's Long Term Financial Plan.

Key Issue 6

Will Revocation put additional strain on water, sewerage, services and amenities?

"Inadequate infrastructure"

"Further stress on water and sewerage, service and amenities"

Council Comment

The Community Wastewater Management Scheme (CWMS) allows for 115,000 litres per day through the treatment plant. Current flows average less than 20,000 litres per day. Peak period flows (Christmas to New Year) reach a maximum of 65,000 litres per day.

Council's water scheme aims to deliver between 5 and 20 litres per minute. Actual readings through the meter reach an average high of 50 kilolitres per day during summer months. The supply to Councils tanks is up to 432 kilolitres per day. Council has never experienced supply problems to the storage tanks and reserve capacity is enough for six days of average use.

Taking this data into consideration, if the revocation were to proceed, the addition of these proposed allotments will not impact on the current infrastructure.

Key Issue 7

The Black Point Progress Association would like to see the reserves developed further with recreational facilities, such as bbqs, picnic tables, parking etc.

"Lack of development on reserves is reason for underutilisation"

"Council has failed to invest in infrastructure to encourage local and wider community to enjoy Black Point"

Council Comment

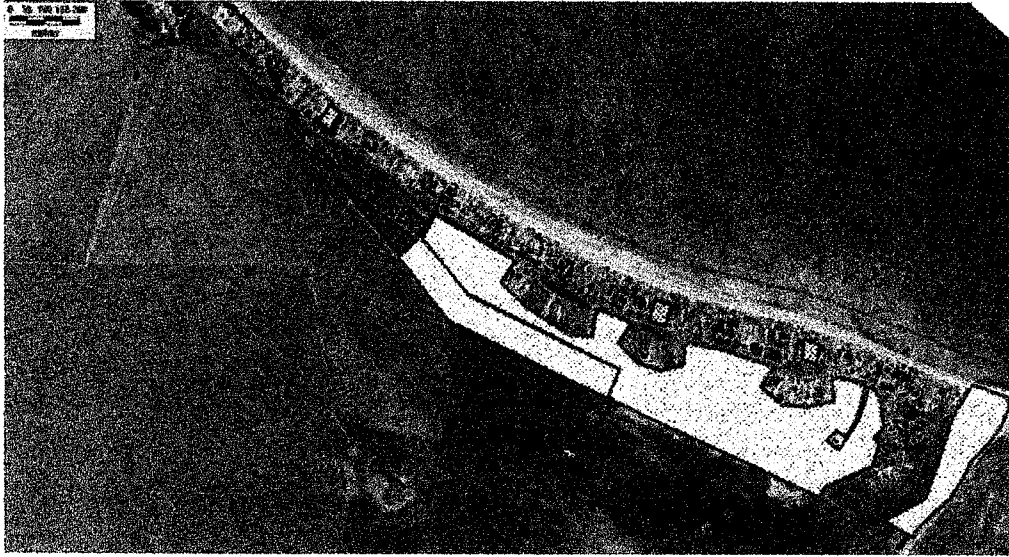
After a review of Council's records from 2003, Council has not identified any requests regarding the recreational facilities, or lack of, located around Black Point. Council have identified land to the south-west of Black Point (Maxine Hawke Reserve) suitable for park and recreation facilities.

It is noted that the caravan park area contains a BBQ and tables with chairs for public use.

If the revocation were to proceed, the map below highlights that 2.4 % of the total reserve area for Black Point is proposed for the revocation process. Therefore 97.6% of reserve land remains available for potential future recreational facility development.

↑
This is misleading information.
2.4% = 100% of beachfront land in the bay
designed to comfort councillors
in their decision making.

← This is false. Councils own signage informs that the caravan park facilities are for paying campers only.



Remaining reserves (97.6%) are highlighted in green

Key Issue 8

Diminution of Public Space – ***“the amount of open space for access and visual connection between the sea and Black Point Road and the allotments to the south is a critical element of the character of this settlement”.***

Council Comment

The proposed revocation and sale of these four allotments will have minimal impact on the character of Black Point.

Current design guidelines within Council’s Development Plan will ensure that any further development will be in keeping with the character of the area.

Key Issue 9

The reserves should be designated car parking for visitors to Black Point.

“Currently limited public places for car parking”

Council Comment

Council records have not identified any requests to improve or make available more car parking at the reserves, moreover it is noted by Council staff that the existing carparks are underutilised.



COUNCIL POLICY

Community Engagement

Agriculturally rich – Naturally beautiful

Policy Number:	PO057		
Strategic Plan Objective	4. Community Engaged and Supported 4.12 Continuous improvement in communicating with and engaging the community		
Policy Owner:	Chief Executive Officer	File Number:	16/14028 [v4]
Responsible Officer:	Manager Business & Public Relations	Minute Reference:	34/2017 (08/02/2017)
Date Adopted:	8 th February 2017	Next Review Date:	June 2019

1. POLICY OBJECTIVES

This policy aims to provide the community, stakeholders, council staff and Elected Members with an understanding of the role of community engagement in the decision making processes of the Yorke Peninsula Council (the Council). This policy also outlines the minimum standards of community engagement techniques used by the Council and the circumstances of when and how each technique will be used.

2. SCOPE

This policy applies to:

- i. All employees of the Yorke Peninsula Council.
- ii. Elected Members.
- iii. Contractors or consultants acting on behalf of Council.

3. DEFINITIONS

Act	The Local Government Act 1999 (SA)
Community	The people who; live, work, conduct business activities or use the facilities in public places in the Yorke Peninsula region.
Council	The Yorke Peninsula Council.
Policy	Refers to this Community Engagement Policy.
Community of Interest	A group of people brought together by a common interest.
Primary Stakeholder	Is someone who may be directly affected by or have a direct interest in the decision or issue under consideration.
Secondary Stakeholder	Someone who has a general interest in the decision or issue under consideration.
Submissions	Written (including email) responses from the community in relation to a specific consultation which must be received by the Council within the specified timeframe.

4. POLICY STATEMENT

The Council recognises that community engagement plays an important role in its decision making processes and members of the community have a right to be informed about issues affecting their lives. The intention of this policy is to provide a planned, consistent and cost effective approach to consultation (community engagement). Council will follow this policy, as a minimum standard, in all instances where consultation should occur with the community.

Community involvement in Council decision making should result in greater confidence in the Council and will foster open, transparent and accountable processes.

As recommended by the Local Government Association of South Australia, this policy has been informed by the International Association for Public Participation (IAP2) products for public participation processes.

This Community Engagement Policy specifies four levels designed to suit all consultation requirements, ranging from the most basic public notification, to seeking input on a major project or issue of communitywide significance. These are:-

- **Level 1** – we will keep you informed.
- **Level 2** – we will keep you informed, listen to and acknowledge concerns and issues and provide feedback in how public input influenced the decision.
- **Level 3** – we will work to ensure that your concerns, issues and aspirations are directly reflected in the alternatives developed and provide feedback on how the public influenced the decision.
- **Level 4** – we will look for direct advice and innovation in formulating issues, alternatives and solutions.

Under the *Local Government Act 1999*, there are specific legislative requirements whereby Council **must** consult. Council is required to undertake particular types or levels of consultation (as a minimum) in relation to the following:

- Determining the manner, places and times of its principal office (section 45)
- Adopting or varying a public consultation policy (section 50)
- Altering the Code of Practice relating to the principles, policies and procedures that Council will apply to enable public access to Council and Committee Meetings, their minutes and release of documents (section 92)
- Adopting Strategic Management Plans (section 122)
- Excluding land from classification as community land (section 193)
- Revoking the classification as community land (section 194)
- Adopting, amending or revoking a management plan for community land (section 197)
- Amending or revoking a management plan for community land (section 198)
- Alienating of community land where the management plan does not allow it (section 202)
- Alienating roads (section 223)
- Planting vegetation where it will have a significant impact on residents, the proprietors or nearby residents (section 232)
- Carrying out representation reviews (section 12(5))
- Considering a change of status of Council or name change (section 13)
- Carrying out commercial activities – Prudential Arrangements (section 48)
- Making Bylaws (section 249)
- Making Orders (section 259)

PO057 – Community Engagement

Refer to Appendix 1 for a Schedule of Minimum Requirements per the *Local Government Act 1999* and the steps to be followed.

Where there is no legislative requirement for consultation, selection of the appropriate level will determine the resource requirements for the consultation.

It should be noted that a certain degree of flexibility is required to suit specific situations. Therefore the following sets out the minimum standards for each level which may apply for certain activities without being too prescriptive.

Level 1 INFORM	Level 2 CONSULT	Level 3 PARTICIPATE	Level 4 COLLABORATE
<p>means providing information to assist understanding of how decisions will be/ were made.</p> <p>Examples of when we will use Inform:</p> <ul style="list-style-type: none"> • A decision is made for legislative, financial, environmental or technical reasons. • There is no opportunity to influence the decision <p>We will explain:</p> <ul style="list-style-type: none"> • How the decision was made. • What is going to happen. • Where further information can be found. 	<p>Means obtaining feedback on preferences when there are options available.</p> <p>Examples of when we will use Consult:</p> <ul style="list-style-type: none"> • There are several options available. • Final decisions are being shaped. • Issues and concerns are unclear. <p>We will ask:</p> <ul style="list-style-type: none"> • Which option is preferred? • What would the impact be? • Any suggestions for improvement? 	<p>Means involving people to understand all needs, concerns and aspirations.</p> <p>Examples of when we will use Participate:</p> <ul style="list-style-type: none"> • We need community knowledge to influence the decision. • There is likely to be a high level of interest/ community impact. • There is a high degree of complexity. <p>We will ask:</p> <ul style="list-style-type: none"> • What would the community like to see happen, or • What have we not considered or are not aware of, or • How should we proceed with this? 	<p>Means involving people and working together to seek direct advice in formulating solutions.</p> <p>Examples of when we will use Collaborate:</p> <ul style="list-style-type: none"> • We will seek direct advice from those who possess specific knowledge or special interests. <p>We will partner to:</p> <ul style="list-style-type: none"> • Seek solutions or alternatives based on specific areas of expertise. • Gain acceptance of recommendations based on specific areas of expertise.
We will do this through:			
<ul style="list-style-type: none"> • Council's website. • Public notices in the Country Times. • A letterbox drop. • Letter of advice to affected properties. • Letter / email to Progress Associations. 	<ul style="list-style-type: none"> • Council's website. • Media releases. • Letter or survey to primary &/or secondary properties. • Letter / email or survey to Progress Associations. • Copies of major reports or plans made available at Council offices. • Report to Council summarising submissions for formal Council 	<ul style="list-style-type: none"> • Council's website. • Advertisements. • Media releases & / or briefing sessions. • Facilitated workshops or focus groups. • Community forums. • Individual Progress Association Newsletters/noticeboards. • Surveys. • Letter or survey to affected properties / community groups. • Council publications. • Copies of major reports or 	<ul style="list-style-type: none"> • Council's Advisory Committees. • Community partnership projects.

PO057 – Community Engagement

	decision.	plans made available at Council offices. <ul style="list-style-type: none">• Report to Council summarising submissions for formal Council decision.	
--	-----------	---	--

Within the following timeframes:

No minimum period required. Or Compliance with statutory requirements (if applicable)	Minimum three weeks. Or Compliance with statutory requirements (if applicable)	Minimum six weeks. Or Compliance with statutory requirements (if applicable)	As required (e.g. per Terms of Reference regarding meeting schedules).
---	--	--	--

5. COMPLAINTS

Complaints about this policy can be made in writing to the Chief Executive Officer. All complaints will be managed in accordance with Council's Complaints Policy PO147.

6. REVIEW

This policy will be reviewed within twelve months of a general election, in consultation with employees and/or their nominated representative(s).

This policy will also be reviewed as deemed necessary in consideration of any changes to legislation, guidelines, audit findings or stakeholder feedback.

In accordance with s.50 (6) of the *Local Government Act 1999*, before the Council adopts this policy or any future significant alterations to this policy, the community will be informed via a public notice in the Yorke Peninsula Country Times and invited to make submissions.

7. TRAINING

Council is committed to supporting Elected Members and employees in complying with this policy.

This policy will be provided to Elected Members and all employees who have responsibilities under this Policy to engage with the community.

Training needs will be reviewed annually, during individual performance reviews or when deemed necessary in consideration of any changes to legislation and relevant guidelines.

8. RELATED COUNCIL POLICIES AND DOCUMENTS

- Yorke Peninsula Council, Community Engagement Strategy

9. REFERENCES AND LEGISLATION

- Section 50 of the Local Government Act 1999
- Community Engagement Handbook; A Model Framework for leading practice in Local Government in South Australia, a joint initiative of the Local Government Association of SA (LGA) and the SA Government, March 2015.

PO057 – Community Engagement

10. COUNCIL DELEGATION

Details of Delegation:	Chief Executive Officer
Delegate:	Nil

11. VERSION HISTORY

Archived Policy Name	Policy Number	Date Adopted	Last Reviewed
Public Consultation Policy	PO057		14/09/2010
Community Engagement Policy	PO057	10/06/2015	14/12/2016
Community Engagement Policy	PO057	08/02/2017	

The following information sets out the Yorke Peninsula Council's minimum standards to meet the legislative requirements of the Act.

Submissions must be received by Council within the timeframes outlined in the public notice (minimum of 21 days) and can be in the form of:-

- Written submissions
- Email submissions
- Web form submissions and
- Online form submissions.

LOCAL GOVERNMENT ACT 1999 (SA)		
TOPIC	SECTION	LEGISLATIVE REQUIREMENT
Representation Reviews Review and reporting to the Electoral Commissioner.	12	Representation Options Paper By public notice: <ul style="list-style-type: none"> ◦ Inform the public of the preparation of the representation options paper; and ◦ Invite interested persons to make written submissions to the council on the subject of the review within a period specified by the council (being a period of at least 6 weeks) Publish a copy of the notice in a newspaper circulating within its area. Ensure that copies of the representation options paper are available for inspection (without charge) and purchase (on payment of a fee fixed by the council) at the principal office of the council. Report Make copies of its report available for public inspection at the principal office of the council; and By public notice: <ul style="list-style-type: none"> ◦ inform the public of the preparation of the report and its availability; and ◦ invite interested persons to make written submissions to the council on the report within a period specified by the council (being a period of at least 3 weeks); and Publish a copy of the notice in a newspaper circulating within its area. The council must give any person who makes written submissions in response to an invitation under subsection (9) an opportunity to appear personally or by representative before the council or a council committee and to be heard on those submissions. Council must then finalise its report and refer to the Electoral Commissioner.
Status of a Council/ Change of Name <ul style="list-style-type: none"> • Change from a municipal council to a district council, or change from a district council to a municipal council • Alter the name of the council, the area of the council, or the name of a ward. 	13(2)	<ul style="list-style-type: none"> • The council must give public notice of the proposal; • The notice must contain an invitation to interested persons to make written submissions to the council on the matter within a period specified by the council (being a period of at least 6 weeks); • Publish a copy of the notice in a newspaper circulating within its area; • The council must give any person who makes written submissions in response to an invitation under this section an opportunity to appear personally or by representative before the council or a council committee and to be heard on those submissions.
Principal Office – Opening hours	45 (3)	A council should consult with its local community in accordance with its public

		consultation policy about the manner, places and times at which its offices will be open to the public for the transaction of business, and about any significant changes to these arrangements.
Commercial Activities – Prudential Requirements	48 (2) (d) 48 (5), (6)	<p>Report addressing prudential issues to include -</p> <ul style="list-style-type: none"> ◦ the level of consultation with the local community, including contact with persons who may be affected by the project and the representations that have been made by them, and the means by which the community can influence or contribute to the project or its outcomes ◦ A report under subsection (1) must be available for public inspection at the principal office of the council once the council has made a decision on the relevant project (and may be available at an earlier time unless the council orders that the report be kept confidential until that time). ◦ However, a council may take steps to prevent the disclosure of specific information in order to protect its commercial value or to avoid disclosing the financial affairs of a person (other than the council).
Public Consultation Policies	50	<p>(1) For the purposes of this Act, a council must prepare and adopt a public consultation policy.</p> <p>(2) A public consultation policy—</p> <ul style="list-style-type: none"> (a) must set out steps that the council will follow in cases where this Act requires that a council must follow its public consultation policy; and (b) may set out steps that the council will follow in other cases involving council decision-making. <p>(3) The steps referred to in subsection (2)—</p> <ul style="list-style-type: none"> (a) in a case referred to in subsection (2)(a)—must provide interested persons with a reasonable opportunity to make submissions in the relevant circumstances; and (b) may vary according to the classes of decisions that are within the scope of the policy. <p>(4) However, a public consultation policy for a case referred to in subsection (2)(a) must at least provide for—</p> <ul style="list-style-type: none"> (a) the publication of a notice— <ul style="list-style-type: none"> (i) in a newspaper circulating within the area of the council; and (ii) on a website determined by the chief executive officer, describing the matter under consideration and inviting interested persons to make submissions in relation to the matter within a period (which must be at least 21 days) stated in the notice; and (b) the consideration by the council of any submissions made in response to an invitation under paragraph (a). <p>(5) A council may from time to time alter its public consultation policy, or substitute a new policy.</p> <p>(6) However, before a council—</p> <ul style="list-style-type: none"> (a) adopts a public consultation policy; or (b) alters, or substitutes, a public consultation policy, the council must— (c) prepare a document that sets out its proposal in relation to the matter; and (d) publish in a newspaper circulating within the area of the council a notice of the proposal inviting interested persons to make submissions on the proposal within a period (which must be at least one month) stated in the notice; and (e) consider any submissions made in response to an invitation under paragraph (d). <p>(7) A council is not required to comply with subsection (6) in relation to the alteration of a public consultation policy if the council determines that the alteration is of only minor significance that would attract little (or no) community interest.</p> <p>(8) A person is entitled to inspect (without charge) a public consultation policy of a council at the principal office of the council during ordinary office hours.</p> <p>(9) A person is entitled, on payment of a fee fixed by the council, to a copy of a public consultation policy.</p>
Code of Practice – Access to meetings and documents	92 (5) (6) (7)	<p>(5) Before a council adopts, alters or substitutes a code of practice under this section it must—</p> <ul style="list-style-type: none"> ◦ make copies of the proposed code, alterations or substitute code (as the case may be) available for inspection or purchase at the council's principal

		<p>office and available for inspection on a website determined by the chief executive officer; and</p> <ul style="list-style-type: none"> ◦ follow the relevant steps set out in its public consultation policy. <p>(6) A person is entitled to inspect (without charge) the code of practice of a council at the principal office of the council during ordinary office hours.</p> <p>(7) A person is entitled, on payment of a fee fixed by the council, to a copy of the code of practice.</p>
Strategic Management Plans	122 (6)	Council must adopt a process or processes to ensure that members of the public are given a reasonable opportunity to be involved in the development and review of its strategic management plans.
Annual Business Plan	123 (4) (5)	<p>(4) For the purposes of subsection (3)(b), a public consultation policy must at least provide for the following:</p> <p>(a) the publication in a newspaper circulating within the area of the council and on a website determined by the chief executive officer of a notice informing the public of the preparation of the draft annual business plan and inviting interested persons —</p> <p>(i) to attend—</p> <p>(A) a public meeting in relation to the matter to be held on a date (which must be at least 21 days after the publication of the notice) stated in the notice; or</p> <p>(B) a meeting of the council to be held on a date stated in the notice at which members of the public may ask questions, and make submissions, in relation to the matter for a period of at least 1 hour, (on the basis that the council determines which kind of meeting is to be held under this subparagraph); or</p> <p>(ii) to make written submissions in relation to the matter within a period (which must be at least 21 days) stated in the notice; and</p> <p>(b) the council to make arrangements for a meeting contemplated by paragraph (a)(i) and the consideration by the council of any submissions made at that meeting or in response to the invitation under paragraph (a)(ii).</p> <p>(5) The council must ensure that copies of the draft annual business plan are available at the meeting under subsection (4)(a)(i), and for inspection (without charge) and purchase (on payment of a fee fixed by the council) at the principal office of the council at least 21 days before the date of that meeting.</p>
Change to Basis of Rating Report	151(7) (8)	<p>(7) A public consultation policy for the purposes of subsection (5)(e) must at least provide for—</p> <p>(a) the publication in a newspaper circulating within the area of the council a notice describing the proposed change, informing the public of the preparation of the report required under subsection (5)(d), and inviting interested persons—</p> <p>(i) to attend a public meeting in relation to the matter to be held on a date (which must be at least 21 days after the publication of the notice) stated in the notice; or</p> <p>(ii) to make written submissions in relation to the matter within a period (which must be at least 21 days) stated in the notice; and</p> <p>(b) the council to organise the public meeting contemplated by paragraph (a)(i) and the consideration by the council of any submissions made at that meeting or in response to the invitation under paragraph (a)(ii).</p> <p>(8) The council must ensure that copies of the report required under subsection (5)(d) are available at the meeting held under subsection (7)(a)(i), and for inspection (without charge) and purchase (on payment of a fee fixed by the council) at the principal office of the council at least 21 days before the end of the period for public consultation.</p>
Rating – Differential Rates	156 (14a) (14d) (14e)	<p>(14a) Before a council changes from declaring differential rates in relation to any land on the basis of a differentiating factor under either paragraph (a), (b) or (c) of subsection (1) to a differentiating factor under another of those paragraphs, the council must –</p> <p>(a) prepare a report on the proposed change; and</p> <p>(b) follow the relevant steps set out in its public consultation policy.</p> <p>(14d) A public consultation policy for the purposes of subsection (14a) must at least provide for—</p> <p>(a) the publication in a newspaper circulating within the area of the council a</p>

		<p>notice describing the proposed change, informing the public of the preparation of the report required under subsection (14a)(a), and inviting interested persons—</p> <ul style="list-style-type: none"> (i) to attend a public meeting in relation to the matter to be held on a date (which must be at least 21 days after the publication of the notice) stated in the notice; or (ii) to make written submissions in relation to the matter within a period (which must be at least 21 days) stated in the notice; and <p>(b) the council to organise the public meeting contemplated by paragraph (a)(i) and the consideration by the council of any submissions made at that meeting or in response to the invitation under paragraph (a)(ii).</p> <p>(14e) The council must ensure that copies of the report required under subsection (14a)(a) are available at the meeting held under subsection (14d)(a)(i), and for inspection (without charge) and purchase (on payment of a fee fixed by the council) at the principal office of the council at least 21 days before the end of the period for public consultation.</p>
<p>Community Land Classification:</p> <p>All local government land (except a road) acquired by or brought under the care, control and management of Council is taken to have been classified as community land unless Council resolves before it becomes local government land to exclude it from classification.</p>	193(2) (6)	<p>(2) Before the council resolves to exclude land from classification as community land under subsection (1)(a), it must follow the relevant steps set out in its public consultation policy.</p> <p>(6) A council must give notice in the Gazette of a resolution—</p> <ul style="list-style-type: none"> (a) to exclude land from classification as community land under subsection (4); or (b) to classify, as community land, land that had previously been excluded from classification as such under subsection (5).
<p>Revocation of classification of land as community land.</p>	194 (2)	<p>Before a council revokes the classification of land as community land—</p> <ul style="list-style-type: none"> (a) the council must prepare a report and make publicly available a report on the proposal containing— <ul style="list-style-type: none"> (i) a summary of the reasons for the proposal; and (ii) a statement of any dedication, reservation or trust to which the land is subject; and (iii) a statement of whether revocation of the classification is proposed with a view to sale or disposal of the land and, if so, details of any Government assistance given to acquire the land and a statement of how the council proposes to use the proceeds; and (iv) an assessment of how implementation of the proposal would affect the area and the local community; and (v) if the council is not the owner of the land—a statement of any requirements made by the owner of the land as a condition of approving the proposed revocation of the classification; and (b) the council must follow the relevant steps set out in its public consultation policy.
<p>Management Plans – Public Consultation</p>	197 (1) (2) (3)	<p>(1) Before a council adopts a management plan for community land it must—</p> <ul style="list-style-type: none"> (a) make copies of the proposed plan available for inspection or purchase at the council's principal office; and (b) follow the relevant steps set out in its public consultation policy. <p>(2) A council may adopt a management plan without complying with the requirements of subsection (1) if the council adopted the plan after a process of public notification and consultation before the commencement of this Act.</p> <p>(3) A council must give public notice of its adoption of a management plan.</p>
<p>Amendment or revocation of management plans</p>	198 (2) (3) (4)	<p>(2) A council may only adopt a proposal for amendment to, or revocation of, a management plan after the council has carried out the public consultation that would be required if the proposal were for a new management plan.</p>

NB: A Council cannot dispose of community land until revocation of its classification as community land.		(3) However, public consultation is not required if the amendment has no impact or no significant impact on the interests of the community. (4) A council must give public notice of its adoption of a proposal for the amendment or revocation of a management plan.
Alienation by lease or licence NB: Specific provisions relate to the Adelaide Park Lands – under the Parklands Act 2005.	202 (2) (3)	(2) Before the council grants a lease or licence relating to community land, it must follow the relevant steps set out in its public consultation policy. (3) However, a council need not comply with the requirements of subsection (2) if - (a) the grant of the lease or licence is authorised in an approved management plan for the land, and the term of the proposed lease or licence is five years or less; or (b) the regulations provide, in the circumstances of the case, for an exemption from compliance with a public consultation policy.
Authorisations /Permits <ul style="list-style-type: none"> Where road would be fenced, enclosed or portioned so as to impede passage of traffic to a material degree Use or activity for which public consultation required under regulations 	223 (1) (2)	(1) If a council proposes to grant an authorisation or permit— (a) that would result in any part of a road being fenced, enclosed or partitioned so as to impede the passage of traffic to a material degree; or (c) in relation to a use or activity for which public consultation is required under the regulations, the council must, before granting the authorisation or permit, follow the relevant steps set out in its public consultation policy. (2) The council must also give written notice of the proposal to agencies that are, under the regulations, to be notified of the proposal.
Roads – Trees	232	Before a council plants vegetation, or authorises or permits the planting of vegetation, on a road that may have a significant impact on residents, the proprietors of nearby businesses or advertisers in the area, follow the relevant steps set out in its public consultation policy.
Passing by-laws NB: No specific reference to Council's Public Consultation Policy, but minimum standards apply.	249 (1) (2)	(1) If it is proposed that a council make a bylaw, the council must, at least 21 days before resolving to make the by-law— (a) make copies of the proposed by-law (and any code, standard or other document proposed to be applied or incorporated by the by-law) available for public inspection, without charge and during ordinary office hours, at the principal office of the council, and so far as is reasonably practicable on the Internet; and (b) by notice in a newspaper circulating in the area of the council— (i) inform the public of the availability of the proposed by-law; and (ii) set out the terms of the by-law, or describe in general terms the by-law's nature and effect. (2) A council must give reasonable consideration to a written or other acceptable submission made to the council on a proposed by-law.
Power to Make Orders Councils must take reasonable steps to prepare and adopt policies relating to the power to make orders.	259 (2)	A council must— (a) prepare a draft of a policy; and (b) by notice in a newspaper circulating in the area of the council, give notice of the place or places at which copies of the draft are available for inspection (without charge) and purchase (on payment of a fee fixed by the council) and invite interested persons to make written representations on the draft within a period specified by the council (being a period of at least 4 weeks). The requirement of s.259(2) also apply to Council adopting an amendment to a policy, unless the council determines that the amendment is of only minor significance.

DIRECTOR DEVELOPMENT SERVICES**DA/ITEM 6.4****3. REVOCATION OF COMMUNITY LAND BLACK POINT – ALLOTMENT 203****PURPOSE**

To consider submissions received in relation to the community engagement process for the revocation of Community Land classification, for the purpose of selling property at Black Point.

RECOMMENDATION

The Council:

1. receives written submissions received in relation to the proposed revocation of the classification as community land Allotment 203, Certificate of Title 5294 Folio 898 provided to the Council under separate cover to the report of the Director Development Services in relation to Item 6.4 (the submissions);
2. having considered the submissions defers the further consideration of this matter to the May 2017 Ordinary Council Meeting.

LINK TO STRATEGIC PLAN

- Goal: 1 Economically Prosperous Peninsula
- Strategy: 1.2 Deliver strategic and responsible land use planning
- Goal: 5 Responsible Governance
- Strategy: 5.3 Meet all legislative requirements and compliance with Council's internal controls

BACKGROUND

The Local Government Act 1999, establishes a framework for the classification of most land owned by a Council or under a Councils care, control and management (local government land) as 'community land'.

The framework aims to ensure a consistent, strategic and flexible approach to the administration and management of local government land. Its objectives are to protect community interests in land for current and future generations.

It is important to note that the Council is the instigator of this proposal to revoke the classification of community land, and as such, it is ultimately the Council that is responsible and accountable to its community for the decisions it makes.

The Act seeks to ensure that members of the community are involved in the revocation process, and to provide them with an opportunity to make submissions which Council must consider.

The Act sets out the process the Council must follow to revoke the community land classification of land. The process for revoking community land classification exists to give scope to the Council to determine (in consultation with its community) whether the community's long-term interest in a parcel of land does or does not need to be protected.

The Council must, before revoking the community land classification of land as community land make publicly available a report containing the matters prescribed in Section 194(2)(a) of the Act.

At the Council meeting of 14th September 2016, the Council considered reports of the Director of Development Services in relation to the proposed revocation of the classification as community land Allotments 201, 202, 203 and 204 Plan Number 41613, (the Land). At that meeting the Council resolved to commence the community engagement process for the revocation of the community land classification for the Land. As required by the Act, a report was prepared and made publicly available in accordance with, and containing the matters prescribed in, Section 194(2)(a) of the Act and community consultation was undertaken in accordance with the Council's Community Engagement Policy as required by the Act.

In accordance with Councils Community Engagement Policy a Level 2 Community Engagement process was undertaken. The community engagement commenced on 21st September and concluded on 25th November 2016, providing the opportunity for community members to make a submission to Council.

The Level 2 community engagement notification included;

- personalised letter sent to Black Point property owners – Attachment 5
- a Public Notice was advertised in the Yorke Peninsula Country Times on 20th September and 18th October 2016 – Attachment 6
- Public Notification on Council's website and the Community Engagement Report - Attachment 7
- Copy of signage erected on Allotments 201, 202, 203, and 204 notifying of the community engagement for the proposed revocation of community land – Attachment 8
(Copy of signage in situ – Attachment 8)
- notification on Council's Facebook page

DISCUSSION

The Act (s50(4)(b)) requires that the Council's public consultation policy must provide for the consideration by Council of any submissions made. Once the public notification period has ended, there must be compliance with this aspect of the policy. The Act (s194(3)(a)) also requires that the Council submit to the Minister a report on all submissions made as part of the consultation process.

As a result of Council resolving to commence with the community engagement process at the 14th September 2016 Council meeting, a Level 2 consultation process was undertaken in accordance with the Community Engagement Plan as per Attachment 4.

In accordance with the Community Engagement process, community members were provided with a 9 week period to make a submission to Council, with the opportunity to make a verbal submission to the February 2017 Council meeting.

At the end of the consultation process, Council had received 26 written submissions. Of those written submissions received, 4 people have indicated (at the time of writing this report) that they would like to make a verbal presentation to Council.

A petition with 104 signatures was also received and presented to the 14th December 2016 Council meeting.

A copy of the Submissions Summary identifying the public's issues is contained within Attachment 1.

A Location Map of Submissions Received is in Attachment 2.

A copy of the Comments to the Key Issues is contained in Attachment 3.

A full copy of the written submissions has been received and provided under separate cover.

After considering the public submissions, Council may resolve to seek Ministerial approval for the proposal. Only then can an application be made to the Minister. Council cannot delegate the power to make an application to the Minister, this must be a resolution of Council.

If the Minister approves the proposal, the Council may then (but is not required to) make a resolution revoking the classification of the Land as community land.

Officers are recommending that Council defer the matter to the May 2017 Council meeting in order to further assess the written and verbal submissions and seek clarification where necessary by way of further engagement with the community.

COMMUNITY ENGAGEMENT PLAN

Community Engagement Plan Level 3 – Consult. Now completed.

CONSULTATION PROCESS

In preparing this report, the following Yorke Peninsula Council officers were consulted:

- Corporate Management Team

In preparing this report, the following External Parties were consulted:

- Maloney Field Services
- MoselSteed

POLICY IMPLICATIONS

PO072 Disposal of Land and Other Assets

PO057 Community Engagement Policy

BUDGET AND RESOURCE IMPLICATIONS

No budget implications during the revocation process excepting signage and postage costs which will be absorbed in existing budgets. Should the revocation proceed and land is listed for sale, the following costs are anticipated (at the time of writing this report).

- Approximately \$4,000 – Conveyancer fees including LMA for each allotment.
- Approximately \$10,600 – Development Application feed including Development Assessment Commission Application, consulting, drafting, surveying & administration include monitoring of development application and work following the approval.

RISK/LEGAL/LEGISLATIVE IMPLICATIONS

Local Government Act 1999 Section 194 (2)(a) and Section 201 (2)(iii).

ATTACHMENTS

Attachment 1: Summary of Submissions Received.

Attachment 2: Location Map of Submissions Received.

Attachment 3: Comments to Key Issues.

Attachment 4: Completed Community Engagement Plan.

Attachment 5: Letter to Black Point Property Owners.

Attachment 6: Public Notice - Appearing in Yorke Peninsula Country Times.

Attachment 7: Community Engagement Report.

Attachment 8: Copy of Signage - Copy of Signage in Situ

DIRECTOR DEVELOPMENT SERVICES

DA/ITEM 6.4

4. REVOCATION OF COMMUNITY LAND BLACK POINT – ALLOTMENT 204

PURPOSE

To consider submissions received in relation to the community engagement process for the revocation of Community Land classification, for the purpose of selling property at Black Point.

RECOMMENDATION

The Council:

1. receives written submissions received in relation to the proposed revocation of the classification as community land Allotment 204, Certificate of Title 5294 Folio 899 provided to the Council under separate cover to the report of the Director Development Services in relation to Item 6.4 (the submissions);
2. having considered the submissions defers the further consideration of this matter to the May 2017 Ordinary Council Meeting.

LINK TO STRATEGIC PLAN

- Goal: 1 Economically Prosperous Peninsula
- Strategy: 1.2 Deliver strategic and responsible land use planning
- Goal: 5 Responsible Governance
- Strategy: 5.3 Meet all legislative requirements and compliance with Council's internal controls

BACKGROUND

The Local Government Act 1999, establishes a framework for the classification of most land owned by a Council or under a Councils care, control and management (local government land) as 'community land'.

The framework aims to ensure a consistent, strategic and flexible approach to the administration and management of local government land. Its objectives are to protect community interests in land for current and future generations.

It is important to note that the Council is the instigator of this proposal to revoke the classification of community land, and as such, it is ultimately the Council that is responsible and accountable to its community for the decisions it makes.

The Act seeks to ensure that members of the community are involved in the revocation process, and to provide them with an opportunity to make submissions which Council must consider.

The Act sets out the process the Council must follow to revoke the community land classification of land. The process for revoking community land classification exists to give scope to the Council to determine (in consultation with its community) whether the community's long-term interest in a parcel of land does or does not need to be protected.

The Council must, before revoking the community land classification of land as community land make publicly available a report containing the matters prescribed in Section 194(2)(a) of the Act.

At the Council meeting of 14th September 2016, the Council considered reports of the Director of Development Services in relation to the proposed revocation of the classification as community land Allotments 201, 202, 203 and 204 Plan Number 41613, (the Land). At that meeting the Council resolved to commence the community engagement process for the revocation of the community land classification for the Land. As required by the Act, a report was prepared and made publicly available in accordance with, and containing the matters prescribed in, Section 194(2)(a) of the Act and community consultation was undertaken in accordance with the Council's Community Engagement Policy as required by the Act.

In accordance with Councils Community Engagement Policy a Level 2 Community Engagement process was undertaken. The community engagement commenced on 21st September and concluded on 25th November 2016, providing the opportunity for community members to make a submission to Council.

The Level 2 community engagement notification included;

- personalised letter sent to Black Point property owners – Attachment 5
- a Public Notice was advertised in the Yorke Peninsula Country Times on 20th September and 18th October 2016 – Attachment 6
- Public Notification on Council's website and the Community Engagement Report - Attachment 7
- copy of signage erected on Allotments 201, 202, 203, and 204 notifying of the community engagement for the proposed revocation of community land – Attachment 8
(Copy of signage in situ – Attachment 8)
- notification on Council's Facebook page

DISCUSSION

The Act (s50(4)(b)) requires that the Council's public consultation policy must provide for the consideration by Council of any submissions made. Once the public notification period has ended, there must be compliance with this aspect of the policy. The Act (s194(3)(a)) also requires that the Council submit to the Minister a report on all submissions made as part of the consultation process.

As a result of Council resolving to commence with the community engagement process at the 14th September 2016 Council meeting, a Level 2 consultation process was undertaken in accordance with the Community Engagement Plan as per Attachment 4.

In accordance with the Community Engagement process, community members were provided with a 9 week period to make a submission to Council, with the opportunity to make a verbal submission to the February 2017 Council meeting.

At the end of the consultation process, Council had received 26 written submissions. Of those written submissions received, 4 people have indicated (at the time of writing this report) that they would like to make a verbal presentation to Council.

A petition with 104 signatures was also received and presented to the 14th December 2016 Council meeting.

A copy of the Submissions Summary identifying the public's issues is contained within Attachment 1.

they didn't comply with the level 3 process

A Location Map of Submissions Received is in Attachment 2.

A copy of the Comments to the Key Issues is contained in Attachment 3.

A full copy of the written submissions has been received and provided under separate cover.

After considering the public submissions, Council may resolve to seek Ministerial approval for the proposal. Only then can an application be made to the Minister. Council cannot delegate the power to make an application to the Minister, this must be a resolution of Council.

If the Minister approves the proposal, the Council may then (but is not required to) make a resolution revoking the classification of the Land as community land.

Officers are recommending that Council defer the matter to the May 2017 Council meeting in order to further assess the written and verbal submissions and seek clarification where necessary by way of further engagement with the community.

COMMUNITY ENGAGEMENT PLAN

Community Engagement Plan Level 3 – Consult. Now completed.

CONSULTATION PROCESS

In preparing this report, the following Yorke Peninsula Council officers were consulted:

- Corporate Management Team

In preparing this report, the following External Parties were consulted:

- Maloney Field Services
- MoselSteed

POLICY IMPLICATIONS

PO072 Disposal of Land and Other Assets

PO057 Community Engagement Policy

BUDGET AND RESOURCE IMPLICATIONS

No budget implications during the revocation process excepting signage and postage costs which will be absorbed in existing budgets. Should the revocation proceed and land is listed for sale, the following costs are anticipated (at the time of writing this report).

- Approximately \$4,000 – Conveyancer fees including LMA for each allotment.
- Approximately \$10,600 – Development Application fees including Development Assessment Commission Application, consulting, drafting, surveying & administration include monitoring of development application and work following the approval.

RISK/LEGAL/LEGISLATIVE IMPLICATIONS

Local Government Act 1999 Section 194 (2)(a) and Section 201 (2)(iii).

ATTACHMENTS

Attachment 1: Summary of Submissions Received.

Attachment 2: Location Map of Submissions Received.

Attachment 3: Comments to Key Issues.

Attachment 4: Completed Community Engagement Plan.

Attachment 5: Letter to Black Point Property Owners.

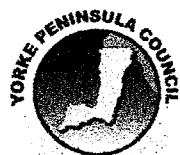
Attachment 6: Public Notice - Appearing in Yorke Peninsula Country Times.

Attachment 7: Community Engagement Report.

Attachment 8: Copy of Signage - Copy of Signage in Situ

10th May 2017 Council Agenda document

Attachment 7.



Agriculturally rich - Naturally beautiful

COMMUNITY ENGAGEMENT PLAN - Attachment 4

SF215
Responsible Officer: Business Improvement Officer
Issue Date: 10th June 2015
Next Review Date: June 2019

PROJECT NAME: REVOCATION OF COMMUNITY LAND – ALLOTMENTS 201, 202, 203 and 204 BLACK POINT

Stakeholders	Level 2 CONSULT	Responsibility	Start Date	End Date	Status	Evaluation Method
Affected residents	Personalised Letter	Director Development Services	5/09/2016	25/11/2016	C	Report back to Council on the outcome of the Community Engagement process.
Entire community	Public Notice	Director Development Services	21/09/2016	25/11/2016	C	
Entire community	Website	Director Development Services	21/09/2016	25/11/2016	C	
Entire community	Social Media	Director Development Services	21/09/2016	25/11/2016	C	
Entire community	Signage	Director Development Services	21/09/2016	2/05/2017	C	
Entire community	Ability to appear before Council	Director Development Services	8/02/2017	10/05/2017	C	Elected Members to make decision based on any submissions received from the extended Community Engagement process.
Affected Residents	Personalised Letter	Director Development Services	7/04/2017	26/04/2017	C	

That didn't happen



COUNCIL POLICY

Disposal of Land and Other Assets

Agriculturally rich - Naturally beautiful

Policy Number:	PO072		
Strategic Plan Objective	Corporate Governance and Leadership 1. Progressive Communities through Strategic Planning 1.2 Knowledgeable and skilled decision makers		
Policy Owner:	Director Corporate & Community Services	File Number:	9.63.1
Responsible Officer:	Manager Financial Services	Minute Reference:	104/2015 (13/05/2015)
Date Adopted:	13 th May 2015	Next Review Date:	May 2018

1. POLICY OBJECTIVES

This Policy aims to define how Council can dispose of Land and Other Assets in compliance with Section 49 of the Local Government Act 1999 (the Act):

1.1 This Policy seeks to:

- 1.1.1 define the methods by which Land and Assets are disposed of;
- 1.1.2 demonstrate accountability and responsibility of Council to ratepayers;
- 1.1.3 be fair and equitable to all parties involved;
- 1.1.4 enable all processes to be monitored and recorded; and
- 1.1.5 ensure that the best possible outcome is achieved for the Council.

1.2 Furthermore, Section 49 (a1) of the Act requires Council to develop and maintain policies, practices and procedures directed towards:

- 1.2.1 obtaining value in the expenditure of public money; and
- 1.2.2 providing for ethical and fair treatment of participants; and
- 1.2.3 ensuring probity, accountability and transparency in all disposal processes.

1.3 However, this Policy does not cover:

- 1.3.1 Land sold by Council for the non-payment of rates; or
- 1.3.2 disposal of goods which are not owned by the Council, such as abandoned vehicles;

as these are dealt with separately and specifically in the Act.

2. SCOPE

This Policy applies to all persons authorised, through appropriate delegations, to dispose of land or other assets on behalf of Yorke Peninsula Council (YPC), and to the disposal of all such land and other assets irrespective of value or complexity.

3. DEFINITIONS

In this Policy, unless the contrary intention appears, these words have the following meanings:

Asset	Means any physical item that the Council owns and that has at any time been treated pursuant to the Australian Accounting Standards as an 'asset', and includes Major Plant and Equipment and Minor Plant and Equipment. It does not include financial investments or finance related activities, trees or Land.
Land	Includes community land, vacant land, operational land, road reserves, any legal interest in land, and any other land-related assets, including all buildings (community and operational) on Land.
Major Plant and Equipment	Includes all major machinery and equipment owned by Council. It includes all trucks, graders, other operating machinery and major plant items. It does not include Minor Plant and Equipment.
Minor Plant and Equipment	Includes all minor plant and equipment owned by Council. It includes all loose tools, store items, furniture, and any surplus bulk items.

4. POLICY STATEMENT

4.1 Policy Principles

Council must have regard to the following principles in its disposal of Land and Other Assets:

4.1.1 Encouragement of open and effective competition

4.1.2 Obtaining Value for Money

4.1.2.1 This is not restricted to price alone.

4.1.2.2 An assessment of value for money must include consideration of (where applicable):

- (a) the contribution to Council's long term financial plan and strategic management plans;

- (b) any relevant direct and indirect benefits to Council, both tangible and intangible;
- (c) efficiency and effectiveness;
- (d) the costs of various disposal methods;
- (e) internal administration costs;
- (f) risk exposure; and
- (g) the value of any associated environmental benefits.

4.1.3 Ethical Behaviour and Fair Dealing

Council is to behave with impartiality, fairness, independence, openness and integrity in all discussions and negotiations.

4.1.4 Probity, Accountability, Transparency and Reporting

4.1.5 Ensuring compliance with all relevant legislation

4.2 Considerations prior to Disposal of Land and Other Assets

Any decision to dispose of Land and Other Assets will be made after considering (where applicable):

- 4.2.1 the usefulness of the Land or Asset;
- 4.2.2 the current market value of the Land or Asset;
- 4.2.3 the annual cost of maintenance;
- 4.2.4 any alternative future use of the Land or Asset;
- 4.2.5 any duplication of the Land or Asset or the service provided by the Land or Asset;
- 4.2.6 any impact the disposal of the Land or Asset may have on the community;
- 4.2.7 any cultural or historical significance of the Land or Asset;
- 4.2.8 the positive and negative impacts the disposal of the Land or Asset may have on the operations of the Council;
- 4.2.9 the long term plans and strategic direction of the Council;
- 4.2.10 the remaining useful life, particularly of an Asset;
- 4.2.11 a benefit and risk analysis of the proposed disposal;
- 4.2.12 the results of any community consultation process;
- 4.2.13 any restrictions on the proposed disposal;

4.2.14 the content of any community land management plan; and

4.2.15 any other relevant policies of the Council

4.3 Disposal Methods

4.3.1 Land disposal

4.3.1.1 The Council may resolve to dispose of Land.

4.3.1.2 Where the Land forms or formed a road or part of a road, the Council must ensure that the Land is closed under the *Roads Opening and Closing Act 1991* (SA) prior to its disposal.

4.3.1.3 Where Land is classified as community land, the Council must:

- (a) undertake public consultation in accordance with the Act and the Council's public consultation policy; and
- (b) ensure that the process for the revocation of the classification of Land as community land has been concluded prior to its disposal; and
- (c) comply with all other requirements under the Act in respect of the disposal of community land.

4.3.1.4 Where the Council proposes to dispose of Land through the grant of a leasehold interest, the Council must have complied with its obligations under the Act, including its public consultation obligations under Section 202 of the Act.

4.3.1.5 The Council will, where appropriate, dispose of Land through one of the following methods (following compliance with Council's Purchasing and Procurement Policy):

- (a) *open market sale* - advertisement for disposal of the Land through the local paper and where appropriate, a paper circulating in the State, or by procuring the services of a licensed real estate agent and/or auctioneer
- (b) *expressions of interest* - seeking expressions of interest for the Land;
- (c) *select tender* - seeking tenders from a selected group of persons or companies;
- (d) *open tender* - openly seeking bids through tenders, including public auction;
- (e) *by negotiation* – with owners or person(s) who have an interest in land adjoining the Land or others with a pre-existing interest in the Land, or where the Land is to be used by a purchaser whose purpose

for the Land is consistent with the Council's strategic objectives for the Land.

- 4.3.1.6 Selection of a suitable disposal method will include consideration of (where appropriate):
- (a) the number of known potential purchasers of the Land;
 - (b) the original intention for the use of the Land;
 - (c) the current and possible preferred future use of the Land;
 - (d) the opportunity to promote local economic growth and development;
 - (e) delegation limits, taking into consideration accountability, responsibility, operation efficiency and urgency of the disposal;
 - (f) the total estimated value of the disposal; and
 - (g) compliance with statutory and other obligations.
- 4.3.1.7 In some circumstances the Council may consider a sale or disposal other than through the open market based on individual merit. These circumstances may include but are not limited to the following:
- (a) Land that is small in size, dimensions or irregular shape;
 - (b) Land that has no legal access;
 - (c) Land to be developed by another level of government;
 - (d) Preferred future use of the Land as identified by the Council;
 - (e) Land of nominal value;
 - (f) Land for inclusion with an adjacent land holding;
 - (g) Land that will complement a proposed development on an adjoining site, which is consistent with Council's objectives.
- 4.3.1.8 The Council will not dispose of Land to any Council Member or employee of the Council who has been involved in any process related to a decision to dispose of the Land and/or the establishment of a reserve price.
- 4.3.1.9 If Land is to be auctioned or placed on the open market or disposed of by an expression of interest, then (unless the Council resolves otherwise) one independent valuation must be obtained to establish the reserve price for the

Land. The independent valuation must be made no more than 6 months prior to the proposed disposal.

- 4.3.1.10 If Land is to be disposed of via a select tender or direct sale, then (unless the Council resolves otherwise) a minimum of two independent valuations must be obtained to ensure that an appropriate market value is obtained. The independent valuation must be made no more than 6 months prior to the proposed disposal.
- 4.3.1.11 The Council will seek to dispose of Land at or above current market valuation by whichever method is likely to provide the Council with a maximum return, unless there are reasons for the Council to accept a lesser return which is consistent with the Council's overall strategic direction. These reasons must be documented in writing.
- 4.3.1.12 If the disposal is not to be on the open market, the disposal should be at or above the current market valuation (with due regard to all associated costs to achieve the transaction or such other amount as the Council resolves).

4.3.2 Assets disposal

- 4.3.2.1 The sale of Assets (both Major Plant and Equipment and Minor Plant and Equipment) will be the responsibility of the relevant Council Officer who is responsible for those Assets.

- 4.3.2.2 The Council will, where appropriate, dispose of Assets through one of the following methods (following compliance with Council's Purchasing and Procurement Policy):

- (a) *trade-in* – trading in equipment to suppliers;
- (b) *expressions of interest* – seeking expressions of interest from buyers;
- (c) *select tender* – seeking tenders from a selected group of persons or companies;
- (d) *open tender* – openly seeking bids through tenders;
- (e) *public auction* – advertisement for auction through the local paper and, where appropriate, a paper circulating in the State, or procuring the services of an auctioneer

- 4.3.2.3 Selection of a suitable method will include consideration of (where appropriate):

- (a) the public demand and interest in the Asset;
- (b) the method most likely to return the highest revenue;

- (c) the value of the Asset and whether it is Major Plant and Equipment or Minor Plant and Equipment;
- (d) the costs of the disposal method compared to the expected returns; and
- (e) compliance with statutory and other obligations.

4.3.2.4 Elected Members and employees of the Council will not be permitted to purchase Assets unless the purchase is via an open tender process or a public auction, and the tender submitted or bid made is the highest.

4.3.2.5 Purchasers of Assets must be required to agree in writing before purchasing any Asset that no warranty is given by the Council in respect of the suitability and condition of the Asset for the purchaser and that the Council will not be responsible for the Asset in any respect following the sale.

4.4 Recording of reasons

Section 49 (2)(c) of the Local Government Act 1999 provides for the recording of reasons for entering into contracts other than those resulting from a tender process.

4.5 Consultation

The Council must undertake public consultation in respect of its proposed disposals in accordance with the Act and its public consultation policies at all times.

4.6 Records

The Council must record reasons for utilising a specific disposal method and where it uses a disposal method other than a tendering process.

4.7 Exemptions from this policy

This Policy contains general guidelines to be followed by the Council in its disposal activities. There may be emergencies, or disposals in which a tender process will not necessarily deliver best outcome for the Council, and other market approaches may be more appropriate. In certain circumstances, the Council may, after approval from its Elected Members, waive application of this Policy and pursue a method which will bring the best outcome for the Council. The Council must record its reasons in writing for waiving application of this Policy.

5. COMPLAINTS

Complaints about this Policy can be made in writing to the Director Corporate and Community Services. Complaints will be managed in accordance with Council's complaints policy PO147.

6. REVIEW

This Policy will be reviewed every three (3) years or as deemed necessary in consideration of any changes to legislation and relevant standards, codes and guidelines.

7. TRAINING

Council is committed to supporting relevant authorised officers (through appropriate delegations) in complying with this Policy. Training needs will be identified and reviewed as necessary in consideration of any changes to legislation and relevant standards, codes and guidelines

8. RELATED COUNCIL POLICIES AND DOCUMENTS

PO058 Purchasing and Procurement Policy
PO147 Complaints Policy
PO057 Public Consultation Policy
PO091 Risk Management Policy

9. REFERENCES AND LEGISLATION

Local Government Act 1999 (SA)
Real Property Act 1886 (SA)
Land and Business (Sale and Conveyancing) Act 1994 (SA)
Development Act 1993 (SA)
Retail and Commercial Leases Act 1995 (SA)
Residential Tenancies Act 1995 (SA)
Strata Titles Act 1988 (SA)
Crown Land Management Act 2009 (SA)
Community Titles Act 1996 (SA)
Roads (Opening and Closing) Act 1991 (SA)
Land Acquisition Act 1969 (SA)

10. COUNCIL DELEGATION

Details of Delegation:	Chief Executive Officer
Delegate:	Director Corporate and Community Services

11. VERSION HISTORY

Archived Policy Name	Policy Number	Date Adopted	Last Reviewed
Disposal of Land and other Assets	PO072	07/4/2003	14/9/2010



Agriculturally rich - Naturally beautiful

COUNCIL POLICY

Risk Management

Policy Number:	PO091		
Strategic Plan Objective	Goal 5 Responsible Governance 5.3 Meet all legislative requirements and compliance with Council's internal controls 5.5 Undertake Effective Risk Management		
Policy Owner:	Chief Executive Officer	File Number:	16/14129
Responsible Officer:	Risk Management Officer	Minute Reference:	011/2017 (18/01/2017)
Date Adopted:	18 th January 2017	Next Review Date:	January 2020

1. POLICY OBJECTIVES

This policy aims to develop, implement and maintain an organisational risk management plan, incorporating Work Health and Safety (WHS) and Injury Management (IM) and internal controls for the Yorke Peninsula Council (the Council).

2. SCOPE

The policy applies to all Council business activities and personnel, including Elected Members, Chief Executive Officer (CEO), Corporate Management Team (CMT), employees and volunteers given that each has responsibility for the effective management of risk within their area(s) of responsibility.

3. DEFINITIONS

Risk Management	The culture, processes and structures directed towards realising potential opportunities, whilst managing adverse effects.
Risk	The effect of uncertainty on Council's business objectives whether it be positive (opportunity) or negative (threat).

4. POLICY STATEMENT

4.1 Section 134(4)(b) of the Local Government Act 1999 (the Act) requires the Council to adopt risk management policies, controls and systems.

4.2 The Council is committed to applying risk management principles across all of its operations and functions in order to effectively realise Council's Strategic Plan.

4.3 Risk management involves adopting systematic procedures and practices to identify, evaluate, treat and monitor risk in all Council activities so that risks associated with these activities are controlled and opportunities maximised. Council will maintain a risk management system consistent with the guidelines and principles of risk management (as set out in AS/NZ ISO31000 – Risk Management Principles and Guidelines) and the Council's Strategic Risk Management Plan.

4.4 The **Chief Executive Officer** is responsible for ensuring the oversight and implementation of risk management.

4.5 The **Audit Committee** is delegated responsibility by Council to review and monitor the implementation of risk management.

The **Corporate Management Team (CMT)** have primary responsibility for managing risk within the business and are accountable to Council for designing, implementing and monitoring the process of risk management and integrating it into the day-to-day activities of the business.

PO091 – Risk Management Policy

The **Risk Management Officer** is responsible for the ongoing development, communication and oversight of risk management, including systems capable of identifying, reporting and monitoring risks across the Council; and reporting the status of the risk management system and risk profiles to the Audit Committee, CEO and CMT.

All **personnel** (employees, volunteers and contractors) are responsible for identifying and managing potential risks as part of their employment or contractual obligations.

5. COMPLAINTS

Complaints about this policy can be made in writing to the Risk Management Officer. All complaints will be managed in accordance with Council's Complaints Policy.

6. REVIEW

This policy will be reviewed every three (3) years and as necessary (in consideration of any changes to legislation and relevant standards, codes and guidelines) by being passed by at least a two-thirds majority vote of the Elected Members.

7. TRAINING

Risk Management training is encompassed within Council's risk management system. Training needs will be reviewed as part of Council's Training Plan and as necessary in consideration of performance reviews, changes to legislation and relevant standards, codes and guidelines.

8. RELATED COUNCIL POLICIES AND DOCUMENTS

- PR098 Risk Management Procedure
- Yorke Peninsula Council Strategic Risk Management Plan
- Yorke Peninsula Council Internal Controls Project - Framework & Implementation Plan

9. REFERENCES AND LEGISLATION

- Section 134(4)(b) of the Local Government Act 1999
- Section 125 of the Local Government Act 1999
- Civil Liability Act, 1936
- Risk Management is prudent in order to address other risks identified in other legislation such as the Emergency Management Act 2004 and Work Health and Safety Act (SA) 2012.
- AS/NZS ISO 31000 Risk Management - Principles and Guidelines

10. COUNCIL DELEGATION

Delegate:	CEO
Sub Delegate:	Risk Management Officer

11. VERSION HISTORY

Archived Policy Name	Policy Number	Date Adopted	Last Reviewed
Risk Management Policy	PO091	14/4/2004	8/6/2010
Risk Management Policy	PO091	11/12/2013	11/03/2015
Risk Management Policy	PO091	11/03/2015	18/01/2017
Risk Management Policy [V4]	PO091	18/01/2017	

Division 3—Community land

Classification

193. (1) All local government land (except roads) that is owned by a council or under a council's care, control and management at the commencement of this section (the **commencement date**) is taken to have been classified as community land unless—

- (a) the council resolves to exclude the land from classification as community land within three years after the commencement date; and
- (b) the land is unaffected by provisions of a reservation, dedication, trust or other instrument that would prevent or restrict its alienation.

(2) Before the council resolves to exclude land from classification as community land under subsection (1)(a), it must follow the relevant steps set out in its public consultation policy.

(3) If land is under the care, control and management of a council but is not owned by the council, the council cannot resolve to exclude the land from classification as community land under subsection (1)(a) without the approval of the owner of the land.

(4) Local government land (other than a road) that is acquired by, or is brought under the care, control and management of, the council after the commencement date is taken to have been classified as community land unless—

- (a) the council resolves before it becomes local government land that it is to be excluded from classification as community land under this section; and
- (b) the land is not affected by provisions of a reservation, dedication, trust or other instrument that would prevent or restrict its alienation.

(4a) Land that formed a road or part of a road that is vested in a council after the closure of the road under the *Roads (Opening and Closing) Act 1991* is taken to have been classified as community land unless the council resolves before, or at the time of, the making of the relevant road process order under that Act that it is to be excluded from classification as community land under this section.

(5) A council may, by resolution, classify local government land as community land if the land has previously been excluded from classification as such.

(6) A council must give notice in the *Gazette* of a resolution—

- (a) to exclude land from classification as community land under subsection (4); or
- (b) to classify, as community land, land that had previously been excluded from classification as such under subsection (5).

(7) For the purposes of this section, local government land does not include easements or rights of way.

Revocation of classification of land as community land

194. (1) A council may (subject to the following exceptions and qualifications) revoke the classification of land as community land in accordance with the following procedure.

Local Government Act 1999**Exceptions and qualifications—**

- (a) The classification of the Adelaide Park Lands as community land cannot be revoked (*see* Division 7).
- (b) The classification of land as community land cannot be revoked if the land is required to be held for the benefit of the community under Schedule 8, under a special Act of Parliament relating to the land, or under an instrument of trust.
- (c) The classification of land as community land cannot be revoked if the power to revoke the classification of that land is excluded by regulation.¹
- (d) The classification of other land as community land cannot be revoked unless—
 - (i) the Minister approves revocation of the classification; and
 - (ii) if the land is under the care, control and management of the council but is not owned by the council—the owner of the land approves revocation of the classification.

(2) Before a council revokes the classification of land as community land—

- (a) the council must prepare a report on the proposal containing—
 - (i) a summary of the reasons for the proposal; and
 - (ii) a statement of any dedication, reservation or trust to which the land is subject; and
 - (iii) a statement of whether revocation of the classification is proposed with a view to sale or disposal of the land and, if so, details of any Government assistance given to acquire the land and a statement of how the council proposes to use the proceeds; and
 - (iv) an assessment of how implementation of the proposal would affect the area and the local community; and
 - (v) if the council is not the owner of the land—a statement of any requirements made by the owner of the land as a condition of approving the proposed revocation of the classification; and
- (b) the council must follow the relevant steps set out in its public consultation policy.

(3) After complying with the requirements of subsection (2), the council—

- (a) must submit the proposal with a report on all submissions made on it as part of the public consultation process to the Minister; and
- (b) if the Minister approves the proposal—may make a resolution revoking the classification of the land as community land.

¹ The Minister must consult with the relevant council before a regulation is made under this paragraph in relation to a specific piece of land.

Effect of revocation of classification

195. (1) The revocation of the classification of land as community land frees the land from a dedication, reservation or trust affecting the land, other than a dedication, reservation or trust under the *Crown Lands Act 1929*.

CODE OF CONDUCT FOR COUNCIL MEMBERS

Local Government Act 1999: Section 63 (1)

NOTICE under Clause 3.10 of the Code of Conduct for Council Members published by the Minister for Planning for the purposes of Section 63 (1) of the Local Government Act 1999.

For the purposes of Clause 3.10 of the Code of Conduct for Council Members adopted for the purposes of Section 63 (1) of the Local Government Act 1999 and published in the *Gazette* on the day on which this Notice is made, the value of \$100 is specified.

Dated 18 August 2013.

JOHN RAU, Deputy Premier, Minister for Planning

Code of Conduct for Council Members

*Published by the Minister for Planning for the purposes of Section 63 (1) of the
Local Government Act 1999.*

This Code of Conduct is to be observed by all Council members.

Council members must comply with the provisions of this Code in carrying out their functions as public officials. It is the personal responsibility of Council members to ensure that they are familiar with, and comply with, the standards in the Code at all times.

PART 1—PRINCIPLES

1. Higher principles—Overarching Statement

This part does not constitute separate enforceable standards of conduct.

Council members in South Australia have a commitment to serve the best interests of the people within the community they represent and to discharge their duties conscientiously, to the best of their ability, and for public, not private, benefit at all times.

Council members will work together constructively as a Council and will uphold the values of honesty, integrity, accountability and transparency, and in turn, foster community confidence and trust in Local Government.

As representatives of open, responsive and accountable government, Council members are committed to considering all relevant information and opinions, giving each due weight, in line with the Council's community consultation obligations.

In the performance of their role, Council members will take account of the diverse current and future needs of the local community in decision-making, provide leadership and promote the interests of the Council.

Council members will make every endeavour to ensure that they have current knowledge of both statutory requirements and best practice relevant to their position. All Councils are expected to provide training and education opportunities that will assist members to meet their responsibilities under the Local Government Act 1999.

Council members will comply with all legislative requirements of their role and abide by this Code of Conduct.

PART 2—BEHAVIOURAL CODE

2. Behavioural Code

In line with 'Part 1—Higher Principles' of this Code, the following behaviour is considered essential to upholding the principles of good governance in Councils.

This Part is for the management of the conduct of Council members that does not meet the reasonable community expectations of the conduct of Council members. It deals with conduct that does not, and is not likely to, constitute a breach of Part 3—Misconduct or criminal matters such as those contained in the Appendix to this document.

Robust debate within Councils that is conducted in a respectful manner is not a breach of this Part.

It is intended that each Council will adopt a process for the handling of alleged breaches of this Part. This process will be reviewed within 12 months of a general Local Government election.

Council members must:

General behaviour

- 2.1 Show commitment and discharge duties conscientiously.
- 2.2 Act in a way that generates community trust and confidence in the Council.
- 2.3 Act in a reasonable, just, respectful and non-discriminatory way when dealing with people.
- 2.4 Show respect for others if making comments publicly.
- 2.5 Ensure that personal comments to the media or other public comments, on Council decisions and other matters, clearly indicate that it is a private view, and not that of the Council.

Responsibilities as a member of Council

- 2.6 Comply with all Council policies, codes and resolutions.
- 2.7 Deal with information received in their capacity as Council members in a responsible manner.
- 2.8 Endeavour to provide accurate information to the Council and to the public at all times.

Relationship with fellow Council Members

- 2.9 Endeavour to establish and maintain a respectful relationship with all Council members, regardless of differences of views and opinions.
- 2.10 Not bully or harass other Council members.

Relationship with Council staff

- 2.11 Not bully or harass Council staff.
- 2.12 Direct all requests for information from the Council administration to the Council's Chief Executive Officer or nominated delegate/s.
- 2.13 Direct all requests for work or actions by Council staff to the Council's Chief Executive Officer or nominated delegate/s.
- 2.14 Refrain from directing or influencing Council staff with respect to the way in which these employees perform their duties.

Requirement to report breach of Part 3

- 2.15 A Council member who is of the opinion that a breach of Part 3 of this Code (Misconduct)— has occurred, or is currently occurring, must report the breach to the Principal Member of the Council or Chief Executive Officer, the Ombudsman or the Office for Public Integrity.
- 2.16 A failure to report an alleged or suspected breach of Part 3 of this Code is in itself a breach under this Part (Behavioural Code).

Complaints

- 2.17 Any person may make a complaint about a Council member under the Behavioural Code.
- 2.18 Complaints about behaviour alleged to have breached the Behavioural Code should be brought to the attention of the Principal Member or Chief Executive Officer of the Council, or nominated delegate/s.
- 2.19 A complaint may be investigated and resolved in any manner which that Council deems appropriate in its process for handling alleged breaches of this Part. This can include, but is not limited to: a mediator or conciliator, the Local Government Governance Panel, a regional governance panel or an independent investigator.
- 2.20 A complaint may be considered within this process to be trivial, vexatious or frivolous, and accordingly not investigated.
- 2.21 A failure of a Council member to cooperate with the Council's process for handling alleged breaches of this Part may be referred for investigation under Part 3.
- 2.22 A failure of a Council member to comply with a finding of an investigation under this Part, adopted by the Council, may be referred for investigation under Part 3.
- 2.23 Repeated or sustained breaches of this Part by the same Council member may be referred, by resolution of the Council, to the relevant authority as a breach of Part 3.
- 2.24 A breach of the Behavioural Code must be the subject of a report to a public meeting of the Council.

Findings

- 2.25 If, following investigation under the Council's complaints handling process, a breach of the Behavioural Code by a Council member is found, the Council may, by resolution:
- 2.25.1 Take no action;
 - 2.25.2 Pass a censure motion in respect of the Council member;
 - 2.25.3 Request a public apology, whether written or verbal;
 - 2.25.4 Request the Council member to attend training on the specific topic found to have been breached;
 - 2.25.5 Resolve to remove or suspend the Council member from a position within the Council (not including the member's elected position on Council);
 - 2.25.6 Request the member to repay monies to the Council.

PART 3—MISCONDUCT

3. Misconduct

Failure by a Council member to comply with this Part constitutes misconduct. The provisions within this Part may refer to statutory matters under the Local Government Act 1999. Any breach of these provisions will be investigated under that legislation.

Any person may report an alleged breach of this Part to the Council, the Ombudsman, the Electoral Commissioner (for alleged breaches of Code 3.8) or the Office for Public Integrity. Alleged breaches of this Part made to a Council or to the Office for Public Integrity may be referred to the Ombudsman for investigation under Section 263 of the Local Government Act 1999, by the Council's Chief Executive Officer or by the Independent Commissioner Against Corruption, where he or she so determines.

A report from the Ombudsman that finds a Council member has breached this Part (Misconduct) of the Code of Conduct must be provided to a public meeting of the Council. The Council must pass resolutions, that give effect to any recommendations received from the Ombudsman, within two ordinary meetings of the Council following the receipt of these recommendations.

An investigation under Part 3 of this Code does not preclude an investigation being launched as a potential breach of the criminal matters listed in the Appendix to this document.

Member duties

Council members must:

- 3.1 Act honestly at all times in the performance and discharge of their official functions and duties;
- 3.2 Perform and discharge their official functions and duties with reasonable care and diligence at all times;
- 3.3 Not release or divulge information that the Council has ordered be kept confidential, or that the Council member should reasonably know is information that is confidential, including information that is considered by Council in confidence;
- 3.4 Not exercise or perform, or purport to exercise or perform, a power, duty or function that he or she is not authorised to exercise or perform;
- 3.5 Not attempt to improperly direct a member of Council staff to act in their capacity as a Local Government employee for an unauthorised purpose;
- 3.6 Ensure that relationships with external parties cannot amount to interference by improper influence, affecting judgement, decisions and/or actions.

Gifts and benefits

3.7 Council members must not:

- 3.7.1 Seek gifts or benefits of any kind;
 - 3.7.2 Accept any gift or benefit that may create a sense of obligation on their part or may be perceived to be intended or likely to influence them in carrying out their public duty;
 - 3.7.3 Accept any gift or benefit from any person who is in, or who seeks to be in, any contractual relationship with the Council.
- 3.8 Notwithstanding Code 3.7, Council members may accept campaign donations as provided for in the Local Government (Elections) Act 1999.

- 3.9 Notwithstanding Code 3.7.3, Council members may accept hospitality provided in the context of performing their duties, including:
- 3.9.1 Free or subsidised meals, beverages or refreshments of reasonable value provided in conjunction with:
 - 3.9.1.2 Council work related events such as training, education sessions workshops and conferences;
 - 3.9.1.3 Council functions or events;
 - 3.9.1.4 Social functions organised by groups such as Council committees and community organisations.
 - 3.9.2 Invitations to, and attendance at, local social, cultural or sporting events.
- 3.10 Where Council members receive a gift or benefit of more than a value published in the *Government Gazette* by the Minister from time to time, details of each gift or benefit must be recorded within a gifts and benefits register maintained and updated quarterly by the Council's Chief Executive Officer. This register must be made available for inspection at the principal office of the Council and on the Council website.

Register of Interests

- 3.11 Council members must lodge with the Council a complete and accurate primary return of their interests, and subsequent ordinary returns, as required by legislation.

Campaign donation returns

- 3.12 Council members must ensure that following each election an accurate campaign donation return is provided to the Chief Executive Officer of the Council as required by legislation.

Conflict of interest

- 3.13 Council members must be committed to making decisions without bias and in the best interests of the whole community and comply with the relevant conflict of interest provisions of the Local Government Act 1999.

Misuse of Council resources

- 3.14 Council members using Council resources must do so effectively and prudently.
- 3.15 Council members must not use Council resources, including services of Council staff, for private purposes, unless legally or properly authorised to do so, and payments are made where appropriate.
- 3.16 Council members must not use public funds or resources in a manner that is irregular or unauthorised.

Repeated or sustained breaches of Part 2

- 3.17 At the discretion of the Council to which the member is elected, repeated or sustained inappropriate behaviour, as listed in Part 2, may be escalated to an allegation of misconduct under this Part.
- 3.18 A failure to comply with a finding of inappropriate behaviour (by the Council, independent investigator or Ombudsman) under Part 2 is also grounds for a complaint under this Part.

APPENDIX—CRIMINAL MATTERS

The matters within this Appendix are matters for which a criminal penalty attaches. As separate legislation operates to cover such conduct, this part does not form part of the Code of Conduct for Council Members.

Allegations of conduct breaching these matters will be investigated in accordance with the legislation governing that conduct and they are included within this document only in order to provide a complete overview of the standards of conduct and behaviour expected of Council members.

Alleged breaches of matters outlined in this Appendix should be reported to the Office for Public Integrity in the first instance.

Breaches of the Local Government Act 1999

Member duties

A member of a Council must not, whether within or outside the State, make improper use of information acquired by virtue of his or her position as a member of the Council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Council (Section 62 (3)).

A member of a Council must not, whether within or outside the State, make improper use of his or her position as a member of the Council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Council (Section 62 (4)).

Provision of false information

A member of a Council who submits a return under Chapter 5 Part 4 (Register of interest) and Schedule 3 of the Local Government Act 1999, that is to the knowledge of the member, false or misleading in a material particular (whether by reason of information included in or omitted from the return) is guilty of an offence (Section 69).

Restrictions on publication of information from Register of Interests

A Council member must not publish information, or authorise publication of information, derived from a Register unless the information constitutes a fair and accurate summary of the information contained in the Register, and is published in the public interest, or comment on the facts set forth in a Register, unless the comment is fair and published in the public interest and without malice (Section 71).

Breaches of other Acts

Acting in his or her capacity as a public officer, a Council member shall not engage in conduct, whether within or outside the state, that constitutes corruption in public administration as defined by Section 5 of the Independent Commissioner Against Corruption Act 2012, including:

An offence against Part 7 Division 4 (Offences relating to public officers) of the Criminal Law Consolidation Act 1935, which includes the following offences:

- bribery or corruption of public officers;
- threats or reprisals against public officers;
- abuse of public office;
- demanding or requiring benefit on basis of public office;
- offences relating to appointment to public office.

Any other offence, including an offence against Part 5 (Offences of dishonesty) of the Criminal Law Consolidation Act 1935, committed by a public officer while acting in his or her capacity as a public officer, or by a former public officer and related to his or her former capacity as a public officer, or by a person before becoming a public officer and related to his or her capacity as a public officer, or to an attempt to commit such an offence.

Any of the following in relation to an offence referred to in a preceding paragraph:

- aiding, abetting, counselling or procuring the commission of the offence;
- inducing, whether by threats or promises or otherwise, the commission of the offence;
- being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;
- conspiring with others to effect the commission of the offence.



COUNCIL POLICY

Internal Review of a Council Decision

Policy Number:	PO037		
Strategic Plan Objective	Meet all legislative and compliance responsibilities		
Policy Owner:	Chief Executive Officer	Record Number:	16/13932[v5]
Responsible Officer:	Governance Officer	Minute Reference:	055/2017 (08/03/2017)
Date Adopted:	08/03/2017	Next Review Date:	March 2020

1. POLICY OBJECTIVES

Council is committed to ensuring its customers are provided with an open, responsive and accountable process for reviewing grievances.

The aim of this policy is to provide a fair, consistent and structured process for Council's customers if they are dissatisfied with a decision made by:

- The Council;
- Employees of the Council;
- Other persons acting for or on behalf of the Council;

in accordance with Section 270 of the Local Government Act, 1999.

2. SCOPE

2.1 This policy applies:

- i) When a request for review of a decision is received;
- ii) When a Complaint escalates to Tier 3 under Council's Complaint Handling Policy, PO 147;
- iii) To all personnel who may be involved in receiving and/or dealing with an application for review of a Council decision under this policy for or on behalf of the Council.

2.2 Requests to review matters that are not Council's responsibility, such as disputes between neighbours, civil liability matters and matters already being dealt with through the Court process, will not be handled under this policy.

2.3 Requests to review decisions relating to other legislation that has its own prescribed appeal processes such as:

- Objections to valuations made by a Council;
 - Appeals against orders made pursuant to section 254 of the Local Government Act;
 - Development matters;
 - Freedom of Information matters;
 - Dog and cat management matters;
- will not be handled under this policy, unless the matter(s) falls outside of the available statutory appeals processes.

3. DEFINITIONS

Definitions are provided in Attachment 1.

P0037 Internal Review of a Council Decision Policy

4. POLICY STATEMENT

Council has a "Three Tier Process" for managing customer complaints, as set out in item 4.2 of Council's Complaint Policy PO147. An internal review is the Third Tier in Council's complaints handling process.

The Internal Review of Council a Decision Policy commences when:

- A written request for the review of a decision is received, or
- A complaint escalates to Tier 3 under Council's Complaint Policy.

There are five fundamental principles that underpin Council's approach to handling requests for service, complaints and decision reviews. They are:

- **Fairness:** treating complainants fairly with impartiality, confidentiality and transparency at all stages of the process;
- **Accessibility:** ensuring broad public awareness about Council's policy and a range of contact options;
- **Responsiveness:** ensuring that sufficient resources and well trained staff are provided and that systems are reviewed for improvement;
- **Efficiency:** complaints will be resolved as quickly as possible, while ensuring that they are dealt with at a level that reflects their complexity;
- **Integration** of different areas of Council where the complaint overlaps functional responsibilities.

An application for a review of a Council decision provides Council with an opportunity to revisit a decision which has aggrieved a customer(s). This may include an individual or a group, ratepayer, resident or business owner. It may also include a person who is not the direct subject of the decision (for example, where a Council issues a permit for a person to keep more than the maximum number of dogs permitted under a by-law, a neighbour may seek an internal review of the decision). Council will determine whether a person has sufficient interest in a matter to apply for an internal review of a decision, on a case-by-case basis.

4.1 Internal Review of a Council Decision Process

An application for review must be in writing and set out the reasons why the Applicant believes that the decision is wrong and may also include new, relevant information or evidence to support the application. A person can make an application in a number of ways:

- Via Council's Website
- Email;
- Letter;
- Fax;
- Visit a Council customer service office.

No one is excluded from lodging an application for review because of any difficulties they may have representing themselves. All Council employees will offer assistance where appropriate and, upon request, provide assistance in documenting the reasons for the review when warranted. Access to interpreters, aids or advocates will be arranged by Council staff when necessary.

Everyone will be treated equally, in accordance with good administrative practice. Council will ensure that:

- That there is equal opportunity to make an application for review of a decision covered by this procedure;
- An unbiased assessment is undertaken;
- Decisions are based on sound evidence;

P0037 Internal Review of a Council Decision Policy

- Applicants receive information about the outcome of the review.

4.2 Internal Review Contact Officer

Council's Governance Officer is the Internal Review Contact Officer (IRCO). In the absence of the Governance Officer, the Chief Executive Officer (CEO) will appoint an acting IRCO. In the case where the request for review relates to a decision made by the CEO, the Mayor will appoint an acting IRCO in the absence of the Governance Officer.

The IRCO is the initial point of contact for Applicants and is responsible for:

- Explaining the process for review to the Applicant and exploring any alternative options to resolve the matter;
- Acknowledging receipt of the written application within ten business days;
- Ensuring that a register of all applications, including review outcomes, is maintained;
- Outlining the timeframes involved and the action to be taken;
- Undertaking a preliminary investigation to determine what actions have already been taken to try to resolve the matter;
- Keeping the Applicant informed of progress as agreed with the Applicant;
- Ensuring adequate records are maintained;
- Reporting to Council on an annual basis regarding the number and nature of applications received;
- Consulting with the CEO, Mayor and/or Elected Council (as appropriate under this policy) to determine how the review will be handled.

All applications are to be referred to the IRCO immediately.

4.3 Assignment of Applications for Review

The Elected Council is the Reviewer and/or a person appointed by the Elected Council as the Reviewer, when the decision being reviewed was made by the Elected Council or a Committee of the Council.

In other circumstances the Reviewer is the CEO and/or a person appointed by the CEO as the Reviewer.

In the case where the request for a review under this policy relates to the review of a decision made by the CEO, then the Mayor will be the Reviewer and/or a person appointed by the Mayor.

4.4 Reviewer's Role

The role of a Reviewer is to review the decision in question to ensure that the decision-maker complied with the following requirements and made the best possible decision in the circumstances:

- The decision was within delegated authority;
- All relevant matters were considered;
- The decision was made based on good faith and for proper purposes;
- The findings were based on evidence;
- The decision was reasonable;
- The complainant was treated with fairness and in keeping with the principles of natural justice;
- That a discretionary power was not exercised at the direction of another;
- Existing policies were adequately considered and applied.

The Reviewer will observe the principles of procedural fairness (also called 'natural justice') when undertaking the Internal Review of Council Decision process including:

P0037 Internal Review of a Council Decision Policy

- Allowing the Applicant to put their case forward, including the opportunity to provide all relevant evidence, both documented and verbal;
- Ensuring that the Reviewer does not have a personal interest in the outcome (is not biased);
- Acting only on proper evidence that is capable of proving the case;
- Ensuring that a decision-maker does not exercise a discretionary power at the direction of another person;
- Ensuring that those who may be affected by a decision are accorded procedural fairness, which includes the principles of natural justice.

4.5 Decision Review

The Reviewer will consider all the information and material that was before the original decision-maker and any additional relevant information or material provided by the Applicant and determine whether a different decision would be more appropriate, based on the evidence.

This means the reviewer will do more than simply consider whether the decision is legally and procedurally correct. The reviewer will also consider whether a different decision would be better, based on the evidence. The process of merits review, as described above, will typically involve a review of the facts that support a decision, including any new evidence that may come to light.

The Reviewer will provide the Applicant with reasons for their decision.

4.6 Rates or Service Charge Review Application

Requests for a review that relate to the impact of Council rates or service charges will be dealt with as a matter of priority and in consideration of Council's Rates Relief Policy PO060.

4.7 Remedies

Possible remedies include:

- An explanation;
- An admission of fault;
- A change to policy, process or practice;
- A correction to records;
- Disciplinary action;
- Referral of a matter to an external agency for further investigation or prosecution.

The remedy may be one, or a combination of actions.

Where a review of a decision upholds the Applicant's grievance Council will, where reasonably practicable, remedy the situation in a manner which is consistent and fair for both Council and the Applicant. The solution chosen will be proportionate and appropriate to the circumstances.

As a general principle the Applicant should, so far as possible, be put in the position they would have been in, had things not gone wrong. This may mean providing the desired service or changing a decision. Sometimes, however, it may only be possible to offer an apology.

Compensation may only be offered in cases where the loss or suffering is considered substantial. Only the CEO is authorised to offer financial compensation and the CEO must consult with the Local Government Association Mutual Liability Scheme before doing so, in relation to all civil liability matters. In the case where the Mayor is the Reviewer, the Mayor must consult with the Local Government Association Mutual

P0037 Internal Review of a Council Decision Policy

Liability Scheme in relation to all civil liability matters.

4.8 Alternative Remedies

The Reviewer may seek to use alternative dispute resolution methods, such as mediation, to resolve grievances in circumstances where it is deemed by the Reviewer to be the most appropriate course of action and the Applicant agrees. Costs and expenses relating to alternative dispute resolution methods will be shared equally between the Council and the Applicant.

4.9 Complainant's Right to Seek Other Forms of Resolution

While Council prefers to work with its customers to resolve grievances quickly and effectively, an Applicant retains the right to seek other forms of resolution, such as contacting the Ombudsman, or taking legal action at any time. As a general rule, the Ombudsman prefers a grievance to be addressed by Council in the first instance, unless this is not appropriate in the circumstances.

When advising an Applicant of the outcome of an investigation under this policy, Council will provide information about alternative remedies, including any rights of appeal and the right to make a Complaint to an external agency such as the SA Ombudsman.

4.10 Privacy and Confidentiality

Applicants have a right to expect that their grievance will be investigated in private, to the extent possible. The identity of Applicants will be made known only to those who need to know in the process of investigating and responding to the Applicant. The Applicant will not be revealed or made public by the Council, except where required by law.

All grievances lodged with Council are subject to the Freedom of Information Act 1991 and confidentiality cannot be guaranteed under the provisions of that legislation.

4.11 Timeframes

The IROC will acknowledge an application for review within ten business days.

Council will endeavour to ensure that a review of the original decision will be completed within twenty one business days, however if the decision relates to a more complex issue, the review may take longer.

Applicants will be advised of the likely timeframe required to investigate and resolve their grievance and will be kept updated as to progress where necessary.

Request for reviews under this policy must be received within six months of the date of the decision requiring review.

The Reviewer may exercise discretion to accept requests for a review under this policy where the decision requiring review occurred more than six months ago, following consideration of a written request to the Reviewer from the Applicant. The written request from the Applicant must set out the reason(s) why the request is being made more than six months after the decision was made.

4.12 Refusing Application for Review

The Reviewer may refuse to consider an application for review if:

- The application is made by an employee of the Council and relates to an issue concerning his or her employment;
- It appears that the application is frivolous or vexatious;
- The Applicant does not have a sufficient interest in the matter.

P0037 Internal Review of a Council Decision Policy

Reasons for the refusal will be documented and provided to the Applicant.

4.13 Using Grievances to Improve Service Provision

In addition to making changes to policies, processes and practices where appropriate, Council will review and evaluate the information gained through its Internal Review of a Council Decision processes on an annual basis to identify systemic issues and improvements to service provision.

Where appropriate, Applicants will be provided with an explanation of changes proposed or made as a result of the review process.

4.14 Reporting

Documentation relating to requests for review under this policy will be recorded in Council's records management system.

On an annual basis Council will initiate and consider a report that relates to:

- The number of requests for review under this policy;
- The kinds of matters to which the requests relate;
- The review outcomes;
- Information on how outcomes have been used to improve service provision;
- Other matters as prescribed by the regulations.

This information will be included into Council's Annual Report.

4.15 Availability of the Policy

This Policy will be available for inspection at the Council's Offices during ordinary business hours and via the Council's website. Copies will also be provided to the public upon request, and upon payment of a fee in accordance with the Council's Fees and Charges Register.

5. REVIEW

This policy will be reviewed every three years and as necessary in consideration of any changes to legislation and relevant standards, codes and guidelines.

6. TRAINING

Persons responsible for carrying out reviews under this policy will be appropriately trained in keeping with the nature of complaints they are expected to resolve.

Training needs will be identified through the performance review, audit and training needs analysis processes. Training will also occur and as necessary in response to changes to legislation and relevant standards, codes and guidelines.

7. RELATED COUNCIL POLICIES AND DOCUMENTS

PO060 Rates Relief Policy
PO063 Records Management Policy
PO134 Whistleblowers Policy
PO147 Complaints Policy
PO148 Fraud and Corruption Prevention Policy
Code of Conduct for Council Members
Code of Conduct for Council Employees

8. REFERENCES AND LEGISLATION

Local Government Act 1999
Australian Standard ISO 10002-2006, Customer satisfaction – Guidelines for Complaint Handling in Organisations
Ombudsman SA RIGHT OF REVIEW – An audit of Local Government Internal Review of Council Decisions Procedures – November 2016
Ombudsman SA VALUING COMPLAINTS – An audit of Complaint handling in South

P0037 Internal Review of a Council Decision Policy

Australia – November 2011

The Commonwealth Ombudsman's Better Practice Guide to Complaint Handling 2009

Protocol – Ombudsman Enquiry Procedure

LGA Internal Review of a Council Decision: Model Policy and Procedure

9. COUNCIL DELEGATION

Details of Delegation:	Paragraph 135 Procedures for Review of Decisions and Requests for Service
Delegate:	Chief Executive Officer

10. VERSION HISTORY

Archived Policy Name	Policy Number	Date Adopted	Last Reviewed
Internal Review of Council Decisions Policy	PO037	07/03/2003	08/04/2008
Internal Review of Council Decisions Policy	PO037	08/04/2008	08/06/2010
Internal Review of a Council Decision Policy	PO037	08/06/2010	13/03/2013
Internal Review of a Council Decision Policy	PO037	13/03/2013	11/05/2016
Internal Review of a Council Decision Policy	PO037	11/05/2016	08/03/2017

DEFINITIONS

Applicant	The party lodging the requests for review. Examples include residents, ratepayers, members of a community group, users of Council facilities and visitors to the area.
Business Day	A day when the Council is normally open for business.
Council	The Yorke Peninsula Council
Decision Maker	The individual or entity responsible for the decision under review.
Employee(s)	All personnel undertaking tasks/duties for and/or on behalf of the Yorke Peninsula Council, including persons employed directly by the Council in a full time, part-time or casual basis under an employment contract, volunteers, contractors, agency personnel and work experience placements.
Reviewer	The individual or entity responsible for resolution of a request for review of a decision under this policy.