

# COUNCIL MEETING

## AGENDA

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**ENCLOSED**

**Council Meeting Minutes & Special Committees of Council Minutes  
General Information Bulletin**

**Enclosures**

- Item 12.1.1 Environmental Effects Report and Supplement to the Environmental Effects Report, prepared by Stornoway  
 Determination on Permit Application (DA 2013/32), prepared by the EPA  
 Representations  
 IPWEA (Tas)/LGAT *Standard Drawing TSD-R01-v1 (Draft 2) Rural Roads Unsealed*
  
- Item 15.4.1 Land Use Planning & Approvals Amendment Bill 2013

4<sup>th</sup> October 2013

Dear Sir/Madam,

**NOTICE OF MEETING**

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

**Municipal Offices  
85 Main Street Kempton  
Wednesday 9<sup>th</sup> October 2013  
10.00 a.m.**

I certify under s.65(2) of the Local Government Act 1993 that the matters to be discussed under this agenda have been, where necessary, the subject of advice from a suitably qualified person and that such advice has been taken into account in providing any general advice to the Council.

***COUNCILLORS PLEASE NOTE:***

- **Public Question Time has been scheduled for 12.30 p.m.**

Yours faithfully,



**Mr T F Kirkwood  
General Manager**

## **OPEN COUNCIL AGENDA**

**1. PRAYERS**

Councillors to recite the Lords Prayer.

**2. ATTENDANCE**

**3. APOLOGIES**

**4. APPLICATION FOR LEAVE OF ABSENCE**

Nil.

**5. MINUTES**

**5.1 ORDINARY COUNCIL MINUTES**

The Minutes of the previous meeting of Council held on the 25<sup>th</sup> September 2013, as circulated, are submitted for confirmation.

**DECISION**

<b>Vote For</b>	<b>Councillor</b>	<b>Vote Against</b>
	Mayor A E Bisdee OAM	
	Dep. Mayor M Jones OAM	
	Clr A R Bantick	
	Clr C J Beven	
	Clr B Campbell	
	Clr M Connors	
	Clr D F Fish	
	Clr A O Green	
	Clr J L Jones OAM	

**5.2 SPECIAL COUNCIL MINUTES**

Nil.

**5.3 SPECIAL COMMITTEES OF COUNCIL MINUTES**

**5.3.1 Special Committees of Council - Receipt of Minutes**

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

- Nil

**RECOMMENDATION**

**THAT the minutes of the above Special Committee of Council be received.**

**DECISION**

**DECISION NOT REQUIRED**

**5.3.2 Special Committees of Council - Endorsement of Recommendations**

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

- Nil

**RECOMMENDATION**

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

**DECISION**

**DECISION NOT REQUIRED**

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

**5.4.1 Joint Authorities - Receipt of Minutes**

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

- **Southern Tasmanian Councils Authority – Nil**
- **Southern Waste Strategy Authority - Nil**

*Note: Issues which require further consideration and decision by Council will be included as a separate Agenda Item, noting that Council's representative on the Joint Authority may provide additional comment in relation to any issue, or respond to any question.*

**RECOMMENDATION**

**THAT the minutes of the above Joint Authority meetings be received.**

**DECISION**

**DECISION NOT REQUIRED**

**5.4.2 Joint Authorities - Receipt of Reports (Annual and Quarterly)**

Section 36A of the Local Government Act 1993 provides the following;

***36A. Annual reports of authorities***

*(1) A single authority or joint authority must submit an annual report to the single authority council or participating councils.*

*(2) The annual report of a single authority or joint authority is to include –*

*(a) a statement of its activities during the preceding financial year; and*

*(b) a statement of its performance in relation to the goals and objectives set for the preceding financial year; and*

*(c) the financial statements for the preceding financial year; and*

*(d) a copy of the audit opinion for the preceding financial year; and*

*(e) any other information it considers appropriate or necessary to inform the single authority council or participating councils of its performance and progress during the financial year.*

Section 36B of the Local Government Act 1993 provides the following;

***36B. Quarterly reports of authorities***

*(1) A single authority or joint authority must submit to the single authority council or participating councils a report as soon as practicable after the end of March, June, September and December in each year.*

*(2) The quarterly report of the single authority or joint authority is to include –*

*(a) a statement of its general performance; and*

*(b) a statement of its financial performance.*



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

- **Southern Tasmanian Councils Authority – Nil**
- **Southern Waste Strategy Authority – Nil**

**RECOMMENDATION**

**THAT the reports received from the Joint Authorities be received.**

**DECISION**

**DECISION NOT REQUIRED**

**6. NOTIFICATION OF COUNCIL WORKSHOPS**

In accordance with the requirements of the *Local Government (Meeting Procedures) Regulations 2005*, the Agenda is to include details of any Council workshop held since the last meeting.

It is reported that no Council workshops have been held since the last ordinary meeting of Council.

**RECOMMENDATION**

**THAT the information be received.**

**DECISION**

<b>Vote For</b>	<b>Councillor</b>	<b>Vote Against</b>
	Mayor A E Bisdee OAM	
	Dep. Mayor M Jones OAM	
	Clr A R Bantick	
	Clr C J Beven	
	Clr B Campbell	
	Clr M Connors	
	Clr D F Fish	
	Clr A O Green	
	Clr J L Jones OAM	

**7. QUESTIONS WITHOUT NOTICE**

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

Comments / Update will be provided in relation to the following:

**1. Gas Connection – Oatlands Township**

This issue was raised at the previous meeting, and the General Manager requested to provide a briefing.

The only knowledge in respect to this matter is the circulation of a Petition, coordinated by Mr Cliff Bennett, Stanley Street, Oatlands. The Petition was signed by approximately 122 persons and presented to the recent federal election candidates, the State Government (Premier Lara Giddings MHA), State Opposition (Hon W Hodgman MHA) and the Greens (Hon K Booth MHA).

The wording of the Petition was as follows:

“For the residents and businesses of the Midlands area to be able to make use of the natural gas, which lies adjacent to the town of Oatlands less than a kilometre away.”

- Refer copy of covering page to the Petition (attached)

I also attach a copy of the letter from the Tasmanian Liberals addressed to Mr Bennett.

**2.**

**3.**

**4.**

PETITION: FOR THE RESIDENTS & BUSINESSSES OF THE MIDLANDS AREA  
TO BE ABLE TO MAKE USE OF THE NATURAL GAS, WHICH LIES ADJACENT TO  
THE TOWN OF OATLANDS LESS THAN A KILOMETRE AWAY:

TO THE HONORABLE MEMBERS OF LYONS: DICK ADAMS, RENE HIDDING AND  
(KIM BOOTH.) *LARA GIDDINGS & WILL HODGMAN.*

ON THE OPPOSITE SIDE OF THE MIDLANDS HIGHWAY WHICH RUNS ADJACENT  
TO THE TOWNSHIP OF OATLANDS THERE HAS BEEN A GAS LINE INSTALLED  
AND IT HAS BEEN THERE FOR 12 YEARS OR MORE. THE GOVERNMENT HAS  
REFUSED TO PUT A SIMPLE CONNECTION TO ENABLE THE TOWN TO OBTAIN  
NATURAL GAS. THE REASON THE GOVERNMENT HAS GIVEN HAS BEEN THE  
COST OF THE CONNECTION.

IF THE GOVERNMENTS ARE SERIOUS ABOUT GREEN HOUSE GASES THIS  
WOULD BE A PLUS TO THE ENVIRONMENT; COMPARED TO ELECTRICITY AND  
WOOD WHICH IS CURRENTLY BEING USED IN THE TOWN. ALSO THE  
TOWNSHIP HAS A LARGE NUMBER OF ELDERLY RESIDENTS AND A HOSPITAL  
AND OTHER BUSINESSES THAT WOULD BENEFIT BY BEING ABLE TO UTILIZE THE  
NATURAL GAS.

SOME RESIDENTS OF OATLANDS ARE CURRENTLY BUYING GAS BOTTLES TO  
RUN THEIR GAS USE. IF THE NATURAL GAS IS NOT MADE AVAILABLE TO THESE  
RESIDENTS AND BUSINESSES, THEY SHOULD BE COMPENSATED AS THE GAS  
BOTTLES ARE MUCH MORE EXPENSIVE. PLEASE WE ARE APPEALING FOR  
COMMON SENSE THIS WOULD HAVE TO BE A PLUS TO THE ENVIRONMENT  
AND FOR THE PEOPLE OF THE MIDLANDS.

*DATE 14/4/2013*

*IMPORTANT POINTS TO SHOW WHY IT WOULD BE BENEFICIAL FOR OATLANDS TO HAVE THE NATURAL GAS CONNECTED TO THE TOWN.*

*THE ENVIRONMENT; IF THE GOVERNMENT IS SERIOUS ABOUT GREEN HOUSE GASES IT MAKES SENSE TO LOOK AT NATURAL GAS WHEN THE GAS LINE IS ONLY A 0.9 KILOMETRE FROM THE OATLANDS TURN OFF SOUTHERN END.*

*WOULD BENEFIT BUSINESSES AND ENCOURAGE OTHER BUSINESSES TO INVEST HERE IF THE INFRASTRUCTURE WAS IN THE TOWN.*

*AS THERE ARE A LARGE NUMBER OF ELDERLY RESIDENTS IT WOULD BE A MUCH EASIER OPTION THAN WOOD. IT WOULD ALSO BE CHEAPER THAN ELECTRICITY.*

*THIS WOULD ENCOURAGE PEOPLE, TO LIVE IN THE MIDLANDS; INSTEAD OF ALL LIVING AROUND THE COASTAL AREAS. WE KNOW THAT THE GOVERNMENT HAS BEEN CONCERNED ABOUT THIS, AND WANT'S TO ENCOURAGE PEOPLE TO COME TO THE MIDLAND AREAS OF AUSTRALIA AS THE TREND IS TO LIVE IN COASTAL AREAS.*

*THE TOWN HAS ALREADY BEEN BYPASSED BY THE NBN NOW IT IS BEING BYPASSED BY THE NATURAL GAS. THIS GIVES NO INSENTIVE FOR THE TOWN TO GROW OR FOR BUSINESSES TO INVEST HERE.*



Liberal Leader

Will Hodgman MP

20 June 2013

Ref: EWJ18062013

Mr Clifford Bennett  
77 Stanley Street  
Oatlands TAS 7120

Dear Mr Bennett

Thank you for your letter and signed petition with respect to the provision of natural gas to Oatlands. I appreciate you bringing your concerns to my attention.

The Labor Government's partially delivered commitment on the rollout of natural gas is pitiful when compared to what was originally promised – 100,000 homes, of which only about 40,000 have actually been reached. We will keep the pressure on the Government to roll the network out further, as originally promised.

Already we have identified critical infrastructure as a key driver of economic activity and development, and we have committed to creating a Department of State Growth that will oversee infrastructure development as well as energy, resources and other important aspects of our economy.

I have provided a copy of your correspondence to the Liberal Members for Lyons, Rene Hidding MP and Mark Shelton MP, for their information. I have asked that they contact you directly to discuss the detail of the issues you've raised. You can also contact their Longford office directly on 6397 7400.

Yours sincerely,

A handwritten signature in black ink, appearing to be "Will Hodgman".

**Will Hodgman MP**  
**Liberal Leader**

cc. Rene Hidding MP  
Mark Shelton MP



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**Hobart Office:** Parliament House, Hobart TAS 7000 p: (03) 6212 2191 f: (03) 6212 2104  
**Kingston Office:** Shop 96, Channel Court Shopping Centre, Kingston TAS 7050 p: (03) 6212 2268 f: (03) 6212 2104  
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## 8. CONSIDERATION OF SUPPLEMENTARY ITEMS TO THE AGENDA

In accordance with the requirements of Part 2 Regulation 8 (6) of the *Local Government (Meeting Procedures) Regulations 2005*, the Council, by absolute majority may decide at an ordinary meeting to deal with a matter that is not on the agenda if the general manager has reported –

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

**RECOMMENDATION**

**THAT the Council resolve by absolute majority to deal with any supplementary items not appearing on the agenda, as reported by the General Manager in accordance with the provisions of the *Local Government (Meeting Procedures) Regulations 2005*.**

**DECISION**

Vote For	Councillor	Vote Against
	Mayor A E Bisdee OAM	
	Dep. Mayor M Jones OAM	
	Clr A R Bantick	
	Clr C J Beven	
	Clr B Campbell	
	Clr M Connors	
	Clr D F Fish	
	Clr A O Green	
	Clr J L Jones OAM	

**9. DECLARATIONS OF PECUNIARY INTEREST**

In accordance with the requirements of Part 2 Regulation 8 of the *Local Government (Meeting Procedures) Regulations 2005*, the chairman of a meeting is to request Councillors to indicate whether they have, or are likely to have, a pecuniary interest in any item on the Agenda.

Accordingly, Councillors are requested to advise of a pecuniary interest they may have in respect to any matter on the agenda, or any supplementary item to the agenda, which Council has resolved to deal with, in accordance with Part 2 Regulation 8 (6) of the *Local Government (Meeting Procedures) Regulations 2005*.

**10. PUBLIC QUESTION TIME (SCHEDULED FOR 12.30 PM)**

In accordance with the requirements of Part 2 Regulation 8 of the *Local Government (Meeting Procedures) Regulations 2005*, the agenda is to make provision for public question time.

In particular, Regulation 31 of the *Local Government (Meeting Procedures) Regulations 2005* states:

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

***Councillors are advised that, at the time of issuing the Agenda, no Questions on Notice had been received from members of the Public.***

***Mayor A E Bisdee OAM to invite questions from members of the public.***



**10.1 PERMISSION TO ADDRESS COUNCIL**

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

- 12.00 noon – Mr Brenton West – CEO Southern Tasmanian Councils Authority will attend the meeting to introduce himself; discuss issues relative to the STCA; and items that Council may wish to specifically raise.

**11. MOTIONS OF WHICH NOTICE HAS BEEN GIVEN UNDER REGULATION 16 (5) OF THE LOCAL GOVERNMENT (MEETING PROCEDURES) REGULATIONS 2005**

Nil.

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

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

**12.1 DEVELOPMENT APPLICATIONS**

**12.1.1 Development Application for the Proposed Expansion of an Existing Quarry at Mangalore Estate 294 Blackbrush Rd, Mangalore, defined as an Industry (Extractive).**

*File Ref: T3018898 BBRUSH*

**AUTHOR** PLANNING OFFICER (D CUNDALL)  
**DATE** 3<sup>RD</sup> OCTOBER 2013

**ENCLOSURES**

Attachment 1 – Environmental Effects Report and Supplement to the Environmental Effects Report, prepared by Stornoway

Attachment 2 – Determination on Permit Application (DA 2013/32), prepared by the EPA

Attachment 3 – Representations

Attachment 4 - IPWEA (Tas)/LGAT *Standard Drawing TSD-R01-v1 (Draft 2) Rural Roads Unsealed*

**PROPOSAL**

Stornoway Pty Ltd t/a Stornoway Quarrying have submitted a Development Application to the Southern Midlands Council seeking a Planning Permit to expand and intensify an existing quarry located at *Mangalore Estate, 294 Blackbrush Rd Mangalore*. The proposal is to expand the output of the quarry from 5,000 cubic metres per annum to 50,000 cubic metres per annum. This is equivalent to 90,000 tonnes per annum.

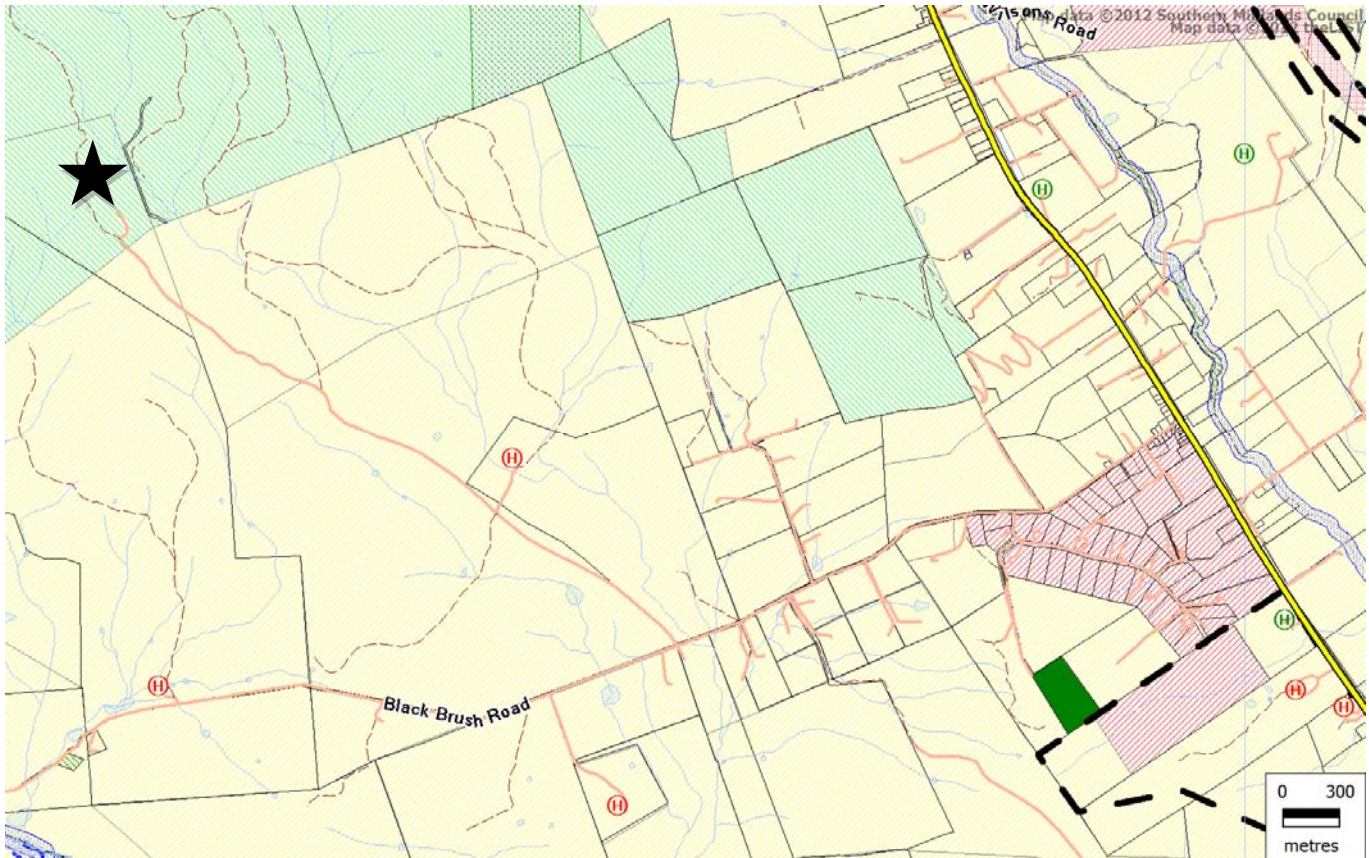
Such intensification is a discretionary use/development under the *Southern Midlands Planning Scheme 1998* and requires referral of the application to the Environmental Protection Authority (EPA) for assessment under the *Environmental Management and Pollution Control Act 1994 (EMPCA)* as a 'Level 2 Activity'.

The current access to the quarry is from Blackbrush Rd. The applicant has proposed to relocate the access 400m to the west of the existing access.

The quarry site is located approximately 3.2km from Blackbrush Rd via an internal farm road. The proposed cartage route for trucks and material is via Blackbrush Rd and the

Midland Hwy. Blackbrush Road runs between Elderslie Rd and the Midland Hwy. It is defined by the *Southern Midlands Planning Scheme 1998* as a Category IV 'Feeder Road'.

The land is a mixed farming enterprise mostly used for dry land farming. The property is adjoined by native forests, other farms, hobby farms and rural lifestyle land owners and users. All adjoining land is in the Rural Activity Zones. The cartage route would run through the Rural Agriculture Zone and past the Rural Residential A Zone in the vicinity of Mountford Drive and the Midland Hwy (see map 1 below).



*Map 1\_The red coloured land is the Rural Residential A zone on the South Side of Blackbrush Rd. The green and light yellow is the Rural Activity Zones (green is rural forest and yellow is rural agriculture). The quarry site is marked by a 'black star'.*

Stornoway propose to extract rock from a quarry face running south westerly in the same direction as the existing quarry face. Material will be removed via drilling and blasting and some ripping to remove the overburden. Material will be crushed and screened on site with mobile plant equipment and then loaded onto trucks with a wheel loader. This is a fairly typical arrangement for this type of quarry operation.

The Applicant has forecast approximately 24 truck movements per working day at full operation by the year 2015. The current number of truck movements for the existing site (at 5000cubic metres per year) is cited in the attached Traffic Impact Assessment as 2

trucks per day. This however wavers as quarries do not generally operate at regular daily times. A gravel quarry would usually operate on a production run supply and demand type operation. So the existing quarry may have some days where there are multiple truck movements (for say meeting a road works contract) and other days there would be no trucks at all.

The application has received 10 representations raising numerous concerns with the intensification of the quarry and the subsequent increase in heavy traffic on Blackbrush Rd. There are other environmental matters raised, such as blasting, flora and fauna and ground water issues that have been assessed by the Environmental Protection Authority under the *EMPCA*.

The impact of trucks on Blackbrush Rd and the amenity and safety of road users and residents is a matter for Council to consider as part of this assessment. This in turn examines whether a quarry is an appropriate use of this land as determined by the *Land Use Planning and Approvals Act 1993* and the relevant planning legislation and regulation.



*Photo 1\_Existing Access to Mangalore Estate looking east along Blackbrush rd. Photo demonstrates the residential property opposite the existing entrance.*





*Photo 2\_this is the closest dwelling to the road along the cartage route. Photo was taken looking west.*



*Photo 3\_More possible tree removal and embanking may be necessary along this part of the road to achieve a minimum 6m width with shoulders. Photo was taken looking east.*

***The Process of assessing a ‘Level 2’ Activity***

Under Schedule 2 Subsections 5(a) and 6(a) (ii) of the *Environmental Management and Pollution Control Act 1994* (EMPCA), this level of extraction is defined as a ‘Level 2 Activity’ as it involves ‘...the extraction of any rock or gravel ...producing 5 000 cubic metres or more of rock or gravel per year’.

Section 25(1) of EMPCA requires Council to refer the application to the Board of the Environment Protection Authority (“the Board”) for assessment. Ordinarily a quarry that produces under 5,000 cubic metres of aggregate per year would be assessed at a local level under the *Southern Midlands Planning Scheme 1998*. The Board can also ‘call in’ a Level 1 activity should it deem necessary or likely to cause any significant environmental impacts.

**THE APPLICATION**

The applicant has had numerous discussions with Council and the EPA leading up to the lodgement of the Development Application. It is a requirement of the EPA that the applicant submit a ‘Notice of Intent’ to the EPA advising the details of the proposal. It is then the responsibility of the EPA in consultation with the Council to respond to this Notice of Intent with a list of required documents and material in order to assess the application. This is also a chance for the EPA to determine ‘the level’ of information required. For a much bigger project, or one deemed to have greater environmental concern, for instance, the EPA would more than likely require the applicant to submit a much more comprehensive document package entitled a Development Proposal and Environmental Management Plan (DPEMP). In this case the EPA have determined that an Environmental Effects Report (EER) should provide sufficient detail to assess the application.

Once an acceptable level of detail has been submitted then Council and the EPA are in a position to advertise the application and seek views from the public, agencies and stakeholders. The report includes:

- A description of the proposal
- An evaluation of the potential social, economic and environmental impacts of the proposal
- A description of the management measures introduced to minimise impacts and ensure that the activity complies with regulatory requirements.
- Any professional reports or assessments; such as flora and fauna surveys, noise impact analysis and traffic impact assessment.

***Process forward***

On the 18<sup>th</sup> September 2013 the Board, issued their determination of the quarry and their permit conditions on the quarry’s development and operation. The determination and permit is forward to the Council with a direction to include the Boards permit in any permit granted, if granted, by the Council under the *Land Use Planning and Approvals Act 1993* (LUPPA).

Therefore, as of the 18<sup>th</sup> September 2013 (determination received 23<sup>rd</sup> September 2013) the Council is in a position to consider the extent of the Boards assessment of the proposal and further assess the application under the other relevant planning legislation.

### **LEGISLATIVE PERFORMANCE REQUIREMENTS**

The proposal must be assessed, monitored and developed under various bodies of legislation administered by Council and the State Government, including but not limited to:

- *Land Use Planning and Approvals Act 1993*
- *Environmental Management and Pollution Control Act 1994*
- *The Mineral Resources Development Act 1995*
- *Dangerous Goods Regulations 1994*
- *Workplace Health and Safety Act 2012*
- *Quarry Code of Practice 1999*
- *Southern Midlands Planning Scheme 1998*
- *State Policy of Water Quality Management*
- *State Policy on the Protection of Agricultural Land 2009*

Council is to assess the application under the *Land Use Planning and Approvals Act 1993*, in association with the Boards determination under the *Environmental Management and Pollution Control Act 1994*.

### **USE/DEVELOPMENT DEFINITION**

*Under Schedule 3 Use or Development Category Definitions of the Planning Scheme, the proposed development is defined as an 'Industry (Extractive)':*

Industry (Extractive) – means the use or development of any land for the extraction of minerals, sand, gravel, clay, soil, rock, turf, stone or any similar substance from the land.

The term includes:

- a) The extraction of any overburden;
- b) Primary treatment including crushing or screening of that substance on the same land;
- c) The associated storage of goods or materials used in connection with or resulting from that extractive industry;
- d) The wholesale sale of goods of vehicles and machinery used in connection with that extractive industry.

The quarry is classed as a 'Level 2 Activity' under Schedule 2 Subsections 5(a) and 6(a) (ii) of the *EMPCA* as:

*Extractive Industries*

*(a) Quarries: the extraction of any rock or gravel and producing 5 000 cubic metres or more of rock or gravel per year.*

Both the definitions in the *Planning Scheme* and *EMPCA* are fitting use/development class definitions.

**Use Development/Status under the Planning Scheme**

**Under the Scheme, ‘Industry (Extractive)’ is a discretionary use/development in the Rural Activity Zone and invokes Clause 11.5. Subsequently the use/development:**

- I. May be granted a Planning Permit by Council, with or without conditions, provided it complies with all relevant development standards and does not, by virtue of another provision of this Scheme, invoke Clause 11.6 (prohibited use or development); or
- II. May be refused a Planning Permit by Council

*A discretionary use or development must be advertised under S.57 of the Land Use Planning and Approvals act 1993.*

**PUBLIC NOTIFICATION AND REPRESENTATIONS**

**The application was advertised on the 1<sup>st</sup> of June 2013 for 14 days and received 10 representations raising concerns and opposition to the quarry. The application also generated much interest in the local area.**

**The Environmental Protection Authority as part of their assessment of the proposal summarised all of the representations in the attached ‘Summary of Public and Agency Comments’. The summary of representations was provided to the applicant as part of the EPA’s request for further information, i.e request for a supplement to the EER. The applicant was given the opportunity to amend the EER and take into consideration the concerns raised. The Applicant amended and included further ‘commitments’ that sought to address these concerns which are considered as part of this Application.**

**Much of the representations are well considered views and concerns that relate to the use of Blackbrush Rd. Council shall consider these concerns as the Planning Authority and shall also note these concerns as the owner of Blackbrush Rd.**

**The issues regarding environmental impacts within *Mangalore Estate* (within the property boundary) have been addressed by the Environmental Protection Authority in the attached report ‘Environmental Assessment Report’ (Part of**



Attachment 2 to this report). These environmental concerns within the boundary of the land are not considered by Council as they have been assessed by the EPA.

All representations have been attached in their entirety to this report as ‘Attachment 3 – Representations’. All names and personal details have been omitted from this report.

The Planning Officer offers the following comments regarding the key issues raised in these representations in this section of the report. The concerns are further considered as part of the detailed assessment of the proposal against the relevant provisions of the Planning Scheme. The Officer comments appear in *Blue Italics* below each key issue:

Issue 1 – Increase of Heavy Vehicles on Blackbrush Rd:

The following are summarised dot points of issues raised regarding the increase to heavy vehicle traffic on Blackbrush Rd:

*Noise, Dust, Vibration etc*

- increase noise, vibration and dust issues for residents and landowners; also
- the hours of operation (before 7 am and after 5pm will exacerbate the environmental nuisance caused by trucks)
- Use of engine breaking in the decent from Mountford Drive to the quarry site.
- If heavy vehicles are increased tenfold then there will be a tenfold increase to dust exposure and impacts on residents such as water tanks, solar panels, drying clothes etc
- Increased heavy traffic through a residential area and school bus stop

*The proposal does not increase the traffic on Blackbrush Rd tenfold as stated in one of the representations.*

*The proposed increase of traffic on Blackbrush Rd is around 6%. At the proposed full operation the applicant has stated that there will be 24 truck movements per day (12 in 12 out). The quarry is not the only reason that trucks use Blackbrush Rd, the occasional truck may use the road as a link through to Elderslie Rd (though not ideal) or for other farming operations along the road. This is after all a rural resource area. It is not unusual for heavy vehicles to pass residents on their way to and from a work site. This is one of the reasons why the Planning Scheme requires large(r) setbacks from the road boundary in the Rural Zone.*

*The volume of traffic generated by this proposal is considered under the Southern Midlands Planning Scheme to be a ‘low traffic generator’. A low traffic generator is defined as a use or development which will generate not more than 40 vehicle movements per day. A use or development that is classified as a low traffic generator*

*on a Category IV (Feeder Rd) is a matter to be considered by Council and requires a permit from Council (as part of this application). It shall be noted that the existing quarry is by definition also a low traffic generator (even though numbers are much lower than that proposed).*

*A low traffic generator on Blackbrush Rd is defined under Part 8.5.7 (Table 8.6) of the Scheme as invoking Clause 11.4 of the Scheme as a 'Permitted Use or Development'. A 'Permitted Use or Development' will be granted a Planning Permit by Council with or without conditions pursuant to S.58 of the Land Use Planning and Approvals Act 1993.*

*Any impact on the road network, safety of road users and the amenity of residents in the area has been considered in the assessment of this application. Any recommendation shall take the matters raised in these representations into account.*

*The concerns about amenity have been brought to the Applicants attention by the representations received and by Council prior to the lodgement of the application. The Applicant has indicated that advisory information will be provided to drivers during site inductions and the applicant will install site specific information (signage) to drivers exiting the quarry. Information regarding truck noise and vehicle speed, (and use of engine brakes) should be included on this signage. It is the responsibility of the quarry operator to be considerate and cooperative with residents in the area and operate accordingly.*

#### *Road Safety and Road Upgrading*

- **Increase in trucks will increase the likelihood of accidents considering two accidents on Blackbrush Rd have involved trucks**
- **How will the road be maintained into the future?**
- **There are 4 to 5 culverts on the affected section of road where two trucks could not pass one another**
- **There is no guard rail in place near a 2.4m drop**
- **A previous development application for a waste refuse site was refused because the road needs upgrading**
- **The entire section of road used by the developer should be sealed (bitumen) and widened;**
- **The entire section should be tree-lined to mitigate dust and noise**
- **There should be a walking trail provided for pedestrians**
- **The increase in heavy vehicles will create a hazard to other road users due to the narrow widths of the road**
- **Impact on pedestrians that use the road for walking. This includes people walking dogs and families. There is no footpath on this section of road**
- **There are trees in the road reserve that are potential hazards to vehicles**
- **A school bus stop on the Midland Hwy is directly opposite the Blackbrush Rd intersection**

*The Applicant has made a commitment to grade Blackbrush Rd between the end of the sealed section of Blackbrush (near Mountford Drive/ crest of the hill) and the proposed quarry access to improve pavement shape and obtain a minimum 6m pavement width. As stated by many of the representations there are trees in the road reserve and narrow culverts. There are also some sections that may require some minor embanking in order to achieve a minimum 6m width.*

*Reshaping of the pavement and width taking into consideration the narrow culverts and other obstacles is achievable and should be subject to further Council Approval. This matter is further developed in this report.*

*It is noted that in the EER, first submitted, that the commitment was made citing Council as party to the upgrading of the road. This has since been amended by Stornoway in the supplement to the EER as being a commitment by Stornoway only.*

*Sealing of the road to accommodate this development is not warranted. This is a low traffic generator. Similarly the provision of a footpath in a Rural Activities Zone as part of this application is not warranted.*

*Given that modification to the road is achievable without great impost on Council or the Applicant and given that the Applicant is committed to upgrading a section of the road it can be concluded that a minor upgrade of the road is reflective and responsive to the proposed minor intensification of the road and reflective of the impact that heavy vehicles have on a road network. It is also responsive to the level of concern raised by the local community.*

#### *Other Matters*

- **Trucks will have impact on the value of land**
- **Councillors are invited to listen to the views of residents regarding added trucks to Blackbrush Rd**
- **Council should seek to upgrade the Elderslie Rd intersection to allow for a cartage route that would avoid the rural residential zone**
- **Council has a disregard for the residents of Mangalore and a disregard for the amenity of its residents; and Council did not provide any community consultation on the proposal**
- **The proposal is in conflict with Councils aim to increase the population of Mangalore and residential development in the area**

*Land Value is not a substantiated matter for Council to consider as the Planning Authority. This is after all the Rural Activities Zone. The intent of this Zone is to make allowances for this type of activity.*

*Representors are welcome to speak with an Elected Member and vice versa.*

*An upgrade to the Elderslie Road intersection, to accommodate this development, is not warranted. The Applicant has sought to cart material east to avoid this intersection*

*altogether. This is further addressed in the Traffic Impact Assessment. The Applicant is not seeking to use this intersection and is therefore this matter is not part of this Development Application.*

*As for 'community consultation' the Development Application has been advertised in accordance with the Land Use Planning and Approvals Act 1993. This is not Council's Development Application. Council has the responsibility of assessing the application and taking into consideration all representations received. This is the statutory process.*

*Yes, parts of Mangalore are zoned Rural Residential. The intent of this zone is to recognise land that is used for rural residential living on larger lots or has the potential to accommodate such a use. Rural Residential Land is generally on the periphery of the Rural Activities Zone.*

*The Southern Midlands Council and every other Council in Tasmania are currently developing new Planning Schemes. The zoning of Mangalore Estate is proposed to be a direct translation of the existing zone (rural activity zone to rural resource zone). There are also some strategic rezoning plans in the area for further Rural Residential Living but these are subject to further community consultation and statutory approvals.*

#### *Issue 2 – Level of Information*

- **Lack of information in the Environmental Effects Report regarding mapping and traffic impacts.**
- **There is no statement that confirms that truck movements will not exceed the peak forecast 24 vehicle movements per day.**
- **This will result in a tenfold increase in traffic on Blackbrush Rd**
- **The statement in the TIA that Blackbrush Rd has the capacity to accommodate 3000 vehicle movements per day is ludicrous and that TASCORD is not the appropriate document to classify this particular road**
- **Lack of information in the traffic count**
- **impacts on existing public and private accesses onto Blackbrush Rd, i.e is there sufficient existing sight distance**
- **No mention of the geometry of the road, noting the crest in the hill and the current speed limit**
- **There is no maximum limit on the total number of truck movements per day; citing that there is the potential to exceed 40 traffic movements per day and thus a 'high traffic generator' and at Council's Discretion.**
- **TASCORD is not an appropriate document to classify Blackbrush Rd, (TASCORD would categorise Blackbrush Rd as having the capacity for 3,000 vehicles per day)**
- **No discussion of noise and dust**
- **No consideration to high rate extraction days requiring higher vehicle movements to meet particular market demand**
- **The applicant should have provided a Road Safety Audit for the whole road specific to the use of heavy vehicles on the road and examine any existing**

**deficiencies of Blackbrush Rd. This would examine, road geometry, road barriers, shoulder widths, road alignment and sight distance and other road safety features and devices.**

*Between the EER and the supplement to the EER and the representations received there is enough information for Council, the EPA and other stakeholders to assess the application.*

*As mentioned earlier, the Applicant was given the opportunity to respond clearly to the representations received regarding the potential impacts on residential amenity and the road network as part of the supplement to the EER.*

*Unfortunately a slightly ambiguous view was provided in the supplement citing on multiple occasions that ‘...transport impacts will be managed in accordance with transport regulations’ (EER Supplement, July 2013, pp.2, 4, 5); and that ‘...planning matters are for consideration by Southern Midlands Council and are not for Stornoway’s determination’.*

*The Applicant states in the supplement to the EER ‘...Stornoway will seek approval from the Southern Midlands Council for Stornoway to undertake road pavement reshaping and widening sections identified by Council as requiring improvement.’ (EER Supplement, July 2013 p.2).*

*In this comment, the Applicant has basically forfeited the opportunity to address these issues as part of the Development Application and has chosen to seek some resolution of the issues by nominating Council to identify the improvements necessary to improve pedestrian and road user safety. This matter is further developed in this report and as part of the recommendations.*

*The Engineering Officer’s comments in this report provide a further critique and assessment of the TIA. The Planning Officer has also noted some inconsistency and irregularities in the TIA. This is further explored as part of this report.*

*It shall be noted that despite the criticisms, the proposal is a low traffic generator that will only create a 6% increase in road traffic at varying times over the course of a year. It is recognised that this 6% increase is not just an increase in standard vehicles but ‘heavy vehicles’ up to 30 tonnes. Stornoway realise this prime concern and have sought to improve the standard of the road. Council should ensure that the improvements are to a satisfactory standard and adequately accommodate the heavy vehicles used for the proposal.*

*There is sufficient information overall to make a more than adequate assessment of the proposal. The recommendations of this report shall further seek to rectify the deficiencies of information in the EER in regard to road safety.*

*Issue 6*

**Hours of Operation.** Why has the applicant proposed the 7am – 7pm weekday hours of operation and the 8am-4pm hours of operation for Saturdays? What will happen in the future when the Mining Lease expires in 2017?

*These are the hours required to operate the quarry as stated by the Applicant. A change in the Mining Lease would not alter the hours of operation. It is anticipated that operation of the quarry after 6pm would be on rare occasions and only possible during daylight hours. It is not unusual for a quarry operator to seek what may be perceived to be extended hours of operation. This would be just in case they need to meet a deadline.*

**In reading through these representations Council shall considered following:**

- A. In accordance with Part 11.10.1 (vi) of the *Planning Scheme* consider ‘whether the proposed use or development is satisfactory in relation to...impact on traffic movements and pedestrian safety’**
- B. Consider the provisions of Part 8 concerning access and road usage (included in this report)**
- C. Consider the adequacy and capacity of existing infrastructure and services to cater for the proposed use or development including roads, footpaths, water, sewerage and power**
- D. Consider the content and assessment contained within this report.**
- E. Does the development conflict with the Intent of the Rural Activities Zone**

**ASSESSMENT - THE SOUTHERN MIDLANDS PLANNING SCHEME 1998**

The land is situated in the *Rural Activity Zone*. The land is divided by two zones, the *Rural Agriculture Zone* and the *Rural Forest Zone*. The quarry site is in the *Rural Forest Zone*.

**Zone: Rural Forest Zone**

6.2.3 Intent of the Rural Forest Zone is to:

*(a) give priority to maintaining the larger remaining timbered areas for multiple use including forestry, extractive industry, scenic protection, farming, conservation and recreation;*

The development meets this intent of the zone. The application is to expand an existing quarry. The ability to farm the land seems unfettered by this application. Also conservation values have been considered by the EPA.

*(b) recognise land which will be managed for forestry purposes in accordance with the provisions of the Forest Practices Act 1985 and the Forest Practices Code, or subsequent replacement Acts and Codes;*

Forestry operations would appear unfettered by this application.

*(c) restrict development of land and resources which would be incompatible with the management of these lands for forestry, scenic protection, farming, extractive industry and conservation and recreation purposes;*

Same response as (a).

*(d) protect areas of general conservation value or significance, including areas with remnant vegetation, historic cultural heritage and habitat value; and*

These matters have been determined by the EPA. The proposal is of little impact on these values. Both Stornoway and the EPA have taken measures to ensure minimal impact on conservation and cultural heritage values.

*(e) ensure that adjoining non-agricultural use or development does not unreasonably fetter agricultural uses.*

The adjoining land is all in the Rural Activities Zone. The proposed (and existing use) of part of the land is already a quarry. It is not an agricultural use as such, but more of a 'rural use'. It is not expected that the use of adjoining properties will fetter this operation.

### **Zone: Rural Agriculture Zone**

6.2.2 The intent of the Rural Agriculture Zone is to:

*(a) give priority to the sustainable long term use of land for agricultural, pastoral, forestry and other rural uses;*

The application is in accordance with this intent. The application furthers the use of a resource at a sustainable level with minimal impact on other land uses.

*(b) recognise and protect the potential of land in the Kempton, Bagdad/Mangalore and Jordan valleys for future intensive agricultural use in anticipation of the completion of the South East Irrigation Scheme;*

The quarry site is at an elevated position clear of the more potentially intensive farm land.

*(c) encourage expansion and diversification of agricultural activities;*

This would appear unaffected by the application.

*(d) protect rural land from development that may:*

- (i) jeopardise its long term capability for agricultural use;*
- (ii) cause unplanned and premature demands on the Council for the provision of infrastructure services, or*
- (iii) cause adverse impacts on the environment, catchment or productivity of the land and its general ability to sustain agricultural use;*

The long term capability of the land for agricultural use is unaffected. The concerns regarding unplanned and premature demands on the Council for the provision of infrastructure services has been alleviated by the commitments of Stornoway to upgrade Blackbrush Rd.

*(e) retain the prevailing rural character of the areas generally characterised by open paddocks and timbered ridges;*

Rural Character is not lost by this proposal. Quarrying is a normal activity in the rural zone. Vegetation removal is minimal and the bulk of the quarry is within an existing footprint and cleared area.

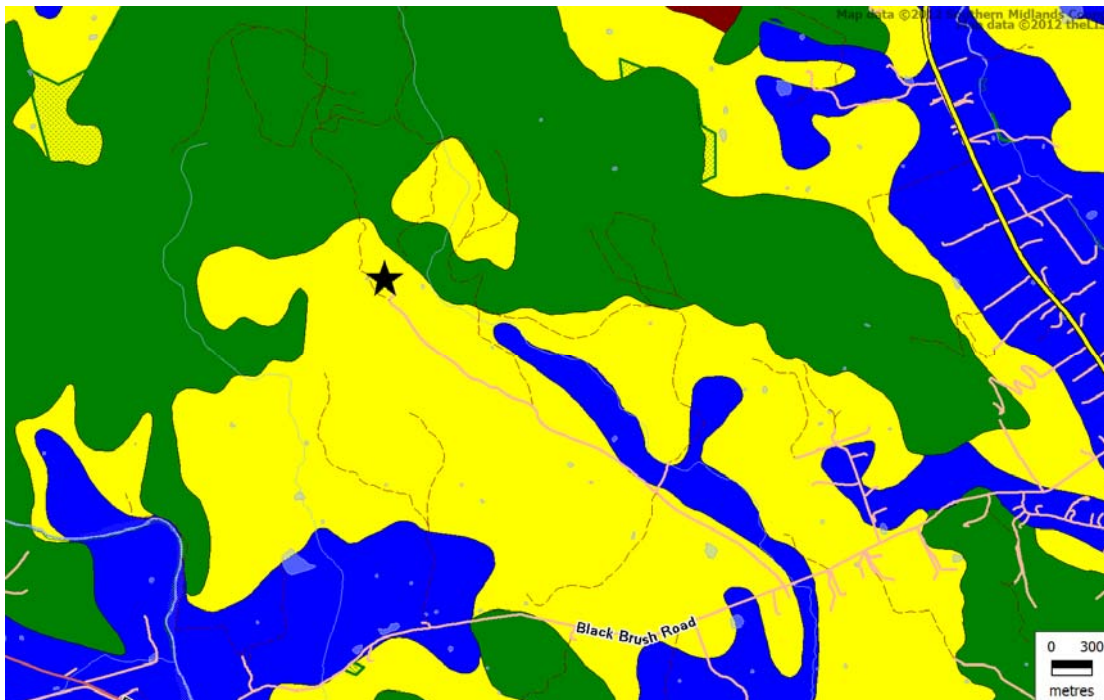
*(f) allow for the development of activities that are associated and compatible with long term rural use of the land;*

This has been assessed.

*(g) ensure that land is used and developed within its capability as defined by the Land Capability Classification System; and*

The quarry is an existing quarry. The quarry is located on Class 5 land. This is lower grade farm-land. It is not Prime Agricultural Land. It is appropriate to expand and continue the use of this quarry in this area.





Map 2\_ Land Capability Mapping\_ The black star marks the quarry site. The yellow coloured land is 'Class 5 Land', 35% of Tasmania is this Class of Land.

*(h) ensure that adjoining non-agricultural use or development does not unreasonably fetter agricultural uses.*

This has been assessed.

### **Rural Activity Zone Development Standards**

The development standards of the Rural Activity Zone are primarily related to new buildings. New development however should have minimal impact on the rural character of the area and take into consideration visual impacts and the rural landscape character. It is arguable that considering the proposal is an intensification of an existing quarry that impacts on rural character will be minimal.

### **Part 8 – Road Activity Zone**

Access and road usage is captured primarily in Part 8 of the Scheme.

In accordance with Part 8 and Part 11.10 ('Consideration of Applications') a Traffic Impact Assessment was submitted with the application. This was necessary as some deficiencies were readily identifiable along the cartage route and Council needed to take into consideration impacts on the road and road network and potential impacts on residents and other road users.

The Applicant has proposed a relocation of the existing access to increase road safety through better sight distance and consideration to the dwelling located directly opposite the entrance. This dwelling is approximately 40m from the boundary (the standard setback in the rural zone is 20m). The other access point, onto the Midland Highway can safely accommodate the added traffic.

The Traffic Impact Assessment states that Blackbrush Rd has the capacity to accommodate the additional heavy vehicles. The scheme identifies Blackbrush Rd as a 'Category IV- feeder road' as further defined by the Department of Infrastructure Energy and Resources Road Hierarchy (2007). These '...roads provide safe passenger vehicle and tourist movement within the regions of Tasmania. Where the main road servicing the town is a State Road, Feeder Roads connect towns with a population of around 1,000 or more to Trunk, Regional Freight and Regional Access Roads....While some of these roads currently carry heavy freight traffic, they duplicate existing Trunk, Regional Freight or Regional Access roads and are not DIER's strategically preferred heavy vehicle routes. Feeder Roads facilitate connection to Trunk, Regional Freight and Regional Access roads for:

- ◆ local commercial interaction; ◆ local freight movement;
- ◆ smaller regional resource bases; ◆ local passenger vehicle movement; and
- ◆ tourists and major tourist destinations.'

(Source: Department of Infrastructure Energy and Resources, 2007 'Tasmanian State Road Hierarchy')

According to the Traffic Impact Assessment, a quarry that produces 90,000 tonnes of gravel per year would generate 24 truck movements (33 tonne truckload) per day on average (12 trucks in and 12 trucks out) calculated on a 250 day working year.

The proposal is for differing stages and levels of operation over a period of time until the quarry is established:

### **Stage 1**

Year 2013 – 1-2 production runs, of 2-3 weeks each, producing 10,000 tonnes at a time:

*The average vehicle movements per day during this period calculated at 18 working days in a three (3) week cycle would equate to 33.67 vehicle movements per day for each production run. If both production runs were averaged out over a year (250 working days) it would equate to 6 truck movements per day.*

Year 2014 – 3-4 production runs of 2-3 weeks each producing 10,000 tonnes at a time:

*This would also equate to 33.67 vehicle movements per day for each production run period. At 4 production runs over a year (250 working days) it would equate to 9.69 movements a day.*

### **Stage 2**

Year 2015- A production level of 5,000 tonnes per month

*This would equate to 14.54 truck movements per day over a working year.*

Year 2016 – A production level of 8,000 tonnes per month

*This would equate to 24 truck movements per day over a working year per the Traffic Impact Assessment and Officers own calculations. This figure is based on the proposed maximum extraction level of 90,000 tonnes.*

The Applicant's TIA varies in methodology in calculating the vehicle movements per day. Some stages are based on 33 tonne trucks whilst others are based on 30 tonne trucks (Howarth Fisher and Associates, March 2013 'Mangalore Quarries - Traffic Impact Assessment' – Attached to this report). Also calculations for the 3 week cycles are based on 21 days, even though the Applicant has applied to operate the quarry Monday – Saturday which would mean an 18 day period (6 days a week). These types of calculations unnecessarily complicate the traffic movements.

The Traffic Impact Assessment is inconsistent and requires Council Officer scrutiny and further assessment as part of this report. The use of 'yearly' daily average, ignoring closed days over a 3 week period and varying truck loads (30 or 33 tonne truckloads) in making these calculations is confusing. The figures in Table 1 of the TIA stating that the existing quarry has '2 [daily movements] per day (9 trucks in and 9 trucks out of the site)' must be an error.

What can be assured is that, no matter what stage of production, the quarry can operate at under the 40 vehicle movements per day and can still be classed as a low traffic generator.

The operator should ensure the quarry operates under this 40 movements per day and in accordance with the recommendations of the Traffic Impact Assessment.

**Applicants Commitments and Road Widening:**

An investigation of the road widths with the Manager of Works and Technical Services and Council's consultant Engineering Officer determined that it is clear that a minimum 6m pavement width can be achieved along Blackbrush Rd with minimal work required and minimal cost or burden on Stornoway.

There appears to be only one (1) culvert that may require extension in order to gain a 6m pavement. There are also parts of the road that could benefit from some shaping and embanking of the road verge with the removal of obstacles such as tree limbs or entire trees in places where necessary and in consultation with Council.

At a minimum there should be a 6m pavement and 600mm shoulders. The applicant should identify the jobs necessary to achieve this in consultation with Council and this should be submitted as a plan to Council Officers and the works implemented within a set timeframe. Works shall include widening of culverts where necessary (there appears to be only one that would require widening). Clearing of the table drains where necessary and relocation of any guide posts and signage where necessary as part of this widening.



*Photo 4\_ This culvert would need to be widened to achieve a 6m pavement width with shoulders. The dashed red line marks the approximate position of the culvert. Photo was taken looking west*



*Photo 5\_ the left hand side of this photo is the house nearest to the road along the cartage route. Some reshaping of the corner and widening would be necessary in this section. Photo was taken looking west.*

**Engineering Officer Comments**

Council engaged Brighton's Engineering Department to assist in the assessment of this Development Application. The Officer provided the following comments (in *Italics* below):

*This assessment relates only to traffic, access and road works on, or affecting, Black Brush Road.*

**Location**

*The existing quarry access is located on Black Brush Road approximately 2.9 km from the Midland Highway. The 1<sup>st</sup> 1.2 km of Black Brush Road, from the Midland Highway, is sealed.*

*It is proposed that no trucks from the development will access Black Brush Road west of the access. A condition to this effect is included (NB per recommendation).*

*It is proposed that the existing quarry access be relocated approximately 400 m along Black Brush Road to the west, resulting in a total of 3.3 km of Black Brush Road being directly affected by the proposal.*

**Speed Limits**

*The speed limits on Black Brush Road vary from 50km/h and 60km/h on the sealed section to an open speed limit on the unsealed section. The open speed limit will be reduced to 80km/h under a new rationalisation by DIER. It is expected this will be implemented in early 2014.*

**Access Sight Distance**

*The TIA indicates that the sight distances at the proposed junction with Black Brush Road are in excess of 300m in either direction. For rural areas the planning scheme requires a sight distance of 210m for an 85<sup>th</sup> percentile speed of 100km/h, and the IPWEA standard drawings require SISD (safe Intersection Sight Distance) of 250m for a design speed of 100km/h. The available sight distance exceeds both these requirements.*

**Traffic Volumes**

*The TIA states that existing traffic volumes, based on a 2004 report, are in the order of 398 Annual Average Daily Traffic movements with a peak hour volume of 52 vehicles. However there is no information provided on where this count was undertaken (though more than likely east of Mountford drive). The TIA states that the existing truck movements from the site are 2 per day increasing to 24 per day at full production. At its peak the portion of heavy vehicles contributed by the development will be a relatively low at approximately 6% of the total traffic.*



**Safety – Road Width**

*The unsealed section of Black Brush Road, from the proposed access to the East, varies in width from approximately 4.2 metres to 5.7 metres. The developer proposes to widen the affected gravel section of Black brush Road to 6 metres.*

*The new IPWEA (Tas)/LGAT Standard Drawing TSD-R01-v1 (Draft 2) Rural Roads Unsealed gives guidance on road widths for unsealed roads based on AADT and the percentage of heavy vehicles. Based on the information provided in the TIA the unsealed portion of Black Brush Road should have a 6m traffic width with 1m shoulders either side, giving a total pavement width of 8m. This could be reduced if the developer can demonstrate the AADT on the gravel section is less than 300 or further reduced if less than 100. It is recommended that the upgrade of Black Brush road be in accordance with this standard and a condition to this effect is included.*

**ENVIRONMENTAL HEALTH OFFICER COMMENTS**

The Environmental Health Officer has provided the following comments regarding relevant potential environmental nuisances and impacts. These are matters identified by Council and by the Representations.

**Noise Emissions/Truck Operating Hours**

*For heavy vehicles, such as trucks, the Environment Management and Pollution Control (Miscellaneous Noise) Regulations 2004 sets out noise limits for such vehicles; no matter what time they are operating. It is incumbent on the operators of all heavy vehicles, no matter where they are operating, to comply with these requirements.*

*There are restricted hours of operation for heavy vehicles when working on “building sites”, however these restrictions do not apply to public roads and they do not apply where a “permit” is in place allowing the operation outside of these hours. The proposed hours of operation, in any case, fall within the limitations of the “Noise Regulations” excepting for an extra hour (until 7pm) on weekdays; and this is only likely to be feasible during daylight savings.*

*Roads are designed to carry vehicles, and vehicles by their nature emit noise, and it is not considered that the noise emissions for trucks operating on the public roads to and from the quarry will create an environmental nuisance. Nor is it considered that the proposed operating times should be varied.*

**Dust, Vibration, etc. from Truck Operations**

*Within rural areas the operation of heavy vehicles is commonplace on Council roads, especially in many areas where logging operations are underway where quite large vehicles are used. All vehicles are required to be driven in accordance with the ‘road rules’ which includes complying with speed limits, and any noise or vibration effects are likely to be reduced at lower speeds. In terms of Blackbrush Road between the quarry entrance and the Midland Highway, the speed limit of the section closest to the highway, along the sealed section of road is 60/50km/h, whilst the remainder will shortly be reduced to 80km/h. Also, trucks leaving the quarry will “normally” be fully loaded,*

*meaning that they will only be able to drive at quite low speeds, which will limit any dust emissions*

*It is not considered that vibration emissions will be excessive nor outside of what would be expected on a road, and as indicated any such emissions are likely to be reduced (in any event) by the slow speeds of trucks moving along Blackbrush Road.*

*No planning conditions are considered necessary in relation to noise, dust, vibration in relation to the operation of vehicle movements outside of the property on which the quarry is located (ie: on Council roads).*

## **CONCLUSION**

The applicant Stornoway has applied to expand and increase the gravel extraction levels of an existing quarry in Blackbrush Rd, Mangalore. The quarry currently has a permit to extract 5,000 cubic metres per year and Stornoway want to increase this level over a period of time to 50,000 cubic metres per year (90,000 tonnes).

The environmental impacts of the proposal (primarily within the property) have been assessed and conditioned by the EPA which leaves Council with consideration of land use planning considerations, impacts on a Council road and impacts on the residents along the road and users of the road.

The Development Application received 10 representations raising concerns and opposition to the quarry citing environmental impacts and impacts on amenity and road safety.

The representations are well considered views and raise legitimate concerns that have been addressed by Council, the EPA and Stornoway.

Blackbrush Rd is a public road in a rural area. It is not uncommon for heavy vehicles to use public roads in rural areas. If heavy vehicles cannot access rural land via these roads then opportunity to make use of this land is greatly limited.

Given the category of road ‘Feeder Rd’ and given the commitments by the Applicant and the proposal to relocate the existing access; and given that a low traffic generator is a permitted use on Blackbrush Rd it can be concluded that intensification of this road is satisfactory and that further proposed road works to address safety concerns are indeed achievable subject to further approval.

## RECOMMENDATION

**THAT, in accordance with the provisions of the Southern Midlands Planning Scheme 1998 and section 57 of the *Land Use Planning & Approvals Act 1993*, Council approve the application for a Quarry – Industry (Extractive) DA 2013/32 at *Mangalore Estate, 294 Blackbrush Rd, Mangalore* and that a permit be issued with the following conditions:**

## CONDITIONS

1. The use or development must be carried out substantially in accordance with the application for planning approval, the endorsed drawings and reports and with the conditions of this permit and must not be altered or extended without the further written approval of Council.
2. This permit shall not take effect and must not be acted on until 15 days after the date of receipt of this letter or the date of the last letter to any representor, whichever is later, in accordance with section 53 of the *Land Use Planning and Approvals Act 1993*.
3. The person responsible for the activity must comply with the conditions contained in Schedule 2 of Permit Part B, which the Board of the Environment Protection Authority (EPA) has required the Planning Authority to include in the permit, pursuant to section 25(5) of the *Environment Management and Pollution Control Act 1994*. Please find attached to this permit 'Permit Part B, including Schedules 1, 2 and 3'.
4. The development must proceed in the order of stages as shown on the endorsed plans unless otherwise agreed in writing by Southern Midlands Council.
5. No heavy vehicles are permitted to access the development to or from the western end of Black Brush Road without prior written consent from Council's General Manager.
6. Unless otherwise specified in this permit all works required by the *Mangalore Quarries Traffic Impact Assessment, March 2013 by Joanne Fisher (TIA)* and the *Mangalore Quarry Environmental Effects Report, May 2013* and *Mangalore Quarry Environmental Effects Report SUPPLEMENT, July 2013* in respect of access to the land must be completed to the satisfaction of Council's Municipal Engineer before the use commences.
7. The quarry shall be operated to ensure that no more than forty (40) vehicle movements are generated in any one day.

### Existing services

8. The developer must pay the cost of any alterations and/or reinstatement to existing services, Council infrastructure or private property incurred as a result of the proposed development works. Any work required is to be specified or undertaken by the authority concerned.



*Parking & access*

9. The areas set-aside for parking and associated access and turning must have: -
  - a. A driveway access located over existing tracks or along natural contours to reduce visual impact through excavation and filling and erosion from water run-off with a minimum 4 metres internal width for up to 90.00 metres length
  - b. An all weather pavement constructed and surfaced to the satisfaction of the Council.
  
10. The vehicle access from the carriageway of the road onto the subject land must be located and constructed in accordance with the construction and sight distance standards shown on standard drawings SD 1009 and SD 1012 prepared by the IPWE Aust. (Tasmania Division) (**attached**) or otherwise as required of Standards Australia (2002): *Australia Standard AS 2890.2 – 2002, Parking facilities - Part 2: Off-Street, Commercial vehicle facilities*, Sydney and to the satisfaction of Council's Municipal Engineer.

Roadwork

11. The developer is to widen Blackbrush Road, from the development entrance to the existing sealed section to the east. Works shall be in accordance with engineering plans provided by the Applicant and approved by Council's Municipal Engineer.
12. The roadworks shall be completed prior to the transportation of extracted material, along Blackbrush Rd, in association with Stage 1 of the quarrying operation. Works shall be to the satisfaction of the Municipal Engineer.
  
13. Roadworks and drainage must be designed and constructed in accordance with the standard drawings prepared by the IPWE Aust. (Tasmania Division) and to the requirements of Council's Municipal Engineer. Roadwork's must include -
  - a. Fully paved and drained road widening to meet the requirements of IPWEA (Tas)/LGAT *Standard Drawing TSD-R01-v1 (Draft 2) Rural Roads Unsealed (attached)*
  - b. Table drains.
  - c. Culvert extensions
  - d. Guide posts
  - e. Signage

Engineering drawings

14. Engineering design drawings to the satisfaction of the Council's Municipal Engineer must be submitted to and approved by the Southern Midlands Council before development of the land commences.
15. Engineering design drawings are to be prepared by a qualified and experienced civil engineer, or other person approved by Council's Municipal Engineer, in

- accordance with Standards Australia (1992): *Australian Standard AS1100.101 Technical Drawing – General principles*, Homebush, and Standards Australia (1984): *Australian Standard AS1100.401 Technical Drawing – Engineering survey and engineering survey design drawing*, Homebush, and must show -
- a. All existing and proposed services required by this permit;
  - b. All existing and proposed roadwork required by this permit;
  - c. Measures to be taken to provide sight distance in accordance with the relevant standards of the planning scheme;
  - d. Measures to be taken to limit or control erosion and sedimentation;
  - e. Any other work required by this permit.
16. Approved engineering design drawings will remain valid for a period of 2 years from the date of approval of the engineering drawings.
17. All work must be designed and constructed to the satisfaction of Council's Municipal Engineer and in accordance with the following -
- a. *Local Government (Building & Miscellaneous Provisions) Act 1993*;
  - b. *Local Government (Highways) Act*;
  - c. *Drains Act 1954*;
  - d. *Waterworks Clauses Act*;
  - e. Australian Standards;
  - f. Building and Plumbing Regulations;
  - g. Relevant By-laws and Council Policy;
  - h. Current IPWEA (Tasmanian Division) and Southern Midlands Council Municipal Standard Drawings;
  - i. Current IPWEA and Southern Midlands Council Municipal Standard Specification.

#### *Construction*

18. The developer must provide not less than 48 hours written notice to Council's Municipal Engineer before commencing construction works within a council roadway.
19. The developer must provide not less than 48 hours written notice to Council's Municipal Engineer before reaching any stage of works requiring inspection by Council unless otherwise agreed by the Council's Municipal Engineer.

#### *Road construction traffic management plan*

20. A Traffic Management Plan prepared by a suitably qualified person in accordance with Section G2.6 of DIER (February 2005): *General Specifications*, Department of Infrastructure, Energy and Resources, Hobart and the referenced document DIER (June 2004): *Traffic Control at Work Sites Code of Practice*, Department of Infrastructure, Energy and Resources, Hobart or the current replacements must be submitted to the council's Municipal Engineer prior to the commencement of any work within a public road reserve. All traffic control is required to be performed and certified by accredited traffic control personnel and all works within the road reserve to comply with all relevant occupational health and safety regulations.

Defects Liability Period

21. The road works must be placed onto a 6 month defects liability period in accordance with section 86 of the *Local Government (Buildings and Miscellaneous Provisions) Act 1993*, Councils Specification and Policy following the completion of the works in accordance with the approved engineering plans and permit conditions.

**Advice to Accompany this Permit**

- a) This permit does not imply that any other approval required under any other legislation has been granted.
- b) The advisory signage to truck drivers, depicted in the application, should make clear reference to operating vehicles in consideration to the residential amenity of landowners along Blackbrush Rd i.e use of engine brakes.
- c) Signage associated with this development shall require separate approval unless otherwise exempt by the *Planning Scheme*.
- d) If you notify Council that you intend to commence the use or development before the date specified above you forfeit your right of appeal in relation to this permit.

**DECISION**

Vote For	Councillor	Vote Against
	Mayor A E Bisdee OAM	
	Dep. Mayor M Jones OAM	
	Clr A R Bantick	
	Clr C J Beven	
	Clr B Campbell	
	Clr M Connors	
	Clr D F Fish	
	Clr A O Green	
	Clr J L Jones OAM	

**12.2 SUBDIVISIONS**

Nil.

**12.3 MUNICIPAL SEAL (PLANNING AUTHORITY)**

***11.3.1 COUNCILLOR INFORMATION:- MUNICIPAL SEAL APPLIED UNDER DELEGATED AUTHORITY TO SUBDIVISION FINAL PLANS & RELATED DOCUMENTS***

Nil Report.

**12.4 PLANNING (OTHER)**

*Nil.*

**13. OPERATIONAL MATTERS ARISING (STRATEGIC THEME – INFRASTRUCTURE)**

**13.1 ROADS**

**Strategic Plan Reference – Page 13**

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

Nil.

**13.2 BRIDGES**

**Strategic Plan Reference – Page 14**

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

Nil.

**13.3 WALKWAYS, CYCLE WAYS AND TRAILS**

**Strategic Plan Reference – Page 14**

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

Nil.

**13.4 LIGHTING**

**Strategic Plan Reference – Page 14**

1.4.1a Improve lighting for pedestrians.  
1.4.1b Contestability of energy supply.

Nil.

**13.5 SEWERS**

**Strategic Plan Reference – Page 15**

1.5.1 Increase the number of properties that have access to reticulated sewerage services.

Nil.

**13.6 WATER**

**Strategic Plan Reference – Page 15**

1.6.1 Increase the number of properties that have access to reticulated water.

Nil.

**13.7 IRRIGATION**

**Strategic Plan Reference – Page 15**

1.7.1 Increase access to irrigation water within the municipality.

Nil.

**13.8 DRAINAGE**

**Strategic Plan Reference – Page 16**

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

Nil.

**13.9 WASTE**

**Strategic Plan Reference – Page 16**

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

Nil.

**13.10 INFORMATION, COMMUNICATION TECHNOLOGY**

**Strategic Plan Reference – Page 16**

1.10.1 Improve access to modern communications infrastructure.

Nil.

**13.11 SIGNAGE**

**Strategic Plan Reference – Page 16**

1.11.1 Signage that is distinctive, informative, easy to see and easy to understand.

Nil.

**13.12 OFFICER REPORTS – WORKS & TECHNICAL SERVICES (ENGINEERING)**

**13.12.1 Manager - Works & Technical Services Report**

*File Ref:* 3/075

AUTHOR MANAGER – WORKS & SERVICES  
 DATE 4<sup>TH</sup> OCTOBER 2013

**ANNUAL TENDERS 2013/2014**

Tenders for the supply of road base materials and external plant hire for the period 1<sup>st</sup> October, 2013 to 30<sup>th</sup> September, 2014.

**Plant Hire:**

Following consideration of the registrations submitted, it is recommended that all which satisfy the requirements of the tender document be registered for hire on an as required basis for the period 1<sup>st</sup> October, 2013 to 30<sup>th</sup> September, 2014.

Plant hire decisions are based on the following:

- a) Best price.
- b) Operator ability.
- c) Machine condition.
- d) Availability.

**Supply of Road Base Materials and Screenings:**

Decisions are based on the following:

- a) Material quality
- b) Source locality
- c) Price

**RECOMMENDATION**

**THAT the information be received.**

**DECISION**

Vote For	Councillor	Vote Against
	Mayor A E Bisdee OAM	
	Dep. Mayor M Jones OAM	
	Clr A R Bantick	
	Clr C J Beven	
	Clr B Campbell	
	Clr M Connors	
	Clr D F Fish	
	Clr A O Green	
	Clr J L Jones OAM	

**14. OPERATIONAL MATTERS ARISING (STRATEGIC THEME – GROWTH)**

**14.1 RESIDENTIAL**

**Strategic Plan Reference – Page 17**

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

Nil.

**14.2 TOURISM**

**Strategic Plan Reference – Page 18**

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

Nil.

**14.3 BUSINESS**

**Strategic Plan Reference – Page 19**

2.3.1a Increase the number and diversity of businesses in the Southern Midlands.  
2.3.1b Increase employment within the municipality.  
2.3.1c Increase Council revenue to facilitate business and development activities (social enterprise)

Nil.

**14.4 INDUSTRY**

**Strategic Plan Reference – Page 20**

2.4.1 Retain and enhance the development of the rural sector as a key economic driver in the Southern Midlands.

Nil.

**14.5 INTEGRATION**

**Strategic Plan Reference – Page 21**

2.5.1 The integrated development of towns and villages in the Southern Midlands.

Nil.



**15 OPERATIONAL MATTERS ARISING (STRATEGIC THEME – LANDSCAPES)**

**15.1 HERITAGE**

**Strategic Plan Reference – Page 22**

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

**15.1.1 Heritage Project Officer’s Report**

*No Report due to limited time frame since previous meeting.*

**15.2 NATURAL**

**Strategic Plan Reference – Page 23**

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

**15.2.1 Landcare Unit & Climate Change – General Report**

*No Report due to limited time frame since previous meeting.*

**15.3 CULTURAL**

**Strategic Plan Reference – Page 23**

- 3.3.1a Increase the retention, documentation and accessibility of the aboriginal convict, rural and contemporary culture of the Southern Midlands.
- 3.3.1b Ensure that the Cultural diversity of the Southern Midlands is maximised.

Nil.

**15.4 REGULATORY (OTHER THAN PLANNING AUTHORITY AGENDA ITEMS)**

**Strategic Plan Reference – Page 24**

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

**15.4.1 Amendments to the Land Use Planning & Approvals Act 1993**

*File Ref:* LUPAA 1993

**AUTHOR** MANAGER STRATEGIC PROJECTS (D MACKEY)  
**DATE** 2<sup>ND</sup> OCTOBER 2013

**ATTACHMENTS** LGAT Submission - Land Use Planning & Approvals  
Amendment Bill 2013

**ENCLOSURE** Land Use Planning & Approvals Amendment Bill 2013

**ISSUE**

Intended amendments to the *Land Use Planning and Approvals Act 1993* (LUPAA), and an associated submission to the State Government by the Local Government Association of Tasmania (LGAT).

**BACKGROUND**

Enclosed is the latest version of the LUPAA Amendment Bill. LGAT have advised it might be tabled in Parliament on the 15<sup>th</sup> of October.

The Bill raises a number of concerns for Councils and LGAT is writing to the Minister to outline local government's concerns and seeking a meeting.

Attached is the LGAT submission on the proposed changes, which has been drafted with the input of Councils. The draft amendments have been through a number of iterations.

LGAT have advised that, whilst the Tasmanian Planning Commission which is driving the amendments, is unable to take on board further comments in relation to the principles, they are still open to advice on the drafting if it is felt any aspects would be unworkable.

**DISCUSSION**

The Bill includes a range of amendments to LUPAA. The LGAT submission paper (attached below) indicates which provisions have the full support of Councils and which have raised concerns.

In summary the changes are as follows:

**1. Direct planning enforcement powers for Councils.**

These changes have long been sought by local government. Currently, Councils must progress a planning enforcement matter through the Resource Management & Planning Appeals Tribunal, and seek an order from the Tribunal. This is time consuming and expensive.

The proposed new powers include the ability for a Council authorised officer to issue an infringement notice or an enforcement notice directly to the person considered to be contravening the planning scheme.

This part of the Bill is supported by Councils across Tasmania.

**2. Digital planning documentation.**

These changes provide for clear legal standing for planning scheme ordinances and maps that are held electronically. Currently, the only ‘official’ version of planning scheme ordinances and maps are the few original officially stamped and signed hard copies that exist for each scheme. In the digital information age, this has created many difficulties and uncertainties, given that users of the planning system now almost always access planning information over the internet.

This part of the Bill will bring statutory planning documents into the 21<sup>st</sup> Century and should be supported.

**3. Combined permit and dispensation process.**

‘Dispensations’ relate to interim planning schemes. They enable a proponent to pursue a development proposal despite the fact it is prohibited under an interim planning scheme. It is not possible to seek an amendment to an interim planning scheme, and dispensations can be thought of as the equivalent of a planning scheme amendment to a fully approved scheme.

The Bill includes two fundamental changes:

Firstly, it provides for a combined permit and dispensation process. This is the equivalent to the current *combined application* process, better known as the ‘section 43A applications’ for fully approved schemes. This change should be supported.

Secondly, the Bill changes the entity to which an application is made. Currently, dispensations are made directly to the Tasmanian Planning Commission (TPC). This would change to the relevant local planning authority – although the public hearing, final assessment and decision still rests with the TPC. This mirrors the

process for a planning scheme amendment or Section 43A combined application with respect to fully approved planning schemes.

**4. Prohibited uses to be considered in Projects of Regional Significance.**

A large project that has region-wide ramifications or impacts can be declared by the Minister to be a ‘Project of Regional Significance’ (PORS). This essentially means that the local planning authority would not assess the planning application. This would be undertaken by a special panel established by the Minister.

Currently, a PORS cannot be approved if it is prohibited by an interim planning scheme or a fully approved new planning scheme. (This situation does not apply to the existing planning schemes).

The Bill alters this so that it is possible to consider a PORS even if it is prohibited by an interim planning scheme or a fully approved new planning scheme. This should be supported.

**5. Planning appeal fees.**

The Bill provides for an increase in the fee to lodge an appeal with the Resource Management & Planning Appeals Tribunal. This is in response to a broadly held view that the current very low fee does not sufficiently discourage frivolous or vexatious appeals.

**6. Interim Planning Directives.**

This provides for draft State Planning Directives to be brought into statutory effect quickly – at the beginning of the statutory process, similarly to interim planning schemes.

Whilst there is concern from some Councils that the State might impose an Interim Planning Directive that adversely impacts local government without proper consultation and consideration, it is considered that this change ought to be supported as it might encourage the State to set more planning policies in place.

The alternative is to continue the current situation wherein the lack of a comprehensive suite of State Government planning policies has led to many dysfunctions at the state planning system level. This includes: no political accountability, political cost-shifting from State to Local Government, creation and imposition of de fact policy by public servants and consistently inconsistent decisions by TPC independent panels.

**7. Private certification for permitted planning applications.**

This part of the Bill has resulted in a significant level of concern on the part of Councils.

Under the future planning schemes, uses may be categorised as ‘no permit required’, ‘permitted’, discretionary’ or ‘prohibited’.

The State has previously included the concept of ‘private certification’ for ‘no permit required’ use and development in drafts of the Bill. Whilst this did not raise many significant concerns for Councils, it was nevertheless difficult to see what advantage such a system might have for the developers. Those choosing this option would presumably pay a substantial fee to a private certifier for a certificate that would be submitted with the building application to the local Council. Councils would still informally internally check the proposed development to ensure it is indeed ‘no permit required’. The developer would have gained nothing and paid a fee to a private certifier for it. Most Councils do not charge a planning fee to confirm ‘no permit required’ status (and those that do only charge a very modest fee), yet the private sector certainly would charge a substantial fee.

The main concern previously raised with this concept was of Council liability in the event a private certifier makes a mistake and issues a certificate for something that should have been treated as discretionary - and Council’s informal check did not pick it up. The new Bill includes a provision clarifying that Councils have no liability in such a situation but the reality is that Councils will be drawn into an expensive mess that will probably end up at the Planning Appeals Tribunal.

In summary, the private certification of ‘no permit required’ developments continues to raise some concerns for Councils. The LGAT submission provides more detail on this point.

In addition to the above the Bill now proposes to extent private certification to ‘permitted’ use. Such applications must be approved and a planning permit must be issued, however conditions may be applied within the permit. The Bill essentially provides for a private certifier to assess and confirm permitted status and liaise with TasWater to obtain its conditions of approval, and to put forward other conditions of approval in the certificate.

Councils that receive a planning application with the private certifier’s certificate for a permitted use or development must charge only 50% of their normal application fee. The intention in the Bill seems to be that Councils will blindly accept the private certificate and undertake no assessment or checking itself, and not seek to question or add to the proposed conditions. This will not be the case in reality, as it will be the Council that retains the ongoing responsibility for the permit and the conditions included in it.

The LGAT submission provides more detail on the possible negative ramifications for Councils that this might lead to.

It is recommended that Council support the LGAT submission.

### **Human Resources & Financial Implications**

Direct enforcement powers for planning matters will save Council time and money. In many cases this will save Council - and therefore ratepayers - the cost of proceedings at the Resource Management & Planning Appeal Tribunal, which usually include at least some degree of involvement of Council's solicitor. It should be noted that under the current system in recalcitrant cases two Tribunal proceedings are required to force compliance with the planning scheme.

Private certification of 'permitted' and 'no permit required' planning applications will not save Council time or money, and will likely lead to additional costs. This part of the Bill in particular should be opposed.

### **Community Consultation & Public Relations Implications**

Because the proposed changes to LUPAA are in the hands of the State Government, there are no direct public relations issues for Councils.

However, Council will need to carefully consider the circumstances and protocols under which it considers the use of the direct enforcement powers to be appropriate.

In regard to private certification, Council will need to ensure those members of the public considering this as an option are aware of the both the positives and negatives for developers.

### **Policy Implications:**

The proposed direct, more immediate planning enforcement powers available to Council will result in the need for a Council policy to guide the use of such powers by Council officers. Recommendations for such a policy will be put to Council should this part of the Bill be passed by Parliament.

### **Web Site Implications:**

If the Bill is passed, the website should advise of pertinent changes to options for those wishing to pursue permitted planning applications. The website should also note the direct, more immediate planning enforcement powers now available to local government in Tasmania.

**RECOMMENDATION**

**THAT Council support the submission to the State Government prepared by the Local Government Association of Tasmania on the Land Use Planning and Approvals Amendment Bill 2013.**

**DECISION**

<b>Vote For</b>	<b>Councillor</b>	<b>Vote Against</b>
	Mayor A E Bisdee OAM	
	Dep. Mayor M Jones OAM	
	Clr A R Bantick	
	Clr C J Beven	
	Clr B Campbell	
	Clr M Connors	
	Clr D F Fish	
	Clr A O Green	
	Clr J L Jones OAM	

**ATTACHMENT**



Land Use Planning and Approvals Amendment  
Bill 2013

*September 2013*

**Contact:**

**Dr Katrena Stephenson - Policy Director**

**GPO Box 1521, Hobart 7001**

**Ph: 03 6233 5973**



## **INTRODUCTION**

*The Local Government Association of Tasmania (LGAT) is the representative body of Local Government in Tasmania. Established in 1911, the LGAT is incorporated under the Local Government Act 1993 with membership comprising 28 of 29 Tasmanian councils.*

The objectives of the Association are: -

- To promote the efficient administration and operation of Local Government in the State of Tasmania;
- To watch over and protect the interests, rights and privileges of municipal councils in the State of Tasmania;
- To foster and promote relationships between Local Government in the State of Tasmania with both the Government of Tasmania and the Government of the Commonwealth of Australia;
- To represent the interests of the members of the Association generally, and in such particular matters as may be referred to the Association by its members; and
- To provide such support services to the members of the Association as the Association may by resolution in meeting determine.

In preparing this submission, LGAT has tried to focus primarily on common issues or higher order issues and encouraged member councils to respond directly to the Commission with detailed technical feedback.

We are aware that a number of councils have made direct submissions. Any omission of comments they have made should not be viewed as lack of support by the Association for that specific issue.

## General Feedback

There are a number of concerns relating to the proposed Bill, not least of which is that changes have been flagged for which we have yet to see draft legislation. This obviously flies in the face of the consultation protocol in place and represents policy on the run with all the risks that accompany that and is simply unacceptable. It also makes providing feedback difficult – do we focus on the draft legislation or the possible draft legislation?

The fluidity and pace of introduction of the private certification proposals seem to be yet another example of policy being developed outside of any strategic framework. If there are gains to be made in land use planning there needs to be a broader 'game plan'.

LGAT has advocated to officers of the Tasmanian Planning Commission (TPC) and to the Minister (through PLGC) for the legislation to be split, to allow progression of those items that are of minimal risk or which have been well consulted on while there is further, more detailed consultation on the newer aspects, particularly private certification, to fully understand the impacts.

Proposed legislative changes which are generally supported by Local Government are:

8. Enforcement provisions
9. Digital planning documentation
10. Combined permit and dispensation process (although please see notes below)
11. Prohibited uses to be considered in projects of regional significance
12. Planning appeal fees (although please see notes below)
13. Interim Planning Directives (although please see notes below)

In relation to the combined permit and dispensation process the following is raised:

- Presumably if a dispensation is granted the planning scheme, when approved, is amended to suit. Otherwise it could be a non-conforming use, with associated restrictions on expansion. Or will there be a list of dispensations kept on record (somewhere central forever)? Some further clarity is needed.
- The legislation proposes to remove the ability to apply for a change in zoning through the dispensation process, requiring the inclusion of an application for a use or development permit. This will prevent submissions for rezoning as part of the Interim Planning Scheme process to be determined within the hearing process. Bearing that in mind, and given that Interim Schemes were limited to a 'translation' of existing zones, they do not necessarily represent the full strategic program of a planning authority. Many planning authorities have

conducted and adopted strategic planning work that includes provision for the rezoning of land. In these circumstances it is appropriate that applications for rezoning can be made and heard against an operational Interim Planning Scheme, as an integral part of the consideration of the full strategic background to that Scheme; in effect, completing the strategic exercise that Interim Schemes should have been.

Given time delays in the planning reform process, it is proper that rezoning applications are considered and determined discreetly and in a timely manner, rather than waiting the 12 to 18 months for the full hearing of the Scheme to conclude and the final Scheme to be determined. There must be reasonable recourse from the significant delays that have been experienced in implementing a full strategic planning scheme. The dispensation process provides one option and this option should not be closed.

*Consequently it is suggested that the changes to Section 30P should not include a limit on applying for rezoning if there is existing strategic planning work adopted by Council which supports this outcome.*

In relation to the planning appeal fee proposal the following is raised:

- The covering letter to the consultation paper indicates that the fee increase has occurred in order to “ensure the system is not abused by vexatious appellants”. While a significant increase in the appeal fees may discourage future appeals; it should be acknowledged that this is just as likely to affect quite valid appeals and would not reduce only those that are “vexatious”.
- It would have been most helpful and quite relevant for the consultation paper to have included some statistics from the Tribunal that indicated how many appeals had been dismissed on the basis that they were vexatious, how many appeals are mediated and do not actually go to hearing and importantly, how many appeals are lodged by the applicant rather than a third party. There is no evidence to suggest there is a culture of vexatious appeals in the Tasmanian System.
- In theory there should be some parity between the fees for various appeals under different legislation. However this should also take into account some of the more unique aspects of the planning process (compared to other legislated appeal processes), the nature and performance of planning authorities, the level of interpretation required

in making planning decisions and whether appeals really do want to be so actively discouraged.

- The most effective way for managing vexatious appeals is setting criteria for assessing the validity of the grounds of appeal in the Act.

There is no consensus on the introduction of interim planning directives from member councils. As noted by one council, this aspect of the legislation appears to be contrary to the objective of the planning system in Tasmania to encourage public involvement. Another council indicated their support was subject to the Minister being required to consult with the pertinent Regional Planning Initiative Management Committee before making a decision. Further, it was suggested that Section 60c needs to be revised to provide greater transparency around the decision to define a project as regionally significant by introducing more substantive guidelines.

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## Private Certification

As stated in May 2013, in our submission on the proposed private certification legislation, Local Government acknowledges that the intent of the proposed legislation is to provide applicants with greater choice and efficiency. In principle, the sector supports formalising 'no permit required' development through a compliance certificate but not in the forms proposed. The sector believes there are better, less complex ways to achieve the same desired outcomes.

Further, while Local Government understands the drive to stimulate the building industry, we note that in light of the relatively small proportion and value of development captured by this legislation, and the quick turnaround times for such development in Tasmania, introducing certification would seem to create additional cost for little benefit. That is, the changes are unlikely to have a significant impact on reducing application times and development costs. Indeed, there are some possibly significant unintended negative consequences in relation to time and costs which will be outlined later in this submission.

There is NO support for extending the private certification option to 'permitted' use or development and indeed doing so, continues to leave unaddressed a number of concerns raised in our May submission – particularly in relation to workload and liability.

In responding, this submission will consider both the legislation provided (first proposition) and proposals circulated after the draft Bill (on 16 September 2013) (second proposition), noting these are in note form, not in the form of draft legislation.

Overarching both the first and second propositions are the following issues:

- It is still not clear what benefit is afforded to the community or industry in pursuing Private Certification given councils currently provides this service at no or minimal cost and generally very quickly. Indeed there is the potential to create more problems than are solved, increasing the administrative burden of councils and potentially leading to greater inconsistencies in decision making.
- Statistics reveal that the Tasmanian planning system performs highly in comparison to other states with fast approval times and low numbers of appeals: this raises the question as to what is the deficiency that this proposed legislation is trying to address?
- There has been no regulatory impact statement process to provide confidence that this measure actually leads to process and cost improvements.
- The proposed amendments represent the creation of a whole new administrative and legal process for a problem that does not really exist and potentially will add to costs and time for applicants. The only likely 'winner' in either scenario is the private certifier.
- The current planning scheme template produces few permitted developments and councils are providing an effective assessment process as is seen in data collected and collated by the TPC.
- A private certifier has no regard or access to councils' strategies and policies which are used by council planners in determining planning applications (e.g. reference to driveways, landscaping). Further they may not have access to code information which is spatially or list based (e.g. Scenic Protection, Landslip, Biodiversity, Flood Prone Land, Bushfire). In many cases it is only the Council that maintains the necessary registers and/or maps.
- Information on the accreditation and management of private certifiers is scant at best.
- The limited consultation and lack of integration with the broader functions and operations of the Planning Authority is a key concern.
- The case for change is inadequate. The notion of 'no permit required' development has been in existence for longer than the current suite of legislation. Planning Authorities across the state have received building applications for such development and internally confirmed the 'no permit required' status 'without fuss or bother for the whole time'.

### **Private Certification – first proposition**

Key improvements since last consultation:

- The ability for council to offer low or no cost planning exemption and permitted as of right compliance statements is welcomed. This of course does raise the question as to what benefits private certification offers.

Key issues and concerns:

- The legislation will require a council to enforce permit conditions that are not of its choosing or construction. Even if drawn from a standard set drafted by the TPC, jurisdiction is very important. There are specific circumstances that determine when it is legally appropriate to apply certain conditions. A number of questions are raised: Will councils be forced to defend permit conditions on appeal or in court? Are councils required to determine if the conditions go beyond the bounds of jurisdiction (and if so does this constitute an error in the compliance certificate?)?
- An incorrect planning compliance certificate is invalid and does not exist in law. In some circumstances, determining the validity of the certificate would effectively require a full assessment of the application: making a 7 day turnaround unworkable.
- It is likely that there are potential legal liabilities still embedded in the legislation which are not removed by the intro of indemnity provisions. Regardless, council would still be involved in enforcement or any legal cases and carry the expense of those activities. The working of the indemnity provision does not absolve the Planning Authority of the responsibility to enforce the observance of the planning scheme, nor does it protect the Council from potential liability for the consequences of its officers issuing building approval and then preventing the commencement of such works. *LGAT requests that these provisions are subject to appropriate legal scrutiny prior to the Amendments proceeding.*
- The proposition that there is very little that conditions can address if a use of development complies with all standards in a planning scheme, as “there are effectively no conditions that can be imposed on that use or development” is not one which member councils agree with. This is considered technically incorrect in relation to performance-based planning schemes and the role of objectives in achieving desired outcomes for a locality. Standards cannot be written for every possible scenario and therefore an assessment will rely on conditions against

the objective to fine tune a development outcome. Conditions are a valuable tool in achieving good development outcomes.

- What happens when something goes wrong and a discretionary development is taken and approved as a permitted development? This is likely to occur more frequently than in the past under the current proposals. Councils are seemingly indemnified from any liability in such instances (however see earlier note), and would possess the ability to cancel any planning compliance certificate issued in error. However, it is easy to foresee situations where a neighbour to a discretionary development, that has been incorrectly assessed as a permitted development, quite rightly raises questions of the Council as to how the development occurred without providing an ability for them to participate in the approval process. Councils would be required to follow such matter through and it would seem an extremely inefficient use of Council resources to be following such matters up after the event, rather than in the development assessment process.
- The proposal enables private certification to proceed with associated costs and responsibilities including compliance and enforcement shifted onto planning authorities without any obvious cost recovery mechanisms provided for. Notwithstanding statutory liability indemnity, Council as a Planning Authority retains an obligation to review all permits and certifications referred to it and also provide copies of all permits and certifications made under the proposal to the Tasmanian Planning Commission as an administrative function. All compliance costs associated with an erroneous private certification must be met by Council without any specific provision for recovery not otherwise nominally provided for now as part of the development assessment process.
- The definitions of 'single dwelling development' and 'low risk development' seem to overlook the requirement to meet the acceptable solutions and may require certification of developments that rely on performance criteria or are affected by one of the various codes. This could result in the issue of a planning compliance certificate and then a building permit for a development that requires discretionary planning approval. The drawn out procedure for the issue of a planning enforcement notice to require works to cease may result in substantial commencement of works that must then be stopped while planning approval is sought.
- A planning compliance certificate will make very little difference to a planning permit for a 'permitted with permit' development. That is, a permit is needed for all development that is not exempt. This is a sensible way of documenting compliance for applications which involve or require a Building Permit however it has the possibility of drawing in numerous minor developments that would originally have been undertaken without documentation. Therefore, section 60ZB is not

supported as currently stands, as it creates an additional compliance and paperwork burden along with the added potential of creating numerous offences requiring council enforcement.

- What is the purpose of requiring planning authorities to provide the TPC with a copy of all planning compliance certificates issued, as opposed to a list of those issued? Is it about tracing private compliance certificates – if so, why not require in private certifications that notice be given to both the Planning Authority and TPC.

### ***Case Study***

Clarence Council analysed the 48 permitted approvals issued in the last year. The conditions in those permits covered such functions and concerns of the Council as construction of accesses, driveways and car- parking areas, stormwater, environmental health nuisances, landscaping (including bonds), floor levels in inundation areas, signage and colours (TasWater conditions are excluded from this list). In some circumstances development applications must be referred to Hobart Airport under the *Airports Act 1996* for which there is no mechanism identified for privately certified development. They identified that under the new interim scheme many more (if not most) developments will have a 'permitted' assessment route and, as such, more complex proposals (such as large industrial or commercial developments) could be determined and conditioned by private certifiers, bypassing Council altogether.

Often conditions must be related to detailed engineering specifications set by Council; for example, a private certifier simply imposing a condition that 'a driveway required in conjunction with a development must be constructed', will be unacceptable. Standard conditions currently used by Council are routinely amended or replaced by more appropriate conditions based on the merits of the specific application or other Council strategies. The capacity of Council to ensure that conditions relate to matters such as crossover construction, off street parking, rubbish collection, maintenance of POS fencing (etc.) must somehow be accommodated. There would need to be some mechanism for Council to either provide conditions (similar to the TasWater process) or to appeal a decision.

An individual working externally from the Council would not have full and unfettered access to all the different functions of the Council and consequently would not be able to accurately cover off on all the issues raised by a development proposal. This issue would not be improved by the interim schemes as the acceptable solutions are not intended to be used as conditions and therefore the private certifier would have to draft their own



conditions. Having conditionally granted a permit, the certifier would not be responsible for enforcement. As such, Council would be expected to enforce conditions that are not its own and which may be imprecise or unclear or which simply don't make sense.

***Suggestions:***

- The term 'no permit is required' (in relation to the planning compliance certificate) is not separately defined. Seeking confirmation that it excludes in its definition 'exempt development'.
- If the proposed provisions relate just to fees and consistency, legislation could have provided an obligation for PA to confirm the status internally within a prescribed time and for a prescribed fee. The proposed legislation does neither, undermining any efforts at improving consistency.

**Private Certification – second proposition**

In the alternative TPC proposition, only planning authorities would be able to grant a permit for a permitted use or development. However this system would allow a proponent to apply to a planning certifier for the issue of a planning compliance certificate (PCC) for a certifiable use or development under an interim planning scheme.

The planning certifier must seek submissions from the relevant regulated entity (i.e. TasWater) and any advice will be provided to the Planning Authority. The Planning Authority has 7 days to issue the permit with or without conditions and has the right to refuse the issue of a permit if it is satisfied that the certificate has been issued in error. The decision to refuse to grant a permit can be appealed to the Resource Management and Planning Appeals Tribunal and liability will rest with the Planning Authority for the issue of a permit. Where an application for a permit is accompanied with a certificate, the fee would be limited (by regulation) to 50% of the rate charged for the same permitted use or development lodged without a certificate. It is also understood that the TPC will be developing a conditions template.

The implications of these changes will be significant for councils and include:

- Why provide for private certification when that private certifier is not being held responsible for the accuracy of their work? If the liability does not rest with the private certifier, then it is highly likely that mistakes will be made, with subsequent problems for both the applicant and the Council. For the applicant, the approval process will be delayed as mistakes are corrected and for Council, every certificate will need to be thoroughly checked in order that Council reduces its own risk exposure.

- Due to liability issues (such as appeal rights), councils must complete a full assessment in much the same way as they do now (being the same assessment that can take up to 42 days). That is, there will be a statutory reduction in time to issue (or refuse if invalid) a permit (from 42 to just 7 days). There is simply no reduction in workload for council staff.
- Councils' assessment fee is reduced to 50% of its published rate (yet it must issue a permit in a sixth of the current timeframe whilst retaining 100% of the liability).
- A certifier's fees, combined with council fees, will not yield any savings for the applicant in terms of permit charges.
- Unless a council injects significant resources (to satisfy a reduced assessment period to a sixth of the current timeframe for half the fee whilst retaining 100% of the liability), discretionary or permitted development applications (which are not assessed by a private certifier) will take longer as they must have a lower priority.
- Issues concerning the accreditation of practitioners remain.

The implications of this system are enormous and it is therefore recommended that a full and formal consultation on the proposal be undertaken which would include the proposed changes to LUPAA in order for councils to consider how it might operate. Whilst it would appear that currently the TPC intend that this system could be applied to "low-risk development", it is questionable whether it is eventually intended or future proofed to apply to all forms of permitted (permit required) development as indicated in the original consultation proposal. As discussed above, under the interim scheme many more (if not most) developments will have a 'permitted' assessment route and, as such, more complex proposals (such as large industrial or commercial developments) could be wrested from a full assessment by Council and the imposition of an appropriate set of conditions to ensure appropriate development.

If liability rests with the Permit Authority for the issuing of the Planning Permit then there would still be the same onus on the Planning Authority to check the application as if it didn't have a certificate; this for half the fee and with the time pressure to do so in 7 days.

Like the proposed changes to the 'no permit required' applications (which also entail a private certification process), it appears that the State Government is creating a whole new administrative and legal process for a problem that does not really exist. The 'no permit required' changes are actually worse, as Councils already deal with this aspect in-house, usually at no cost to the applicant (and it also takes virtually no time in the existing building referral process). The net effect in both instances is an increase in

“red tape” (by imposing an additional certification process) rather than achieving the expressed objective of trying to reduce it.

**Other options:**

In our May submission we asked whether any other options had been canvassed for improving consistency of process between councils which would also see continued quick turnaround and minimal cost. An extract is provided below:

*Mandated processes for councils.*

The LGAT asks why standardized, formal, mandated processes with statutory timeframes have not been considered as an alternative to private certifiers?

There do not appear to be any significant resourcing/capability issues in councils that would prohibit such an approach. Instead, there would likely be the added benefit of removing issues around liability, planning compliance and accuracy, competitive neutrality and paper trails. Such an approach is also more likely to ensure consistency than private practitioners, acting independently of each other and from the information available at the local government level. Private certifiers will have different standards of information requirements and expertise; there will in effect be less uniformity than is currently the case. They also will not be able to easily obtain the same intimate knowledge of the relevant planning schemes that local government planning professionals have and therefore assessments by private certifiers may actually take longer.

Using a mandated process within councils may provide adequate confidence in applying the compliance certificate process to any use or development for which a planning scheme does not require a permit, with reduced opportunity for error in interpreting when this is the case.

The table below provides examples of assessment processes in place in councils to illustrate the relative ease and low cost of those processes and how easily they could be made more consistent. Most councils have very similar processes – in that all building applications without a prior planning permit are referred to the planning officer for checking.

<b>Council</b>	<b>Process</b>
Glenorchy	Relatively simple internal referral arrangements which allow council officers to sign off the ‘no permit required’ applications within minutes in most cases and at no cost to applicant. All new building permit applications are reviewed by a Planning Officer, Development Engineer and Environmental Health Officer at a daily meeting, often “signed-off” on the spot.

Kingborough	Quickly let designers know if planning approval is required, either formally through an FI request within 7 days if a BA is lodged, or informally through pre-application discussions. No cost.
Hobart City Council	Hobart City Council charges \$100 for review of planning applications lodged as exempt under Planning Directive 4 and does not charge a fee if any other proposal is exempt from the need for a planning permit.
West Tamar	Can complete assessment in 10 minutes at the counter but also present compliance assessments to an assessment meeting of regulatory service staff and send written confirmation of the status and any relevant issues afterwards. We have a single page check sheet (called a yellow sheet) which is completed and lodged with us and building.
Tasman	A desktop assessment is undertaken. If the application complies with the setback & height requirements of PD4 we write to the applicant and advise them accordingly. Generally our turn-around time is 1-2 days.
Huon Valley Council	<p>Building permit applications that have a permitted as of right status have been charged a permitted as of right assessment fee. This is a nominal amount (\$20 - \$50 depending of cost of work) in recognition that Council planning staff must still assess the building permit application to ensure compliance.</p> <p>Planners sign off on an internal document that provides the ok for the building permit to be issued from the planning perspective. This is after an initial assessment undertaken at lodgement by Council's Customer Service Officers. This is a 1 – 2 day turnaround which happens simultaneously with other referrals and initial assessment of building and plumbing permit application as well as registering the application in Council records management system. It doesn't cause delay.</p>
Meander Valley	Conducts a certification process internally for no permit required use and development so that it appropriately addresses its obligations and liabilities as a planning authority under LUPAA and enables the building permit authority to discharge its obligations with confidence. This results in a certification 'turn around' to the building permit authority of no more than 48 hours and at no cost to the applicant.

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Local Government supports a formal compliance process for permitted developments<sup>1</sup> but feels that the current proposals and draft legislation are premature. Certainly we would encourage a cost benefit analysis to be undertaken to compare private certification with mandated process for councils. Currently the proposal would seem to increase time and cost, rather than reduce them.

Lack of consistency can be addressed in other ways with less potentially negative outcomes. Regardless of approach (council vs. private certifier) the procedural requirements for a planning compliance certificate application and for assessment and issue by the authorised person or planning authority must be prescribed in order to ensure both consistency and comprehensiveness<sup>2</sup>.

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## Summary

- LGAT Members do not support the extension of private certification to ‘permitted’ use or development in any of the forms articulated to date.
- The provisions appear to introduce a lot of bureaucratic and system costs for what will likely be a minimal uptake. This is because it is difficult to see how these proposed amendments to the legislation will produce anything other than dissatisfaction as an additional and completely unnecessary step is introduced to the approval process.
- The proposed amendments will only increase the administrative burden on councils by obliging them to be the overseers and administrator of privately certified permits which they have no control over during the assessment stage. This will lead to privately certified permits being issued with errors, onerous conditions and enforcement obligations that councils will then be required to allocate resources towards enforcing.
- It is completely inappropriate for the State to provide a ‘free for all’ in the setting of private certification fees and then to require council planning application fees to be cut in half if a private certification is provided. The planning authority is expected to check the work of the

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<sup>1</sup>It is also agreed by some councils, that private certification for minor development applications is likely to enable councils resources to be better prioritised to address strategic planning outcomes rather than assessing applications such as decks, fences and outbuildings.

<sup>2</sup> Prescribed matters could include the nature of information to be provided, the fee payable, the matters to be taken into consideration, the nature and content of the certificate, documentation of assessment and decision, and the timeframe within which a decision on whether or not to issue a certificate must be made and communicated.

private certifier, be responsible for the permit and may even have to refuse to grant a permit.

- There is an assumption that planning permits that are permitted do not require conditions. Councils have stated, based on their experience, that such permits do frequently require conditions – with examples relating to the need for erosion control measures, the control of stormwater, the colour of building materials, keeping clear of underground services etc. While most permits don't require conditions, it is sometimes necessary to deal with the unique circumstances of a proposed development; thus a general statement that conditions are never required is incorrect.
- It would have been helpful if there had been a publicly available cost-benefit analysis or regulatory impact statement that ensures that the abovementioned legislative changes would not result in some perverse outcomes.
- Councils identified a number of more pressing reform matters including outdated and ineffective public notification requirements, issues of third party appeal rights and standing before the appeal tribunal; the separate legislative processes for subdivision approval; and continued adequate resourcing to ensure the introduction of the 29 interim planning schemes.
- One council suggested that a working group be formed to discuss and resolve the issues outlined in relation to private certification prior to it being introduced into legislation; LGAT supports this wholeheartedly.
- Finally the State-wide Partnership Agreement between Government of Tasmania and Tasmanian Councils on Communication and Consultation outlines the consultative process for legislative changes involving councils for which this informal 'alternative' proposition would appear to fall short, particularly as there is no draft legislation to consider. The process is also not compliant with the Agreement LGAT has with the Tasmanian Planning Commission.

## 15.5 CLIMATE CHANGE

### Strategic Plan Reference – Page 24

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

Nil.

**16 OPERATIONAL MATTERS ARISING LIFESTYLE**

**16.1 COMMUNITY HEALTH AND WELLBEING**

**Strategic Plan Reference – Page 25**

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

Nil.

**16.2 YOUTH**

**Strategic Plan Reference – Page 25**

4.2.1 Increase the retention of young people in the municipality.

Nil.

**16.3 SENIORS**

**Strategic Plan Reference – Page 26**

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

Nil.

**16.4 CHILDREN AND FAMILIES**

**Strategic Plan Reference – Page 26**

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

Nil.

**16.5 VOLUNTEERS**

**Strategic Plan Reference – Page 26**

4.5.1 Encourage community members to volunteer.

Nil.

**16.6 ACCESS**

**Strategic Plan Reference – Page 27**

- 4.6.1a Continue to explore transport options for the Southern Midlands Community.
- 4.6.1b Continue to meet the requirements of the Disability Discrimination Act.

Nil.

**16.7 PUBLIC HEALTH**

**Strategic Plan Reference – Page 27**

- 4.7.1 Monitor and maintain a safe and healthy public environment.

Nil.

**16.8 RECREATION**

**Strategic Plan Reference – Page 28**

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

Nil.



**16.9 ANIMALS**

**Strategic Plan Reference – Page 28**

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

**16.9.1 Animal Control Officers Report**

*File Ref:* 3/027

**AUTHOR** ANIMAL CONTROL OFFICER (G DENNE)

**DATE** 3<sup>RD</sup> OCTOBER 2013

**ISSUE**

**Consideration of Animal Control Officer's monthly report.**

**DETAIL**

DOG ATTACK : A property owner from Swanston reported that he had lost 15 lambs over a period of time to what he thinks is a dog attack. Although the owner and his neighbours have not witnessed any attacks they have seen a stray dog wandering about the bush from time to time.

Both Tasmania Police and I have attended the area all to no avail, however I have been in regular contact with the owner . Recent information indicates that a dog had been shot and wounded in the general area, although it escaped into the bush. The property owner will keep me informed of any further developments

Refer Monthly Statement on Animal Control for period ending 30<sup>TH</sup> September 2013.

**Legislative Amendments**

*Dog Control Act 2000 – Proposed Amendments*

The State government has issued an Issues Paper relating to proposed amendments to the Dog Control Act 2000.

The three proposed amendments are summarised as follows:

1. To exempt greyhounds that have graduated from the Greyhound Adoption Program from the requirement to wear a muzzle while in a public place;
2. To change the kennel licensing arrangements for working and hunting dogs in rural areas; and
3. To provide councils with a greater power to restrict dogs permanently from council controlled land such as major sports grounds or beaches.

Essentially, the main issue for Southern Midlands relates to kennel licences. A full copy of the Issues Paper has been included as an Enclosure, but reference is made to Pages 5 and 6 (Kennel Licences in rural areas). The Paper puts forward a series of questions. Prior to commenting on each question, the need for such amendments is doubted given that I have not experienced significant issues with the current arrangements. An overall alternative approach to what is proposed, could be achieved through a provision which enables the General Manager to simply grant an exemption for a kennel licence under certain terms and conditions. This exemption could be capable of being withdrawn at any stage (i.e. in the event of nuisance/noise complaints, or other issues relating to hygiene / animal welfare etc.)

Question 2.1 – it is suggested that an answer to Question 2.2 is required prior to answering this question. Would the definition of a rural area be based on a planning scheme zone? In some cases, there are still dwellings in close proximity despite being in a rural zone.

Question 2.2 – refer comment above.

Question 2.3 – If anything, businesses would need to be restricted, and relevant businesses may be limited to those where dogs are effectively a ‘tool of trade’. This may still result in issues, given that dogs trained for security purposes (i.e. guard dogs), may still cause significant problems.

Question 2.4 – a number should not be specified. The option of an exemption (under certain terms and conditions) would allow for local solutions to be implemented.

Question 2.5 – Refer comment above.

Question 2.6 – Advertising should be exempt if there is no residence (opposed to boundary) within 200 metres. However, in the absence of any discretion, if it is determined that a kennel licence is required, perhaps notification of adjoining property owners may be appropriate. This recognizes that not all issues with multiple dogs relate to noise. Sometimes there are issues or concerns relating to the type of dog(s) and their capacity or likelihood to harm stock.

Question 2.7 – Refer comment above.

Question 2.8 – No. There are too many issues already associated with the differentiation between hunting and working dogs.

**RECOMMENDATION**

**THAT:**

- a) **The information be received;**
- b) **Council’s response, in the first instance, be based on the proposal to include a provision within the *Dog Control Act 2000* that enables the General Manager to simply grant an exemption for a kennel licence under certain terms and conditions. This exemption could be capable of being withdrawn at any stage (i.e. in the event of nuisance/noise complaints, or other issues relating to hygiene / animal welfare etc.)**
- c) **Council conform its position in response to the questions posed in the Issues Paper, acknowledging the basic comments provided.**

**DECISION**

<b>Vote For</b>	<b>Councillor</b>	<b>Vote Against</b>
	Mayor A E Bisdee OAM	
	Dep. Mayor M Jones OAM	
	Clr A R Bantick	
	Clr C J Beven	
	Clr B Campbell	
	Clr M Connors	
	Clr D F Fish	
	Clr A O Green	
	Clr J L Jones OAM	



**16.10 Education**

**Strategic Plan Reference – Page 28**

4.9.1 Increase the educational and employment opportunities available in the Southern Midlands.

Nil.

**17 OPERATIONAL MATTERS ARISING (STRATEGIC THEME – COMMUNITY)**

**17.1 RETENTION**

**Strategic Plan Reference – Page 29**

5.1.1 Maintain and strengthen communities in the Southern Midlands.

Nil.

**17.2 CAPACITY AND SUSTAINABILITY**

**Strategic Plan Reference – Page 29**

5.2.1 Build the capacity of the Community to help itself and embrace the framework and strategies articulated by the Social Inclusion Commissioner to achieve sustainability.

Nil.

**17.3 SAFETY**

**Strategic Plan Reference – Page 30**

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

Nil.

**17.4 CONSULTATION**

**Strategic Plan Reference – Page 30**

5.4.1 Improve the effectiveness of consultation with the Community.

Nil.

**17.5 COMMUNICATION**

**Strategic Plan Reference – Page 30**

5.5.1 Improve the effectiveness of communication with the Community.

Nil.

**18. OPERATIONAL MATTERS ARISING (STRATEGIC THEME – ORGANISATION)**

**18.1 IMPROVEMENT**

**Strategic Plan Reference – Page 31**

- |       |   |
|-------|---|
| 6.1.1 | Improve the level of responsiveness to Community needs.   |
| 6.1.2 | Improve communication within Council.   |
| 6.1.3 | Improve the accuracy, comprehensiveness and user friendliness of the Council asset management system. |
| 6.1.4 | Increase the effectiveness, efficiency and use-ability of Council IT systems.                         |
| 6.1.5 | Develop an overall Continuous Improvement Strategy and framework                                      |

**18.1.1 REVIEW OF SOUTHERN MIDLANDS COUNCIL POLICY – CODE FOR TENDERS AND CONTRACTS**

**AUTHOR** MANAGER, COMMUNITY & CORPORATE DEVELOPMENT (A BENSON)

**DATE** 4<sup>TH</sup> OCTOBER 2013

**ATTACHMENT** Nil - The amended Code for Tenders and Contracts was provided to the previous Council meeting

**ISSUE**

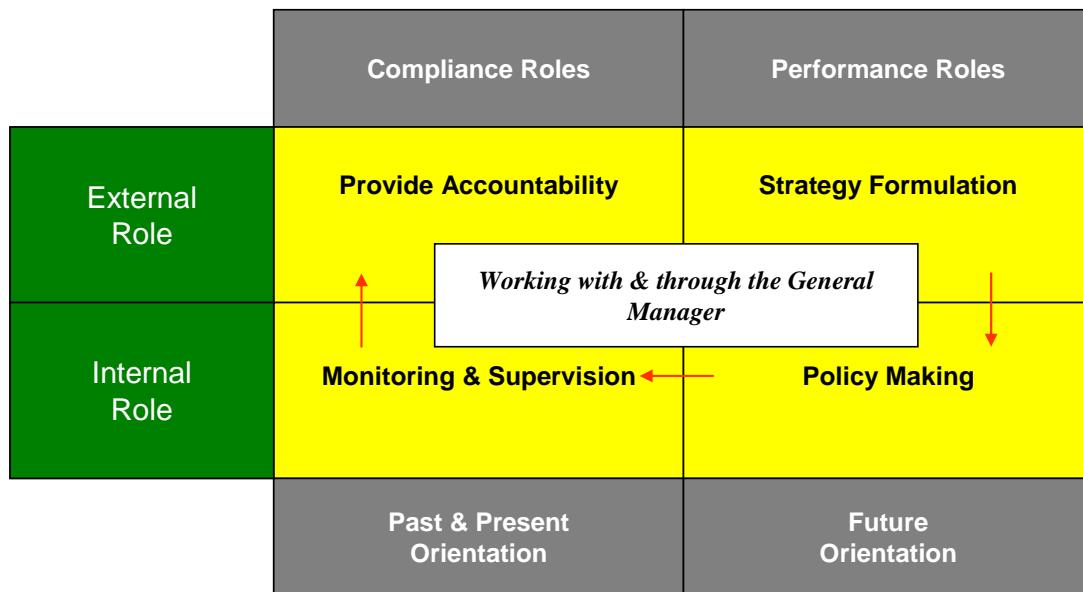
Review of SMC Code for Tenders and Contracts

**BACKGROUND**

This matter was the subject of a report to the September 2013 Council meeting, namely.

**FRAMEWORK FOR ANALYSING COUNCIL’S GOVERNANCE FUNCTION**

The diagram below along with its explanation has been the subject of previous to presentations to Council; however, it is meaningful to reflect on this governance framework when policy documents are presented to Council. As part of this framework it is important for Council to be aware of and monitor audits and related governance review mechanisms that are undertaken within the organisation, based on Council’s strategies and policies.



**BACKGROUND**

Council over many years has had purchasing policies, however in 2005 the *Local Government Act 1993* required Councils in Tasmania to develop a Code for Tenders and Contracts. The document attached to the agenda item, is basically the same document that was approved in 2005, however in the ensuing years the *Act* was changed to increase the threshold in respect of the requirement to go to tender.

In the first iteration of this Code the tender threshold was \$50,000 or greater as shown below.

Procurement Value	Minimum Requirement
\$10 000 and below	<p><b>Verbal Quotations</b></p> <p>At least three verbal quotations will be obtained.</p>
Between \$10,000 and \$50 000	<p><b>Written quotations</b></p> <p>At least three written quotations will be obtained.</p>
\$50,000 and greater	<p><b>Public Tender</b></p> <ul style="list-style-type: none"> <li>• Our tenders will be advertised in the Saturday edition of the Mercury newspaper.</li> <li>• Where possible and practical, at least 50% of the tenderers should be from within the municipal area.</li> </ul>

In this the first review of the Code the tender threshold has been changed to \$100,000 or greater as shown below, in accordance with the *s333A and s333B Local Government Act 1993*.

Procurement Value	Minimum Requirement
\$30,000 and below	<p><b>Direct Purchase - Verbal Quotations</b></p> <p>No formal quotations are required however the General Manager may at his discretion obtain verbal quotations, of which at least one will be sought from a local business (if available).</p>
Between \$30,000 and \$99,999	<p><b>Written quotations</b></p> <p>The General Manager may at his discretion obtain at least three written quotations, of which at least one will be sought from a local business (if available).</p>
\$100,000 and greater	<p><b>Public Tender</b></p> <p>will advertise each tender at a minimum in the Mercury newspaper. Other advertising may be utilised as required.</p> <ul style="list-style-type: none"> <li>• Each tender will be advertised on Council website.</li> <li>• Council will seek at least one tender from a local business (if available).</li> </ul>

## CONCLUSION

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

## DETAIL

The amended Southern Midlands Code for Tenders & Contracts, was tabled at the September 2013 Council meeting for Council’s consideration. As Councillors are aware, the process for any policy document is, that it is tabled at one meeting and then “lays on the table” until the next meeting, to enable Councillors sufficient time to work through and consider all of the ramifications of the strategy/policy, before the document is finally considered for adoption at the following meeting.

Minor modifications have been made to the documents based on the feedback from the last meeting.



**RECOMMENDATION**

**THAT Council**

- 1. Receive and note the report;**
- 2. Adopt the amended Southern Midlands Council Code for Tenders and Contracts.**

<b>Vote For</b>	<b>Councillor</b>	<b>Vote Against</b>
	Mayor A E Bisdee OAM	
	Dep. Mayor M Jones OAM	
	Clr A R Bantick	
	Clr C J Beven	
	Clr B Campbell	
	Clr M Connors	
	Clr D F Fish	
	Clr A O Green	
	Clr J L Jones OAM	



In considering this issue, Councillors are reminded of the following recommendations (subsequently endorsed by Council) which were submitted by the MMPHC Reference Group. This Group was established by Council for the purpose of prepare a development concept for the ‘MMPHC Precinct’ to provide an agreed vision for the future development of the precinct. It was prompted by the need for Council to consider:

- a) land availability to cater for the construction of the proposed Clinical Education and Training Centre (Student Accommodation);
  - b) an approach by the Oatlands District Homes Association to acquire 7 Church Street for the purpose of building additional homes units.
1. That the Ambulance Garage property in Church Street, Oatlands (PID 1819982) be identified as the preferred property to be allocated for future Tasmanian Ambulance Service requirements and that Council and TAS should proceed to investigate sale and transfer of ownership (Council and TAS to progress);
  2. That 7 Church Street (PID 5841917 – gifted property from Seddon Mitchell estate) - be confirmed as being the most suitable for future development of additional homes association units and that Council and the Oatlands District Homes Association should proceed to investigate sale and transfer of ownership;
  3. That Council and the DHHS resolve the issue of the MMPHC buildings being located across two property boundaries (owned by DHHS and Council), and that a boundary adjustment be undertaken to include all buildings on the one Title (preferred boundary to be confirmed by Council); and
  4. That depending upon development timeframes, the TAS and ODHA continue to liaise in relation to assessing and designing the most cost effective sewerage and stormwater disposal options for the two adjoining properties.

## DETAIL

In summary the Department of Health and Human Services would like to enter into a long-term lease for land already in use by the Multi-Purpose Health Centre.

In considering this matter, it is important to acknowledge that the area of land is classified as Public Land under the *Local Government Act 1993*. The following is an extract from the Act:

### **“177A. Public land**

*(1) The following land owned by a council is public land:*

*(a) .....*

*(b) any land that **provides health, recreation, amusement or sporting facilities for public use;***

*(c) .....*

*(d) .....*

*(e) .....*

*(g) any other prescribed land or class of land.*

*(2) The general manager is to –*

*(a) keep lists or maps of all public land within the municipal area; and*

*(b) make the lists and maps available for public inspection at any time during normal business hours.”*

In addition to the above provisions relating to Public Land, if Council intends to lease (or otherwise dispose) of public land, it must adhere to the provisions of section 178 (as follows):

***“178. Sale, exchange and disposal of public land***

*(1) A council may sell, lease, donate, exchange or otherwise dispose of public land owned by it in accordance with this section.*

*(2) Public land that is leased for any period by a council remains public land during that period.*

*(3) A resolution of the council to sell, lease, donate, exchange or otherwise dispose of public land is to be passed by an absolute majority.*

*(4) If a council intends to sell, lease, donate, exchange or otherwise dispose of public land, the general manager is to–*

*(a) publish that intention on at least 2 separate occasions in a daily newspaper circulating in the municipal area; and*

*(ab) display a copy of the notice on any boundary of the public land that abuts a highway; and*

*(b) notify the public that objection to the proposed sale, lease, donation, exchange or disposal may be made to the general manager within 21 days of the date of the first publication.*

*(5) If the general manager does not receive any objection under subsection (4) and an appeal is not made under section 178A, the council may sell, lease, donate, exchange or otherwise dispose of public land in accordance with its intention as published under subsection (4).*

*(6) The council must –*

*(a) consider any objection lodged; and*

*(b) by notice in writing within 7 days after making a decision to take or not to take any action under this section, advise any person who lodged an objection of –*

*(i) that decision; and*

*(ii) the right to appeal against that decision under section 178A.*

*(7) The council must not decide to take any action under this section if –*

*(a) any objection lodged under this section is being considered; or*

*(b) an appeal made under section 178A has not yet been determined; or*

*(c) the Appeal Tribunal has made a determination under section 178B(b) or (c).*

*(8) . . . . .*

It follows that the first step in this process requires a decision from Council (by absolute majority) that it intends to lease the property in accordance with section 178 of the Act.

The alternative is to consider sale of the property, consistent with the recommendation of the MMPHC Reference Group, however this would:

- a) take considerable time to finalise and not necessarily address the issue with car-park access if Council is to retain part-ownership; and
- b) may require more extensive community consultation in order to secure full support.

**Human Resources & Financial Implications** – A decision to lease will obviously involve initial advertising costs (estimated at \$700); subsequent preparation of lease documents; and associated legal costs etc. No allowance has been provided in the budget for this purpose, and Council may seek to recover these costs from the DHHS prior to progressing with this matter.

**Community Consultation & Public Relations Implications** – The lease process will involve public notification, and allow for objections to be lodged. Council must then consider those objections, and ultimately, there is an appeal process.

**Council Web Site Implications:** *Nil.*

**Policy Implications** – Policy position

**Priority - Implementation Time Frame** – Not urgent.

**RECOMMENDATION**

**THAT Council:**

- a) **in accordance with section 178 of the Local Government Act 1993, resolve that it intends to lease the Council owned property (PID 7559499 – Title Reference 39750/1) located at 13 Church Street, Oatlands to the Department of Health and Human Services; and**

- b) publish its intention to lease on at least 2 separate occasions in the Mercury newspaper, and display a copy of the notice on the boundary of the public land that abuts Church Street.**

**DECISION (BY ABSOLUTE MAJORITY)**

<b>Vote For</b>	<b>Councillor</b>	<b>Vote Against</b>
	Mayor A E Bisdee OAM	
	Dep. Mayor M Jones OAM	
	Clr A R Bantick	
	Clr C J Beven	
	Clr B Campbell	
	Clr M Connors	
	Clr D F Fish	
	Clr A O Green	
	Clr J L Jones OAM	

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E: 530283 N: 5317019 (GDA94) Scale (Approx) 1:1795

**Information**  
Click on Feature from Active layer to Identify

**Cadastral Parcels**  
Property ID 7559499  
Title Reference 39750/1

**Owners**  
Southern Midlands Council  
Address "MIDLANDS MULTI PURPOSE CENTRE", 13 CHURCH STREET, OATLANDS TAS 7120  
Local Government Authority FWG72  
LPI

[View Details](#)  
[View Details](#)

**Layers** Legend

Vector Layers

- Road Names
- Localities
- Local Government Areas
- Cadastral Parcels

**Attachment A**  
Land owned by Council.

**Manage Layers**

Tasmania  
Department of Infrastructure

Data is compiled from a variety of sources and hence its accuracy is variable. If you wish to make decisions based on this data you should consult with the relevant authorities.

Page 4 of 2

**Layers Legend**

- Vector Layers
- Road Names
- Localities
- Local Government Areas
- Cadastral Parcels

*Attachment & Land owned by Crown.*

- . LPI 2500603
- . LPI 2500604

**Information**

Click on Feature from Active layer to Identify

**Cadastral Parcels**

Property ID 5841933  
 Address "MIDLANDS MULTI PURPOSES CENTRE", CHURCH STREET, OATLANDS TAS 7120  
 Authority Dept of Health and Human Service  
 LPI 2500604

**View Details**

**Manage Layers**

Data is compiled from a variety of sources and hence its accuracy is variable. If you wish to make decisions based on this data you should consult with the relevant authorities.

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 E: 530221 N: 5317027 (GDMA4) Scale (Approx) 1:1795



**18.2.2 Elected Members Training – Governance Essentials for Local Government (Australian Institute for Company Doctors)**

AUTHOR GENERAL MANAGER (T KIRKWOOD)

DATE 29<sup>th</sup> AUGUST 2013

ATTACHMENT: Brochure

ENCLOSURE: Nil

**ISSUE**

**To report on the costs associated with participating in the Australian Institute of Company Director's 'Foundations of Directorship – Governance Essentials for Local Government'.**

**BACKGROUND**

At the August meeting, the General Manager was requested to report on the costs associated with the above training course designed primarily for elected members.

**DETAIL**

In summary, the full course consists of four modules, each taking approximately one half day to complete. They are:

1. The Role of the Council and Councillor
2. Leadership: The Councillors Role
3. Risk: Issues for Councillors
4. Introduction to Financial Performance for Councillors

Council may choose to complete the entire course, or alternatively, select the modules of interest.

Indicative costs are as follows:

To complete the entire course over two consecutive days - \$9,865 (excl. GST) per day; plus airfares (ex Melbourne for facilitator); plus accommodation (say 2 nights). Total estimated cost of \$21,000.

The cost per half day is \$6,145 (excl. GST), with associated air travel and accommodation.

An amount of \$4,000 is specifically allocated for elected members training in the 2013/14 Budget.

As an alternative, I attach an extract from the Local Government Association General Meeting Agenda held 18<sup>th</sup> September 2013. Councillors will note that the LGAT has also identified the need to improve the provision of training services tailored to local government, and is currently developing a number of programs in conjunction with service providers.

It is suggested that this may be a more cost effective option and provide an opportunity for elected members to develop their skills in specific areas of choice. Please note that whilst a number of additional areas were identified and added to the LGAT topics, there is still an opportunity to nominate further subjects for development.

**Human Resources & Financial Implications** – Refer detail above.

**Community Consultation & Public Relations Implications** – To be considered.

*Council Web Site Implications: N/A*

**Policy Implications** – N/A.

**Priority - Implementation Time Frame** – To be determined.

**RECOMMENDATION**

**THAT the information be received and Council monitor, and aim to actively participate, in the training programs being developed by the Local Government of Tasmania.**

**DECISION**

<b>Vote For</b>	<b>Councillor</b>	<b>Vote Against</b>
	Mayor A E Bisdee OAM	
	Dep. Mayor M Jones OAM	
	Clr A R Bantick	
	Clr C J Beven	
	Clr B Campbell	
	Clr M Connors	
	Clr D F Fish	
	Clr A O Green	
	Clr J L Jones OAM	

## 2. ITEMS FOR DECISION

### 2.1 LGAT TRAINING SCHEDULE Contact Officer - Georgia Palmer

#### Decision Sought

**That members note LGAT's current activity in relation to developing an ongoing training schedule for member councils and endorse the development of the training schedule.**

#### Background

LGAT has identified a potential opportunity to improve the provision of training services tailored to Local Government. A review of Local Government Associations around Australia has identified that training, whether it be provided by or facilitated by the Association, as a key member service.

As such, LGAT is currently consulting with councils to determine if there is support for LGAT to develop an ongoing Local Government annual training schedule for member councils. Feedback from a number of officers and General Managers has been positive with agreement that there is a need for Local Government tailored training.

It is envisaged that the training schedule would be broken into distinct parts. These include:

- Training for councillors;
- Training for staff in emerging strategic areas (such as legislative change); and
- Generic, Local Government specific professional development training for staff.

LGAT does not intend to run all the training. Largely it will be brokered with providers and marketed through our website. Different modes of training will be provided including webinars; e-learning and face to face.

Once the program is established registration will be available through the LGAT website. Councils will also be encouraged to raise potential new training requirements as the need arises.

Key areas of need identified through the initial review and consultation stage include:

*Elected Members:*

- Good governance
- Councillor roles and responsibilities
- Financial issues in Local Government
- Meeting procedures
- Land-use planning
- Community leadership
- Building an effective relationship with your General Manager

*Staff- strategic areas*

- Occupational health and safety
- Asset management
- Procurement
- Financial management
- Industrial relations

*Staff- generic*      Chairing effective meetings  
Introduction to Local Government  
Introduction to the Local Government Act  
Community engagement  
Customer service and complaint handling

The next phase of the project will include in-depth discussions with potential providers and further scoping of each of the training programs.

**Budget Impact**

LGAT policy officer time to develop and negotiate the schedule with providers. Training will generally be run on a cost recovery basis.

**18.3 FINANCES**

**Strategic Plan Reference – Page 33 & 34**

- |       |   |
|-------|---|
| 6.3.1 | Maintain current levels of community equity.  |
| 6.3.2 | Major borrowings for infrastructure will reflect the inter-generational nature of the assets created.   |
| 6.3.3 | Council will retain a minimum cash balance to cater for extra-ordinary circumstances.   |
| 6.3.4 | Operating expenditure will be maintained in real terms and expansion of services will be funded by re-allocation of service priorities or an increase in rates. |
| 6.4.4 | Sufficient revenue will be raised to sustain the current level of community and infrastructure services.  |

**18.3.1 Monthly Financial Statement (December 2012)**

**17.3.1 Monthly Financial Statement (September 2013)**

*File Ref: 3/024*

AUTHOR FINANCE OFFICER (C Pennicott)

DATE 3<sup>rd</sup> OCTOBER 2013

Refer enclosed Report incorporating the following: -

- a) Statement of Comprehensive Income – 1<sup>st</sup> July 2013 to 30<sup>th</sup> September 2013 (including Notes)
- b) Current Expenditure Estimates
- c) Capital Expenditure Estimates

*Note: Refer to enclosed report detailing the individual capital projects.*

- d) Rates & Charges Summary – as at 1<sup>st</sup> October 2013
- e) Cash Flow Statement - July 2013 to September 2013

*Note: Expenditure figures provided are for the period 1<sup>st</sup> July to 30<sup>th</sup> September 2013 – approximately 25% of the period.*

**Comments**

**A. Current Expenditure Estimates (Operating Budget)**

**Strategic Theme – Growth**

- **Sub-Program – Business** - expenditure to date (\$25,954 – 39.18%). Works undertaken on a recharge basis. Expenditure will be offset by income received.

**Strategic Theme – Lifestyle**

- **Sub-Program – Childcare** - expenditure to date (\$5,000 – 50.00%). Expenditure of \$5,000 is the annual ‘one-off’ payment for the Family Day Care Service.

**Strategic Theme – Community**

- **Sub-Program – Capacity** - expenditure to date (\$8,292 – 23.68%). Expenditure includes annual ‘one-off’ payments to MILE (\$4,545) and Regional Councils Campaign (\$3,000).
- **Sub-Program – Consultation** - expenditure to date (\$2,198 – 43.34%). Expenditure of \$2,198 relates to Aurora expenses associated with the operation of the Radio Station. Part-reimbursement from Management Committee.

**B. Capital Expenditure Estimates (Capital Budget)**

Nil.

**RECOMMENDATION**

**THAT the information be received.**

**DECISION**

<b>Vote For</b>	<b>Councillor</b>	<b>Vote Against</b>
	Mayor A E Bisdee OAM	
	Dep. Mayor M Jones OAM	
	Clr A R Bantick	
	Clr C J Beven	
	Clr B Campbell	
	Clr M Connors	
	Clr D F Fish	
	Clr A O Green	
	Clr J L Jones OAM	

STATEMENT OF COMPREHENSIVE INCOME  
FOR THE PERIOD  
1st JULY 2013 to 30 SEPTEMBER 2013

	Annual Budget	Year to Date as at 30TH SEPTEMBER	% To Date
<b>Income</b>			
General rates	\$ 4,192,243	\$ 4,151,158	99.0%
User Fees (refer Note 1)	\$ 699,354	\$ 143,683	20.5%
Interest	\$ 260,000	\$ 32,135	12.4%
Government Subsidies	\$ 31,700	-	0.0%
Contract Income	\$ -	-	0.0%
Other (refer Note 2)	\$ 235,188	\$ 13,967	5.9%
<b>Sub-Total</b>	<b>\$ 5,418,485</b>	<b>\$ 4,340,943</b>	<b>80.1%</b>
Grants - Operating	\$ 3,570,800	\$ 429,004	12.0%
<b>Total Income</b>	<b>\$ 8,989,285</b>	<b>\$ 4,769,947</b>	<b>53.1%</b>
<b>Expenses</b>			
Employee benefits	\$ 3,703,066	\$ 559,483	15.1%
Materials and contracts	\$ 3,046,484	\$ 552,035	18.1%
Depreciation and amortisation	\$ 2,496,000	-	0.0%
Finance costs	\$ 58,741	\$ 627	1.1%
Contributions	\$ 169,088	-	0.0%
Other	\$ 204,004	\$ 44,225	21.7%
<b>Total expenses</b>	<b>\$ 9,677,383</b>	<b>\$ 1,156,370</b>	<b>11.9%</b>
<b>Surplus (deficit) from operations</b>	<b>-\$ 688,098</b>	<b>\$ 3,613,577</b>	<b>-525.2%</b>
Grants - Capital (refer Note 3)	\$ 606,153	-	0.0%
Donations	\$ 3,500	\$ 300	8.6%
Sale Proceeds (Plant & Machinery)	\$ -	-	0.0%
Net gain / (loss on disposal of non-current assets)	\$ 160,000	-	0.0%
<b>Surplus / (Deficit)</b>	<b>\$ 81,555</b>	<b>\$ 3,613,877</b>	<b>4431.2%</b>

## SOUTHERN MIDLANDS COUNCIL : CURRENT EXPENDITURE 2013/14

## SUMMARY SHEET

PROGRAM	TOTAL	REVISED BUDGET (GRANTS & OTHER REIMBURSEMENTS)	ACTUAL AS AT 30 SEPTEMBER 2013 25%	VARIANCE (+/-)	% BASED ON REVISED BUDGET 100%
<b>INFRASTRUCTURE</b>					
Roads	3484103	3484103	390338	3093765	11.20%
Bridges	428807	428807	13344	415463	3.11%
Walkways	175603	175603	35179	140424	20.03%
Lighting	89544	89544	0	89544	0.00%
Irrigation	2450	2450	0	2450	0.00%
Drainage	81322	81322	9695	71627	11.92%
Waste	548480	548480	88174	460306	16.08%
Public Toilets	55726	55726	11203	44523	20.10%
Communications	0	0	540	-540	0.00%
Signage	12300	12300	2483	9817	20.19%
<b>INFRASTRUCTURE TOTAL:</b>	<b>4878335</b>	<b>4878335</b>	<b>550956</b>	<b>4327379</b>	<b>11.29%</b>
<b>GROWTH</b>					
Residential	2900	2900	0	2900	0.00%
Mill Operations	610120	610120	146154	463966	23.95%
Tourism	188853	188853	0	188853	0.00%
Business	66250	66250	25954	40296	39.18%
Agriculture	5370	5370	0	5370	0.00%
Integration	27600	27600	0	27600	0.00%
<b>GROWTH TOTAL:</b>	<b>901093</b>	<b>901093</b>	<b>172108</b>	<b>728985</b>	<b>19.10%</b>
<b>LANDSCAPES</b>					
Heritage	291385	291385	63628	227757	21.84%
Natural	477908	477908	68658	409250	14.37%
Cultural	0	0	0	0	0.00%
Regulatory	789303	789303	157244	632059	19.92%
Climate Change	40376	40376	4087	36289	10.12%
<b>LANDSCAPES TOTAL:</b>	<b>1598972</b>	<b>1598972</b>	<b>293616</b>	<b>1305356</b>	<b>18.36%</b>
<b>LIFESTYLE</b>					
Youth	160905	160905	27442	133463	17.05%
Aged	1500	1500	853	647	56.86%
Childcare	10000	10000	5000	5000	50.00%
Volunteers	32000	32000	430	31570	1.35%
Access	6405	6405	0	6405	0.00%
Public Health	7706	7706	145	7561	1.88%
Recreation	402126	402126	67955	334171	16.90%
Animals	70029	70029	15718	54311	22.44%
Education	0	0	0	0	0.00%
<b>LIFESTYLE TOTAL:</b>	<b>690671</b>	<b>690671</b>	<b>117543</b>	<b>573128</b>	<b>17.02%</b>
<b>COMMUNITY</b>					
Retention	0	0	0	0	0.00%
Capacity	35025	35025	8292	26733	23.68%
Safety	56650	56650	13564	43086	23.94%
Consultation	5070	5070	2198	2872	43.34%
Communication	15125	15125	1662	13463	10.99%
<b>COMMUNITY TOTAL:</b>	<b>111870</b>	<b>111870</b>	<b>25717</b>	<b>86153</b>	<b>22.99%</b>
<b>ORGANISATION</b>					
Improvement	7300	7300	0	7300	0.00%
Sustainability	1925878	1925878	439461	1486417	22.82%
Finances	223263	223263	25377	197886	11.37%
<b>ORGANISATION TOTAL:</b>	<b>2156441</b>	<b>2156441</b>	<b>464837</b>	<b>1691604</b>	<b>21.56%</b>
<b>TOTALS</b>	<b>10337382</b>	<b>10337382</b>	<b>1624778</b>	<b>8712604</b>	<b>15.72%</b>



SOUTHERN MIDLANDS COUNCIL  
CAPITAL EXPENDITURE PROGRAM 2013-14  
AS AT 30 SEPTEMBER 2013

INFRASTRUCTURE	ROAD ASSETS	BUDGET	EXPENDITURE	VARIANCE
	Resteering Program	\$ 600,000	\$ -	\$ 600,000
	Reseal Program	\$ 350,000	\$ -	\$ 350,000
	Reconstruct & Seal			
	Bagdad			
	Nil			
	Colebrook	\$ 68,750	\$ -	\$ 68,750
	Eldon / Rhydaston Road (500 metres)			
	Dyast			
	Nil			
	Mangalore			
	Nil			
	Oatlands			
	Inglewood Road (1 km - Nala Rd to Viaduct)	\$ 137,500	\$ -	\$ 137,500
	Stonor Road (1km- From Midland Highway)	\$ 137,500	\$ -	\$ 137,500
	Whiteford / Woodsdale			
	Junction with Stonehenge Road (250 metres)	\$ 37,500	\$ 300	\$ 37,200
	Woodsdale Road (Baden Straight - 200 metres)	\$ 30,000	\$ -	\$ 30,000
	Green Valley Road - from Kenners to Bridge			
	Cilfenovle Road			
	Balliboy Road - Road Improvements			
	Stanley Street (William St Le Thunderstone to Nelson)			
	Stonor Road			
	Williams Road - Option 1 (Junction to Bridge -250 metres)	\$ 39,375	\$ -	\$ 39,375
	Construct & Seal (Unsealed Roads)			
	Minor Seals (New)			
	Nums Road - Junction with Elderslie Main Road	\$ 7,000	\$ -	\$ 7,000
	Church Road	\$ 10,000	\$ -	\$ 10,000
	Hasting Street-Junction	\$ 15,000	\$ -	\$ 15,000
	Pelham Road (end of Elderslie Rd)	\$ 10,000	\$ -	\$ 10,000
	Unsealed - Road Widening			
	Rhydaston Road (vicinity of Beverse)- Stage 2	\$ 29,349	\$ -	\$ 29,349
	Yarrington Road - Realignement	\$ 20,000	\$ -	\$ 20,000
	Church Road (Corner widening)	\$ 20,000	\$ -	\$ 20,000
	Estate Road (Survey Investigation Only - \$5,000)	\$ 15,000	\$ -	\$ 15,000
	Green Valley Road - Vicinity of Erosion Gully (Survey Investigation)	\$ 5,000	\$ -	\$ 5,000
	Hall Lane, Bagdad - widening	\$ 15,000	\$ -	\$ 15,000
	Chauncey Vale Road, Bagdad	\$ 20,000	\$ -	\$ 20,000
	Junction Road Realignement/ Other			
	Other:			
	Green Valley Road - Widening	\$ 83,000	\$ -	\$ 83,000
	Bartonsville Road (800 dia pipes - vicinity of Pooley Property) - was \$27K	\$ 27,000	\$ -	\$ 27,000
	Church Road (Intersection with Elderslie Road) - Survey & Acquisition	\$ 21,000	\$ 6,919	\$ 14,081
	Inverlaken Road- Corner Realignement (Roadion)	\$ 32,000	\$ -	\$ 32,000
	Campiana - Reeve St / Clime Street	\$ 25,600	\$ -	\$ 25,600
	Campiana - Reeve St / Hall Street	\$ 5,000	\$ -	\$ 5,000
	Huntington Tier (Road to Trip - Guard Rail)	\$ 8,000	\$ -	\$ 8,000
	Inglewood Road - Sight Improvements	\$ 8,000	\$ -	\$ 8,000
	Woodsdale Road - Landslip Area(s) - Engineering Assessment	\$ 9,700	\$ -	\$ 9,700
	Woodsdale Road - Landslip Area (vicinity Scotts Quarry)	\$ 15,000	\$ -	\$ 15,000
		\$ 1,801,274	\$ 7,219	\$ 1,794,055

SOUTHERN MIDLANDS COUNCIL  
CAPITAL EXPENDITURE PROGRAM 2013-14  
AS AT 30 SEPTEMBER 2013

	BUDGET	EXPENDITURE	VARIANCE
<b>BRIDGE ASSETS</b>			
C1030003	\$ 557,000	\$ 4,660	\$ 552,340
C1030043	\$ 166,000	\$ -	\$ 166,000
C1030028	\$ 57,000	\$ 2,536	\$ 54,464
C1030023	\$ 678,000	\$ -	\$ 678,000
C1030044	\$ 81,700	\$ 1,231	\$ 80,469
C1030045	\$ 26,440	\$ -	\$ 26,440
C1030041	\$ 142,600	\$ 26,535	\$ 116,065
C1030013	\$ -	\$ 51,685	\$ 51,685
	\$ -	\$ 1,468,74	\$ 1,469
	\$ 1,788,740	\$ 85,201	\$ 1,620,539
<b>WALKWAYS</b>			
	\$ 50,000	\$ -	\$ 50,000
Bagdad Township	\$ 50,000	\$ 775	\$ 49,225
- East Bagdad Road (Le Comptele to Highway)			
	\$ 10,000	\$ -	\$ 10,000
Campiana Township	\$ 80,000	\$ 6,280	\$ 73,720
- Reeve Street (Vicinity of Store)			
- Reeve Street (500 metres)			
- Review Management Plan (Site Plan) / Walking Tracks (Bush Reserve)			
Colebrook Township	\$ 5,000	\$ -	\$ 5,000
- Kerb & Gutter / Footpath improvements			
Kempston Township	\$ 15,000	\$ -	\$ 15,000
- Nil			
Mangalore Township	\$ -	\$ -	\$ -
- Nil			
Oatlands Township	\$ 8,000	\$ 3,685	\$ (3,685)
- High Street (Kearns / School area)			
Turnack Township	\$ 7,000	\$ -	\$ 7,000
- Various (to be confirmed)			
	\$ 225,000	\$ 10,740	\$ 214,260
	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -
<b>LIGHTING</b>			
Nil Projects			
<b>DRAINAGE</b>			
Bagdad	\$ 21,882	\$ 8,060	\$ 13,822
- Swan Street - Kerb & Gutter (eastern side - 250 metres)			
- Swan Street - Kerb & Gutter (western side - 360 metres)			
- Swan Street - Kerb & Gutter (western side - 180 metres)			
- North of Le Comptele Place Sub-division			
Colebrook	\$ 145,000	\$ -	\$ 145,000
- North of Le Comptele Place Sub-division			
Kempston	\$ 10,000	\$ -	\$ 10,000
- Colebrook Main Rd / Yarrington Rd (Junction to Rail)			
- Nil			
Oatlands	\$ 5,000	\$ -	\$ 5,000
- High St/Wellington Street Junction			
- Stanley Street / Lake Dulverton - Extension			
- Wellington Street (150 metres - kerb replacement)			
Turnbridge	\$ 13,000	\$ -	\$ 13,000
- Main Road (Vicinity of Community Club)			
- Main Road (Junction with Allison Street)			
	\$ 20,000	\$ -	\$ 20,000
	\$ 6,000	\$ -	\$ 6,000
	\$ 319,882	\$ 9,900	\$ 309,982

SOUTHERN MIDLANDS COUNCIL  
CAPITAL EXPENDITURE PROGRAM 2013-14  
AS AT 30 SEPTEMBER 2013

			BUDGET	EXPENDITURE	VARIANCE
WASTE	C110001	Wheella Bins & Crates	\$ 5,000	\$ -	\$ 5,000
	C110002	Oatlands WTS - Seal Pavement	\$ 10,000	\$ -	\$ 10,000
			\$ 15,000	\$ -	\$ 15,000
PUBLIC TOILETS	C1110001	Colebrook - Power Connection & Lighting	\$ 5,000	\$ -	\$ 5,000
	C113001	Oatlands Signage	\$ 5,000	\$ -	\$ 5,000
			\$ 10,000	\$ 332	\$ 9,668
		\$ 10,000	\$ 332	\$ 9,668	
GROWTH		Nil Projects	\$ -	\$ -	\$ -
		Avenues of Honour	\$ -	\$ -	\$ -
			\$ -	\$ -	\$ -
HERITAGE	C3010004	Court House (Restoration - Toilet & Kitcherite Fac's)	\$ 58,900	\$ 41,617	\$ 17,283
		Court House (Restoration - Cell Block)	\$ 4,000	\$ -	\$ 4,000
		Oatlands Gool Arch Relocation	\$ -	\$ 16,736	\$ (16,736)
		Oatlands Gool Wall Project	\$ 96,000	\$ 89,534	\$ 6,466
	C3010009	Kempston Watch House (Fitout)	\$ 7,500	\$ 4,438	\$ 3,062
	C3010003	Callington Mill (Master Precinct Plan)	\$ 20,000	\$ -	\$ 20,000
	C3010002	Goal (Community Heritage Program)	\$ 7,500	\$ -	\$ 7,500
		Collection Management - Equip / Supplies / Labour Component	\$ -	\$ -	\$ -
		Purchase - 79 High Street Oatlands (Purchase & \$40K)	\$ 67,500	\$ 3,423	\$ 64,077
		Roche Hall - Forecourt	\$ -	\$ -	\$ -
		\$ 261,400	\$ 155,749	\$ 105,652	
NATURAL	C3020004	Lake Dulverton - Weed Cutter	\$ 5,240	\$ -	\$ 5,240
	C3020004	Lake Dulverton - Filler	\$ 2,100	\$ -	\$ 2,100
		\$ 7,340	\$ -	\$ 7,340	
REGULATORY	C3040001	Kempston Council Chambers - Building & Office Improvements	\$ 20,000	\$ 11,046	\$ 8,954
	C3040001	Kempston Council Chambers - Office Equipment	\$ 3,500	\$ 337	\$ 3,163
	C3040001	Kempston Council Chambers - Carpet & Flooring	\$ 5,000	\$ -	\$ 5,000
	C3040001	Kempston Council Chambers - Records Scanner	\$ 2,500	\$ -	\$ 2,500
		\$ 31,000	\$ 11,383	\$ 19,617	
LANDSCAPES			\$ 261,400	\$ 155,749	\$ 105,652
			\$ 7,340	\$ -	\$ 7,340



<b>SUMMARY OF RATES AND CHARGES LEVIED, REMITTED AND COLLECTED</b>		<b>1/10/2013</b>	<b>1/10/2012</b>
Arrears Brought Forward		\$352,040.89	\$251,900.24
ADD Current Rates and Charges Levied		\$4,131,441.69	\$3,934,654.41
ADD Current Interest		\$19,716.31	\$7,313.23
<b>TOTAL Rates and Charges Demanded</b>	<b>100%</b>	<b>\$4,503,198.89</b>	<b>\$4,193,867.88</b>
LESS Rates and Charges Collected	39.77%	\$1,791,093.14	\$1,558,044.75
LESS Pensioner Remissions	4.53%	\$203,799.57	\$196,583.25
LESS Other Remissions	-0.09%	-\$4,033.42	-\$3,501.42
LESS Discounts	0.39%	\$17,725.96	\$12,778.60
<b>TOTAL Rates and Charges Collected and Remitted</b>	<b>44.60%</b>	<b>\$2,008,585.25</b>	<b>\$1,763,905.18</b>
<b>UNPAID RATES AND CHARGES</b>	<b>55.40%</b>	<b>\$2,494,613.64</b>	<b>\$2,429,962.70</b>

	INFLOWS (OUTFLOWS) (July 2013)	INFLOWS (OUTFLOWS) (August 2013)	INFLOWS (OUTFLOWS) (September 2013)	INFLOWS (OUTFLOWS) (Year to Date)
<b>Cash flows from operating activities</b>				
Payments				
Employee costs	- 239,458.53	- 274,071.17	- 268,147.50	- 781,677.20
Materials and contracts	- 277,590.55	- 437,046.31	- 148,026.48	- 862,663.34
Interest	- 627.25	-	-	- 627.25
Other	- 9,793.10	- 34,432.27	- 32,556.88	- 76,782.25
	<u>- 527,469.43</u>	<u>- 745,549.75</u>	<u>- 448,730.86</u>	<u>- 1,721,750.04</u>
Receipts				
Rates	57,079.91	819,356.99	1,104,558.08	1,980,994.98
User charges	97,861.87	48,302.62	42,308.96	188,473.45
Interest received	12,082.80	8,382.06	11,670.34	32,135.20
Subsidies	-	-	-	-
Other revenue grants	2,368.18	417,871.25	-	420,239.43
GST Refunds from ATO	-	-	-	-
Other	17,385.26	29,379.99	28,319.00	18,446.25
	<u>186,778.02</u>	<u>1,323,292.91</u>	<u>1,130,218.38</u>	<u>2,640,289.31</u>
<b>Net cash from operating activities</b>	<u>- 340,691.41</u>	<u>577,743.16</u>	<u>681,487.52</u>	<u>918,539.27</u>
<b>Cash flows from investing activities</b>				
Payments for property, plant & equipment	- 48,657.75	- 76,280.43	- 30,979.38	- 155,917.56
Proceeds from sale of property, plant & equipment	-	15,993.64	-	15,993.64
Proceeds from Capital grants	-	2,073.85	6,690.91	8,764.76
Proceeds from Investments	-	-	-	-
Payment for Investments	-	-	-	-
<b>Net cash used in investing activities</b>	<u>- 48,657.75</u>	<u>- 58,212.94</u>	<u>24,288.47</u>	<u>- 213,660.57</u>
<b>Cash flows from financing activities</b>				
Repayment of borrowings	- 4,704.53	-	-	- 4,704.53
Proceeds from borrowings	-	-	-	-
<b>Net cash from (used in) financing activities</b>	<u>- 4,704.53</u>	<u>-</u>	<u>-</u>	<u>- 4,704.53</u>
<b>Net increase/(decrease) in cash held</b>	<u>- 394,053.69</u>	<u>519,530.22</u>	<u>657,199.05</u>	<u>782,675.58</u>
Cash at beginning of reporting year	8,734,794.63	8,340,740.94	8,860,271.16	8,734,794.63
<b>Cash at end of reporting year</b>	<u>8,340,740.94</u>	<u>8,860,271.16</u>	<u>9,517,470.21</u>	<u>9,517,470.21</u>

**19. INFORMATION BULLETINS**

Refer enclosed Bulletin dated 4<sup>th</sup> October 2013.

**RECOMMENDATION**

**THAT the Information Bulletin dated 4<sup>th</sup> October 2013 be received and the contents noted.**

**DECISION**

<b>Vote For</b>	<b>Councillor</b>	<b>Vote Against</b>
	Mayor A E Bisdee OAM	
	Dep. Mayor M Jones OAM	
	Clr A R Bantick	
	Clr C J Beven	
	Clr B Campbell	
	Clr M Connors	
	Clr D F Fish	
	Clr A O Green	
	Clr J L Jones OAM	

**20. MUNICIPAL SEAL**

Nil.

**21. CONSIDERATION OF SUPPLEMENTARY ITEMS TO THE AGENDA**

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

**RECOMMENDATION**

**THAT Council move into “Closed Session” and the meeting be closed to the public.**

**DECISION**

<b>Vote For</b>	<b>Councillor</b>	<b>Vote Against</b>
	Mayor A E Bisdee OAM	
	Dep. Mayor M Jones OAM	
	Clr A R Bantick	
	Clr C J Beven	
	Clr B Campbell	
	Clr M Connors	
	Clr D F Fish	
	Clr A O Green	
	Clr J L Jones OAM	



## **CLOSED COUNCIL AGENDA**

### **22. BUSINESS IN “CLOSED SESSION “**

**EXCLUDED FROM THE AGENDA PURSUANT TO SECTION 15 (2) OF THE LOCAL GOVERNMENT (MEETING PROCEDURES) REGULATIONS 2005.**

**T F KIRKWOOD  
GENERAL MANAGER**

**EXCLUDED FROM THE AGENDA PURSUANT TO SECTION 15 (2) OF THE LOCAL GOVERNMENT (MEETING PROCEDURES) REGULATIONS 2005.**

**T F KIRKWOOD  
GENERAL MANAGER**

**EXCLUDED FROM THE AGENDA PURSUANT TO SECTION 15 (2) OF THE LOCAL GOVERNMENT (MEETING PROCEDURES) REGULATIONS 2005.**

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**T F KIRKWOOD  
GENERAL MANAGER**

**EXCLUDED FROM THE AGENDA PURSUANT TO SECTION 15 (2) OF THE LOCAL GOVERNMENT (MEETING PROCEDURES) REGULATIONS 2005.**

**T F KIRKWOOD  
GENERAL MANAGER**

**RECOMMENDATION**

**THAT Council move out of “Closed Session”.**

**DECISION**

<b>Vote For</b>	<b>Councillor</b>	<b>Vote Against</b>
	Mayor A E Bisdee OAM	
	Dep. Mayor M Jones OAM	
	Clr A R Bantick	
	Clr C J Beven	
	Clr B Campbell	
	Clr M Connors	
	Clr D F Fish	
	Clr A O Green	
	Clr J L Jones OAM	

**RECOMMENDATION**

**THAT Council endorse the decision made in “Closed Session”.**

**DECISION**

<b>Vote For</b>	<b>Councillor</b>	<b>Vote Against</b>
	Mayor A E Bisdee OAM	
	Dep. Mayor M Jones OAM	
	Clr A R Bantick	
	Clr C J Beven	
	Clr B Campbell	
	Clr M Connors	
	Clr D F Fish	
	Clr A O Green	
	Clr J L Jones OAM	

**23. CLOSURE**