

Meeting:	Special Council	Item No: 3.1.2
Title:	Community Land Management Plans and Leases and Licences Review Report, 27 September 2016	File No: 16.55.1.30
Responsible Manager:	Chief Executive Officer, Kiki Magro	Date: 27 September 2016
Author:	General Manager, Heather Barclay & Manager Property and Contracts, James Forde	Attachment: A, B, C & D
Key Focus Area 3 & 4:	Transparent and accountable local tier of Government that is respected collaborations; for its forward thinking approaches and cross council and, Healthy connected and inspired community	
Type of Report:	Decision	

Pursuant to Section 83(5) of the Local Government Act 1999, the Chief Executive Officer indicates that the matter contained in this report may, if the Council so determines, be considered in confidence pursuant to Section 90(2) of the Local Government Act 1999 on the basis that the information contained in the attached report is information of the nature specified in subsections 90(3)(b),(d) and (h) of the Act being:

(b) information the disclosure of which;

(i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and,

(ii) would, on balance, be contrary to the public interest;

(d) commercial information of a confidential nature (not being a trade secret) the disclosure of which;

(i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and,

(ii) would, on balance, be contrary to the public interest;

(h) legal advice;

The said information relates to the Councils Community Land Management Plans and Leases and Licences.

Recommendation (Public)

That pursuant to Section 90(2) of the Local Government Act 1999 Council order that the public be

excluded, with the exception of the Administration being the Chief Executive Officer, Kiki Magro, the General Manager, Heather Barclay, the Property and Contracts Manager, James Forde and the Protocol, Compliance, Governance Officer, Deb Bria, and James McEwen and Isabella Dunning of Wallmans Lawyers from being present at the meeting on the basis that the matter contained in this report is information of the nature specified in subsections 90(3)(b),(d) and (h) of the Act being:

(b) information the disclosure of which;

(i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and,

(ii) would, on balance, be contrary to the public interest;

(d) commercial information of a confidential nature (not being a trade secret) the disclosure of which;

(i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and,

(ii) would, on balance, be contrary to the public interest;

(h) legal advice;

The said information relates to the Councils Leases and Licences.

Recommendation Confidential

1. That Council receives and notes the Community Land Management Plans and Leases and Licences Review Report, 27 September 2016.
2. That Council adopts “in principle” the Draft Community Land Management Plans (Attachment A), and authorises Administration to seek community feedback on same for a period of not less than one month, with consultation including directly sending the draft CLMP’s to all existing lessee’s of Council land and property.
3. That Council receives and notes the legislative & policy framework for community and other land / property holdings (Attachment B).
4. That Council receives and notes the *land and property portfolio strategic directions document (confidential draft)* and reconsiders the same (Attachment C), pending the adoption of the Councils revised CLMP’s.

Recommendation

That the Council, having considered the said information or matter in confidence under Part 3 of Chapter 6 of the Local Government Act 1999, orders, pursuant to Section 91(7) of the Local Government Act 1999, that the report titled “Community Land Management Plans and Leases and Licences Review Report, 27 September 2016” and Minutes dated 27 September 2016, and any other documentation relative to the report be retained in confidence, except Attachment A, B and D and the Minute No.’s 1, 2 and 3, until this matter has been finalised excepting that the Council authorises the release of relevant documentation to parties to enact the resolution and that this order be reviewed every 12 months by the Chief Executive Officer; and,

That Council resolves to end its confidential deliberations pursuant to Section 90(2) of the Local Government Act 1999 Council and re-admit the public.

Summary

In January 2016, Council resolved (via SPDPC) to undertake a program of work towards review of its *Community Land Management Plans* (CLMP’s), related policy and community land agreements (leases and licences).

The objective of the program being to (in the first instance), review, revise and resolve CLMP’s and related policy (in consultation with the Walkerville Community), in order to (and subsequently) provide a clear framework for community land agreements and directions for community and other land and property.

A workshop was convened on 6th June 2016, to discuss CLMP’s and related policy.

Aligned to Councils January 2016 resolutions regarding this matter, the Elected Member Workshop (6th June 2016) provided the following guidance to Administration;

1. **Refine CLMP’s for public consultation** (aligned to CNC277/15-16 Resolution 1)
2. **Develop an overarching *Strategic Directions Document (options)* for each land / property holding (a bespoke approach)** - aligned to CNC277/15-16 Resolution 2 and 3.

3. Consider the need or otherwise for existing *Lease and Licence and Community Land Policy* (aligned to CNC277/15-16 Resolution 1)

The Administration has subsequently, refined the CLMP's (draft) (Attachment A) and they are presented for adoption "in principle" for consultation. In addition the Administration has developed a *land and property portfolio strategic directions document (confidential draft)* (Attachment B & C) for consideration (*including policy and legislative framework for decision making*).

Recommendations suggest finalisation and adoption of the policy framework, prior to considering directions for Councils community and other land and property holdings portfolio.

Background

In January 2016, Council resolved (via SPDPC) to undertake a program of work towards review of its *Community Land Management Plans* (CLMP's), related policy and community land agreements (leases and licences). The objective of the program being to (in the first instance), review, revise and resolve CLMP's and related policy (in consultation with the Walkerville Community), in order to (and subsequently) provide a clear framework for community land agreements and directions for community and other land and property.

Council specifically resolved the following in January 2016;

CNC277/15-16

"That Council resolve that:

1. *The Strategic Planning and Development Policy Committee to:*

1.1 *review the "Town of Walkerville's Community Land Management Plans" (dated 2004);*

1.2 *review the "Lease and Licence Community land and Buildings Policy" and the "Use of Council Reserves, Parks, Garden and Open Spaces Policy"; and*

1.3 *make recommendations to Council with suggested amendments (if any) for in principle approval prior to the public consultation process;*

2. *Concurrently with paragraph 1, the Administration:*

2.1. *obtain independent legal advice in relation to:*

2.1.1 *the question of whether management contracts fall within the ambit of section 202 of the Local Government Act 1999 (SA); and*

2.1.2 *in light of the above and the upcoming legislative amendment, the implications (if any) upon the following existing community land arrangements:*

2.1.2.1 *Walkerville Bowling Club;*

2.1.2.2 *INEA YMCA;*

2.1.2.3 *Walkerville Sports Club;*

2.1.2.4 *Walkerville Tennis Club;*

2.1.2.5 *Levi Caravan Park;*

- 2.1.2.6 Walkerville Pre-Kindy; and
- 2.1.2.7 St Andrew's Walkerville and Levi Oval licenses;

2.2 subject to the legal advice referred to above, prepare a suite of template documents including leases, licenses and / or management contracts for use across Council's community land portfolio;

3. Having received the legal advice referred to above and having the benefit of the new suite of template documents, the Strategic Planning and Development Policy Committee to:

3.1 review the community land agreements set out in paragraph 2.1.2 above; and;

3.2 make recommendations to Council relating to those agreements for Council's consideration.

4. Adopt the following indicative timeline in respect of the matters set out in paragraphs 1 to 3 above.....:

5. That the Administration take no further action in relation to Resolution CNC348/14-15 relating to the Walkerville Pre-Kindy until such time as the indicative timetable set out in this resolution is completed or until otherwise directed by Council”.

Councils Strategic Policy Development and Planning Committee (SPDPC), was tasked to oversight the program and report to Council as necessary.

Associated with the program of work, at the 1 June 2016, Council Meeting, SPDPC having drafted preliminary CLMP's and related policy, per the first phase of the program, recommended to Council that a workshop be convened to present the work to date to Council prior to seeking community feedback. Council resolved;

CNC420/15-16 (extract)

“1. That Council receives and notes the Strategic Planning Development Policy Committee recommendation of 13 May 2016 relating to Council's community land strategic framework being:

i) That the Strategic Planning Development and Policy Committee recommend to Council that the draft documentation attached to this report relating to Council's community land strategic framework **be presented to Elected Members in a workshop** after which they are to be presented back to Council for in principle endorsement before being put to public consultation.....

....2. That Council convene a workshop of Elected Members on 6 June 2016 to consider the draft documentation, having been amended in accordance with the above recommendation, after which they are to be formally presented back to Council for in principle endorsement before being put to public consultation”

A workshop was subsequently convened on 6th June 2016.

At that the Workshop, the Council Administration presented the preliminary and draft CLMP's and related policy (developed by SPDPC) for consideration, as the first step towards establishing the framework for decision making as it relates to Councils land /property holdings and directions for community land.

Aligned to Councils January 2016 resolutions regarding this matter, the Elected Member Workshop (6th June 2016) provided the following guidance to Administration;

1. Refinement of CLMP's for public consultation (aligned to CNC277/15-16 Resolution 1)

As it relates to the development of the Town of Walkerville CLMP's for community consultation;

- a) conduct further investigation and determine the status of some parcels (ie: Ilford; Smith Street etc.) referred as Community Land in the Draft CLMP's, in order to refine the content of the CLMP's for consultation,
- b) consider potential inclusion of historical information into CLMP's (ie: how land has been granted or bequeathed)

and; represent the refined Draft CLMP's for Councils consideration, prior to consultation.

In response to, and guided by 1. above, refined CLMP's are presented as part of this Agenda Item, and amendments/ up-dates are discussed in the *Discussion/ Issues for consideration*, (next section within this report).

2. Development of overarching Strategic Directions for each land / property holding (Bespoke Approach) - aligned to CNC277/15-16 Resolution 2 and 3.

As it relates to each land / property holding, the Workshop considered that Council is in the unique position of only having a 'hand-ful' of land / property holdings and should therefore consider a bespoke approach to future directions and management of each, rather than necessarily having a 'one-size-fits-all', policy for management of same, given the small portfolio. Members may recall that legal advisors present at the Workshop, concurred with the position of a bespoke approach.

As a result of the above debate, Members suggested the Administration consider development an overarching 'strategic directions document' which clearly defines the framework and direction for each land / property holding and the nature of community land agreements that may be envisaged for such holdings and potential options for future directions.

In response to, and guided by 2. above, the Administration, with outside (legal) support has developed a strategic directions document, which provides the legal framework for decision making for Councils land / property holdings and also provides options for future direction (bespoke approach), for each land /property holding for consideration. This strategic directions document is discussed in the *Discussion/ Issues for consideration*, (next section within this report).

3. Lease and Licence and Community Land Policy (aligned to CNC277/15-16 Resolution 1)

As it relates to Councils Lease and Licence for Community Land and Buildings Policy, per the above, Members suggested consideration towards the need or otherwise to have separate Lease and Licence Policy on the basis of the size of the Town of Walkerville property portfolio (small), be reviewed.

In response to 3. above, the Administration, has provided discussion on this matter in the *Discussion/ Issues for consideration*, (next section within this report).

In addition to the above, Council has specifically resolved;

May 2016;

“That Administration undertake research to determine when the Depot site and the Civic Centre site were excluded from Community Land classification or otherwise”.

June 2016

“That Council commences the process of clarifying/confirming CTs 5796/887, 5728/637, 5838/95 as being classified as Community Land in accordance with S193 of the Local Government Act 1999”.

In relation to the above, a report was provided to Council in July 2016 on this matter, which referred;

“.....both the Depot (being 42 and 44 Fullers Street or 5796/887 and 5651/912), and the Civic Centre (being 66 Walkerville Terrace and 6167/935, formally 62-66 Walkerville Terrace and 5228/543), have formally been excluded from Community Land Classification”.

The purpose of this report is to respond to the guidance from the Elected Member Workshop held on 6 June 2016, and provide for consideration;

- 1. Finalised Draft Community Land Management Plans for adoption in principle as the basis for consultation to enable the resolution of the ‘Policy’ directing any bespoke approach to the future directions and management of community or other land and buildings; and;*
- 2. To present a legal framework for decision making for management of community and other land and property for consideration; and;*
- 3. To present a strategic directions document which clearly defines the framework for each land / property holding, the nature of community and land agreements that may be envisaged for such holdings and potential options for future directions.*

Discussion/Issues for Consideration

In relation to this program of work, Members will be aware that SPDPC has deliberately (in the first instance) focussed on determining its policy framework for future management of Councils land and property holdings, prior to considering the review of existing agreements and possible future arrangements in the context of relevant legislation.

Notwithstanding, the importance of determining a policy framework in the first instance, the 6 June Elected Member Workshop deliberations provided guidance in relation to next steps and suggested that debate be brought forward in relation to future and strategic directions for each land / property holding (a bespoke approach for each), including discussion on the nature of community and land agreements that may be envisaged for such holdings and potential options for each.

This report will recommend that the policy framework (CLMP's) be considered and put to consultation while Council continues deliberations on ‘*a bespoke approach for each land /property holding*’ in the context of the legislative framework.

Specifically, this report will discuss;

1. Draft Community Land Management Plans (for consultation)
2. Legislative & policy framework for community and other land / property holdings

3. A strategic directions document, prepared to present options for consideration regarding Councils land / property holdings, in the context of the legislative and policy framework.

1. Draft Community Land Management Plans (for consultation)

Elected Members will recall the workshop of 6 June 2016 whereby the draft Community Land Management Plans (“**CLMPs**”) prepared in consultation with the Strategic Planning Development Policy Committee (“**SPDPC**”) were tabled for discussion.

A number of issues were identified by Elected Members in respect of the draft CLMPs. The issues ranged from simple issues such as typographical and grammatical errors to more complex issues such as a desire to understand the historical background to certain parcels of land. The Administration has worked to resolve those issues and now tables draft CLMPs for Council’s consideration as attached to this report and marked “Attachment A”.

For ease of reference, a discussion of the revisions and investigations carried out by the Administration is set out below in sequence.

Community Land Management Plan 1 – Open Spaces

- There are two amendments to the wording of the plan being:
 - in the table under the heading “Performance targets”, references to “*Dog bags*” have been replaced with “*Dog bag dispensers*”; and
 - under the heading “Performance targets” the word “measured” has been removed so that the sentence below the table now reads “*in respect of utilisation, Council will aspire to achieve an increase in the utilisation of the land by the community*”.
- A question was raised in respect of the “Reserve” column for each parcel of land i.e. where there was a reservation, what was the history or origin of that reservation? The Administration notes the following:
 - in respect of Rose Street Reserve, the requirement to hold the parcel as a reserve is noted on the Certificate of Title and is now noted in the “Reserve” column accordingly.
 - in respect of Ilford Road Reserve, the question was raised as to whether the parcel was simply a road reserve that should not form part of Council’s community land portfolio. The Administration’s investigations reveal the following:
 - in or about 1975, a deposited plan was lodged with the Land Titles Office relating to a subdivision of land around Wallace Street;
 - in 1976, as a result of the subdivision, a new Certificate of Title was issued to the Town of Walkerville, as registered proprietor in fee simple, relating to the land encompassing Wallace Street adjacent Ilford Road. The Certificate of Title noted that the land is a public road;
 - at its ordinary meeting of Council on 14 September 1981, Council resolved to close the road pursuant to the *Roads*

(Opening and Closing) Act 1932 (SA) (now repealed) and dedicated the land as a recreation area;

- a new Certificate of Title was issued on 22 January 1982 noting the land as a dedicated reserve; and
 - on that basis, it is appropriate that the land remain in the management plan and a reference to the Council resolution has been incorporated in the “Reserve” column accordingly.
- in respect of Crawford Reserve, the Administration’s investigations reveal the following:
- the existing Certificate of Title reference is incorrect and relates to a parcel of land in Rostrevor;
 - there is in fact no Certificate of Title in respect of the land which should have been issued when the original plan for the subdivision of the surrounding land was deposited with the Land Titles Office in 1961;
 - this anomaly has been brought to the attention of the Land Titles Office who have suggested it is an administrative error that has never been corrected;
 - the Land Titles Office will process a new Certificate of Title within approximately 3 weeks;
- on that basis, the “CT” column remains blank as does the “Reserve” column until such time as a new Certificate of Title is received and clarity regarding the original dedication can be ascertained.
- In light of the more prescriptive notations regarding the “Reserve” column, the last paragraph under the heading “Legislative Framework” which read:

In this Community Land Management Plan “Held as a Reserve” means that while the Corporation of the Town of Walkerville is the registered proprietor of the land, it has been bequeathed to Council on the condition that it be held as a reserve for the use and benefit of the community”

has been amended into a broader policy or vision statement which reads

“The Corporation of the Town of Walkerville has a proud history of providing open spaces for the benefit and use of the community and is committed to honouring that tradition as set out in this management plan.”

Community Land Management Plan 2 – Walkerville Oval Precinct

- There are two amendments to the wording of the plan being:
 - The final paragraph under the heading “Council’s objectives, policies (if any) and proposals for the management of the land” has been amended from:

“Council has no specific proposal for the management of the Walkerville Oval Precinct, however, it is committed to opportunities to improve the land its improvements where possible”

to read

“Whilst Council has no specific proposal for the management of the Walkerville Oval Precinct, it is committed to considering opportunities to improve the land and its improvements where possible.”

- The word “*development*” in the second bullet point paragraph under the heading “Performance targets” has been replaced by the word “*improvement*”.
- A question was raised regarding the origins of the land currently leased to Sally Cudmore and whether it was originally dedicated for the purposes of a child care centre. The Administration has investigated that matter and notes:
 - the land that was transferred to the Town of Walkerville in the 1950s upon the death of Francis Walters and Frederick Honway;
 - the original Certificates of Title which record the transfers do not record any encumbrance or dedication relating to the use of the land;
 - there may be conditions relating to the transfer in a trust deed or a will but those details are not known to the Administration at this time;
 - in any event, the land is now part of a single Certificate of Title which encompasses the entire Walkerville Oval area including the oval, the existing sports clubrooms and bowling green clubrooms and there are no encumbrances or restrictions relating to that Certificate of Title;
 - on that basis, the “Reserve” column for the existing space leased to Sally Cudmore remains as “N/A”.
- In carrying out the investigations above, it was noted that the original Certificate of Title that encompasses much of what is now the Alfred Street Playground was transferred to Council and held as Public Parklands pursuant to the *Public Parks Act 1943* (SA). The current Certificate of Title, however, records no such encumbrance and the “Reserve” column states “N/A” accordingly.

Community Land Management Plan 3 – The Memorial Gardens

- There have been two amendments to the wording of the plan being:
 - the words “*the Memorial Gates*” and “*the Rose Garden*” have been added to the bullet point list of improvements to the land under the heading “Council’s objectives, policies (if any) and proposals for the management of the land”; and
 - the word “*including*” has been removed from the final sentence of that paragraph.

- A question relating to the words “Council to maintain the Belt (drinking) Fountain in good working order” in the “Reservation” column was raised. The Administration has investigated the matter and notes:
 - the original Certificate of Title which may note the dedication cannot be located in Council;
 - the current Certificate of Title does not note any encumbrances or dedications; but
 - given that the dedication is specific and relates to an important parcel of community land, it is prudent for it remain on the management plan until such time as further investigations can be carried out.

Community Land Management Plan 4 – Linear Park

- There is an amendment to the wording of the plan being that in the table under the heading “Performance targets”, the references to “Dog bags” have been replaced with “Dog bag dispensers”.
- A question relating to the “Reserve” column for each land holding that was noted as having a reserve was raised. The Administration has investigated the matter and notes the following:
 - in respect of EC Scales River Park:
 - the notation “Held as Public Parklands” in the “Reserve” column is not appropriate as the Certificate of Title in question is in fact unencumbered;
 - the much larger parcel of EC Scales River Park, however, located on the other side of the O-Bahn track, is vested in the Minister and has been placed under Council’s care and control as a public parkland;
 - on that basis, the larger parcel of EC Scales River Park has been added to the table setting out the land under Council’s care and control.
 - in respect of Stephen Terrace Reserve;
 - the original Certificate of Title for the parcel notes the land as a “reserve” and this reservation has carried through to the current Certificate of Title;
 - on that basis, the notation “Held as Public Parklands” in the “Reserve” column is appropriate and remains.
 - in respect of Frome Reserve, of the four Certificates of Title that comprise the land, two are noted as “reserves” and those title references have been referred to in the “Reserve” column accordingly.
- A question was raised in relation to the land owned by the City of Norwood, Payneham & St. Peters (“**NPSP**”) that is listed as being under Council’s care and control. The Administration, in consultation with NPSP, has conducted investigations into that matter and reports as follows:

- the following four parcels of land are owned by the City of Norwood, Payneham & St. Peters (“**NPSP**”) but remain under the care and control of the Town of Walkerville:
 - CT5875/665
 - CT5832/927
 - CT5553/610
 - CT5853/87
- the first three parcels are located along the Town of Walkerville side of the river. The last parcel is located on the NPSP side of the river. It is a substantial parcel of land that encompasses the St. Peters Billabong and St. Peters Oval;
- all parcels once belonged to the Town of Walkerville;
- the history of the matter dates from the 1960s. Back then, as they are now, the municipal boundaries were bordered by the centre of the river. At that time, however, as a result of seasonal flooding, the river meandered to the eastern boundary of what is now St. Peters Oval. This is evident by the curved boundary of CT5853/87.
- during that period, the area was leased to a garbage disposal company known as Dangerfield. The company would collect garbage originating from the CBD and burn it off along this part of the river. The practice caused smoke and fumes to travel into the then St Peter’s Council area, a matter which disturbed the residents. At that time, the St Peter’s Council was also on the lookout for suitable land within which to establish an oval.
- having failed to resolve the issue of the smoke and fumes from the garbage burn off and sensing an opportunity, the then St Peter’s Council issued compulsory acquisition notices to the Town of Walkerville in respect of the land. The notices were contested in the Supreme Court which found in favour of the then St Peter’s Council. The issue of the amount of compensation payable to the Town of Walkerville and Dangerfield was a matter that ultimately required resolution by the High Court.
- in order to make room for the proposed oval, two weirs were then constructed along the relevant section of the river to regulate flow and prevent the seasonal flooding referred to above. The weirs redirected the river to its current course. The municipal boundaries, following the centre line of the river, shifted accordingly. That meant that of the four parcels of land acquired by the then St Peter’s Council, three would now remain within the Town of Walkerville along the riverbank, while the other parcel ended up on the NPSP side.
- in light of the above, it is unclear why the land remains under the care and control of the Town of Walkerville. There appears to be no formal instrument noting the effect of the acquisition or the care and control issue. It may be that as the land was acquired while it was within the

Town of Walkerville's boundary, there was an assumption that it would be maintained by the Town of Walkerville.

- in any event, the practice between the Councils is that the Town of Walkerville maintains that which is on its side of the river and NPSP does the same. The status quo is harmless for now, but in the event of a dispute, there may be complications as to which Council is liable for maintenance. Also, it is the case that NPSP do not pay rates on the land it owns within the Town of Walkerville boundary.
- moving forward, it is recommended that the Councils meet to discuss a resolution to the matter to ensure the documentation reflects what occurs in practice. Notwithstanding that matter and for the purposes of this management plan, the parcel of land on the NPSP side has been removed from the table as it is not presently maintained by Council.

Community Land Management Plan 5 – Smith Street Recreation

- There is an amendment to the wording of the plan being that the column "CT" now includes the word "*portions*" to reflect the issues identified in respect of the Certificates of Title as discussed in this report.

Community Land Management Plan 6 – Creswell Reserve Sports & Recreation

- There is an amendment to the wording of the plan being that the references to "*Dog bags*" have been replaced with "*Dog bag dispensers*".

Community Land Management Plan 7 – Walkerville Wesleyan Cemetery

- There is a typographical correction in the final paragraph under the heading "Council's objectives, policies (if any) and proposals for the management of the land".

Community Land Management Plan 8 – Levi Park

- A question was raised in relation to the history of the bequeathing of the land comprising Levi Park to Council. The Administration has investigated that matter and notes as follows:
 - the land, originally owned by Violet Jane Levi and Olive Gertrude Levi, was bequeathed to the Town of Walkerville in or about 1948 by Adelaide Constance Belt;
 - the management of the land by the Town of Walkerville was codified by parliament in the *Levi Park Act 1948* (SA) (now repealed) which established the Levi Park Trust;
 - the prescriptive conditions relating to the management of Levi Park were subsequently carried forward into Schedule 8 of the *Local Government Act 1999* (SA);

- as the above is of historical note only, the management plan remains unchanged save for a short preamble relating to history which has been inserted under the heading “Legislative Framework”.

The Draft Community Land Management Plans (CLMP's) are now presented in **Attachment A**, for consideration and adoption 'in principle', as the basis for consultation.

It is recommended that as part of seeking wider community feedback on the Draft CLMP's, the Administration send copies of same to each existing lessee.

2. Legislative & policy framework for community and other land / property holdings

As part of considering development of an overarching 'strategic directions document' to define the framework and direction for each land / property holding (a bespoke approach) and potential options for future directions; - it has been important to clearly understand and identify the legislative and policy framework within which options can be developed and considered.

In this regard, Wallman's Lawyers have been assisting the Administration to develop this framework.

The Framework is contained in **Attachment B** for Members information and consideration.

It is recommended that the legislative & policy framework for community and other land / property holdings be received.

** As part of previous considerations, Members have indicated a desire not to have or retain Councils *Lease and Licence for Community Land and Buildings Policy* (Attachment D), but rather to consider each land / property holding individually. Currently the existing *Lease and Licence for Community Land and Buildings Policy* does not deter from the content or options presented herein, but it is outdated by revisions to the Local Government Act as it relates to Section 202. Ultimately, Council will need to consider whether it retains policy or otherwise.

3. A strategic directions document, prepared to present options for consideration regarding Councils land / property holdings, in the context of the legislative and policy framework.

Attachment C (strategic directions document), has been prepared by and in collaboration with Wallmans Lawyers. It provides a commentary on each of the land holdings (referred in the January 2016 Council decision), as it relates to;

- a) background / existing situation
- b) legislative and policy framework, and;
- c) options for consideration (considering b)

While this information is provided for consideration and debate, it is not recommended that Council would make any decision or take a position on the "options for consideration" in Attachment C, until it has fully considered feedback on its draft

CLMP's (the policy framework for such matters), and reached a decision point on same.

No formal presentation will be made by the Administration on each of the portfolio's being considered (Attachment C).

Legal advisors will be present at the Meeting for any clarifications required.

It is recommended that the *land and property portfolio strategic directions document* (confidential draft) be received and reconsidered, pending the adoption of the Council revised CLMP's.

Options for Consideration

Option 1

It is recommended;

1. That Council receives and notes the Community Land Management Plans and Leases and Licences Review Report, 27 September 2016.
2. That Council adopts "in principle" the Draft Community Land Management Plans (Attachment A), and authorises Administration to seek community feedback on same for a period of not less than one month, with consultation including directly sending the draft CLMP's to all existing lessee's of Council land and property.
3. That Council receives and notes the legislative & policy framework for community and other land / property holdings (Attachment B).
4. That Council receives and notes the *land and property portfolio strategic directions document (confidential draft)* and reconsiders the same (Attachment C), pending the adoption of the Councils revised CLMP's.

Option 2

It is recommended;

1. That Council receives and notes the Community Land Management Plans and Leases and Licences Review Report, 27 September 2016.
2. That Council adopts "in principle" the Draft Community Land Management Plans (Attachment A), and authorises Administration to seek community feedback on same for a period of not less than one month, with consultation including directly sending the draft CLMP's to all existing lessee's of Council land and property.
3. That Council receives and notes the legislative & policy framework for community and other land / property holdings (Attachment B).

4. That Council receives and notes the *land and property portfolio strategic directions document (confidential draft)* (Attachment C).
5. That Council makes the following decisions in relation to the *land and property portfolio strategic directions document (confidential draft)* (Attachment C);
 - a) Council adopts Option a), of Attachment C for Walkerville Oval (lawn bowls area), 24 Smith Street, Walkerville;
 - b) Council adopts Option a), of Attachment C for Smith Street Sports and Recreation), 39 Smith Street, Walkerville;
 - c) Council adopts Option a), of Attachment C for Walkerville Oval, 24 Smith Street, Walkerville;
 - d) Council adopts Option a), of Attachment C for Creswell Reserve Sports and Recreation
 - e) Council adopts Option a), of Attachment C for Levi Park, 1A Harris Street, Vale Park
 - f) Council adopts Option a), of Attachment C for Walkerville Oval 13 Alfred Street, Walkerville;
 - g) Council adopts Option a), of Attachment C for Levi Oval, 1A Harris Street, Vale Parkand; directs the Administration to commence work on development of the options (above), concurrently with the finalisation of the Councils revised CLMP's.
6. That Council revokes its existing *Lease and Licence for Community Land and Buildings Policy*, and relies on its CLMP's and the legislative framework within which it is bound for decision making as it relates to community and other land and property.

Option 3

It is recommended;

1. That Council receives and notes the Community Land Management Plans and Leases and Licences Review Report, 27 September 2016.
2. That Council adopts "in principle" the Draft Community Land Management Plans (Attachment A), and authorises Administration to seek community feedback on same for a period of not less than one month, with consultation including directly sending the draft CLMP's to all existing lessee's of Council land and property.

Analysis of Options

Option 1

Option 1, provides for Councils adoption of its policy framework (CLMP's), prior to any future decision making for its community and other land and property.

This option is considered the most appropriate option; ie: adopting policy position prior to decision

Option 2

Option 2, provides concurrence in the development and adoption of a policy framework, with decision making for community and other land holdings (aligned to legislative framework).

Option 3

Option 3, only provides for the draft CLMP's to be presented to the Community for consultation.

Community Implications

The management and leasing of Community Land must be aligned to Councils CLMP's, Community Land Management Plans and relevant legislation (namely the *Local Government Act 1999*). Revised CLMP's will be the subject to community consultation.

Governance Implications

Council is required to (at the minimum) adhere to *Local Government Act 1999*, requirements as it relates to Community Land (refer Attachment B herein).

Preferred Option & Reasoning

Option (1)

It is the Administration's position that the (Option 1) recommendation (herein), provides the most appropriate recommendation at this point.

The recommendation is presented for adoption or otherwise.

Attachment/s

Attachment A	<i>Draft Community Land Management Plans (for consultation)</i>
Attachment B	<i>Community and other land and property policy and legislative framework</i>
Attachment C	<i>Community and other land and property portfolio strategic directions document (confidential draft)</i>
Attachment D	<i>Existing Lease and Licence for Community Land and Buildings Policy</i>