

Item No: 19.3

File No: 16.16.2.1

Date: 18 May 2020

Attachment: A, B, C

<b>Meeting:</b>	Council
<b>Title:</b>	Ministerial Submission - Application for Revocation
<b>Responsible Manager:</b>	Chief Executive Officer, Kiki Cristol
<b>Author:</b>	Business Analyst (Property & Contracts), Scott Reardon
<b>Key Focus Area:</b>	Community Land Management Plan
<b>Key Focus Area:</b>	Strategic Community Plan Focus area 3 - Transparent and accountable local tier of Government
<b>Type of Report:</b>	<b>Information Only</b>

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)(j) of the Act being information provided to a Minister of the Crown and the Office of Local Government.

### **Recommendation (Public)**

#### Pursuant to s90(3)(j)

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public except, the Chief Executive Officer Kiki Cristol, Group Manager Asset & Infrastructure Joshua Bowen, Group Manager Planning, Environment & Regulatory Services Andreea Caddy, Group Manager Customer Experience Danielle Garvey, Manager Community Development & Engagement Fiona Deckert, Business Analyst (Property & Contracts) Scott Reardon and Council Secretariat Vanessa Davidson, be excluded from attendance at the meeting for Agenda Item 19.3 Ministerial Submission - Application for Revocation.

The Council is satisfied that, pursuant to section 90(3)(j) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which would divulge information provided on a confidential basis to the Minister of Local Government, and the Office of Local Government in relation to Council's application to Revoke the Community Land Classification from those portions of land located at Smith and Fuller Streets.

In addition, Council has further considered that the information would on balance be contrary to the Public interest because the update provided within this report will include discussion and consideration of material relevant to the aforementioned application, as well as any future application(s) that may be submitted to the Minister of Local Government.

### **Recommendation (Public)**

That Council receives and notes the Ministerial Submission - Application for Revocation report.

## Recommendation (Public)

### Pursuant to s.91(7)

That having considered Agenda Item 19.3 Ministerial Submission - Application for Revocation in confidence under section 90(2) and (3)(j) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the report and attachments relevant to this Agenda Item be retained in confidence for a term of 12 months or until such time that the Revocation of the Community Land Classification be finalised and that pursuant to Section 91(9)(c) of the *Local Government Act 1999* the Council delegates to the Chief Executive Officer the and power to review and revoke this Order.

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.

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## Summary

Following the 2019 Strategic Property Review, at their Ordinary Meeting of 20 January 2020, Council resolved (**CNC236/19-20**) to endorse the revocation of the Community Land Classification (**Classification**) from those portions of land straddling Certificates of Title 5796/887 (Depot), 5728/637 (Smith 1) and 5838/95 (Smith 2); which comprise the footprint of the building located at 39 Smith Street Walkerville.

In the lead up to this decision, in December 2019, the Office of Local Government (**OLG**) contacted Administration to advise that the Minister had flagged the proposed revocation application as 'controversial' due to INEA YMCA's public propaganda campaign, which ran concurrently with the community consultation process.

Following the Council's 20 January 2020 decision, the OLG again contacted Administration to discuss the nature of claims made by numerous complainants and requested an informal meeting to discuss the pending application to the Minister. A meeting was held 24 February 2020 where the OLG recommended Administration provide as much information as possible as part of the formal submission in order to provide clarification to the Minister on all matters being questioned by the complainants.

As such, a 503 page formal submission report seeking Ministerial consent to revoke the Classification was submitted to both the Minister for Local Government (**Minister**) and the OLG on Thursday 9 April 2020; with it being acknowledged by both authorities Friday 10 April 2020.

On 15 April 2020, the Director of the OLG requested a second informal phone conference with the Chief Executive Officer and Business Analyst (Property & Contracts); which occurred 22 April 2020. During the phone conference, based on the evidence provided, the OLG acknowledged that INEA YMCA incorrectly and misleadingly linked the proposed revocation to their expiring lease, and subsequently advised that Council's 2020 Ministerial Submission report was comprehensive and that the process followed for the revocation was conducted accordingly.

In addition to this however, the OLG requested further information and particulars about the 2016 revocation process, which revoked the Classification from those portion of Smith 1 and Smith 2 (as represented by the car park and adjacent land) on the basis that the OLG were unable to locate a copy of the application or Ministerial Approval.

In follow up to the OLGs request Administration undertook further significant research of its records, reviewed archived emails, reviewed past Council reports and consulted with multiple law firms that provided legal advice relevant to the 2016 matter and have now determined that the process followed in 2016 was neither conducted in accordance with the procedural requirements as set out in s.194 of the *Local Government Act 1999*, nor was the process finalised.

On the basis that the 2020 application is interlinked with the previous 2016 revocation, proceeding with the current application could now result in the Minister's refusal of the current application and expose Council to criticism, procedural investigation and/or formal review on the grounds that the 2016 process did not comply with the statutory requirements.

After considering the matter and based on the discussion with the OLG, Administration are of the view that it would be prudent to withdraw the current 2020 application from the Minister's review and undertake a subsequent period of community consultation in accordance with s.194 of the *Local Government Act 1999*, seeking to revoke the Community Land Classification from the whole of the land contained within Certificates of Title 5728/637 (Smith 1) and 5838/95 (Smith 2) and the portion of land contained within Certificate of Title 5796/887 (Depot), in order to rectify the inconsistencies and failings of the 2016 process.

## Background

At their Ordinary Meeting of 19 December 2016 Council resolved:

### CNC237/16-17

1. *That Council receives the submission from Ms Helena Stone, on 8<sup>th</sup> December 2016, in response to Councils invitation to comment on its Draft Community Land Management Plans (CLMP's), and;*
  - a) *notes the submissioners position on maintenance of 'open space/s' for environmental purposes is aligned to the objectives of CLMP No. 1, to ensure maintenance of the land is economically and environmentally sustainable and align to community expectations.*
  - b) *notes the matters raised as it relates to Vale House being used for 'Accommodation, but acknowledges the CLMP No. 8 for Levi Park, targets maintenance and preservation of Vale House for the benefit of the Community.*
  - c) *notes the matters raised in the submission in a) and b), are addressed by the proposed CLMP's No. 1 and No. 8, and on that basis does not intend to vary or amend the CLMP's as a result of the submission.*
2. *That Council receives the letter from INEA YMCA President, Catherine Follett, on 11<sup>th</sup> December 2016 (received after the close of the consultation period), but, in response to Councils invitation to comment on the content of its Draft Community Land Management Plans (CLMP's), and;*
  - *notes the submission, does not refer to the content of the Councils Draft CLMP's, but rather the position of INEA YMCA, as it relates to leasing and their (own) proposed future proposition/s for the site.*
3. *That Council adopts the Town of Walkerville, Community Land Management Plans (December 2016), as contained in Attachment A.*
4. *The Administration advise the submissioners of Councils decision in relation to this matter.*

At their Ordinary Meeting of 20 January 2020 Council resolved:

### CNC236/19-20

*That Council endorses the proposed part a. Community Land Register recommendation as deferred from the ordinary meeting of Council held on 18 November 2019, being the revocation*

of the Community Land status from the portions of land straddling Certificates of Title 5796/887 (Fuller Street Works Depot), 5728/637 (Smith Street 1) and 5838/95 (Smith Street 2).

## Discussion/Issues for Consideration

### s.194 of the Local Government Act 1999

Section 194 of the *Local Government Act 1999* (**Act**) sets out the mandatory procedure for the revocation of Community Land Classification, which requires Councils to:

- conduct a community consultation process in accordance with the Council's Community Engagement Policy;<sup>1</sup>
- prepare and make available a public report, which outlines the reasons for and impacts of the proposed revocation;<sup>2</sup> then
- submit the proposal with a report on all submissions received as part of the public consultation process to the Minister for consent.<sup>3</sup>

### Town of Walkerville Community Engagement and Consultation Policy 2016

On 21 March 2016 Council endorsed (**CNC318/15-16**) the *Community Engagement and Consultation Policy* (**Policy**) of the day (appearing as Attachment A to this report).

Section 4 of Policy outlined the areas on which Council was legislatively obligated to consult; one such area being for "*Exclusion from Classification / Revocation of Classification / Management Plans*".

Section 6 of Policy outlined the methods of engagement to fulfil Councils Statutory requirement pursuant to the Act,<sup>4</sup> which required Council to "*publish in the newspaper, a notice describing the matter under consideration and inviting interested people to make a written submission within a period of no less than 21 calendar days, which will be stated in the notice*".

### 2016 Community Land Management Plan Review

At their Ordinary Meeting of 18 January 2016 Council resolved (**CNC277/15-16**) to undertake a review of its current Community Land Management Plan via the Strategic Planning Development Policy Committee (**SPDPC**).

At their meeting of 9 February 2016, SPDPC acknowledged Council's direction (**SPD21/15-16**), and following a Strategic Review of the Community Land Management Plan it was concluded that the various Management Plans were outdated and included a number of inconsistencies.

On 3 May 2016 the General Manager of the day sought legal advice (**Advice**) from Norman Waterhouse (appearing as Attachment B to this report) querying the feasibility of revoking the Community Land Classification from **portions** of the land rather than from the **whole** of the land.

Based on Advice received, a report and newly drafted Management Plans were compiled by the General Manager and submitted to SPDPC at their meeting 13 May 2016 for consideration. At this meeting the following recommendations were made to Council (**SPD35/15-16**) (note: Management Plan 5 related to the Smith Street Recreation Management Plan):

- *In each Management Plan, remove "Council will consider applications for leases, licenses and permits in accordance with its leases and licenses policy" as it is superfluous.*
- *Clarify the boundaries of all the reserves within the Management Plan.*

<sup>1</sup> *Local Government Act 1999* (SA), s 194 (2) (b).

<sup>2</sup> *Local Government Act 1999* (SA), s 194 (2) (a).

<sup>3</sup> *Local Government Act 1999* (SA), s 194 (3) (a).

<sup>4</sup> *Local Government Act 1999* (SA), s 50 (4) (a).

- *In the introductory paragraph in each Management Plan include a historical background where relevant.*
- *As it relates to plan 2, 4, 5, 6 and 8 under objectives, remove reference 'development opportunities in respect of the land and it's'.*
- *Plan 5:*
  - *On page 3 include footnote on the history of the building was established*
  - *On page 4 remove final dot point.*

It should be noted that while no specific written recommendation was made at this time to alter the boundaries of the designated Community Land contained with Management Plan 5 (**Management Plan**), the Management Plan included a new plan site map, which mandated that only the building footprint was to retain Community Land Classification; thus excluding the carpark and adjacent portions of land.

On 15 August 2016, Wallmans Lawyers were retained to provide further strategic property advice for various sites within the Township, one such site being the 39 Smith Street, Walkerville. An 'options report' was later received from Wallmans on 9 September 2016, which recommended an option to revoke the Classification from Smith Street.

This document was provided in Confidence to Council at their Special Meeting of 27 September 2016. Council together with a report and draft Management Plans (as drafted and endorsed by SPDPC on 13 May 2016)<sup>5</sup>, which Council endorsed 'in principle' and subsequently directed Administration to proceed to community consultation (**CNC131/16-17**). The community consultation was conducted for an eight (8) week period between October and December 2016.

At the close of the consultation, no feedback had been received from either the general public or from Councils lessee's. As such at their Ordinary Meeting of 19 December 2016, Council resolved (**CNC237/16-17**) to adopt the new Community Land Management Plans and thus the revocation of the Community Land Classification.

### *Inconsistencies and Failings of the 2016 Process*

#### *1. Public Notice*

Though there is no record of a Public Notice within Council's records system for the 2016 consultation, after review of the General Manager's achieved emails a correspondence and draft concept advertisement was located (appearing as Attachment C to this report). At this present time it has not been determined as to whether this advertisement made it to print, however, for the purposes of s.194 of *Local Government Act 1999* the advertisement is deemed to be insufficient on the basis that:

- it is not a detailed standalone Public Notice for the Community Land Management Plans;
- does not provide details of the relevant Management Plans under review;
- includes very little information about the review and consultation process;
- does not include any Authorising Officer details;
- did not appear in a wide spread newspaper publications; and
- did not comply with the specified requirements of Council's Consultation Policy of the day.

#### *2. Failure to Explicitly Address the Proposed Revocation*

Pursuant to s.194 (2) of the *Local Government Act 1999*, where a Council intends to revoke the Community Land Classification from any land, as part of the community consultation and engagement process, the Council must prepare and make available a public report which outlines:

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<sup>5</sup> Council Resolution CNC134/16-17, Item 3.12, Resolved in Confidence 27 September 2016.



- a summary of the reasons for the proposal;<sup>6</sup> and
- a statement of any dedication, reservation or trust to which the land is subject;<sup>7</sup> and
- a statement of whether revocation of the classification is proposed with a view to sale or disposal of the land and, if so, details of any Government assistance given to acquire the land and a statement of how the council proposes to use the proceeds;<sup>8</sup> and
- an assessment of how implementation of the proposal would affect the area and the local community;<sup>9</sup> and
- if the council is not the owner of the land—a statement of any requirements made by the owner of the land as a condition of approving the proposed revocation of the classification.<sup>10</sup>

There is no evidence within Council's records system or Council meeting agendas that such a report was drafted or released to the public as part of the consultation.

### 3. Failure to Lodge Ministerial Submission

Pursuant to s.194 (3) of the *Local Government Act 1999*, following a Council's endorsement to revoke Community Land Classification, the Council is required to lodge an application to the Minister of Local Government seeking their endorsement to do so.<sup>11</sup>

There is no evidence within either Council's or the OLG's records to indicate that a formal submission was ever made to the Minister following the 2016 decision.

### Conclusion

Based on the supporting legal letters, recommendations and the Council endorsed amendment of the Community Land boundaries, while it is clearly evident that it was the explicit intention to revoke the Community Land Classification from those portion of Smith 1 and Smith 2 (as represented by the car park and adjacent land), the mandatory statutory procedural requirements were not fulfilled as part of the 2016 strategic property review.

On the basis that the 2020 application is interlinked with the previous 2016 revocation, proceeding with the current application could expose Council to further criticism, procedural investigation and/or formal review on the basis that the 2016 process did not comply with the statutory procedural requirements.

### Next Steps

On the ground that this matter is currently deemed controversial and contentious within the community as a result of INEA YMCAs conduct, it is recommended that the following actions be taken in accordance with the approximate corresponding timeline:

Formal Withdrawal of Ministerial revocation submission	22 May 2020
Finalise Evaluation Panel, ToR and Evaluation Criteria.	July - August 2020
Report to Council – Application to Revoke Community Land Classification	17 August 2020
Letter to the Community re: Redevelopment of Site ( <b>CNC306/19-20</b> )	24 August 2020
S.194 Community Consultation	1 September – 31 October 2020
Report to Council – s.194 Consultation Feedback & Seek Minister's Consent	16 November 2020
Re-Submit to the Minister	1 December 2020

<sup>6</sup> *Local Government Act 1999* (SA), s 194 (2) (a) (i).

<sup>7</sup> *Local Government Act 1999* (SA), s 194 (2) (a) (ii).

<sup>8</sup> *Local Government Act 1999* (SA), s 194 (2) (a) (iii).

<sup>9</sup> *Local Government Act 1999* (SA), s 194 (2) (a) (iv).


<sup>10</sup> *Local Government Act 1999* (SA), s 194 (2) (a) (v).

<sup>11</sup> *Local Government Act 1999* (SA), s 194 (3) (a).

Approval & Finalisation of Revocation (timing subject to Minister)	January 2021
Commence Open Expressions of Interest	February 2021
Conclude EOI Tender Process	May 2021
Appoint Tenant/Development	May 2021

**Attachment/s**

Attachment A	2016 Consultation Policy
Attachment B	Legal Advice
Attachment C	Public Notice

 <p>TOWN OF WALKERVILLE</p>		<p><b>Policy</b></p> <p><b>Community Engagement and Consultation</b></p>
Approved by	Council	
First Approved	Strategic Planning & Policy Committee 18/05/04 SPN180504/8.2 (Policy Manual Review) (incorporating old Public Consultation Policy 16/05/00)	
Review Frequency	Within 12 months of a General Council Election	
Last Reviewed	21/03/2016 (CNC318/15-16)	
Next Review	21/03/2019	
Document Number	POL20163126	
Responsible Officer	Marketing and Communications Manager	
Policies Related	Social media policy Rating policy Temporary road closure policy Tree Management policy Order making policy	
Applicable Legislation	Local Government Act 1999 (Section 50) Disability Discrimination Act Freedom of Information Act	

*“Community engagement is about involving communities in decision making processes, which is critical in the successful development of acceptable policies and sustainable decisions in government, the private sector and the community.”*

**Community Engagement Handbook, published by the Local Government Association, Revised March 2015**

## 1. Purpose

The purpose of this policy is to define how Council will undertake a planned and consistent approach to informing, engaging and consulting with the community.

The intent of this policy is that Council will aim to achieve a balance between the need to ascertain community views, reach timely decisions, meet legislative requirements, provide information, and maintain commercial confidentiality.

## 2. Method and approaches

This Policy has been developed in accordance with Section 50 of the Local Government Act 1999 (SA) (the ‘Act’).

The ‘Act’ specifies in what circumstances Council is legislatively compelled to undertake consultation and sets out the terms and methods to do so.

However, where it considers it appropriate, and in the best interests of the wider community, Council can, and will, proactively direct Administration go beyond the requirements of the Local Government Act (1999) and seek the views of its community, even when it is not legally required to do so.



The Chief Executive Officer (CEO) is responsible for implementing community engagement and consultation strategies in accordance with this policy. The CEO can also advise the Council on instances where it would be prudent to consult and engage, when not legislatively obliged to do so.

Methods for how, and where, we engage and consult will not always be limited by the minimum standards set out in the 'Act' but can be adapted and tailored to the needs of the local community. In developing its engagement and consultation strategies, Administration will be guided by:

- the sensitivity and nature of the issue
- the extent to which stakeholders will be impacted upon
- scale of public interest
- degree of complexity
- degree of political/cultural/social sensitivity around the issue
- expert specialist advice.

Whenever possible, Council will endeavour not to overlap multiple consultation processes to give the community sufficient time and space to familiarise themselves with the issues and participate. Unless it is legislatively obliged to do so, Council will also avoid consulting and engaging with the community during the Christmas/New Year period.

### 3. Definitions

#### Levels of engagement:

**Inform** One way communication providing balanced and objective information to assist understanding about something that is going to happen or has happened.

**Consult** Two way communications designed to obtain public feedback about ideas on rationale, alternatives and proposals to inform decision making.

**Involve** Participatory process designed to help identify issues and views to ensure that concerns and aspirations are understood and considered prior to decision making.

**Collaborate** Working together to develop understanding of all issues and interests to work out alternatives and identify preferred solutions.

**Community** means "the public" and includes ratepayers, residents and all people who live, work, study, conduct business or use the services, facilities and public places in the Town of Walkerville. These people are often referred to as "stakeholders" in the affairs of Council.

**Council:** means the Elected Members representing the Corporation of the Town of Walkerville.

#### 4. Issues where Council is legislatively obliged to consult:

- Normal hours/days of operation (excluding Public Holidays)
- Public Consultation/Community Engagement Policy
- Code of Practice, Access to meetings and documents
- Community Land: Exclusion from classification /Revocation of Classification/ Management Plans
- Alienation by lease or licence
- Roads: Permits restricting access, or for use or activity requiring public consultation under regulations/Planting of trees and vegetation
- Representative Reviews
- Status of a Council/change of names
- Commercial Activities – Prudential Requirements
- Changes to Rating Systems
- Changes to the basis of differential rating
- Strategic Management Plans

- Annual Plan and Budget
- Passing of By-laws
- Policies on Orders

**5. Issues that Council can determine should be the subject of community consultation and engagement can include:**

- major public infrastructure development
- provision of services and facilities
- traffic management and parking controls.

**6. Community Engagement and Consultation methods**

**Statutory requirements**

Where the Local Government Act 1999 requires that the Council follows this policy, and legislation does not specify steps to the contrary, the Council will:

- publish in the newspaper, a notice describing the matter under consideration and inviting interested people to make a written submission within a period of no less than 21 (twenty one) calendar days, which will be stated in the notice (Section 50(4)(a)); and
- consider any submissions made in response to the newspaper notice.

**Further options**

In additional to the Statutory requirements, Council is well placed to consult and engage with its community through a range of communication channels, including:

- Displays
- Letterbox drops
- Surveys
- Council publications (newsletters)
- Banners/signage
- Social media
- Focus groups
- Mobile applications
- Public meeting/on-site meetings.

**7. Scope**

This policy applies to Elected Members, employees, contractors, volunteers, consultants and any other person who undertakes activities for the Council. This policy applies to consultation with:

- Elected Members
- External stakeholders
- Internal stakeholders

## **8. Availability**

The policy is available for public inspection during normal office hours from;

Civic and Community Centre  
66 Walkerville Terrace  
GILBERTON SA 5081

A copy may be purchased for a fee as determined annually by Council.

It is also available for viewing, download and printing free of charge from the Council's website, [www.walkerville.sa.gov.au](http://www.walkerville.sa.gov.au)

# Norman Waterhouse

SINCE 1920 LAWYERS

By Email: <HBarclay@walkerville.sa.gov.au>  
Ref: YXMM00287788F04213763

12 May 2016

Ms H Barclay  
General Manager  
The Corporation of the Town of Walkerville  
PO Box 55  
WALKERVILLE SA 5081

Dear Heather

## **YMCA community land issues**

I refer to James Forde's email of 3 May 2016 outlining some concerns with the current lease between Council and the YMCA dated 26 May 2014 (**the lease**) in relation to the land description and community land implications.

James has provided copies of the following documents:

- lease;
- community land management plan;
- allotment boundary plan; and
- title search of CT Volume 5796 Folio 887 (searched 18/8/2010).

This letter addresses the specific questions James has asked.

1. *What is the leased area according to the lease?*

The lease provides the following definitions:

"Premises" is that portion of the Building described in Item 1 of the Schedule.

"Building" is the interior and exterior of buildings erected on the Land.

"Land is the land described in Item 9 of the Schedule.

Item 1 of the Schedule provides that the "Premises – Certificates of Title being leased" are that portion of the land comprised in CT Volume 5796 Folio 887 bordered in red on the annexed plan (excluding the car park adjacent thereto).

Item 9 of the Schedule provides that the "Land" is the whole of the land comprised in CT Volume 5796 Folio 887.

Based on the above, I consider that:

- although the plan is not in colour, it is reasonably clear the “Premises” (i.e. the area being leased) are intended to comprise the whole of the large YMCA building outlined by a thick line and nothing else;
- it is not intended that the area being leased is the “Land” (i.e. the whole of the land in CT Volume 5796 Folio 887). It is commonly the case that the term “Land” is used in a lease for such purposes as defining and apportioning outgoings and to document various rights that the lessor may retain (i.e. to divide the Land) or that the lessee may have (i.e. to access the Premises over the Land). That is the case with this lease; and
- there is no inconsistency between the definition of “Premises” and the definition of “Land” in the lease;

However, based on the allotment boundary plan provided, it appears that the definitions of “Premises” and “Land” in the lease should also refer to Certificates of Title Volume 5728 Folio 637 and Volume 5838 Folio 95, as the YMCA building extends into these titles.

In my view though it is clear that the leased area is intended to be the whole of the Building (portion of which Building is on the depot title) and the failure to include these additional title references is merely a mistake, which does not render the lease void.

2. *What does the community land management plan say?*

Management Plan 6 describes the “Walkerville YMCA” as comprising all three titles and notes that one title (Volume 5796 Folio 887) also contains the depot, which portion is not community land.

I do not consider the management plan is inconsistent with the lease, notwithstanding that the lease is only over portion of the land in the three titles.

3. *Can you exclude portion of a title from community land classification? If so, what happens with the tenure restrictions imposed by the Local Government Act 1999 in situations where the title comprises both community land and operational land?*

In principle, I see no reason why land comprising portion of a title could not be excluded from community land classification, or have its community land classification revoked, provided the relevant portion of land is able to be objectively and accurately defined (e.g. by reference to a plan or similar). Section 193 of the *Local Government Act 1999 (Act)* uses the term “land” not “title” or “allotment”.

I do not have any details of how, why and when the exclusion of the depot land was undertaken, so I am not able to provide advice in relation to this process and whether the depot land was appropriately defined. I note James is having these records retrieved.

As a matter of practice, an allotment or title that comprised both community land and “operational” land could cause administrative difficulties, as James has noted.

The sale of the whole of an allotment, portion of which is community land and portion of which is operational land, could not take place until that portion which comprised community land had such classification revoked.

Similarly, a lease of the whole of the land in an allotment where portion of that land was community land and portion was operational land, would need to satisfy the requirements of the Act with respect to community land, including the requirement for the term not to exceed

42 years and the requirement for public consultation prior to the grant of a lease for more than five years.

4. *What are the options for tidying up this situation?*


To the extent that the community land portion and operational land portion of the title continue to be leased or otherwise dealt with separately, the current arrangement could continue. For example, if the YMCA was granted a new lease over the same land, then nothing would need to change. If the YMCA leased area was to extend into the depot area in future, then the community land obligations under the Act would still need to be complied with, notwithstanding that some of the leased area would comprise operational land.

If Council wanted to sell the whole depot title (i.e. including the YMCA building), then the community land classification of the YMCA portion would first need to be revoked.

If Council only wanted to sell that portion of the title comprising the depot (and not the YMCA building), then there may be able to be a land division with the portion that is community land being retained by Council and the portion being operational land being sold, without a requirement to first revoke the community land classification of the YMCA portion. Although, I have never come across this situation and suggest further advice be sought from the Lands Titles Office if Council was considering embarking on this process.

Please let me know if you have any further queries in relation to the above.

Yours faithfully  
Norman Waterhouse



Yari McCall  
Senior Associate  
Direct Line: (08) 8217 1307  
e-mail: ymccall@normans.com.au

CC: Mr James Forde, Town of Walkerville



**From:** [Linda Allery](#)  
**To:** [Sonia DeNicola](#); [Customer Experience Officers](#)  
**Cc:** [Fiona Deckert](#); [Heather Barclay](#); [Kiki Magro](#)  
**Subject:** RE: public consultation  
**Date:** Monday, 24 October 2016 7:29:22 AM  
**Attachments:** [image004.png](#)  
[image005.png](#)  
[image006.png](#)  
[image007.png](#)

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The attached information has been added to the Customer Experience Intranet Knowledge Base.

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**From:** Sonia DeNicola  
**Sent:** Thursday, 20 October 2016 4:39 PM  
**To:** Customer Experience Officers  
**Cc:** Fiona Deckert; Heather Barclay; Kiki Magro  
**Subject:** public consultation

A reminder to everyone that Council is consulting on three issues:

*Draft Movement Management plan:* [enquiries to Mark K](#), consultation ends 25 November

*Living Walkerville: wellbeing for every age and stage:* [enquiries to Fiona](#), consultation ends 25 November

*Draft Community Land Management Plan :* [enquiries to Heather](#), consultation ends 9 December

The advert below will appear in next week's *City North Messenger Press*. Copies of information that is scheduled to be delivered to householders from Monday is attached for your information.

(Spares will be available for concierge area next week)



# Speak up!

**Be heard!**

Walkerville Council is consulting on three issues and is seeking your feedback:

**1. Next steps for the Movement management plan**

Public consultation closes: 5pm, Friday 25 November 2016.

Through this first round of consultation we are seeking your views on:

- How do we keep our transport spaces – roads, pathways, laneways, bikepaths footpaths – safe, accessible and attractive for people?
- How can these transport spaces be improved to offer greater amenity and contribute to quality of life for everyone?

**Public information sessions:**  
 Walkerville Woolworths Shopping Centre, 104 Walkerville Tce, Walkerville  
 • Thursday 17 Nov 4.30pm - 8.00pm • Saturday 19 Nov 9.00am - 12 noon.

**2. Draft strategy: Living Walkerville: wellbeing for every age and stage**

Public consultation closes: 5pm, Friday 25 November 2016.

Earlier this year, we developed a wellbeing framework and presented it to the community for a first round of public consultation. Community feedback has been incorporated into a draft wellbeing strategy which is now open for public consultation.

**3. Draft Community land management plans**

Public consultation closes: 5pm, Friday 9 December 2016.

The draft plans have been developed by Council in accordance with Section 196 of the Local Government Act 1999.

For more information on how to provide feedback on one, or all, of these issues telephone 8342 7100 or go to:  
[www.walkerville.sa.gov.au/engageconsult](http://www.walkerville.sa.gov.au/engageconsult)



Regards,

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