



AGENDA

Annual General Meeting

Monday 9 December 2024

At 5.30pm

Council Chambers, 21 Saunders Street, Wynyard

Notice is given that an Annual General Meeting of Council will be held at the Waratah-Wynyard Council Chambers, 21 Saunders Street, Wynyard on Monday **9 December 2024** commencing at 5.30pm.

A handwritten signature in black ink, appearing to read 'Daniel Summers', is positioned above the printed name.

Daniel Summers
ACTING GENERAL MANAGER

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AGENDA OF THE ANNUAL GENERAL MEETING OF THE WARATAH-WYNYARD COUNCIL TO BE HELD AT THE COUNCIL CHAMBERS 21 SAUNDERS STREET WYNYARD ON MONDAY 9 DECEMBER 2024 COMMENCING AT 5.30PM.

1.0 PRESENT

Councillors

In Attendance

Recorded on Attendance Sheet

2.0 APOLOGIES

3.0 WELCOME

The Mayor to make a statement

I would like to begin by acknowledging the traditional owners and custodians of the land on which we meet today, the Tommeginne people, and to pay our respect to those that have passed before us, their history and their culture.

I would also like to advise that the meeting will be recorded and live streamed, in accordance with the Council Policy '**GOV.017 – Digital Recording of Council Meetings**'.

On behalf of the Council I extend a warm welcome to all of you attending this Annual General meeting (AGM) this evening.

This AGM is an opportunity to reflect on 2024 and an opportunity for community members to raise matters you consider are important to the community.

Having delivered on the final stages of a number of key master plans in the last few years, 2023-24 was a year to look to the future – to reset, take stock and make strategic decisions now that we will see the benefit of in future years.

We have taken time to listen to, and work with, the community and hear what they feel is important, so we can incorporate their views into our long-term plans and future developments. We have carefully planned and prepared for our exciting Boat Harbour Master Plan project - putting the final steps in place for construction which has just commenced. This year we also adopted the Somerset Sporting Precinct Master Plan, which provides a blueprint for recreation infrastructure provision that will serve that community for many years to come. We are also very happy to see how many people are enjoying the completion of the Coastal Pathway.

Council has planned for the future of our childcare delivery, reviewing service provision and determining to design and construct a new, long day care centre in Wynyard. This new facility will help meet the growing demand in the community.

Long term solutions for our coastlines and our communities have been developed for Sisters Beach and other areas prone to coastal erosion – important work underpinned by Council's commitment to environmental sustainability.

And finally, Council continues to participate in the Future of Local Government process, open to exploring and discussing all structural and functional reform options that would result in positive outcomes for the community.

As we move forward into 2025, I am incredibly proud of this Council's achievements and know that the hard work and dedication of the General Manager, Executive Team, all staff, and Councillors will continue to be at the heart of our success.

I would like to make particular mention of General Manager Mr Shane Crawford who finishes officially with Council this Friday. On behalf of Councillors and staff, I thank Shane for his service to our community over the last seven years. He leaves council in a much better position than when he arrived and we wish him well into the future.

4.0 ANNUAL GENERAL MEETING STATUTORY REQUIREMENTS

Section 72B. of the *Local Government Act 1993* (the Act) provides that in relation to an Annual General Meeting.

72B. Annual General Meeting

(1) A council must hold an Annual General Meeting on a date that –

(a) is not later than 15 December in each year; and

(b) is not before 14 days after the date of the first publication of a notice under [subsection \(2\)](#).

(2) A council must publish a notice in a daily newspaper circulating in the municipal area or other prescribed newspaper specifying the date, time and place of the Annual General Meeting.

(3) If a quorum of the council is not present at an Annual General Meeting –

(a) the Annual General Meeting is to be reconvened and held within 14 days; and

(b) a notice is to be published in a daily newspaper circulating in the municipal area specifying the date, time and place of the Annual General Meeting.

(4) Only electors in the municipal area are entitled to vote at an Annual General Meeting.

(5) A motion at an Annual General Meeting is passed by a majority of votes taken by a show of hands or by any other means of ascertaining the vote the council determines.

(6) A motion passed at an Annual General Meeting is to be considered at the next meeting of the council.

(7) The general manager is to keep minutes of the Annual General Meeting.

5.0 CONFIRMATION OF PREVIOUS MINUTES**RECOMMENDATION**

“That Council receive and note the Minutes of the Annual General Meeting of the Waratah-Wynyard Council, held at 21 Saunders Street, Wynyard on 15 January 2024, previously circulated and adopted at the Council Meeting on 22 January 2024.”

The minutes of the meeting were circulated to Councillors and are included in Attachment 1 at the end of this document.

Any corrections to the Minutes are to be identified and agreed at this point prior to taking a vote to adopt the minutes.

6.0 ANNUAL REPORT PUBLIC SUBMISSIONS

Under the provisions of the *Local Government Act 1993*, Council invited the community to make submissions on its Annual Report for discussion at the Annual General Meeting. The closing date for submissions was 4 December 2024.

There were no submissions received at the time of agenda compilation.

7.0 ANNUAL REPORT 2023/243

The General Manager to give a presentation on project delivery, key activities, financial management strategy and current financial position

RECOMMENDATION

That Council note the Annual Report for the year ended 30 June 2024

PURPOSE

To adopt the Annual Report in line with legislative requirements.

BACKGROUND

The Annual Report of the Council for 2023/24 has been prepared pursuant to section 72 of the *Local Government Act 1993* which requires Council to prepare an Annual Report detailing its achievements in respect of goals and objectives for the financial year.

DETAILS

Council's Strategic Planning Framework guides Council in identifying community needs and aspirations over the long term (Our Vision), medium term (Strategic Plan) and short term (Annual Plan and Budget Estimates) and holds itself accountable through the Audited Financial Statements and Annual Report.

The Annual Plan and Budget Estimates are set in June each year and progress reporting occurs to Council on a quarterly basis.

The Annual Report provides highlights of the Council's achievements throughout the year together with a performance report on activities listed in the 2023/24 Annual Plan.

As required, the Annual Financial Report for the year ended 30 June 2024, together with the Independent Audit Report are included within the Annual Report. Council will formally receive the audited financial statements at the December Council Meeting.

In accordance with Section 72(2)(d) and (3) of the *Local Government Act 1993*, Council placed advertisements in the Advocate Newspaper on Saturday 23 November 2024 and Saturday 7 December 2024 notifying the public of the Annual General Meeting on Monday 9 December 2024.

Outstanding Actions Progress

Details of each action and their status are provided in the attached report. Actions which remain uncompleted as at the end of the financial year will be delivered. A summary of these items is provided below:

Action	Progress
Warawyn Early Years Reconciliation Action Plan	Completed Reconciliation Action Plan was adopted at the June Council Meeting. Reconciliation endorsement was received in November.
Council Reconciliation Action Plan (RAP)	Completed. Adopted at June Council meeting and Reconciliation Australia endorsement received in November.
Frederick Street Sports Complex Master Plan	Additional feedback has been received on draft plan. High level costing is being sort before going back out for further feedback.
Year two actions of the Waratah Community Plan 2022-2025	Two shelters have now been completed with furniture to be installed and work has commenced on the playground, items remain on track for delivery.
Table Cape Lookout Amenities	Architects moving forward with design concept following presentation to Council workshop.
Workforce Development Plan	Early work is underway on a broad organisational document. Many departments are well advanced in plan development.
Sisters Beach Playground	Tender for design and construction awarded at the July Council meeting, construction to commence early in 2025.
Waratah Lake Playground	Work on installation commenced in December.
Wynyard Sporting Precinct Master Plan	23/24 actions completed. Year 3 actions progressing in 24/25 actions.
Construction of Coastal Pathway	Practical completion achieved with minor works outstanding to be completed.
Stormwater modelling for urban catchments	Consultant services being procured to complete.
Upgrade Stormwater Infrastructure Somerset	Working through DSG and CLS approvals, tender awarded and works commencement pending.
Boat Harbour Beach Master Plan	Construction has now commenced.
Review of Waratah Services	Will carry forward and progress in 2024/25 with completion expected June 2025.
Electric car charging stations	Council endorsed the decision to delay the introduction of public electric vehicle charging infrastructure and reassess upon completion of Council's Parking Review.
Penguin viewing experiences	A concept design has been prepared and is with Council's Planning Department to provide feedback before going out to community and stakeholder feedback.

STATUTORY IMPLICATIONSStatutory Requirements

Section 72 of the *Local Government Act 1993* requires Council to prepare an Annual Report containing the Annual Financial Statements and other statutory requirements. The Annual Report must be considered at the Annual General Meeting, which is to be held no later than 15 December

STRATEGIC IMPLICATIONSStrategic Plan Reference

GOAL 1: Leadership and Governance
Desired Outcomes
1.5 We highly value the use of an evidence-based approach to the development and implementation of strategies and policies that support and strengthen our decision making.
Our Priorities
1.5.2 Maintain accountability by ensuring council decisions are evidence based and meet all legislative obligations.

Sustainable Murchison Community Plan 2040

Community Future Direction Theme	Key Challenges & Opportunities:
Business & Industry	Specialised diversity of the economy – Value adding, diversification, innovation and employment. A resilient economy with global brand recognition and growing exports.
Tourism	Memorable visitor experiences all year round – The must see destination, quality product, easy access, popular events and festivals with coordinated marketing. A longer season with increasing yields.
Strong communities and social capital	Enduring community capital – Growing, proud, self-reliant communities that are inclusive and engaged with volunteers and shared facilities.
Access and infrastructure	Local, regional and global transport and infrastructure access – Safe and efficient access alternatives, growing freight capacity, renewable energy, water management and contemporary communications. Community infrastructure that supports economic development.
Natural resource management	Managing abundant, natural and productive resources – Natural resource management is valued and development is environmentally sustainable. The environment is clean and healthy with unspoilt beauty and biodiversity.
Health and Wellbeing	Maintaining good health and wellbeing – Healthy communities, people taking responsibility for their wellness, convenient access to medical services and facilities.
Education	Lifelong learning and education – Education and lifelong learning is valued and there is access to vocational training and tertiary education. Education retention rates have increased.
Place making and liveability	Liveable places for all ages – Liveable attractive townships, relaxed lifestyles and community pride attract people to Murchison. Communities have history and character that drive their place-making strategies. Sport and recreation is widely supported especially by young people. Multi-purpose recreational and cultural facilities are well utilised.
Governance and working together	Working together for Murchison – Everyone plays a part in achieving the objectives of the Sustainable Murchison Community Plan. There is cooperation, resource sharing and less duplication between Councils. Leadership is provided across all community sectors.

POLICY IMPLICATIONS

There are no policy implications as a result of this report.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications as a result of this report.

FINANCIAL IMPLICATIONS

There are no financial implications as a result of this report.

RISK IMPLICATIONS

There are no risk implications as a result of this report.

CONSULTATION PROCESS

The Audit Panel will review the audited financial statements at its next meeting.

The Annual Report and Annual General Meeting have been advertised in accordance with legislation. No submissions were received by the public in relation to the Annual Report

CONCLUSION

It is recommended that Council receive and note the Annual Report for 2023/24.

8.0 NOTICES OF MOTION**8.1 C HUTCHISON – RIGHT TO INFORMATION FINDINGS**

Note: Attachments to this motion are included as ATTACHMENT 2 at the end of this document

MOTION

That Council:

- 1. Note the decision by the Ombudsman to direct Council to release in part, the 12-page report dated 3 September 2013 titled ‘Waratah-Wynyard Council - Report on the organisation’s ability to resolve issues’, by Mr. Neil Johnston of Small Business Safety Systems.**
- 2. Further note parts of the report released by Council, remain redacted, despite calls in the community earlier in the year to release the report, unredacted**
- 3. Undertake a review of its Right to Information procedures, to ensure that applications are processed correctly.**
- 4. Assess if recommendations within the report were adequately implemented in the past 10 years, prepare a report of this progress according to the criteria outlined in the recommendations, and complete this assessment prior to May 1 2025 released to Councillors and the general public on its website.**
- 5. Collaborate with the community during 2025 to develop a Transparency Policy, that seeks to promote good governance principles of openness, honesty, and transparency, to avoid further reputational risk resulting from existing practices**

BACKGROUND INFORMATION

Accompanying this motion is the decision by the Ombudsman regarding the application for assessment disclosure to Council for the 2013 independent report into workplace culture and management at Council.

This decision and the attached document released by Council outline what was made available, and why the Ombudsman directed Council to make it available.

After a series of public questions at ordinary Council meetings in mid-2023, and subsequent failed attempts (RTI request & Internal Review) thereafter requesting Council provide this report, the Ombudsman was engaged to complete an external review. After the passage of a number of months, the Ombudsman directed the Council to release the report prior to Friday 13 December 2024.

Council released the report via email on Friday 29 November 2024.

This motion highlights a number of issues with current Council procedure, including, but not limited to:

- * Refusal of the Mayor and Senior Management to provide information of public interest
- * Treatment of members of the public seeking information of public interest
- * Refusal of Council to provide information following a genuine Right to Information request
- * The public and Councillors ability to maintain high standards of accountability without the required information to do this adequately

It seeks to encourage the Council to review its practices with the view for improvement, especially in the area of proactive transparency and information disclosure.

The Ombudsman determined in the external review that the Council was not justified in refusing the application for assessed disclosure, and that the Right to Information officer and the General Manager had not applied the Right to Information Act 2009 correctly, hence the Ombudsman's determination to direct Council to release the information in part.

Council must take this opportunity to avoid this situation in the future and successfully review its practices, so that the community can play a stronger role in helping Council be the best it can be.

OFFICERS COMMENTS

Council officers received the completed Ombudsman determination into this matter in late November and intended to publish the findings and associated attachments at the December meeting for Council to note.

Council has maintained that the release of the information shared by staff would impair its ability to obtain similar information in the future and this is consistent with the Ombudsman's review and decision (point 48).

This is important in maintaining staff trust to participate in internal surveys and other cultural improvement processes that are vital to good practice.

The role of Local Government Priority Reform Program 2024-2026 talks to good governance principles that will need to be upheld by Councils and Councillors. It is recommended that Council first be appraised of further detail of this by the State Government and then determine whether resources are required into achieving the new stated high contemporary governance standards.

Council officers see no gain in allocating resources to preparing a progress report against the recommendations of the 2013 Johnston report. Recent staff survey results, information in annual reports and on Councils website, is available for interested parties to openly see the current status of the organisation.

9.0 PUBLIC QUESTIONS WITHOUT NOTICE

A summary of questions without notice and response(s) and the name of the person asking the question will be recorded in the minutes.

10.0 PUBLIC STATEMENTS WITHOUT NOTICE

A summary that includes the name of the person making a public statement and subject title of that statement will be recorded in the minutes.

11.0 Closure

There being no further business the Annual General meeting closed at _____pm.

ATTACHMENT 1 – Minutes Of Previous Annual General Meeting

Waratah-Wynyard Council



MINUTES

Annual General Meeting

Monday 15 January 2024

At 7.00pm

Council Chambers, 21 Saunders Street, Wynyard

Waratah-Wynyard Council

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Waratah-Wynyard Council

MINUTES OF THE ANNUAL GENERAL MEETING OF THE WARATAH-WYNYARD COUNCIL HELD AT THE COUNCIL CHAMBERS 21 SAUNDERS STREET WYNYARD ON MONDAY 15 JANUARY 2024 COMMENCING AT 7.08PM.

1.0 PRESENT

Councillors

Mayor Mary Duniam
Deputy Mayor Celisa Edwards
Councillor Gary Bramich
Councillor Andrea Courtney
Councillor Kevin Hyland
Councillor Michael Johnstone
Councillor Leanne Raw
Councillor Dillon Roberts

IN ATTENDANCE

Shane Crawford - General Manager
Daniel Summers - Director Infrastructure and Development Services
Sallie Moore-Wood – Manager Governance and Information Systems
Mitchell Smith – Manager Financial Services
Sally Blanc - Executive Officer

Apologies

Nil

Recorded on Attendance Sheet

25 people in attendance

Christine Okunbor	Simon Warriner	Codie Hutchison
Catherine Douglas	Stephen Bassett	Ken Ewington
Marilyn Keizer	Susan Robertson	Noah Reade
Roy Duniam	Nicholas Higgins	Barry Walsh
Dana Hicks	Maureen Bradley	Terry McMahon
Bronwyn Folden	Roger Bradley	Robby Walsh
Lois Newman	Darrel Cox	Ben Corey
Brian Whiteroad	Corey Speers	
Tracey Jones	Robin Krabbe	

Waratah-Wynyard Council

3.0 WELCOME

The Mayor made the following statement:

I would like to begin by acknowledging the traditional owners and custodians of the land on which we meet today, the Tommeginne people, and to pay our respect to those that have passed before us, their history and their culture.

I would also like to advise that the meeting will be recorded and live streamed, in accordance with the Council Policy 'GOV.017 – Digital Recording of Council Meetings'.

On behalf of the Council I extend a warm welcome to all of you attending this Annual General meeting (AGM) this evening.

This AGM is an opportunity to reflect on 2023, and also an opportunity for community members to directly participate and submit notices of motions or ask questions to consider matters you consider are important to the community.

2023 was a year of new beginnings for three of our Councillors (Cr Leanne Raw, Cr. Michael Johnston and Cr Dillon Roberts) together with our new Deputy Mayor Celisa Edwards. As a Council, I think we can safely say we live in interesting times, notwithstanding the challenge of growing inflation costs across the board and the Future of Local Government Review. Despite this, over the past 12 months WWC has continued to maintain strong financial management allowing us to continue investing in our communities and, we have consistently delivered on what we have set out to do.

As we move forward into 2024, I am incredibly proud of this Council's achievements and know that the hard work and dedication of the General Manager, Executive Team, all staff and Councillors will continue to be at the heart of our success.

4.0 ANNUAL GENERAL MEETING STATUTORY REQUIREMENTS

The General Manager read the Statutory Requirements listed in Section 72B of the *Local Government Act 1993* (the Act) provides that in relation to an Annual General Meeting and provided advice as to why the AGM was held outside of the statutory requirements of 15 December.

72B. Annual General Meeting

(1) A council must hold an Annual General Meeting on a date that –

(a) is not later than 15 December in each year; and

(b) is not before 14 days after the date of the first publication of a notice under [subsection \(2\)](#).

(2) A council must publish a notice in a daily newspaper circulating in the municipal area or other prescribed newspaper specifying the date, time and place of the Annual General Meeting.

(3) If a quorum of the council is not present at an Annual General Meeting –

(a) the Annual General Meeting is to be reconvened and held within 14 days; and

(b) a notice is to be published in a daily newspaper circulating in the municipal area specifying the date, time and place of the Annual General Meeting.

(4) Only electors in the municipal area are entitled to vote at an Annual General Meeting.

(5) A motion at an Annual General Meeting is passed by a majority of votes taken by a show of hands or by any other means of ascertaining the vote the council determines.

(6) A motion passed at an Annual General Meeting is to be considered at the next meeting of the council.

(7) The general manager is to keep minutes of the Annual General Meeting.

The Annual General Meeting is being held past the legislated date of 15 December due to delays in receiving audited financial statements from the Tasmanian Audit Office.

The Director of Local Government was advised of the delay when it became apparent that Council would be unable to meet its legislative obligation. The Director Local Government acknowledged the advice and noted that the delay was outside of Council's control.

The Mayor noted that voting on motions was to be conducted via a show of hands.

Waratah-Wynyard Council

5.0 CONFIRMATION OF PREVIOUS MINUTES

MOVED BY	CR ROBERTS
SECONDED BY	CR EDWARDS

"That the Minutes of the Annual General Meeting of the Waratah-Wynyard Council, held at 21 Saunders Street, Wynyard on 2 November 2021, a copy of which having previously been circulated to Councillors prior to the meeting, be confirmed as a true record."

The MOTION was put and was CARRIED.

IN FAVOUR

MAYOR DUNIAM	CR BRAMICH	CR COURTNEY	CR EDWARDS
CR HYLAND	CR JOHNSTONE	CR RAW	CR ROBERTS

6.0 ANNUAL REPORT PUBLIC SUBMISSIONS

There were no submissions received at the time of agenda compilation.

7.0 ANNUAL REPORT 2022/23

The General Manager and the Manager Financial Services gave a presentation on Councils project delivery, key activities, financial management strategy and current financial position.

MOVED BY	CR BRAMICH
SECONDED BY	CR ROBERTS

That Council note the Annual Report for the year ended 30 June 2023

The MOTION was put and was CARRIED.

IN FAVOUR

MAYOR DUNIAM	CR BRAMICH	CR COURTNEY	CR EDWARDS
CR HYLAND	CR JOHNSTONE	CR RAW	CR ROBERTS

8.0 NOTICES OF MOTION

8.1 C HUTCHISON – OLDINA RESERVE RESTORATION

MOVED BY	C HUTCHISON
SECONDED BY	CR COURTNEY

That Council:

- 1. Negotiate with Sustainable Timber Tasmania, for a 3 year lease between 2024 – 2027 for the Oldina Reserve & Picnic Area with the option to extend the lease period further; and**
- 2. Develop an Oldina Reserve Restoration & Maintenance Plan with costings in cooperation and consultation with the community; and**
- 3. Invite discussions with local State and Federal representatives and election candidates about the community vision to restore facilities and maintenance of the Oldina Reserve.**

AMENDMENT

MOVED BY	CR COURTNEY
SECONDED BY	CR ROBERTS

That Council:

- 1. Negotiate with Sustainable Timber Tasmania to develop an Oldina Reserve Restoration & Maintenance Plan with costings in cooperation and consultation with the community; and**
- 2. Invite discussions with local State and Federal representatives and election candidates about the community vision to restore facilities and maintenance of the Oldina Reserve.**

The AMENDMENT TO THE MOTION was put and was CARRIED (21/7)

AMENDED MOTION

That Council:

- 1. Negotiate with Sustainable Timber Tasmania to develop an Oldina Reserve Restoration & Maintenance Plan with costings in cooperation and consultation with the community; and**
- 2. Invite discussions with local State and Federal representatives and election candidates about the community vision to restore facilities and maintenance of the Oldina Reserve.**

The AMENDED MOTION was PUT and CARRIED (24/6)

Waratah-Wynyard Council

8.2 C HUTCHISON – RELEASE OF WORKPLACE IMPROVEMENT REPORT

CR COURTNEY DECLARED AN INTEREST AND LEFT THE CHAMBERS AT 8.30PM

MOVED BY	C HUTCHISON
SECONDED BY	CR COURTNEY

That Council Management release to Councillors and the public in the March 2024 Ordinary Open Council Meeting Agenda, an unredacted copy of the full report, which is a 12-page report dated 3 September 2013 titled *'Waratah-Wynyard Council - Report on the organisation's ability to resolve issues'*, by Mr. Neil Johnston of Small Business Safety Systems.

The MOTION was LOST (13/13)

CR COURTNEY RETURNED TO THE CHAMBERS AT 9.00PM

8.3 C HUTCHISON – MOORLEAH MULTI-PURPOSE RECREATION CENTRE

MOVED BY	C HUTCHISON
SECONDED BY	CR ROBERTS

That Council:

1. Undertake a feasibility study for a new contemporary multi-purpose recreational centre, to serve the communities of Moorleah, Preolenna, Lapoinya, Milabeena, Myalla, & Meunna, located near the junction of Lapoinya Road, Preolenna Road, & Pages Road in Moorleah; and
2. Prepare a cost-benefit report as part of the feasibility study in (1), including inputs from an initial stage of community consultation; and
3. present the final feasibility study to Councillors and the public in an Open Ordinary Meeting Agenda of Council prior to the end of 2024.

The MOTION was CARRIED (15/14)

Waratah-Wynyard Council

8.4 C HUTCHISON – COUNCIL AMALGAMATION SURVEY

MOVED BY	C HUTCHISON
SECONDED BY	CR ROBERTS

That Council:

1. Conduct a municipal wide online survey of Waratah-Wynyard residents, asking the following question in (a) using the listed response options in (b) –
 - a. Question – Do you support combining the Waratah-Wynyard municipality with the Circular Head municipality to make a different municipal area and establish a new Council?
 - b. Response Options – Yes; No; Undecided
2. Commence the survey in (1) prior to end of February, 2024, for a period of not less than 28 normal days, but no more than 42 normal days.
3. Advertise the online survey and survey period in (1) using physical methods and digital methods no less than 7 normal days prior to the beginning of the survey period –
 - a. Physical methods: Shop front posters with survey link and QR code to survey; municipal wide mail out to all residential addresses with survey link and QR code to survey;
 - b. Digital methods: Listed on Council’s social media Facebook account; Listed on Council’s website.
4. Use survey monkey, Google forms, or a similar user-friendly online survey tool to conduct the survey in (1) and require the collection of the elector’s name & residential address for each submitted response.
5. Make the numbered results of the survey in (1) publicly available on the Waratah-Wynyard Council website within 21 days of the closing of submissions to the survey, without publicly identifying any voter’s selection.

The MOTION was LOST (7/17)

8.5 C HUTCHISON – BIN-YARD

MOVED BY	C HUTCHISON
SECONDED BY	CR ROBERTS

That Council:

1. Rename the Waratah-Wynyard Council managed ‘Wynyard Waste Transfer Station’, located at 170 Goldie Street, Wynyard, to ‘The Wynyard Bin-Yard’; and
2. Update all onsite signage to reflect the name change outlined in (1) using funds in the 2024/25 Budget; and
3. Update all relevant Council policies to reflect the name change outlined in (1).

The MOTION was LOST (9/16)

8.6 C HUTCHISON – IMPROVE COUNCIL MEETING PROCEDURES

MOVED BY	C HUTCHISON
SECONDED BY	CR ROBERTS

That Council:

1. Increase formal public voting opportunities and enhance democratic principles in public motions by improving Council meeting procedures to
 - a. Allow public motions (motions introduced by members of the public and voted on by members of the public) in three monthly Ordinary Council meetings of the Waratah-Wynyard Council.
 - b. Require electors voting on a public motion to stand in designated areas to indicate their vote on that public motion
2. Modify specific sections in the existing Council Meeting Procedures Policy, and insert the following clauses:
 - a. Section 14 - Motions

After clause 10, insert clauses 11, 12 & 13:

"(11) Public motions are permitted in the Ordinary Council Meetings of February, May, and August.

(12) A public motion provided within the required time frame before a meeting will be listed as an agenda item for that meeting.

(13) An elector may give to the general manager, at least 7 days before a meeting that accepts public motions, written notice of a motion, together with supporting information and reasons, to be included on the agenda of that meeting."

- b. Section 15 - Motions to amend motions

After clause 4, insert clause 5:

"(5) At a meeting that accepts public motions, an elector who did not move or second a public motion (the *original public motion*) may move a motion to amend the original public motion."

- c. Section 20 - Debate at a Council Meeting

After clause 11, insert clause 12:

"(12) A public motion, will follow all procedures required in ordinary meetings in relation to Debate at a Council meeting, with the exception that electors are entitled to the right to debate in an equivalent way to Councillors, as guided by Section 20 of these Meeting Guidelines."

- d. Section 21 - Point of order at a meeting

After clause 5, insert clause 6 & 7

Waratah-Wynyard Council

“(6) An elector at a meeting that permits public motions, may raise a point of order if:

- (a) an elector speaking raises an issue that is irrelevant to the motion being discussed;**
- (b) an elector speaking is being interrupted or distracted;**
- (c) an elector is of the opinion that a meeting procedure is contrary to the Act or these regulations;**
- (d) an elector has been misrepresented during the debate; or**
- (e) a statement is made by an elector speaking that the elector raising the point of order believes is, or is likely to be, offensive to an elector or to another individual.**

(7) An elector who is interrupted by the taking of a point of order is to cease speaking.”

e. Section 24 - Voting

After clause 2, insert clause 3:

“(3) At an ordinary Council meeting, when a vote is called on a public motion, only electors in the municipal area are entitled to a vote.”

f. Section 25 - Voting Procedure

After clause 4, insert clause 5 & 6:

“(5) The chairperson is to ensure that the votes of all electors who have voted are recorded in the minutes of the meeting.

(6) Public Motion Votes: When calling a vote for a public motion in an annual general meeting or an ordinary council meeting, the Chairperson will call for a division of the room, requiring

- a) electors supporting a public motion move and stand to right of the Chairperson; and**
- b) electors not supporting a public motion move and stand to the left of the Chairperson; and**
- c) Individuals, who are not voting, remain seated or move to a seated position to indicate that they are not wishing to participate in that particular vote.”**

g. Section 26 - Determination of voting

After clause 4, insert clause 5:

“(5) A public motion at an Ordinary Council Meeting is determined by a simple majority, in accordance with the Act or any regulations made under the Act.”

The MOTION was LOST (9/9)

Waratah-Wynyard Council

8.7 R KRABBE – FORMATION OF SOCIAL ACTIVATION PANEL

MOVED BY	R KRABBE
SECONDED BY	CR ROBERTS

That Council form a Social and Community Activation Panel

The MOTION was CARRIED (20/2)

9.0 PUBLIC QUESTIONS WITHOUT NOTICE

9.1 C SPEERS – WALKER STREET ADDRESSING

Mr Speers of Wynyard asked what Council is considering regarding the re-numbering or re-addressing of Walker Street in the new Subdivision on the Seabrook Golf Club land.

The General Manager advised that a report with options for consideration was being presented to the January council meeting.

10.0 PUBLIC STATEMENTS WITHOUT NOTICE

10.1 T JONES – ACCESS TO OLDINA SUSTAINABLE TIMBERS TASMANIA PLANTATION FOR FIRE BRIGADE VEHICLES

Ms Jones of Wynyard made a statement regarding access to the Oldina Reserve for Fire Brigade vehicles in the event of an emergency. She stated that the current state of the road, tracks and bridges are well below the required standard for firefighting trucks and suggested that council should put the landowner on notice to complete remedial works.

11.0 Closure

There being no further business the Annual General meeting closed at 10.40pm.

ATTACHMENT 2 – Attachments to Motion 8.1

Ombudsman Tasmania

Level 6, 86 Collins Street, Hobart
GPO Box 960, Hobart Tas 7001
Phone: 1800 001 170
Email: RTI@ombudsman.tas.gov.au
Web: www.ombudsman.tas.gov.au



In reply please quote: **R2310-004**
Public Authority Reference: RTI – C Hutchison (1171969)
Contact Officer: Leah Dorgelo

25 November 2024

Mr Codie Hutchison
PREOLENNA TAS 7325

By email only: h.family.cch@gmail.com

Dear Mr Hutchison

Right to Information Act 2009 External Review – Waratah-Wynyard Council

Please find attached the Ombudsman's final decision, including the statement of reasons, regarding your external review application of a decision of Waratah-Wynyard Council under the *Right to Information Act 2009* (the Act).

In accordance with that decision, the Ombudsman has determined that additional information found to be responsive to your request be released to you. I have directed the Waratah-Wynyard Council to provide the information as soon as practicable, and no later than **13 December 2024**.

Subsection 49(5) of the Act provides, *The Ombudsman may publish a decision that he or she makes in respect of a review and the statement of reasons related to that decision*. It is our standard practice to publish decisions on our website, as part of ensuring that the administration of justice is public and transparent. Accordingly, please be aware that we plan to publish the final decision at www.ombudsman.tas.gov.au/right-to-information/reasons-for-decisions in due course.

If you have any questions, please contact our office on 6166 4566 or email RTI@ombudsman.tas.gov.au

I apologise, on behalf of the office, for the delays you have experienced with this matter.

Yours sincerely

Leah Dorgelo
PRINCIPAL OFFICER (RIGHT TO INFORMATION)

**OMBUDSMAN TASMANIA
DECISION**



Right to Information Act Review **Case Reference:** R2310-004

Names of Parties: Codie Hutchison and Waratah-Wynyard Council

Reasons for decision: s48(3)

Provisions considered: s39

Background

- 1 The applicant, Mr Codie Hutchison, is a member of the community who takes an active interest in the activities of his local government, the Waratah-Wynyard Council (Council).
- 2 On 28 August 2023, Mr Hutchison lodged an assessed disclosure application with Council under the *Right to Information Act 2009* (the Act) for the following:

A complete copy, without redactions, of the 'Independent Review Report (2013)' into the Waratah-Wynyard Council (note: name of the report was not disclosed by Council, so it may be known by another name/ other names.)

- 3 Mr Hutchison indicates that he made multiple attempts to obtain the information. He first sought it in May 2023 *during public question time, where the Mayor took the questions on notice*. He then goes on to explain his previous attempts to obtain the requested information, both at Open Council meetings and in email and text message exchanges with Councillors, and the responses he received.
- 4 On 30 August 2023, Ms Kylie Johnson, a delegate under the Act for Council, emailed Mr Hutchison acknowledging receipt of his application and accepting his request and waiving the fee.
- 5 On 18 September 2023, in a letter dated 15 September 2023, Ms Johnson issued a decision to Mr Hutchison. The information, responsive to the request, was described as:

...information sought is a 12-page report dated 3 September 2013 titled 'Waratah-Wynyard Council - Report on the organisation's ability to resolve issues', prepared by

Mr Neil Johnston of Small Business Safety Systems. The report was commissioned as a method of identifying improvements to Council's workplace culture at the time, to conduct a review of management and supervisory structures and to identify improvements to communication channels.

- 6 The information, described here as the Report, was assessed by Ms Johnson as exempt from release under s39 of the Act, *information obtained in confidence*, and having regard to the s33 public interest test. Ms Johnson found *that the information requested is in whole exempt from disclosure under the Act.*
- 7 At the end of the decision, Ms Johnson makes reference to *a decision handed down by the Ombudsman in 2014 relating to the same information* and confirms that *assessment of your application was a new fresh decision drawing similar conclusions to that issued by the Ombudsman in 2014.*
- 8 Ms Johnson provided Mr Hutchison a copy of *B and Waratah-Wynyard Council*, the 2014 external review decision referred to in her decision. This prior decision is discussed below in *Preliminary matters.*
- 9 On 26 September 2023, Mr Hutchison applied for internal review of the decision.
- 10 On 29 September 2023, Mr Shane Crawford, the General Manager of Council and its principal officer under the Act, issued Mr Hutchison an internal review decision affirming the original decision. He wrote:

... I have reviewed the decision made and the submission provided. As a result, I conclude that the original decision stands, in that the information requested is exempt from disclosure under the Act.
- 11 On 4 October 2023, Mr Hutchison applied to the Ombudsman for external review of Council's decision.
- 12 On 28 August 2024, my office sought from Council a copy of the unredacted Report, including attachments, and any further information that might assist with the external review (consistent with s47(2)(a)).
- 13 On 30 August 2024, Ms Johnson provided the Report with *two attachments inserted at the end of the report being a memo to the then General Manager from Neil Johnston, and a drafted memo to all staff from the GM dated around 17 July 2013.*

Issues for Determination

- 14 The issue for determination is whether the Report, in whole or in part, is eligible for exemption under s39, or any other provision of the Act.
- 15 As s39 is contained in Division 2 of Part 3 of the Act, the assessment is subject to the public interest test in s33. This means if information is found to be prima facie exempt under s39, I must determine whether it would be contrary to the public interest to disclose it by having regard to, at least, the relevant matters in Schedule 1 of the Act.

Relevant legislation

- 16 Relevant to this review are ss 33 and 39 of the Act. Both sections are attached along with Schedule 1.

Submissions

Applicant

- 17 Mr Hutchison has provided detailed submissions in the course of his assessed disclosure application proceeding to external review. I have had regard to all of those submissions for the purpose of this decision.
- 18 In requesting the Report, under *details of information sought*, Mr Hutchison wrote (verbatim):

According to various sources, the Independent Review conducted in 2013 by external investigators into the operation and workplace culture of the then Waratah-Wynyard Council, has yet to be released to the public. Other protected sources claim that Council staff were advised by a former Councillor that the Waratah-Wynyard Council only narrowly avoided being appointed an administrator in accordance with the Local Government Act (1993). It is not clear at what stage in the process the Waratah-Wynyard Council was at - if it was required to follow a performance improvement direction or the reviews were part of general reviews into Council conduct (in accordance with s.214 of the Local Government Act [1993]).

If there was almost a trigger for an administrator or a 'commissioner' to be appointed, the seriousness of the review may have been under S.339EA of the Act - 'Investigations of complaints and other matters' - a step prior to a dismissal of a Council or a Board of Inquiry, which happened at the Glenorchy City Council & the Huon Valley Council in the past decade, and more recently the Dorset Council.

The fact of the matter is that the public does not know what Council has been reviewed or investigated for during this time. The public does not know if recommendations or directives have been adequately put in place. The public does not know if Council has improved in the areas identified by the report as needing to change. The public does not know which Council staff were reviewed and/or investigated as part of the report. Given the time passed, and the fact that the report has not been released, I believe that contrary to the Council's position (as stated in their open June Council meeting Agenda), that the release of the report is in the public interest and that refusal by the Council to release the report is an indication that they are concerned about the public being fully informed about the Council's activities. As a ratepayer and publisher who analyses the Waratah-Wynyard Council, I advocate for best practice in my local government and that the release of this report will improve accountability and provide greater transparency into past matters. This transparency will enable the municipality and current Councillors to assess existing performance against past performance.

[summary of applicant's interactions with Council omitted]

The only path forward now is to request this information through an assessed disclosure, as I have exhausted all other avenues.

[links to Council meeting minutes omitted]

- 19 In his internal review request Mr Hutchison wrote:

Despite the submission of a Right to Information Application[s], following a number of questions about the nature and contents of the report in public Council meetings, the information sought continues to remain confidential. I am requesting that you review the decision of the RTI officer, considering both their decision and my response below in your review.

- 20 The applicant then went on to reiterate the matters of concern raised in the assessed disclosure application.

- 21 Pages 2 to 4 of Mr Hutchison's internal review request covered the following:

...a list of questions that I will be sending to Council as questions with notice for the October General Council

Meeting. These are in direct response to the letter received by the Right to Information Officer. I have included these for the benefit of preparing a response for the agenda in the absence of releasing the report.

- 22 I have had regard to the list of questions for the limited purpose that they demonstrate the applicant's ongoing concern that the Report has not been made public. Those questions however are outside of the external review task that is before me, under the Act, and are therefore not directly addressed in this decision.
- 23 At pages 5 to 7, Mr Hutchison refers to the prior decision of B and Waratah-Wynyard Council as follows (verbatim):

...I appreciate this context, however wish to clearly distinguish my application and request for internal review from any and all previous applications, requests for internal review, and external reviews.

I also wish to outline where I believed the Ombudsman's decision does not apply in my assessed application, which the RTI officer has used partially in defense of Council's refusal to release the report.

- *Firstly, the applicant in this Right to Information request was an employee of the Council. I am not, nor have ever been an employee of the Waratah-Wynyard Council.*
- *Secondly, the Ombudsman's decision outlined the rationale of the applicant to request the report, partly being to use in ongoing complaint proceedings. I am not currently in complaint proceedings with the Waratah-Wynyard Council, and have no intention to be.*
- *Thirdly, a conflict of interest may have been perceived by the Ombudsman, and may have weighed in his decision not to approve the release of this information. I have no conflicts of interest in seeking this information; I am a member of the public, seeking transparency on Council staff performance.*
- *Fourthly, the passage of time is 10 years following the report's completion for Council management. The referenced Ombudsman decision was in the months following the report being completed.*

- *Fifthly, my RTI application relates to comparing past performance of the Waratah-Wynyard Council to contemporary performance for the benefit of both the public and Councillors to evaluate Council performance over time. The referenced Ombudsman decision*
- *Lastly, I was not aware of any prior attempts to seek the information through Right to Information applications, so I would appreciate the internal review to take into account the points raised in this letter, and not points made in historical decisions. I wasn't aware of the report's name, nor the [sic]*

In relation to one of the main points of the Ombudsman's decision, he states "If the Report were the subject of release, this would potentially dissuade staff of Council from coming forward with complaints about management practices. This would prejudice the ability of Council to obtain similar information in the future, and so compromise the maintenance of good administrative standards at Council."

I would suggest that Council staff would not be dissuaded by making future complaints about management practices – simply because a 10 year old report was released.

Knowing that their complaints have been made publicly accessible to a very limited range of interested stakeholders would not prevent Council or other public authorities from attempting to or actually collecting such information at a future point. The Ombudsman has only indicated a potential dissuasion, but there is no guarantee of an actual dissuasion from staff coming forward in any similar process. Furthermore, an internal review might not be the most appropriate method to obtain specific information, and if there are issues, there are many avenues for employees to make complaints about management, Council culture, or fellow colleagues, depending on the nature of the complaint, and are not strictly limited to an internal review or interview process, such as:

- *Directly to the General Manager of the Council;*
- *to their work colleagues or superior;*
- *to a legal representative;*

**to Councillors of that Council, in confidence (though Councillors take a risk of breaching code of conduct to do so);*

**to their union, if they have one;*

**to the Director of Local Government;*

**Directly to the Ombudsman;*

**to the Integrity Commission;*

**to the Tasmanian Audit Office;*

**to Tasmania Police*

**to the Office of the Anti-Discrimination Commissioner*

**to their Local MP / MLC / MHR;*

**to the Minister for Local Government;*

**to the Fair Work commission; or*

**to registered news outlets*

Whilst it has been identified that some of the Waratah-Wynyard Council workforce has been employed for greater than a decade, the majority of the workforce has not. So the release of the report will only be relevant for less than 1/3rd of the workforce, who are long-term employees.

If confidentiality was such an important factor in past processes and this hasn't changed in the last decade, for new employees, there may be implemented a change in the process of obtaining information from employees during an internal review or similar process, whereby employees can be informed of their rights and the possibility that such findings or reports may be subject to Right to Information requests in the future. Indeed this should already be the process, because orders by higher authorities may actually overturn a public authority's decision to refuse information release. Employees should be informed that confidentiality is conditional, but not absolute, and that local government and consultants used are subject to higher powers.

24 On page 6 is a *Final note*, as follows:

If the information in the report is sensitive to the point of personal detriment on any current or past employees, I am content that the report be released with the names of all non-senior management employees redacted. I still request that the remainder of the report, including the names of the Mayor, Councillors, or Senior Management, if named, be unredacted. I make this concession to acknowledge the significance that Council places on the

importance of confidentiality in these processes, recognising the desire for some to protect their interests. I view Council and Local Government differently, and seek enhanced transparency and openness, as both a prevention and cure for excessive secrecy in public authorities. Government departments and public authorities are the instruments of the people, and the people should be informed about instances of poor, improving, or great performance.

Objective independent assessments are a valuable tool not just internally, but externally, for the public to evaluate if Councillors were doing their job to ensure that the organisation was functioning as expected by ratepayers and residents. Checks and balances are an important part of democracy, and the withholding of this report for a subsequent time will be detrimental for local governance and the reputation that the Waratah-Wynyard Council has developed over the past three decades.

25 Mr Hutchison continued by outlining the importance for the community of transparent and accountable government and public authorities.

26 In his external review application, Mr Hutchison raised the following:

I do not believe that the internal review adequately addressed the points raised, and when asked for evidence, I was only provided with more statements that didn't provide any historical support, and erred further through the support of the original decision. There is essentially a conflict of interest because the Council does not want the information released, and both decisions have confirmed exactly this approach to withhold the release of information that should be made publicly accessible. I argued this on a number of occasions at Council meetings, in my original application, and in my response to the original decision requesting an internal review. Despite the object of the RTI Act 2009, the Waratah-Wynyard Council does not seem to be able to understand the importance and necessity of transparency and accountability for the purposes of good governance.

The release of this information, which is essentially now historical, will ensure that Waratah-Wynyard Council is accountable for its past conduct, and more importantly, its contemporary performance as measured against improvement indicators. Without the historical report, there is no measure aside from anecdotal observation by which anyone can reasonably assess progress of the Waratah-Wynyard Council.

I have made a short reply to the decision following internal review, confirming that I still seek a response to the questions in the Letter for Internal Review - as questions in writing for their October Council Meeting Agenda. However, based on experience, there is no guarantee that these questions will be responded to substantially.

The General Manager, in his internal review decision, states that "The report does not identify anyone in particular" - so how it would breach any sense of confidentiality is beyond my comprehension. He also stated that "the report was not to include any specific incidents nor attribute any comments that might permit the identification of individuals" - again - why this report is so top secret that not only does the report not identify anyone in particular, but it was purported that the interviews were informed that they should not include specific incidents or attribute comments to permit identification. It all seems very strange to keep such a report, undisclosed, upon request.

In my request for an internal review, I was content for employee names to be redacted if it meant a compromise could be achieved in regards to accessing the report, but if what the General Manager states is true, there are no requirements to redact because no employees were identified. Only a release of the report will confirm the validity of this statement.

I am requesting the external review from your office to ensure that I have exhausted all avenues to obtain the information requested.

The information requested is a 10 year old report [the Report] ... As I do not have access to internal processes, I am unsure as to whether there were other independent reports conducted by investigators or consultants about the Waratah-Wynyard Council at that time.

So I am requesting an external review on this decision not to release the report, and other independent reports into Council management and culture at that time (during the year of 2013).

Council

- 27 Council did not provide specific submissions in response to the external review, beyond the reasoning of its decisions as follows.

Internal review decision

- 28 Relevantly extracted from the internal review decision, Mr Crawford wrote:

I acknowledge the points you have raised in your letter, including the detail provided to differentiate this application and request for internal review from previous applications. Whilst I do not necessarily concur with all of the content within your submission, the information has been considered as part of the internal review...

In this instance, I have reviewed the decision made and the submission provided. As a result, I conclude that the original decision stands, in that the information requested is exempt from disclosure under the Act.

... Participants were interviewed as part of an internal process to identify areas for improvement. To the best of my knowledge this report/overview was not externally instigated, rather it was an internal improvement tool. Information gathered was done so on the basis it would be used for internal purposes. The report does not identify anyone in particular and it appears that those that were interviewed were advised that the interviews were confidential and that the report was not to include any specific incidents nor attribute any comments that might permit the identification of individuals. Those that were interviewed were told that it was fundamental to the gathering of the information for the report that confidentiality would be maintained.

- 29 After summarising s39(1)(b) Mr Crawford continued:

The Right to Information Officer's conclusion is accurate in that "Disclosure of this information would discourage current and future staff from participating in cultural improvement activities in the future and prevents management from guaranteeing that confidentiality will be upheld. This impairs Council's ability to obtain reliable information from staff in the future". Internal surveys, cultural studies and improvement processes are important management tools. Waratah-Wynyard Council uses these processes frequently across a range of areas and will continue to do so into the future.

The Ombudsman on 1 December 2014 assessed an application for release of this information and determined the report is exempt under section 39 of the Act. The decision remains relevant for the reasons above.

Original decision

- 30 After finding that the Report was exempt under s39(1)(b), Ms Johnson went on to find that release would be *contrary to the public interest* pursuant to the public interest test (s33).
- 31 Ms Johnson found that Schedule 1 factors (m), (n), (o) and (p) were most *relevant and heavily weighing against disclosure*. She relevantly wrote:

Section 39(1)(b) & Schedule 1 (m) (n)

The information contained in the report was provided for internal confidential discussion and consultation. Supporting evidence gives advice that the information obtained by the independent consultant used in compiling the report was gained in confidence from Council staff during individual interviews. The report details the matters discussed during those interviews and the recommendations made were based upon themes identified by interviewees. Staff were assured that their contributions to this process would be in confidence.

Disclosure of this information would discourage current and future staff from participating in cultural improvement activities in the future and prevents management from guaranteeing that confidentiality will be upheld. This impairs Council's ability to obtain reliable information from staff in the future.

The report was produced to Councillors following a Notice of Motion at the November 2013 closed council meeting pursuant to section 28C (1) of the Local Government Act - Confidentiality Undertaking. The evidence indicates that confidentiality agreements were signed by Councillors providing further evidence that the information being provided and relayed was being done so in the strictest of confidence.

Schedule 1 (o) (p)

The information contained in the report is essentially an audit of the practices and processes of administrative functions of Council at the time with the aim of preparing a plan for the organisation as an improved way forward. The effectiveness of the audit and interviews was heavily reliant on staff feeling able to contribute in a confidential and open manner.

The disclosure of information obtained would undermine that entire process and hinder future contributions and results in similar processes. This is a particularly important consideration in management being able to address any workplace concerns that may arise and would have an adverse effect on the management or performance assessment by the Council and its staff.

After taking all the public interest matters into careful consideration, I have concluded that it is contrary to the public interest to disclose the information requested.

- 32 With reference to *B and Waratah-Wynyard Council*, Ms Johnson concluded:

The assessment of your application was a new fresh decision drawing similar conclusions to that issued by the Ombudsman in 2014.

Preliminary matters

External review decision 2014

- 33 It is infrequent that identical information previously subject to an external review determination will later be the subject of a further assessed disclosure application. It is even less frequent that the same information is subject to a further external review.
- 34 In this matter, however, that is obviously the case. The Report had been assessed by me, in an external review I conducted in 2014, *B and Waratah-Wynyard Council*, and was found to be wholly exempt from release under s39, having regard to the public interest test.
- 35 I confirm that it is appropriate for a public authority to have consideration of an earlier external review decision of this office. The existence of such a decision does not displace the statutory requirements for a public authority to undertake an assessment of information consistent with the Act. An earlier decision is not binding in relation to whether information might be exempt from release now, especially if circumstances have changed. This will be most relevant when significant time has passed (a number of the statutory exemptions are only applicable within 10 years of the creation of the information), an investigation concludes or other significant changes in circumstances occur.
- 36 Accordingly, the re-assessment of the information must consider the reasoning for the external review decision and the exemptions applied, the information being assessed and any contextual matters about that information relevant to the current point in time.
- 37 In relation to Mr Hutchison's application, I am satisfied that Ms Johnson and Mr Crawford had regard to the 2014 decision but did not limit their

assessment to those earlier findings and did turn their minds to assessing whether it was appropriate to release the information in 2024.

Analysis

- 38 The Report, dated 3 September 2013, is a 12 page document that was prepared for Council by a consultant, Mr Neil Johnston.
- 39 While my 2014 decision assessed the Report as exempt in full, I consider it appropriate to reconsider whether this is still the case. This is consistent with the objects of the Act and the intent for the maximum amount of official information to be made available to the community.
- 40 On reassessment, I consider that a line by line analysis of the document may not have occurred previously and I will revisit it to ensure this occurs now. As I have encouraged public authorities previously, this line by line approach is preferable to a holistic assessment of a document. Even if only small parts of a document will remain unredacted, the release of this information remains important and ensures that the maximum amount of information relevant to an application is released.

Section 39

- 41 Section 39 of the Act provides:

(1) Information is exempt information if its disclosure under this Act would divulge information communicated in confidence by or on behalf of a person or government to a public authority or Minister, and –

(a) the information would be exempt information if it were generated by a public authority or Minister; or

(b) the disclosure of the information would be reasonably likely to impair the ability of a public authority or Minister to obtain similar information in the future.

- 42 Council relies on s39(1)(b). For the Report to be prima facie exempt under this provision, I must first be satisfied that the information was communicated to Council in confidence.
- 43 The information here falls into two categories:
- a. the Report itself, and
 - b. the information in that Report which reveals information collected and collated from Council staff by Mr Johnston for the purposes of preparing the Report.
- 44 The Report is not marked as confidential, though this is not determinative. Council has indicated that Councillors who read the Report were required to give a confidentiality undertaking and set out that those participating were assured of confidentiality.

- 45 Having reviewed the supporting information provided by Council and also with due regard to the submissions made by both parties, I am satisfied, that the Report and the information collected and collated by Mr Johnston was communicated in confidence to Council.
- 46 Second, for the Report to be prima facie exempt, I must be satisfied that *disclosure of the information would be reasonably likely to impair the ability of Council to obtain similar information in the future.*
- 47 I am not satisfied that the Council would be in anyway impaired from obtaining an analogous report from a consultant undertaking similar work to Mr Johnston. This is a report about Council for Council by a paid consultant.
- 48 By contrast, in relation to those parts of the Report that reflect the views of the participants who engaged with Mr Johnston, I do foresee that it is reasonably likely that disclosure of information of the kind shared could impair Council's ability to obtain similar information in the future. I note here that, although participants may not be individually named in the Report, the information provided or position description, among other identifying features, would make it possible to identify particular individuals and their contribution to the Report.
- 49 Accordingly, I consider that the Report is not prima facie exempt under s39(1)(b) in its entirety, only those parts which reveal the information collected and collated from staff.
- 50 I do not find that the cover page, contents table, *Scope of the project, Executive Summary, Recommendations, Information Program or References* sections are prima facie exempt, as these are factual information not revealing participant contributions or conclusions reached by Mr Johnston. This information is not exempt under s39(1)(b) and should be released to Mr Hutchison.
- 51 I am satisfied that the remainder of the Report is prima facie exempt under s39(1)(b), as I agree that it is reasonably likely that Council's ability obtain to frank and honest feedback may be impaired in the future by the release of this information.

Public interest test

- 52 As I am satisfied that parts of the Report are prima facie exempt, I must have regard to the public interest test in s33 to determine whether it would be contrary to the public interest to release the information.
- 53 It is important to note that when undertaking the public interest test, the requirement for the decision maker is a balancing of relevant Schedule 1 factors that weigh for or against disclosure. The substantial passage of time is also a consideration.
- 54 It is therefore possible that a different conclusion will be reached regarding whether releasing information is contrary to the public interest

- at a different point in time or if there has been a change in circumstances.
- 55 Council itself has acknowledged this, responding to Mr Hutchison's questions regarding the report in the July 2023 Ordinary Meeting of Council by setting out that *the report is no longer relevant to the current workplace.*¹
- 56 I have had regard to Council's assessment of the Schedule 1 factors, however note that no factors favouring disclosure were considered. This is a necessary step when determining whether disclosure would be *contrary to the public interest.*
- 57 I consider that the following Schedule 1 factors are most relevant:
- (a) – the general public need for government information to be accessible.
 - (g) – whether the disclosure would enhance scrutiny of government administrative processes.
 - (m) – whether disclosure would promote or harm the interests of an individual or group of individuals.
 - (n) – whether the disclosure would prejudice the ability to obtain similar information in the future.
 - (o) whether the disclosure would prejudice the objects of, or effectiveness of a method or procedure of ... assessments or audits conducted by or for a public authority.
 - (p) whether the disclosure would have a substantial adverse effect on the management or performance assessment by a public authority of the public authority's staff.
- 58 As I discussed in my 2014 decision on this Report, this is sensitive information and there is a high likelihood of impairment of the ability to obtain similar information through its release. The value in ensuring participation in reviews of dysfunction in local government is high, though this must be balanced with transparency to ensure issues are remedied.
- 59 On balance, I am satisfied that it would be contrary to the public interest to release the aspects of the Report I found to be *prima facie* exempt. This information is exempt under s39(1)(b) and should not be released to Mr Hutchison.

Other matters

Scope

60 In Mr Hutchison's external review application he requested:

...an external review on this decision not to release the report, and other independent reports into Council management and culture at that time (during the year of 2013).

61 This expands the scope of the original assessed disclosure request to include *other independent reports*. It is not open to an applicant to seek to obtain information at the external review stage that has not been requested from the public authority in the first instance.

62 On that basis, the scope of this review is limited to the Report.

Statement of reasons

63 Mr Crawford's internal review decision, set out above, provided some background to the Report and then went on to affirm the original decision. This does not, however, fully meet the requirements of a *fresh decision* under s43(4) of the Act.

64 Section 43(5) requires that an internal review decision is given in the same manner as a decision in respect of the original application. This includes complying with the statutory requirements for reasons to be given. Under s22(2) of the Act, written notice of a decision must:

(a) state the reasons for the decision; and

...

(d) if the decision involves or relies upon consideration of the public interest in application of a provision of this Act, the public interest considerations on which that decision was based.

65 Whilst the decision specified the exemption provision that was considered, being s39(1)(b), it did not apply the public interest test under s33, nor did it make reference or apply any of the factors set out in Schedule 1.

66 I note that had that occurred, the deficit in relation to full consideration being given to the Schedule 1 factors may have been addressed.

67 An internal review decision, even if affirming the original decision, should be able to stand alone and therefore contain clear reasoning.² I encourage Council to ensure that internal review decisions meet the minimum requirements of the Act in future.

² See Q and Northern Midlands Council (27 September 2023) paragraph 29, available at www.ombudsman.tas.gov.au/right-to-information/reasons-for-decisions

Preliminary Conclusion

68 For the reasons set out above, I determine that exemptions claimed under s39(1)(b) are varied.

Conclusion

69 As the above preliminary decision was adverse to Council, it was made available to it on 14 November 2024 to seek its input prior to finalisation, in accordance with s48(1)(a) of the Act.

70 On 22 November 2024, Ms Kylie Johnson of Council advised that *Council has no submissions to make regarding the preliminary decision.*

71 Accordingly, for the reasons given above, I determine that exemptions claimed under s39(1)(b) are varied.

72 I apologise to the parties for the delay in finalising this decision.

Dated: 25 November 2024

A handwritten signature in black ink, appearing to read 'R Connock', written over a faint circular stamp or watermark.

**Richard Connock
OMBUDSMAN**

ATTACHMENT 1

Relevant Legislation

33. Public interest test

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

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

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

39. Information obtained in confidence

(1) Information is exempt information if its disclosure under this Act would divulge information communicated in confidence by or on behalf of a person or government to a public authority or Minister, and –

- (a) the information would be exempt information if it were generated by a public authority or Minister; or
- (b) the disclosure of the information would be reasonably likely to impair the ability of a public authority or Minister to obtain similar information in the future.

(2) Subsection (1) does not include information that –

- (a) was acquired by a public authority or a Minister from a business, commercial or financial undertaking; and
- (b) relates to trade secrets or other matters of a business, commercial or financial nature; and
- (c) was provided to a public authority or Minister pursuant to a requirement of any law.

Schedule 1 - Matters Relevant to Assessment of Public Interest

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

- (a) the general public need for government information to be accessible;
- (b) whether the disclosure would contribute to or hinder debate on a matter of public interest;
- (c) whether the disclosure would inform a person about the reasons for a decision;
- (d) whether the disclosure would provide the contextual information to aid in the understanding of government decisions;
- (e) whether the disclosure would inform the public about the rules and practices of government in dealing with the public;
- (f) whether the disclosure would enhance scrutiny of government decision-making processes and thereby improve accountability and participation;

- (g) whether the disclosure would enhance scrutiny of government administrative processes;
- (h) whether the disclosure would promote or hinder equity and fair treatment of persons or corporations in their dealings with government;
- (i) whether the disclosure would promote or harm public health or safety or both public health and safety;
- (j) whether the disclosure would promote or harm the administration of justice, including affording procedural fairness and the enforcement of the law;
- (k) whether the disclosure would promote or harm the economic development of the State;
- (l) whether the disclosure would promote or harm the environment and or ecology of the State;
- (m) whether the disclosure would promote or harm the interests of an individual or group of individuals;
- (n) whether the disclosure would prejudice the ability to obtain similar information in the future;
- (o) whether the disclosure would prejudice the objects of, or effectiveness of a method or procedure of, tests, examinations, assessments or audits conducted by or for a public authority;
- (p) whether the disclosure would have a substantial adverse effect on the management or performance assessment by a public authority of the public authority's staff;
- (q) whether the disclosure would have a substantial adverse effect on the industrial relations of a public authority;
- (r) whether the disclosure would be contrary to the security or good order of a prison or detention facility;
- (s) whether the disclosure would harm the business or financial interests of a public authority or any other person or organisation;
- (t) whether the applicant is resident in Australia;
- (u) whether the information is wrong or inaccurate;
- (v) whether the information is extraneous or additional information provided by an external party that was not required to be provided;
- (w) whether the information is information related to the business affairs of a person which if released would cause harm to the competitive position of that person;
- (x) whether the information is information related to the business affairs of a person which is generally available to the competitors of that person;
- (y) whether the information is information related to the business affairs of a person, other than a public authority, which if it were information of a public authority would be exempt information.

Waratah Wynyard Council

Report on the organisation's ability to resolve issues

Neil Johnston

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Advanced Diploma on Occupational Health & Safety 2012
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▪ 1. Summary Report for General Manager 2 July 2013	
▪ 2. Email to Neale Buchanan Director Operations at Workplace Standards	

Scope of the project

Waratah Wynyard Council implementing measurable action to:

- reduce time spent on personnel issues,
- resolve management communication issues,
- restore confidentiality between Council and Councillors, and
- create a strategic plan to guide the Council, Management and Staff.

Executive Summary

There is a number of long standing unresolved staffing and workplace communication issues which have escalated and continue to create a significant negative impact on the Council's ability to manage dysfunction and use appropriate communication to resolve conflict in the workplace.

This report explains the project's interview process and provides a series of recommendations for urgent consideration.

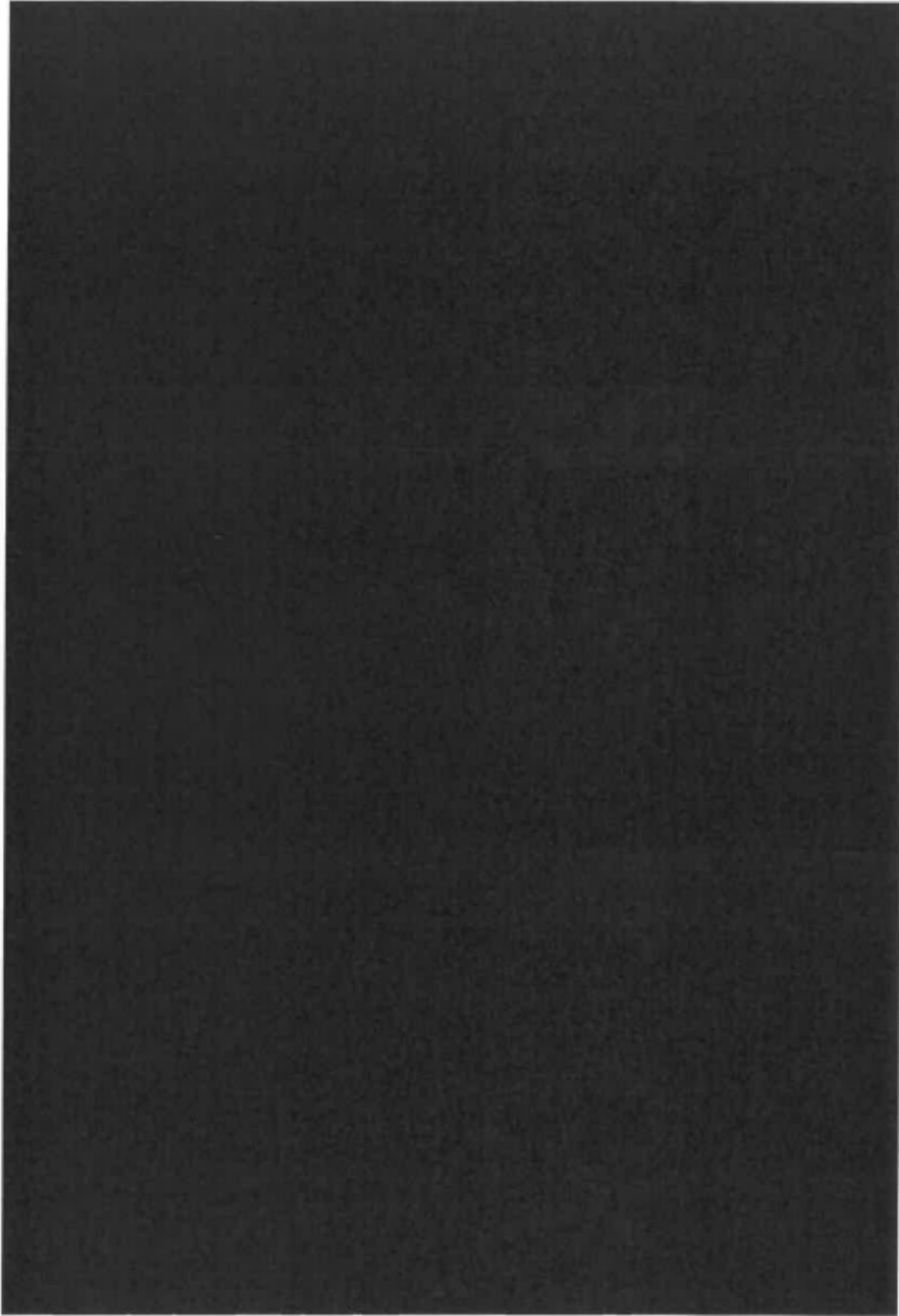
The recommendations are a summary of the consistent themes identified and discussed by interviewees during the interview process.

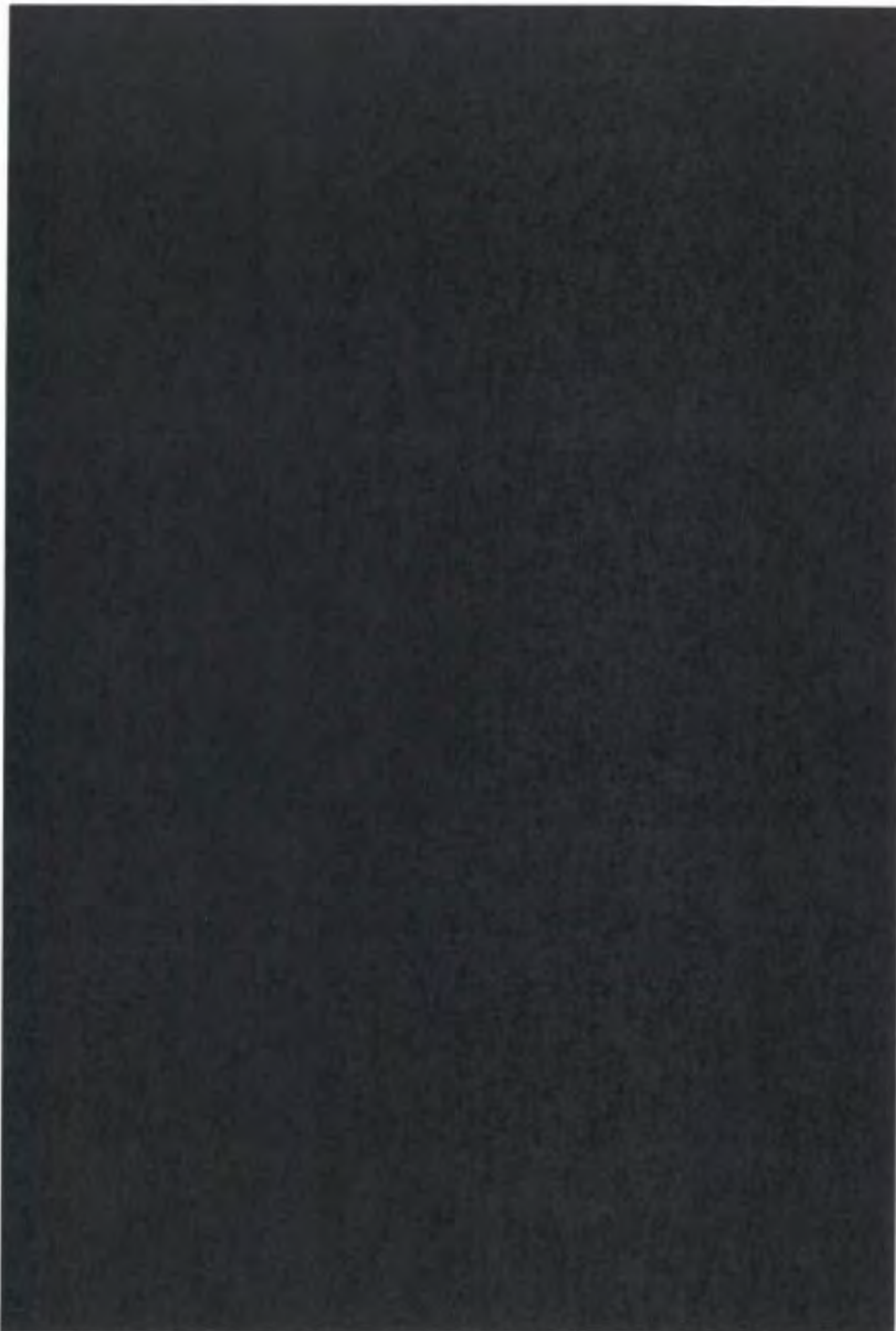
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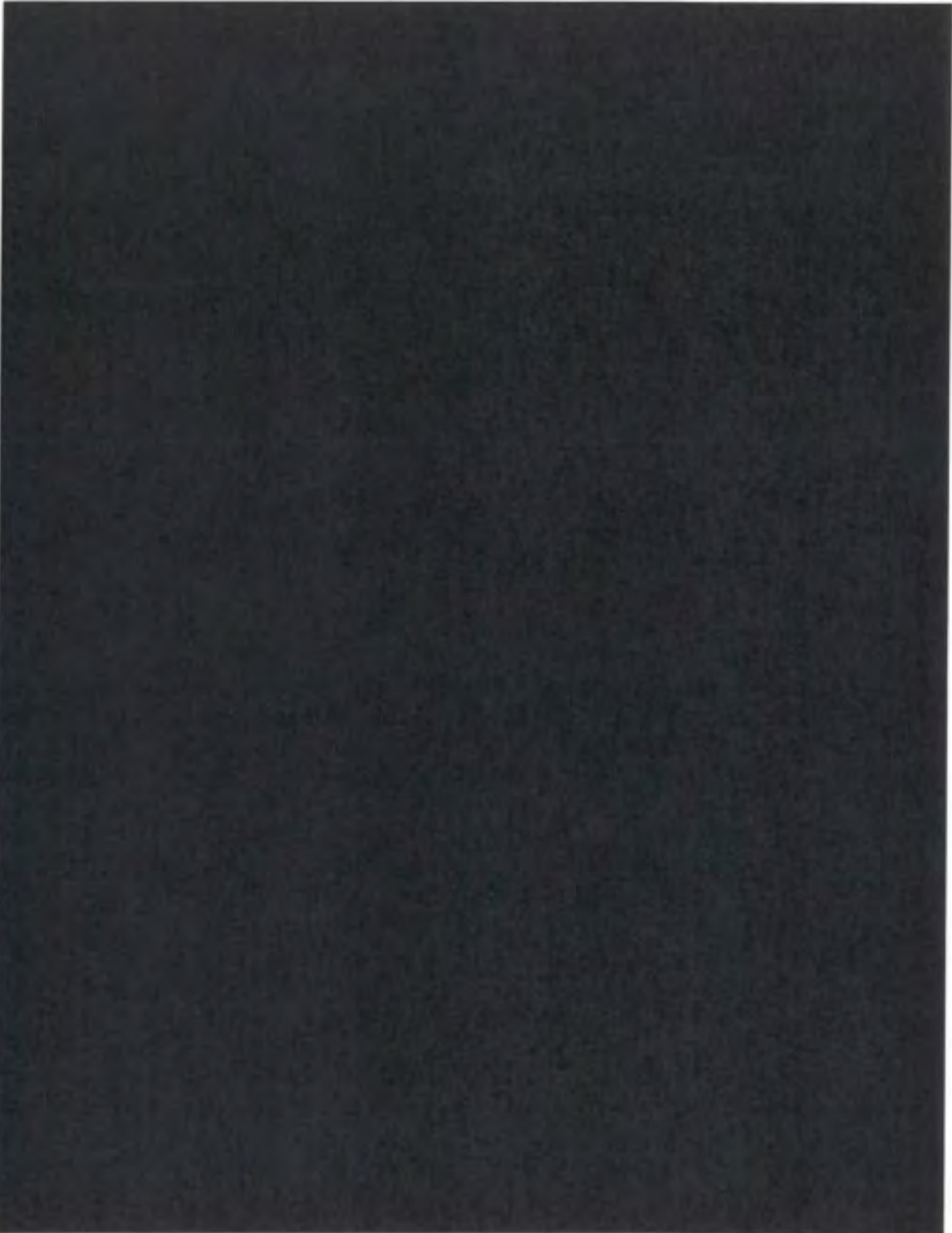
[REDACTED]













Recommendations

1. The role of General Manager should be re-established as the central and most important point of communication by Councillors and staff.

The confidentiality policy must be reviewed and signed off by all Councillors, General Manager and Senior Managers.

The General Manager must be advised of any issue which is discussed between Councillors and Senior Managers. (Council Service Request)

The practice of Councillors and any Senior Managers or staff circumventing the General Manager to discuss issues is either approved or prohibited.

2. Unclear purpose and direction – Leadership role/ responsibilities/ Conflict of interest/ Code of Conduct/ rules and processes

A strategic planning process is approved planned and sufficient resources allocated to it.

The strategic planning process includes all identified stakeholders.

All managers and supervisors are advised of the strategic plan, consulted where appropriate and advised of the standards required in their specific field.

The Confidentiality Policy is notified to all staff and Councillors and each are to sign it as an indication of their commitment to comply.

The Values statement is distributed, explained and signed off as a condition of employment.

3. Lack of cohesion between individuals and teams

The GM and the SMT meet to develop, discuss and update the strategic plan on a weekly basis for 3 months.

All strategic decisions made by managers should be referenced within the relevant section of the strategic plan or added to the strategic plan.

All decisions made by the GM and SMT are to be communicated promptly to those impacted.

4. Lack of compliance with legislation, policies and procedures

A legislative review must be undertaken by the GM and the SMT to determine levels of compliance and prepare a schedule of remedy to meet any identified gaps.

Policies and procedures are to comply with legislation and applied in the workplace.

5. Inappropriate behavioral patterns and standards

A Consultative Committee is formed with The Australian Services Union (ASU) to work through potential issues before they become legal matters.

Information about inappropriate behaviour is distributed - brief examples should be provided.

Likely action / penalties for inappropriate behaviour is indicated and covered in regular information to staff.

Inappropriate behaviour is identified and acted upon at the first opportunity, actioned or referred to the appropriate Senior Manager or to the General Manager for action. Human Resources must be consulted before any action.

The letter to staff (Attachment 2) is followed up in terms of what is changing for staff.

6. Information to Councillors

An education and information program to assist Councillors to become a High Performing Council must be provided.

Councillors are provided with information to assist them on leading, monitoring and reviewing the strategic plan.

Information Program

WHAT	WHY
Offer training on developing a strategic plan	Councillors to contribute to and measure performance on set objectives and dates
The Local Government Act	Update on how today's issues are a risk for Councillors and General Manager
Approved lines of communication <i>Address!</i>	To work to a strategic plan there must be approved formal lines of communication
Council Service Requests	To provide a solid record of what was asked and when was it addressed
Council obligations as a Planning Authority <i>-Anthony per?</i>	To be confident and protected when making decisions
Training on Conflict of Interest and Pecuniary Interests	Critically important to ensure all Councillors are compliant and protected from potential risk or error
Meetings Procedure	What is appropriate in meetings and what is not Implications under the Work Health & Safety Act 2012
New Councillors	Training on how Council operates
Council Reputation	To reduce intense operational issues and be a part of an effective and competent Council

References

The references below are listed as they contain much of the documentation needed to address the recommendations outlined in this report. The challenge is to demonstrate that these documents are valued, implemented and regularly monitored by Councillors, Management and staff.

- Waratah Wynyard Human Resources Induction Council's Core Values pg 3-8
- Human Resources Development Plan September 2011 - 3.2 Employer of Choice pg 3
- Waratah Wynyard Enterprise Agreement 2012 Consultation and Communication Section 2.1 pg 2-3
- Waratah Wynyard Human Resources Manual – Roles pg 6-7
- LGAT – Becoming a Councillor pg 19 Para 5-8
- Waratah Wynyard Councillor Code of Conduct 2.2 Reg 22A (a-g)
- Report on Resource Sharing - Myth and Fact - University Student? Undated