NOTICE OF SPECIAL MEETING

Notice is hereby given pursuant to the provisions of Section 87(5) of the Local Government Act 1999, that a Special Meeting of the Mid Murray Council Waste Management Advisory Committee will be held in the

Mannum Council Office,
49 Adelaide Road, Mannum

on

Tuesday 16 April 2019

commencing at

9.30am

John Coombe OAM
ACTING CHIEF EXECUTIVE OFFICER
15 April 2019
Waste Management Advisory Committee

AGENDA

Tuesday, 16 April 2019

Commencing 9.30 am at the Mannum Council Meeting Room, Mannum

1. Commencement........................................................................................................................................3
2. Attendance ...............................................................................................................................................3
3. Confirmation of Minutes ..........................................................................................................................3
4. Declaration of Interest .............................................................................................................................3
5. Finance.......................................................................................................................................................4
6. Reports........................................................................................................................................................4
6.1 Infrastructure and Field Services.............................................................................................................4
   6.1.1 Waste Collection Disposal Service(s) for Mid Murray Council ...........................................4
7. Correspondence ....................................................................................................................................10
8. Other Business..........................................................................................................................................10
9. Confidential Reports ..............................................................................................................................10
10. Next Meeting .........................................................................................................................................10
11. Closure..................................................................................................................................................10
Waste Management Advisory Committee

AGENDA

Tuesday, 16 April 2019

Commencing 9.30am at the Mannum Council Meeting Room, Mannum

Committee Members:  Cr Peter Raison, Cr Jeff Hall, Cr Simone Bailey, Cr Dennis McCarthy

Ex officio:  Mayor Dave Burgess

Staff  John Coombe OAM (Acting Chief Executive Officer), David Hassett (Director Infrastructure & Field Services), Neil Cook (Waste Management Coordinator), Tracey Lawes (Minute Secretary)

1. Commencement

2. Attendance

    Present:

    Apologies:  Cr Simone Bailey

    On Leave:  Neil Cook (Waste Management Coordinator)

    Staff:

3. Confirmation of Minutes

    moved that the Minutes of the Waste Management Advisory Committee Meeting held on Tuesday 26 February 2019 be taken as read and confirmed.

    Seconded

4. Declaration of Interest

    In line with Division 3, Sections 74 & 75 of the Local Government Act, 1999

    (1)  A member of a Council who has a material conflict of interest in a matter before the Council must disclose the interest to the Council and leave the meeting room.

    (2)  A member in making a disclosure must provide full and accurate details of the relevant interest.

    (3)  A disclosure made under point (1) must be recorded in the minutes of the Council (including details of the relevant interest).

    (4)  A member of Council who has an actual or perceived conflict of interest in a matter before Council must disclose the interest to the Council and deal with the interest in a transparent and accountable way.

    (5)  A disclosure made under point (4) must be recorded in the minutes of the Council, together with the manner in which the member dealt with the disclosure.
5. Finance

6. Reports

6.1 Infrastructure and Field Services

6.1.1 Waste Collection Disposal Service(s) for Mid Murray Council

<table>
<thead>
<tr>
<th>Reporting Officer:</th>
<th>David Hassett</th>
</tr>
</thead>
<tbody>
<tr>
<td>Position:</td>
<td>Director Infrastructure &amp; Field Services</td>
</tr>
</tbody>
</table>

REPORT PURPOSE

To provide a status report to the Waste Management Advisory Committee (WMAC) on the implementation of the Northern Individual Waste Bin Collection Service rollout, including the outcomes of the consultation process; and to seek direction / endorsement for full implementation by 15 April 2019, given the deputation to Council at the meeting held 9 April 2019.

DISCUSSION

This report is provided in summary as the Waste Management Advisory Committee and Council have previously received comprehensive reports regarding this matter.

Background

The objective of implementing the Individual Waste Bin Collection Service in the northern area was to complete the standardisation of Waste Management Services within Mid Murray and to remove public bin banks.

8 May 2018, Council Resolution (1839/2);

“The Waste Collection / Disposal Service/s for Mid Murray Council be amended and applied from 1 July 2018, as:

a) Township Residential - Kerbside, weekly 140litre bin putrescible waste collection and fortnightly 240litre recycling bin service* (*service charge applied).

b) Township Commercial - Kerbside, weekly 240litre bin putrescible waste collection and fortnightly 240litre recycling bin service* (*service charge applied).

c) Rural / Holiday Home residential property – Individual Waste Bin Collection Service: weekly 240litre putrescible waste collection service (defined transit route) –
   (i) EXCEPTION: Those properties defined (refer attached map(s) [Appendix A] - Bin bank, weekly putrescible waste service; with bin banks to be located within the defined boundary in attached maps(s) [Appendix A].
   (ii) EXCEPTION: Where the above services are unavailable and for properties located >5km from the defined transit route Transfer Station Token Cards apply.

d) Removal of all associated rural bin banks within the reinstallation of localised bin banks (as defined in attached map(s) [Appendix A],

e) Issue transfer station token cards for the 2018/19 financial year which will cease from 1 July 2019.

In consultation with affected property owners.”

** Copy of Appendix A available on request
12 March 2019, Council Resolution 20731/4:

(1) The Waste Collection Disposal Service(s) for Mid Murray Council report be received

(2) Notification be provided to all relevant property owners and association the following works will be scheduled to ensure full implementation of Council’s (May 2018) resolution regarding The Waste Collection / Disposal Service/s for Mid Murray Council is complete by 15 April 2019:
   a) Remaining bin banks on public (Council) land and road reserves will be removed and the sites remediated.
   b) Remaining eligible residential properties will receive a 240litre mobile garbage bin and be included in the weekly putrescible waste collection service (on the prescribed routes) as per Council’s Waste Management Contract.
   c) All signage relating to bin bank facilities will be removed.

(3) A Waste Management Service Fact Sheet based on the services provided be sent to all property owners within the Holiday Home / Shack areas

(4) An assessment of property rating be undertaken for the commercial activities of renting / leasing of Holiday Homes to identify avenues of a separate rate model in accordance with the Local Government Act and a further report be provided to Council.
Serviced Properties

<table>
<thead>
<tr>
<th>Service</th>
<th>~ No. of Properties Complete</th>
<th>Implementation Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual Waste Bin Collection Service – Rural (South)</td>
<td>2,000</td>
<td>Complete</td>
</tr>
<tr>
<td>Individual Waste Bin Collection Service – Rural (North)</td>
<td>2,200</td>
<td>WIP (inc. Holiday Home Areas)</td>
</tr>
<tr>
<td>Townships – 140litre Household Waste Bin</td>
<td>2,200</td>
<td>Plus 240 ltr Recycling Bin</td>
</tr>
<tr>
<td>Total Properties</td>
<td>6,400</td>
<td>~approx.</td>
</tr>
</tbody>
</table>

The outcomes of the consultation process were considered by the Waste Management Advisory Committee prior to providing a recommendation to Council.

Council subsequently resolved to amend and apply Waste Management Services for Mid Murray Council to exclude a number of properties within defined Holiday Home areas for Individual Waste Bin Collection, and provide an appropriate bin bank facility within the defined boundary of the Holiday Home area (residential group). (Detailed maps previously provided to both Council and the Associations as part of the May 2018 resolution).

Status of the Exclusion Zones as at 15 April 2019:

<table>
<thead>
<tr>
<th>Location</th>
<th>~ No. of Properties Complete</th>
<th>Service</th>
<th>Implementation Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>BEAUMONTS / NORTH WEST BEND</td>
<td>36</td>
<td>Individual Waste Bin Collection Service</td>
<td>Roll out COMPLETE Bin Bank Removed (Morgan Ferry)</td>
</tr>
<tr>
<td>BIG BEND</td>
<td>26</td>
<td>Individual Waste Bin Collection Service</td>
<td>Roll out COMPLETE Bin Bank Removed</td>
</tr>
<tr>
<td>BLANCHETOWN</td>
<td>154</td>
<td>Individual Waste Bin Collection Service</td>
<td>Roll out COMPLETE Bin Bank Removed</td>
</tr>
<tr>
<td>BRENTFORD</td>
<td>116</td>
<td>TBC</td>
<td>Currently Public Bin Bank</td>
</tr>
<tr>
<td>COSEY CORNER</td>
<td>5</td>
<td>Individual Waste Bin Collection Service</td>
<td>Roll out COMPLETE Bin Bank Removed</td>
</tr>
<tr>
<td>IDYLL ACRES</td>
<td>58</td>
<td>Private Bin Bank</td>
<td>Compliant - Council Resolution</td>
</tr>
<tr>
<td>LANGS LANDING</td>
<td>36</td>
<td>Private Bin Bank</td>
<td>Compliant - Council Resolution</td>
</tr>
<tr>
<td>MARKS LANDING</td>
<td>112</td>
<td>Individual Waste Bin Collection Service</td>
<td>Roll out COMPLETE Bin Bank Removed</td>
</tr>
<tr>
<td>MCBEANS POUND</td>
<td>29</td>
<td>Public Bin Bank</td>
<td>IWBC not viable due to location / access. Monitoring will continue.</td>
</tr>
<tr>
<td>PELICAN POINT</td>
<td>70</td>
<td>TBC</td>
<td>Currently Public Bin Bank</td>
</tr>
<tr>
<td>PINE VILLAGE</td>
<td>25</td>
<td>Public Bin Bank</td>
<td>IWBC not viable due to location / access. Monitoring will continue.</td>
</tr>
<tr>
<td>SCOTTS CREEK</td>
<td>101</td>
<td>TBC</td>
<td>Currently Public Bin Bank</td>
</tr>
<tr>
<td>SOUTH PUNYELROO</td>
<td>102</td>
<td>Private Bin Bank</td>
<td>Compliant - Council Resolution</td>
</tr>
<tr>
<td>WOMBATREST</td>
<td>10</td>
<td>Private Bin Bank</td>
<td>Compliant - Council Resolution</td>
</tr>
<tr>
<td></td>
<td>660</td>
<td>287</td>
<td></td>
</tr>
</tbody>
</table>

SUMMARY: 6,400 / 287 (4.5%)

This summary highlights that of the 6,400 properties serviced, service provision to 287 properties remains unresolved to complete the implementation (deputation representation to Council, April 2019).
Current status

- Waste services provided by Council are classified due to property locality, access and truck service route. Services are described as:
  - **Townships**: Kerbside, weekly 140 litre bin putrescible waste collection service (red lid) & fortnightly 240 litre recycling* bin service (*service charge applies).
  - **Rural Areas**: Weekly individual 240 litre putrescible waste bin collection service (red lid).

  Bin banks are located within (some) privately owned holiday home / shack areas for their exclusive use and are not available to the public.

  **Note**: Where the above services are unavailable, Transfer Station Token Cards apply (which entitles the holder to dispose of the equivalent to 2 x 140 litre wheelie bins of household waste per week, free of charge at any of Council’s Transfer Stations during normal operating hours).

- The removal of public bin banks is progressing:
  - **Removed**: Morgan Ferry, Big Bend, Blanchetown and Marks Landing
  - **Bins remain**: Brenda Park and Pelican Point (frames removed)
  - **Complete Bin Bank remains**: Scotts Creek (facility is located on property owned by a third party; accessed by a free and unrestricted ‘right of way’ across private land).

- Representatives of 3 Associations attended a deputation to Council (9 April 2019):
  - Mr Shaun Irvine – Pelican Point Shack Association
  - Mr Adam Madrussani – Brenda Park Leaseholders Association Inc.
  - Mr Jim Johnstone – Scotts Creek Shack Association

  - Refusal of Individual Waste Bin Collection Service
  - Refusal of Bin Bank Facility located within the boundary of Association / Private land.

- A summary of commentary from deputation including, but not limited to:
  - Stated no consultation had been undertaken between Council and the Associations
  - Stated bin banks to remain located “as is”.
  - Stated bin banks are receiving refuse external to that of Associations.
  - Claimed there are not enough bins at bin banks as a reason for the external dumping
  - Claimed individual bins (if implemented) would remain empty at the kerbside and continue to be ‘picked up’ by the contractor.
  - Stated the individual service provided 30 years ago, did not work and it was Council’s decision to implement bin banks at the time.
  - Claimed there would be additional road maintenance issues as associations own internal road network if trucks were to traverse roads on a regular basis.
  - Stated an increase of WHS / liability and questioned if that would become a responsibility of the Associations.
  - Requested the implementation of the Individual Waste Bin Collection Service be deferred until further consultation could be undertaken.
  - Requested information relating to the cost to Council of undertaking collection of illegal dumping / dumped refuse outside of bins at bin bank facilities.
  - Stated that legal advice will be sought by Associations.
Council received correspondence dated 10 April 2019 re: Legal Proceedings – invalid decision – Waste Collection Disposal Service(s) from Botten Levinson Lawyers acting for Brenda Park Leaseholders Incorporated, Scotts Creek Incorporated and Pelican Point Incorporated (the Associations) notifying:

“that if the Council proceeds further with the implementation of the so-called ‘Individual Waste Bin Collection Service (IWBCS)’ and the removal of the relevant bin banks as they related to the Associations’ land, our clients intend to institute legal proceedings seeking to:

i. invalidate the processes and related decision made on 12 March 2019 by the Council about the IWBCS; and

ii. Injunct the Council from proceeding with the implementation of the IWBCS and removal of the relevant bin banks.”
(also reserving the right to make any complaint to the Ombudsman)

Council has notified Solo Resource Recovery (the Contractor) and instructed them to defer the delivery of individual bins and removal of associated bin banks until further notice for Brenda Park, Pelican Point & Scotts Creek.

The Associations have been advised and requested to pass on the information to their members and residents of these areas.

Council has responded to correspondence (tabled 26 February 2019) received from the Contractor relating to the removal of rubbish dumped directly at bin bank locations (outside of the bins) seeking their assistance in reporting instances where bin banks are unable to be serviced in accordance with the Waste Management Contract to enable Council to deploy operations staff to attend and remediate same.

Council will continue to monitor and provide detailed reports to the Committee as required.

The March 2019 resolution instructed that all property owners be advised in writing that a schedule of works would be completed to ensure full implementation of Council’s (May 2018) resolution regarding The Waste Collection / Disposal Service/s for Mid Murray Council is complete by 15 April 2019. In response, Council have received correspondence from residents raising their concerns regarding individual bins. No comments have been received regarding the implementation of a private bin bank for exclusive use of the residential group.

Summary of the Decision Timeline:

1. Council has entered into contractual arrangement with Solo (Waste Collection Contractor) which commenced on 1 July 2018 as part of the Barossa Regional Procurement Group Tender (4 Councils, each with their own contractual matters being addressed)
2. At the Council Meeting held 13 February 2018 (Minute 1817/1) Council resolved to implement the Northern Areas Individual Waste Bin Collection Service
3. At the Council Meeting held 8 May 2018 (Minute 1839/1) Council resolved to define The Waste Collection / Disposal Service/s for Mid Murray Council as per the motion on page 4 above to be amended and applied from 1 July 2018
4. At the Waste Management Advisory Committee Meeting held 24 May 2018, information relating to Barossa Regional Procurement Group – Waste Services Tender was removed from the Confidential Minutes
5. At the Council Meeting held 12 March 2019 (Minute 20731/4) as per the motion of page 5 above resolved to complete the implementation of Minute 1839/1. It is important to note the March 2019 resolution set the schedule of works and timeframe to complete the May 2018 resolution. No new decision or resolution was made.

The decision and parameters of Council’s Waste Collection / Disposal Services was resolved in May 2018.

All work since that time and subsequent reports to both the Committee and Council has related to the operational implementation of Council’s decision.
**Moving Forward:**

95% of residential properties receive an appropriate service within the parameters of Council’s Waste Collection / Disposal Service Standards. 247 properties represented by the deputation require an outcome to the provision of a Waste Management Service.

The Committee may consider a recommendation to Council based on the following:

**OPTION 1: Bin Banks to remain on public land “As Is”**

*(Non Compliant - Council Resolution of May 2018)*

**Comment:** As per the report tabled at the Council meeting held 12 March 2019; despite strategies to cater for the dumping of excess and non compliant waste, public bin banks continue to be subjected to a significant amount of illegal dumping and abuse.

Resource requirements to manage any excess and non compliant waste at public bin banks are the responsibility of Council staff; and are unable to be provided by the contractor as it breaches the Waste Management Contract.

The deployment of Council staff to manage this issue incurs significant cost, lost productivity and increased risk.

**OPTION 2: Negotiate Bin Bank location within the defined boundary of the Holiday Home / Shack Area (private)**

*(Compliant - Council Resolution of May 2018)*

**Comment:** This option has been implemented in other Holiday Home / Shack areas (refer table page 6.)

By definition, Bin bank facilities located within privately owned holiday home / shack areas are for their exclusive use and are not available to the public. Therefore they may also be upgraded (at Association cost) to provide a fit for purpose waste management solution for residents of the group - as stated at deputation (cameras, fencing, keyed security etc.)

The deputation (‘The Associations’ x 3) raised concerns in relation to ‘liability’ with having a facility located within private property which will require further investigation and definition of roles and responsibilities of both Council and the Association should this option be recommended.

The Associations may elect to continue with legal injunction and / or continue to pursue restricting access to Council’s Waste Management Contractor.

The Associations will continue (as stated) to allow other Council services i.e. CWMS and road maintenance as per Council Policy.

**OPTION 3: Implement the Individual Waste Bin Collection Service**

*(Compliant - Council Resolution of May 2018)*

**Comment:** ‘The Associations’ x 3 have indicated they intend to continue with legal injunction.

**OPTION 4: Implement Transfer Station Token Card**

*(Compliant - Council Resolution of May 2018)*

**Comment:** If the matter is unable to be resolved, Council’s service standard for Waste Collection / Disposal Services provides a base service of a Transfer Station Token Card which would apply (Properties not serviced by an Individual Waste Bin Collection Service or appropriate bin bank facility)
ATTACHMENTS

6.1.1(A) Copy of correspondence received from ‘the Mid Murray Shack owner’s consortium’ comprising of Pelican Point, Scott’s Creek and Brenda Park dated 1 April 2019

6.1.1(B) Copy of Correspondence received from Botten Levinson Lawyers dated 11 April 2019.

6.1.1(C) Acknowledgement / Response to Botten Levinson Lawyers from Acting CEO dated 11 April 2019

6.1.1(D) Copy of email to Solo Resource Recovery regarding reporting of dumped and non compliant waste at public bin banks (and report form) dated 12 April 2019 and response dated 12 April 2019

6.1.1(E) Copy of Council’s Media Release ‘New Household and Shack Domestic Waste Collection for Northern Residents’

6.1.1(F) Copy of Council’s Waste Management Service Information Sheet

RECOMMENDATION

Moved Cr              Seconded Cr
That it be recommended to Council that

(1) The Waste Collection Disposal Service(s) for Mid Murray Council report be received
(2) The Representatives (as listed) of the three (3) Associations be invited to attend a meeting of the Committee to seek appropriate Waste Management Services for Brenda Park, Pelican Point and Scott’s Creek residential properties
   - Mr Shaun Irvine – Pelican Point Shack Association
   - Mr Adam Madrussani - Brenda Park Leaseholders Association Inc.
   - Mr Jim Johnstone – Scott’s Creek Shack Association

7. Correspondence

8. Other Business

9. Confidential Reports

10. Next Meeting
    The next ordinary meeting of the Waste Management Advisory Committee will be held on Tuesday 7 May 2019

11. Closure
Monday, 1 April 2019

Mid Murray Council
PO Box 28
MANNUM SA 5238

Attention Mr Neil Cook

Cr Peter Raison, Cr Jeff Hall, Cr Dennis McCarthy, Cr Simone Bailey, Cr Kevin Myers, Cr John Forrester, Cr Steven Hennessy, Cr Steve Wilkinson, Cr Peter Smith.

Dear Neil and Honourable Councillors,

The Mid Murray Shack owner’s consortium comprising of Pelican Point, Scott’s Creek, and Brenda Park acknowledges receipt of the recent correspondence in relation to the removal of the current and incumbent bin banks and the proposed introduction of individual kerbside waste collection by Solo waste on Shack owner’s private property.

Firstly we must say that we were not only disappointed with councils handling and lack of continued communication and consultation with this matter, given that it has such importance to shack owners and is viewed as one of the few benefits provided by council to rate paying shack owners. We are also angry with the matter of fact way in which a decision made by a hand full of councillors is going completely against 572 constituents of the Mid Murray Council.

Please be advised that effective immediately the above associations **DO NOT** give permission or authority for Solo waste to enter the private property of the aforementioned associations. Any attempt to do so will be viewed as criminal trespass and will be reported to the appropriate authorities.

Furthermore if council insists on providing the aforementioned associations with a kerbside collection the council can place the respective number of 240 litre bins at the nearest and safest proximity adjacent to the freehold private property of each association on council kerbside for delivery and collection.

The Mid Murray Shack owner’s consortium has been and always will be open to communication with council and councillors.

We recommend that we are invited to attend the next council meeting to address any questions councillors may have in relation to this matter **IF** the wishes of the 286 ratepayers are not heard and council continues to push something upon its constituents that is **NOT WANTED**.

The Mid Murray Shack Owners is also currently seeking legal counsel and advice on the above matter should this not be resolved in an amicable manner.

Yours sincerely

Shaun Irvine
Pelican Point
shaun_irvine@abey.com.au

Jim Johnstone
Scotts Creek
jim@floorsdirect.net.au

Adam Madrussani
Brenda Park
amadrussani@ahrens.com.au
10 April 2019

Mr John Coombe
Acting Chief Executive Officer
Mid Murray Council
49 Adelaide Road
MANNUM SA 5238

By email: postbox@mid-murray.sa.gov.au

Dear Mr Coombe

Legal proceedings - invalid decision - Waste Collection Disposal Service(s)

This firm acts for Brenda Park Leaseholders Incorporated, Scott's Creek Incorporated, and Pelican Point Association Incorporated (the Associations) within the area of the Mid Murray Council.

We write to notify you that if the Council proceeds further with the implementation of the so-called "Individual Waste Bin Collection Service" (IWBCS) and the removal of the relevant bin banks as they relate to the Associations’ land, our clients intend to institute legal proceedings seeking to:

i. invalidate the processes and related decision made on 12 March 2019 by the Council about the IWBCS; and

ii. injunct the Council from proceeding with the implementation of the IWBCS and removal of the relevant bin banks.

Further, our clients reserve their position in relation to the administrative actions of the Council to date in making its decision in relation to the IWBCS on 12 March 2019 including their right to make any complaint to the Ombudsman under the Ombudsman Act 1972 such as to cause the investigation of the Council's conduct, and the conduct of Council staff in making that decision.

The Associations

Our clients comprise a significant number of properties within the Council area whom make up a large proportion of the Mid Murray Council Community.
Brenda Park comprises some 116 properties, Scotts Creek comprises some 101 properties while Pelican Point Comprises some 70 properties. Our clients are opposed to the implementation of the IWBCS as it relates to their land.

The background to the Council's decisions

The background and reasons for our clients' actions are as follows:

1. Our clients' have a direct and legitimate interest in certain decisions made by the Council relating to the implementation of the IWBCS. Our clients own a significant amount of land, portions of which are leased to lessee's (i.e., members of the Associations) who will be directly affected if the implementation of the IWBCS.

2. Commencing in February 2018 the Council invited public submissions about a so-called IWBCS.

3. Our clients lodged public submissions in relation to the so-called IWBCS and respectively highlighted a number of concerns in relation to the implementation of the IWBCS with respect to their properties.

4. Of particular concern to our clients was (and remains) the fact that the Associations are wholly situated on privately owned land, the access roads to which are owned and maintained by the Associations respectively which excessive heavy vehicle traffic would cause to substantially degrade.

5. The Associations were, and remain opposed to the implementation of the so-called IWBCS in relation to their respective properties.

6. On 23 March 2018, the Council conducted a public meeting with representatives of Holiday Home Owners Associations in relation to the IWBCS. Our clients' representatives attended that meeting in Blanchetown and actively opposed the implementation of the IWBCS to their land.

7. In May 2018, following the completion of public consultation, the Council resolved, in relation to Rural/Holiday Home residential property - Individual Waste Bin Collection Service:

   weekly 240 litre putrescible waste collection service (defined transit route)-

   i. EXCEPTION: Those properties defined (refer attached map(s) [Appendix A] - Bind bank, weekly putrescible waste service with bin banks to be located within the defined boundary.

The Associations fall within this exceptions and thus their bin banks were maintained. It ought to be noted that this resolution is not publically available via the Council's website. Copies of the relevant decision by the Council could not be found.
8. Following the above resolution, throughout September-October 2018, the Council worked with our clients to determine appropriate locations for bin banks on the respective properties.

9. Following the above events, no further correspondence, discussions nor consultation has occurred between our clients and the Council in relation to the NIWBCS.

10. That is, until our clients received notification of the decision of the Council made on 12 March 2019. That decision being to:

(1) The Waste Collection Disposal Service(s) for Mid Murray Council report be received;

(2) Notification be provided to all relevant property owners and association following works will be scheduled to ensure full implementation of Council's (May 2018) resolution regarding The Waste Collection/Disposal Service/s for Mid Murray Council is complete by 15 April 2019:
   a) Remaining bin banks on public (Council) land and road reserves will be removed;
   b) Remaining eligible residential properties will received a 240litre mobile garbage bin and be included in the weekly putrescible waste collection service (on the prescribed routes) as per Council's Waste Management Contract.
   c) All signage relating to bin bank facilities will be removed.

(3) A Waste Management Service Fact Sheet based on the service provided be sent to all property owners within the Holiday Home/Shack areas;¹

(the March 2019 decision).

11. Our clients will contend that the Council's March 2019 decision was ultra vires and invalid at least on the basis that the Council in making the decision:

11.1 failed to take into account relevant considerations in making the decision, including at least:

   11.1.1 access and property interest considerations, including, but not limited to the unacceptable detrimental impacts of the IWBCS on the private roadways maintained by our client, which would be required to be used by Council's waste contractor.

11.2 took into account irrelevant considerations in making the decisions, including at least:

   11.2.1 considerations of illegal dumping by unknown parties, which Council has other enforcement powers and obligations to deal with.

¹ Resolution 20731/3 - Mid Murray Council Ordinary Council Meeting 12 March 2019 - Minutes.
11.3 was impermissibly affected by actual\textsuperscript{2} or reasonable apprehension of bias\textsuperscript{3} in the sense that a reasonable bystander might apprehend that the Council members who voted in favour of the resolution might not have approached the matter with a mind open to persuasion on the matter;

11.4 The Council failed to consult and in particular consider the matter in accordance with its own consultation policy;\textsuperscript{4} and

11.5 In any event, the discretionary decision was legally unreasonable in the sense described by the High Court in \textit{Li v MIC} 2013 HCA 18 by reason of the failure to exercise the discretion having regard to giving any due weight to all relevant considerations, and in the alternative the lack of evident justification for the decision.

\textbf{Notice of proposed action}

In the circumstances and in the interests of avoiding the cost and inconvenience of litigation our client proposes the following to avert the need for the above-mentioned courses of action our client proposes the following:

1. The Council agrees not to implement the resolution made on 12 March 2019;

2. The Council agrees to revoke the resolution made on 12 March 2019; and

3. The Council enters into consultation with the Associations in accordance with the Council’s Consultation Policy with the hope of meeting a mutually acceptable resolution with respect to the IWCBS.

If the Council is unable to agree to the above terms, our clients put the Council on notice that they intend to institute proceedings for judicial review and declaratory relief in the Supreme Court of South Australia, seeking appropriate orders, including to quash the March 2019 decision at least on and including the basis set out above.

Our clients will seek their costs of the proceedings foreshadowed above in the event that those proceedings are successful.

Any further actions taken by the Council in pursuance of the March 2019 decision will be entirely at the Council’s risk.

Further, our clients confirm they are considering their position in relation to a complaint to the Ombudsman in relation to the actions of the Council in the lead up to, and in making the 12 March 2019 decision.

\textsuperscript{2} See \textit{Minister for Immigration and Multicultural Affairs v Jia Legeng} (2001) 205 CLR 507.

\textsuperscript{3} See \textit{Ebner v Official Trustee in Bankruptcy} (2000) 205 CLR 337, 358.

\textsuperscript{4} Policy Number - POL-PCONSV4.
This is an open letter and our clients may rely upon it in the foreshadowed proceedings, including as to the question of costs.

Yours faithfully

James Jordan
BOTTEN LEVINSON
Mob: 0424 784 464
Email: jrj@bllawyers.com.au
Cc: ceo@mid-murray.sa.gov.au
11 April 2019

James Jordan
Botten Levinson Lawyers
GPO Box 1042
Adelaide SA 5001
Email: inj@bllawyers.com.au

Dear James

Re: Legal Proceedings – Invalid decision – Waste Collection Disposal Service(s)

Receipt is acknowledged of your letter dated 10 April 2019 and I advise that the current waste collection arrangements will remain in place at present. Council is committed to finding a resolution to this matter and the Waste Management Advisory Committee will be holding a meeting next week, with a view to arranging a meeting with Representatives from the Brenda Park Leaseholders Incorporated, Scott’s Creek Incorporated and Pelican Point Association Incorporated to seek a resolution to this matter.

Yours faithfully

John Coombe OAM
ACTING CHIEF EXECUTIVE OFFICER
Adrian,

In response to your letter dated 11 February 2019, Council understands that Solo are unable to continue to remove rubbish dumped directly at bin bank locations (outside of the bins) as this service is over and above the contract.

As you are aware, a number of bin bank facilities will remain in operation within the Mid Murray Council District until further notice. These are located at Brenda Park, Pelican Point, Scotts Creek, Pine Village McBeans Pound, Wombats Rest, Idyll Acres, Langs Landing and South Punyelroo.

If your drivers encounter a situation where the bin bank facility is unable to be serviced in accordance with the Waste Management Contract (emptied) and/or there is rubbish dumped in the vicinity of the bin bank we are seeking your assistance to let us know. If you are able to report those instances (location, date, time and photograph) to enable Council to deploy operational staff to attend and remediate same it would be greatly appreciated. (A simple report form is attached for your use if it assists with this process). Please send information to postbox@mid-murray.sa.gov.au marked to the attention of Peter McIntyre and myself.

Note: Council has scheduled regular attendance at these sites as part of routine operations to ensure the areas remain clear of dumped rubbish where possible.

Please direct any questions to David Hassett (cc to me) in the first instance.

Thank You and Kind Regards

Tracey
(on behalf Director Infrastructure & Field Services)
Unable to Service Bin Bank Facility Report Form

EFFECTIVE 12 April 2019 until further notice

<table>
<thead>
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<th>LOCATION</th>
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<tr>
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<tr>
<td>Pelican Point</td>
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</tr>
<tr>
<td>Scotts Creek</td>
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<td>Pine Village</td>
<td>Public</td>
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<tr>
<td>McBeans Pound</td>
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<tr>
<td>Wombats Rest</td>
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</tr>
<tr>
<td>Idyll Acres</td>
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<tr>
<td>Langs Landing</td>
<td>Private</td>
</tr>
<tr>
<td>South Punyelroo</td>
<td>Private</td>
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**PHOTOGRAPH**

**Comments**

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**FOR OFFICE USE ONLY – MMC OPERATIONS**

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<tbody>
<tr>
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**Volume of Waste:**

<p>| | | |</p>
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<thead>
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</table>

**Costing**

<table>
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<tr>
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<tr>
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<td></td>
<td></td>
</tr>
<tr>
<td>Plant Used</td>
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<td>$</td>
</tr>
</tbody>
</table>

**TOTAL ESTIMATED COST:**

<p>| | | |</p>
<table>
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<tr>
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</thead>
</table>
Hi Tracey

Thanks for your email and I will advise Councils instructions to our staff.

I will monitor the situation for some time and if we have any further concerns, I shall raise them with you.

I trust this meets with Councils expectations and as always, I am available to discuss as required.

Regards

Adrian

From: Tracey Lawes [mailto:tlawes@mid-murray.sa.gov.au]
Sent: Friday, 12 April 2019 4:22 PM
To: Adrian Rose
Cc: David Hassett; Russell Pilbeam; Neil Cook; Peter McIntyre; Marc Hoffman; John Coombe; Rosalie Sloper
Subject: Bin Bank Facilities - Required Reporting - Dumped & Non Compliant Waste
Importance: High

Adrian,

In response to your letter dated 11 February 2019, Council understands that Solo are unable to continue to remove rubbish dumped directly at bin bank locations (outside of the bins) as this service is over and above the contract.

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Thank You and Kind Regards

Tracey
(on behalf Director Infrastructure & Field Services)

Tracey Lawes
Executive Assistant Infrastructure & Field Services
Mid Murray Council | PO Box 28, Mannum SA 5238
T: 08 8569 0100 | F: 08 8569 1931
Email: tlawes@mid-murray.sa.gov.au
Website: www.mid-murray.sa.gov.au

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NEW WASTE COLLECTION SERVICE FOR SHACK AREAS

Improved household waste collection services will be rolled out across popular holiday spots in the upper Mid Murray Council next month, an extension of the existing rural individual waste bin collection service.

After extensive consultation and monitoring, these changes to the general household waste collection service will be fully implemented in the Council’s northern area on 15 April 2019 - ahead of the busy Easter, Anzac Day and school holiday period.

Council introduced a trial of rural individual waste bin collection in the Council’s southern area in 2016. Following the success of this trial, the service became permanent in Oct 2017. The same service was then successfully introduced for rural residential properties in the Council’s north in May 2018.

Mid Murray Council Director of Infrastructure and Field Services David Hassett said what this means for most residents now is that eligible shack properties and holiday homes will receive a 240 litre mobile garbage bin and weekly household waste collection.

Mr Hassett reiterated that Council has however, recognised the differing needs of shack owners and holiday home communities in the Council’s north, and as such has provided an alternative way for some to better manage household waste.

“At the request of respective shack associations, a number of holiday home areas were initially excluded from the individual waste bin collection service. Some have resolved to be serviced by bin banks located on private land which are controlled by their association. In these situations, the bin bank system is working well,” Mr Hassett says.

“After extensive investigation by both the Council and our waste collection contractor, it’s clear that bin banks on public land are not working.

“Up until now, public bin banks have been targeted for illegal dumping and dramatic overuse during the warmer peak periods in the popular riverside communities, and this new system will vastly improve that.

“The overuse and illegal dumping we’ve experienced has resulted in significant costs to Council and the community in terms of clean up, plus it creates significant environmental and public health risks.”

The remaining holiday home areas who have been reliant on the public bin bank system will see an individual waste bin collection service implemented and all bin banks will be removed from public land and council road reserves, remediating the sites and removing signage.

“These changes will better manage household waste during peak times to deliver a more efficient service for both residents and holidaymakers, while also protecting the amenity of the holiday home and shack areas – and importantly, protecting our Murray River environment,” Mr Hassett says.

“During the recent school holidays, Council even completely waived fees for general (household) waste disposal at our 10 transfer stations, plus scheduled extra collections for holiday home areas and bin banks. However, the dumping of extensive residential waste and bin bank misuse was still evident,” Mr Hassett says.
“Both the Council’s waste contractor and Council staff were called in on several occasions to remove the extra rubbish, along with illegally-dumped hard waste,” Mr Hassett says.

Property owners in the holiday home and shack areas will receive further information in coming weeks. In the meantime, anyone wishing to know more can contact Council’s Waste Management Coordinator on (08) 8564 6020.

– ENDS –

MEDIA CONTACT:
Mid Murray Council Infrastructure and Field Services Director David Hassett
P: (08) 8569 0100 | E: postbox@mid-murray.sa.gov.au
Waste Collection / Disposal Services
SERVICE STANDARD INFORMATION

1 Transfer Station Token Card
Eligibility & Entitlement
- Residential properties not serviced by an Individual Waste Bin Collection service or Bin Bank facility.
- Entitles the holder to dispose of the equivalent to 2 x 140 litre wheelie bins of household waste per week, free of charge. Cards are issued and expire each financial year.

Note: Property owners must pass the token card onto the resident / tenant for rental properties.

Conditions of Use
1. Must be presented at each visit to the transfer station.
2. Only for the disposal of **household putrescible waste** – no hard / green or construction and demolition waste materials.
   All loads and fees are assessed at the discretion of the Transfer Station Operator.

2 Bin Bank
Eligibility & Entitlement
- Bin Bank facilities are located specifically and for the exclusive use of residential properties within defined zones (as per Council resolution May 2018) not serviced by an Individual Waste Bin Collection service.

Conditions of Use
1. Only for the disposal of **household putrescible waste** - no hard / green or construction and demolition waste materials.
2. Waste must be placed within the bins provided. Any items / rubbish disposed of external to the bin will not be collected by the Contractor.
3. Council maintain the bin bank infrastructure (including replacement bins) and surrounding area; any refuse or debris placed outside of the bins remain the responsibility of the Association.
   Note: Two (2) areas are unable to be serviced by Individual Waste Bin Collection Service due to difficult access for the collection vehicle do not own land; a bin bank facility has been installed within the immediate areas for on road reserves and will be closely monitored and reviewed annually. (McBeans Pound and Pine Village)

3 Individual Waste Bin Collection Service (Household / Putrescible)
Eligibility & Entitlement
- Residential properties with an approved dwelling (not rated as TOWNSHIP), with frontage on a public road.
  Note: Vacant land and business premises without an attached residence are not eligible.
- (1) x 240 litre mobile garbage bin per property, collected weekly.

Conditions of Use
1. Only for the disposal of **household putrescible waste** – no hard / green or construction and demolition waste materials.

4 Kerbside Collection
Eligibility & Entitlement
- Residential properties rated as TOWNSHIP
- (1) x 140 litre mobile garbage bin, collected weekly.
- (1) x 240 litre recycling bin, collected fortnightly

All correspondence to PO Box 28, Mannum SA 5238  ABN 88 313 305 455
Email  postbox@mid-murray.sa.gov.au  Web  www.mid-murray.sa.gov.au

PRINCIPAL OFFICE  Development & Environmental Services  Morgan & Districts Community Hub
49 Adelaide Road, Mannum, SA  Main Street, Cambrai, SA  Cnr Fourth & Eighth Street, Morgan, SA
Telephone: (08) 8569 0100  Telephone: (08) 8564 6020  Telephone: (08) 8540 0060
Facsimile: (08) 8569 1931  Facsimile: (08) 8569 1931  Facsimile: (08) 8569 1931