

15.1 Confidential update report on the proposal to sell a council reserve at White Court Aldinga Beach

This report requests Council to determine the method of disposal of a council reserve situated between White Court and Greenlees Parade, Aldinga Beach.

This is an update on a previously reported project, concept or issue.

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Attachments:	Aerial (1 page)

1 Executive summary

1.1 Topic

This report requests Council to determine the method of disposal of a council reserve situated between White Court and Greenlees Parade, Aldinga Beach (attachment 1).

1.2 Context

At its meeting of 1 February 2011 Council resolved:

'That in respect of Allotment 617 Deposited Plan 25007, Certificate of Title Volume 5387 Folio 162; Council:

- 1. Declare the land surplus to requirements.*
- 2. Approve the commencement of the revocation process to remove the land from its community land classification, including public consultation in accordance with the Local Government Act, 1999.*
- 3. Request a further report be presented to Council following the outcome of the public consultation phase of the revocation process.*
- 4. Approve 'in principle' that the land will be disposed of subject to the outcomes of the revocation process.'*

The report to finalise the revocation process was included as an item earlier in tonight's agenda.

1.3 Financial implications

A condition of any potential sale and transfer of the land would be that the purchasers pay fair market value for the land and meet all reasonable costs associated with the land transfer.

1.4 Suggested outcome

It is suggested that Council consider this item in confidence. Section (ii) 90(3)(b) of the *Local Government Act 1999* is suggested as the most appropriate to use for this purpose.

This item is presented as a confidential item because it reveals information on an appraisal of the land.

The possible implication of not considering this item in Confidence is the release of financial information that will be detrimental for future negotiations with potential purchasers of council land and may have a negative impact on Council's position when placing this land on the open market.

That Council determines the method of disposal of the land, either as a stand-alone allotment or to the adjacent property owners.

2 Recommendations

1. That

- (a) under the provisions of Section 90(2) of the *Local Government Act 1999* an order be made that the public be excluded from attendance at the meeting in order to consider in confidence this item.
- (b) the Council is satisfied that it is necessary that the public be excluded to enable the Council to consider the matter at the meeting on the following grounds:

Section 90(3)(b) information the disclosure of which -

- (i) *could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and*
- (ii) *would, on balance, be contrary to the public interest;*

The Council is satisfied that it is reasonably foreseeable that the public disclosure or discussion of information concerning the potential disposal of land would provide a commercial advantage to another party.

The Council is also satisfied in considering the 'public interest' that whilst disclosure would enhance:

- the accountability of council or council staff in the performance of their official powers, duties and responsibilities;
- the community's ability to inform their own decisions; and
- informed debate about issues and public participation in democracy

the public interest is outweighed by the following factors, that:

- disclosure may unduly inhibit the achievement of the objectives of the Act at Section 8, ie. obtaining value for money for the community;
- disclosure would provide a commercial advantage to another party; and
- disclosure may have a detrimental effect on the efficient and effective conduct of government functions.

2. That accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or discussion confidential.

3. That in respect of Allotment 617 (the land) Deposited Plan 25007, Certificate of Title Volume 5387 Folio 162; Council:

- (a) (i) **Approve to place the land on the open market as a stand-alone residential allotment with sale proceeds to be assigned to the commercial reserve fund.**
- (ii) **Place a condition on the sale of the land via a Land Management Agreement that upon settlement the purchaser of the land must construct a dwelling on the land within two years of purchase.**

OR

- (b) (i) **Approve the sale of portions of the land to the adjoining owners at market value by private treaty with sale proceeds to be assigned to the commercial reserve fund.**
 - (ii) **Place a condition on the sale of the land to require the purchasers to consolidate the land with their existing adjacent land holding with all costs to be borne by the successful purchasers.**
- 4. Authorise the Mayor and the Chief Executive Officer to sign and affix the Seal to any documentation required to complete the sale subject to the recommendations above.**
- 5. That the matter of the Confidential update report on the proposal to sell a council reserve at White Court Aldinga Beach having been considered in confidence under Section 90(3)(b) of the *Local Government Act 1999* an order be made under the provisions of Section 91(7) and (9) of the *Local Government Act 1999* that the Confidential update report on the proposal to sell a council reserve at White Court Aldinga Beach report including the minutes of the Council meeting relating to discussion of the subject matter of that document, be kept confidential on the grounds of information contained in 90(3)(b) until the property transfers are finalised.**

Key factors

3 Discussion

At its meeting of 1 February 2011 Council declared this reserve to be surplus to requirements and approved 'in principle' the sale of the land.

The proposed sale was subject to the outcomes of a revocation process for community land classification including the public consultation phase and compliance with the regulations of the *Local Government Act 1999*.

The Minister has approved the revocation in his letter dated 16 August 2012.

4 Site

4.1 Land description

The legal description of the reserve is Allotment 617 in Deposited Plan 25007, Certificate of Title Volume 5387 Folio 162 (attachment 1). Council is the registered owner of the land and there are no trusts, dedications (other than reserve status) or any other reservations registered against the title.

4.2 Site characteristics and information

The reserve is an irregular allotment approximately 12 metres wide and 64 metres long containing an area of about 753 m² and is classified as community land.

The reserve is undeveloped and is therefore not required to be contained within an approved community land management plan. Sale of any portion of the land is dependent on its successful revocation of the community land classification.

The land is zoned Residential in our Development Plan. The land was set aside as reserve in the original land division in 1988 when the local area was established. However, owing to its shape and size it does not provide any current open space or recreational opportunities.

4.3 Background

This proposal originated from requests by adjoining land owners who wish to have the land removed from public use as it provides very limited amenity for the area. Residents claim that there are problems associated with vandalism, illegal use by motor vehicles, rubbish dumped on the land and over adjoining fences and dust generation.

The report presented to Council on 1 February 2011 recommended two options for disposal, either as a stand-alone allotment or sale to adjoining land owners. Council deferred its decision of the disposal method to await the outcomes of the revocation process.

4.4 Method of disposal

4.4.1 Registered interest

The owners of 9 White Court, a property adjoining our reserve land first approached us in 2004 to consider selling them all or a portion of the reserve land.

An internal evaluation was made of the application on 1 June 2005 and determined to retain the parcel as a walkway for public access.

The owners of 9 White Court approached us again in 2007 with the same request and have continued to confirm their interest in obtaining portion of the land.

Following the resolution of the former Council of 20 July 2010 we hand delivered letters on 23 July 2010 to all four adjoining property owners to determine their interest in acquiring a portion of the reserve, explaining the process and the time line. We have received feedback from the owners of 9 White Court, Aldinga Beach and 4 Greenlees Parade expressing their interest in acquiring the portion of reserve adjacent to their property. The quantum of their interest is dependent on interest expressed by the other adjacent owners which has not been forthcoming to date.

4.4.2 Sale to adjacent property owners

Council may determine to sell the reserve to the adjoining owners (two or more of the four adjoining owners) at market value by private treaty with the condition that the purchaser consolidate the land with their existing holding with all costs to be borne by the purchasers.

This method will incur additional costs for the surveying and land division application and will not have the same market value as a stand-alone allotment.

4.4.3 Disposal as a stand-alone allotment

While the adjoining owners who approached us have envisaged that the land will be made available for sale to them, the allotment meets the Development Plan requirements for a stand-alone residential allotment and could be sold as such.

Sale on the open market provides a mechanism for achieving a satisfactory price (by the setting of a reserve price) but also ensures that the community sees an open and transparent mechanism for disposal of the asset. This process also ensures that the whole allotment is sold in one transaction.

Our development section indicates that the allotment can be developed as a residential allotment but is subject to some development constraints. The width will make it more difficult to position a dwelling that meets the side setback requirements. The front design of the dwelling will also need to be considered given the limited width to ensure that the garage and driveways do not dominate. A double garage fronted dwelling will also have streetscape difficulties. The constraints may have an influence on the value of the land.

To ensure that the land is developed and does not remain vacant it is further recommended that the sale (if approved via the open market) be conditioned such that the successful purchaser must construct a residence within two years of the date of settlement of the purchase. It is envisaged that this requirement be attached to the land via a Land Management Agreement or other relevant document.

Advice by a local real estate agent on differences between the two sale methods is outlined in Section 6 below.

5 Council policy on disposal of council land

The former Council adopted a 'Disposal of council land and other assets' policy on 7 September 2010. Paragraph 6.1 deals with the disposal of land with the applicable items listed below:

5.1 Land disposal method

The options outlined in this report for the disposal of the land (should a revocation be successful) are in accordance with Council's *Disposal of council land and other assets Policy*.

Broadly, the Policy provides a number of disposal options, such as:

- *open market sale* – advertisement for sale through local newspaper and where appropriate a paper circulating in the state or by instigating the services of a licensed real estate agent
- *expressions of interest* – seeking expressions of interest for the sale or otherwise disposal of land
- *select tender* – seeking tenders from a selected group of persons or companies
- *auction/open tender* – openly seeking, through advertisement, tenders, or buyers for land

- *by negotiation* – with owners of adjoining land or others with a pre-existing interest in the land (such as easements or rights of way). These may include:
 - land that, because of its small size, dimensions or irregular shape, would not readily support a self contained development outcome
 - land that has no legal access
 - land to be developed by another level of government.

Land disposed of to adjoining owners should (where possible) be amalgamated with an existing adjoining title.

In identifying the circumstances in which to apply any particular disposal options, the Policy identifies that a range of matters should be considered including:

- the number of known potential purchasers of the land
- the original intention for the use of the land when purchased or otherwise granted ownership
- the current and possible preferred future use of the land
- the opportunity to promote local economic growth and development
- the total estimated value of the sale
- compliance with statutory and other obligations.

The Policy also identifies certain conditions that should be applied. In relation to the subject land, the following conditions are relevant:

- we will seek to sell or dispose of the land at or above current market valuation
- unless Council resolves otherwise, all costs associated with any sale or disposal of land must be borne by the purchaser or realised within the purchase price.

Given that we are advised that the land can be developed as a stand-alone allotment, it may not meet the tests as set out in the Asset Disposal Policy to be sold by negotiation to the adjoining landowners.

6 Financial

A condition of the sale and transfer of the reserve would be that the purchaser(s) pay fair market value for the land and meet all reasonable costs associated with the land transfer.

We have sought advice from a real estate firm familiar with the area to provide us with an estimate of the expected purchase price of this reserve as well as advise of which method would be most beneficial to Council.

They provide the following advice:

1. *This allotment is particularly hard to appraise however they feel that if the neighbours were all keen to buy the land this would not be as profitable to the council as selling the allotment as a stand-alone allotment. They could not place a specific figure on this scenario.*
2. *If the Council's development policy would allow two dwellings to be built on the land we appraise this at \$150,000 - \$160,000. The access from White Court*

would be drive way access only to the garage at the rear and the yard being mainly at the front. (Sale would be subject to council development approval).

- 3. If the Council's development policy would only allow one dwelling to be established we would appraise the land at \$130,000 - \$140,000. Being an allotment of 700sqm+ this would make this very appealing for prospective buyers.*
- 4. We feel the most profitable way for Council would be to sell this home to prospective developers and market as 'Private Treaty/Open Market' method of sale.*

RELEASED

Attachment 15.1

**Confidential update report on the proposal to sell a council reserve at White
Court Aldinga Beach**

1 page

Council reserve at White Court and Greenlees Parade, Aldinga Beach

ATTACHMENT 1



Description of Land:

Allotment 617
Deposited Plan 25007
Certificate of Title Volume
5387 Folio 162

Legend

 Allotment 617

