

11.2 Confidential - Seaford District Centre - development and land considerations

Council has initiated a Development Plan Amendment (DPA) to amend the Development Plan policy relating to the Seaford District Centre. Closely related to the objectives of the DPA is the need to review council property ownership arrangements that may better assist to deliver the desired development objectives.

This is a new proposal, concept or issue.

General Manager:	Terry Sutcliffe, General Manager City Development Bruce Williams, General Manager Projects and Services
Report author:	Adam Mrotek, Manager Growth Management Alison Hancock, Manager Property and Recreation Services
Contact number:	8301 7306 8384 0646
Attachments:	1. Aerial photograph of subject land identifying Council parcels (5 pages) 2. Images of urban development examples (7pages) 3. Seaford District Centre Concept Plan (1 page) 4. Land that is subject to 2001 Car Parking Agreement (1 page) 5. Legal advice from Norman Waterhouse (4 pages)

1 Executive summary

Council has initiated a Development Plan Amendment (DPA) to amend the Development Plan policy relating to the Seaford District Centre. Closely related to the objectives of the DPA is the need to review council property ownership arrangements that may better assist to deliver the desired development objectives.

1.1 Context

The DPA responds to issues and opportunities presented in the precinct through significant expenditure on public transport infrastructure, significant population growth and the need to ensure the district centre provides an appropriate level of services and facilities within a high quality public realm.

This report is seeking Council direction regarding 'in principle' support to investigate disposal of council land to facilitate potential development policy objectives for the Seaford District Centre.

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 to support discussions of a commercial nature.

Should the report not be considered in confidence it may lessen the opportunities to deliver council's development objectives and the optimal commercial outcome for its community.

A presentation related to the subject of this report will be made by Damien Ellis of Hames Sharley consultants representing the land owner directly affected by existing land ownership arrangements. The land owner and their representative have requested the presentation be made in confidence due to commercial in confidence information to be presented.

2 Recommendation(s)

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 with the exception of Damien Ellis of Hames Sharley.**
- b. the Council is satisfied that it is necessary that the public be excluded to enable the Council to consider the information 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;**

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.

- 2. That in respect of Allotment 2128 in Deposited Plan 48511, Allotment 2126 in Deposited Plan 47713 and Allotment 1110 in Deposited Plan 45911 together with the whole of the road reserve comprising Walker Avenue and Patterson Street, Seaford, that Council:**

- (a) supports 'in principle' discussions being held with Leasecorp, as the adjoining property owner, in relation to development proposals that may necessitate the Council considering the disposal of land parcels and road reserves, subject to:**
 - i. the Council's expectation that it will receive a commercial market value for its land and roads, and**
 - ii. that these negotiations include investigating the future role of Council in relation to the 2001 Car Parking Agreement, and**
 - iii. a further report to be tabled by April 2012 for Council's consideration on the outcomes of the 'in principle' negotiations, and that this report will also provide information relating to community land and road closure processing requirements (if required).**

OR

(b) That Council does not support any further discussions being held with Leasecorp in relation to the potential use and purchase of the Council's land and roads as identified above.

3. That the matter of the Seaford District Centre - development and land considerations 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 Seaford District Centre - development and land considerations and the minutes and the report of the Council relating to discussion of the subject matter be kept confidential until any agreements relating to land transactions are in place, or a determination by Council that land transactions will not proceed.

3 Financial Implications

There are a range of financial implications that will form the basis of discussions with Leasecorp if the Council supports the concept of 'in principle' discussions being held. These financial implications involve land values, infrastructure augmentation costs and how these may be funded by the private sector through contemporary development outcomes.

4 Engagement

4.1 Community

In the context of the DPA, preliminary discussions have been held with the two major landowners of landholdings (Leasecorp and Perks Property Investments) within the Seaford District Centre in relation to achieving the proposed planning policy objectives for the zone.

In accordance with Council's policy to undertake consultation early in the DPA process over and above statutory requirements, a community stakeholder workshop is planned to take place on 30 November 2011. This will involve key community stakeholders and land owners (including residents) located within the boundaries of the Seaford District Centre zone. The purpose of the workshop opportunity will be to identify issues, constraints and opportunities in the centre to inform the development of a DPA. It will also be an opportunity to gather information on any plans stakeholders have in relation to their properties.

4.2 Elected Members

The Planning Policy Committee (PPC) has previously addressed the DPA. At their meeting in February 2011 the PPC recommended that Council approve the Seaford District Centre Development Plan Amendment Statement of Intent (SOI), and that the SOI be forwarded to the Minister for Urban Development, Planning and the City of Adelaide for approval. This recommendation was approved by Council, and the SOI was submitted to the Minister for approval in April 2011. Approval of the SOI is pending.

4.3 Staff

Officers from Development Policy and Property sections have been involved in preliminary discussions on the proposal to date.

A broader staff engagement will occur should Council support 'in principle' that further investigations take place on the proposal.

4.4 Others (including specialist advice)

Sean Keenihan, Partner, Norman Waterhouse lawyers has provided legal advice.

5 Strategic/Corporate Direction

On 25 August 2008, council launched the strategic plan that will guide the council for the coming 20 years—our Community Plan 2028. The plan is the product of an extensive community engagement process to ensure the themes reflect our community's needs and priorities.

The five key themes which underpin the plan are:

- planning our city—planning for the sustainable growth of our city: when, where, what style, how and how much
- a thriving economy—working together to renew our economy to capitalise on the opportunities both locally and globally
- our environment—living in balance with our environment, including managing our water resources sustainably and effectively responding to climate change
- vitality and connection—encouraging a positive, creative and supportive place for communities to thrive
- community leadership—fostering and demonstrating leadership at all levels of community life.

Potential council participation in undertaking land disposal in the centre to facilitate improved planning, economic, social and environmental outcomes is an example of community leadership.

6 Council's Role(s)

6.1 Leadership

To provide leadership by Council setting directions to meet current and future needs, through policy and strategic decision making.

6.2 Owner/custodian

In our role as owner we must ensure that we fulfil our obligations to manage the community's assets for the current and future needs of our city.

6.3 Financial

The current and future financial impacts of the proposal will form the basis of a future report to Council on the outcome of discussions (should they be supported by Council).

7 Legislation or Policy

7.1 New Legislation or Policy

The Department of Planning and Local Government is presently developing Version 7 of the Planning Policy Library modules, which they are seeking to release in the first half of 2012. Version 7 will include an update of the centres module which applies to District, Neighbourhood and Local centres. It builds on Version 6, by seeking to promote more mixed use development, greater intensity and vibrancy. This direction is consistent with the direction being sought in the Seaford District Centre through both the DPA and the master planning work. Disposal of council land would help to facilitate such outcomes.

In addition, the state government has recently tendered for a consultancy to undertake structure planning for the southern rail corridor from Adelaide to Seaford, encompassing the Seaford District Centre. The work we have done to date in relation to planning for the Seaford District Centre will be a key input to the structure planning process.

8 Discussion

8.1 Policy objectives

It is anticipated that the Seaford District Centre will undergo further significant growth over the next fifteen years. This is due to a number of influences including:

- completion of a new rail station at Seaford Centre by 2013
- the state government's 30 year plan identifying infill residential and mixed use as a key objective within centres
- the implementation of the residential medium density infill DPA in late 2010 allowing greater design and density flexibility within existing residential areas around the centre
- interest from the major landowner on Main Street to expand retail and mixed use within their holdings
- proposed expansion of the existing shopping centre
- greenfield development at Seaford Heights and Seaford Meadows will increase the population within the centre's catchment.

In preparation for these external projects and influences and to inform the DPA process, the Management Team endorsed the development of a Seaford District Centre master plan with the following objectives:

- Establish a working group or project team that will carry ownership of the delivery of the master plan informed by the design workshops.
- Develop a community engagement and communication strategy which includes internal staff, agencies, private sector and the public.
- Develop a probity plan.
- Develop a vision that will guide the overall master planning and detailed design and delivery phases of the centre. This vision to be adopted by council staff, elected members, government stakeholders, landowners and community members.
- Detailed analysis of the centre and factors contributing to its future growth. This will include the collation of existing data including physical limitations and opportunities, maintenance and budget constraints, social and cultural opportunities, employment, economic outcomes and education.
- Development of master plan options for review and detailed assessment.
- Assess the master plan options against both private sector and local government financial models, timeframes and maintenance allocations.
- Development of detailed projects within the master plan such as streetscape upgrades, open space planning and improvement, development scenarios which will facilitate development etc.
- Scoping and developing an implementation strategy for the resource allocation, timing, funding etc of specific elements of the master plan.

While the vision for the centre has not been formally prepared as part of the master plan process, initial workshops with staff indicates that the current desired character within the existing Development Plan is not adverse to council's Community Plan or Transit Oriented Development objectives for activity centres such as Seaford.

This is also largely due to the 'fixed' nature of the centre given much of it has been developed, and undeveloped areas such as the main street has a desired character in the current Development Plan, largely in line with modern main street principles. Therefore, the DPA is seen as a vehicle to strengthen the current policies to support the desired design principles in a contemporary market environment.

One of the key catalyst projects to enliven the Seaford District Centre has been discussed with council (and is the subject of this report) is the development on the northern side of Main Street. Main Street, is largely undeveloped, with the exception of one building on the corner of Commercial Road. Main Street has not developed at the same rate as the adjacent major shopping centre and is effectively a street surrounded by vacant land.

We have received commentary from various industry professionals and developers that this is largely due to a number of principles within the Development Plan and Land Management Agreements (LMA) that control use and development of the land. It is clear that the original intent of the development plan and the LMA's was

to force a main street style development through a number of the following mechanisms:

- an effective cap on single tenancy retail space
- clear precinct boundaries limiting the scale of the main street development
- an LMA which provided an effective building footprint with associated car parking areas
- predetermining a street layout.

These mechanisms limit the design flexibility within the area and force it into one format such as small shops with car parking behind.

The 'market' is suggesting that a major anchor would be needed in this area to kick start the Main Street and provide the main activity generator which would support the development of smaller speciality shops and mixed use development, including residential, into the future.

Historically modern large anchor shops have not been designed to achieve main street principles. They typically have large areas of car parking fronting the street with large building setbacks from the road. The trend is beginning to change and designers and developers can, within the appropriate site configuration and street access, design large anchor buildings with specialties that address main streets. Examples of this have occurred at the Woolworths development at Mawson Lakes and Blakes Crossing at Blakeview. These examples have strong and successful main street design principles while including a large anchor such as a supermarket. (Refer to attachment 2 for images of these examples).

In order to achieve this style of development, a consolidated parcel of land is required which fronts a main street and allows enough room to build a supermarket, specialties, and some at-grade parking. In addition, Development Plan principles that are flexible enough to support contemporary market conditions are also required. In essence, a trend towards 'sleeved' larger format retail development, whilst being specific about the main street design objectives.

The current planning policy and site configuration does not support the contemporary examples above. To support this style of development and initiate significant development on the Main Street land, consolidation is required to create a larger single and thereby flexible allotment, together with supporting planning policy changes.

9 Leasecorp proposal

In the context of the DPA, we have approached the significant landholders in the Seaford District Centre in order to discuss the proposed policy objectives for the area as identified in item 8.1 above.

In response, Leasecorp have identified that they are willing to work with council in order to achieve both their own development objectives as well as the identified policy principles.

Leasecorp are desirous of achieving a consolidated land holding bounded by Main Street, Tiffany Street, our drainage reserve (to the east) and our open space reserve to the north (identified as the subject land bounded in red on attachment 1)

The Leasecorp proposal is dependent on an anchor supermarket tenant within their development to generate the required retail traffic to support adjoining specialties that would front Main Street.

The original concept from Leasecorp proposed the supermarket on the northern edge of their land with a new main street running in a north-south orientation, connecting the new supermarket to the existing main street. The likely effect of this proposal would have been a further delay of development along Main Street, given the anchor was not associated with the existing main street. Additionally, achieving passive surveillance and housing looking onto the existing open space area would have been difficult due to the design requirements of large anchor tenants.

Alternative designations were tabled for Leasecorp's consideration which located the anchor and associated specialties in a configuration which addressed Main Street. Medium to high density residential/mixed use was proposed in the concept for the northern portion of the site which achieved a number of benefits such as usage and surveillance to the park and school, and extended activation of the centre. These general design principles were accepted by Leasecorp and modelled into their latest concept drawings.

Subsequent meetings were held between council and Leasecorp's design consultants to further develop the concept to a level which achieved the majority of council's desired design principles, subject to detailed design, engineering, planning, land negotiations and financial feasibility.

The latest concept from Leasecorp achieves a number of 'main street' design principles within a contemporary context:

- buildings predominantly built to the Main Street boundary
- at grade car parking areas minimised along Main Street
- small shops fronting Main Street
- blank walls minimised within areas of high retail and pedestrian use
- loading bays concealed
- residential development located next to open space, services and facilities
- improved movement networks and access through the introduction of public streets
- improved surveillance through new housing and retail areas.

In association with this report, Leasecorp will present at the meeting on the design principles.

To achieve the design principles identified above would require disposal of Council land to create a single allotment. The following sections of the report discuss the specific land parcels in question.

10 Land considerations

Council owns land and roads in the subject area that will be affected by the proposed concept to deliver the policy objectives for the Seaford District Centre, in particular the main street concept. (Refer to attachment 3 and the map identifying council's land holdings).

The subject of this report is to seek Council's 'in principle' support in considering whether it is willing to offer council's land and roads to allow a consolidation of land parcels to achieve a desired development outcome. In addition and if supported, this report seeks Council's direction on the likely negotiation parameters linked to that support.

The outcomes of a preliminary assessment have identified that the land and roads may not be required to be retained in council's ownership for any known operational requirement. A more detailed analysis will take place if Council supports further investigation of the proposal and will be reported to Council at a future date.

10.1 Patterson Avenue and Walker Street, Seaford

The road reserve for Patterson Avenue and Walker Street, Seaford are classified as local roads and were created to service the current allotment configuration proposed at the time of the last subdivision. Part of Walker Street has been constructed to service the public car park on the eastern side. Construction of Patterson Avenue and the balance of Walker Street has been held pending development of the adjoining land.

The purpose of a local road is to provide access to property. The configuration of local roads is informed by the nature of the developments they service and the Australian design standards.

There is no road network planning requirement for Patterson Avenue and Walker Street to remain in their current configuration.

10.2 Allotment 1110 in Deposited Plan 45911 (marked in yellow on attachment 1)

Allotment 1110 is an existing carpark and contained in Certificate of Title 5374 Folio 422. The land is classified as community land. The car park is serviced by Walker Street (off Main Street), Seaford and supports approximately 26 car parking spaces.

The land is subject to an agreement (not registered) over the land which is discussed in item 11 below.

It has not been a core role of council to provide car parking to support commercial private development, other than through the establishment of a car parking development fund (in accordance with the *Development Act 1993*).

Given this, and if a future development proposal contains the same or more car parking provision, it is envisaged that transferring the land for this purpose to a private party (with the requisite maintenance and capital infrastructure costs) will remove an asset and its future liability costs from council's responsibility whilst achieving the same community amenity outcomes.

10.3 Allotment 2126 in Deposited Plan 47713 and Allotment 2128 in Deposited Plan 48511

Allotments 2126 and 2128 are reserves classified as community land and held for the purposes of drainage reserves.

These land parcels and their dedicated usage continues to be required for the management of overland flows of stormwater into the adjacent holding basin. If any of this land is requested to be utilised to achieve development outcomes, the developer will be required to provide engineering solutions for the continued management of stormwater flows that currently occur on the land.

These discussions on usage and engineering controls will be the subject of future negotiations should the proposal be supported.

11 Car Parking Agreement of 2001

An agreement exists between council, Leasecorp and Chalfont No 2 Pty Ltd in relation to the car parking arrangements in the Seaford District Centre. The agreement was entered into on 10 May 2001 as part of the Seaford Joint Venture wind-up arrangements to support development of the Seaford District Centre.

The land that is captured by this agreement is identified as allotments 1100, 1101, 1104, 1109 and land marked as 'public carpark' (refer to attachment 4).

The Leasecorp proposal will affect the Allotment 1110 car parking land only.

In the agreement, the council and the developers agree to ensure that such commercial development has integrated car parking facilities which will assist in promoting the Seaford commercial development as an example of modern planning.

Essentially, the developer will construct the car parks at its own cost and then will vest these carparks in the name of the council to be retained as 'reserve' for carparking purposes whilst the adjacent land is used primarily for commercial purposes.

The developer is obligated by a 12 month defects liability period following construction. In addition, the developer shall pay the council an agreed financial contribution towards the carparks and their maintenance for the life of the agreement (which ceases in 2025).

Removal of council's obligations in relation to the carparks has on-going maintenance and asset management benefits to council.

12 Legislative considerations

12.1 Roads (opening and closing) Act 1993

Patterson Avenue and Walker Street are public roads vested to Council in accordance with the *Local Government Act 1999*.

If Council were to support the disposal of these roads, they would need to be closed under the appropriate legislative mechanism - the *Roads (Opening and Closing) Act 1991*.

The Act sets out the process to be undertaken in considering whether to dispose of a road which includes a mandatory public notification process to seek public comment on the proposal. The notification process also seeks to identify any party who may have a proprietary right that needs to be retained via a registered easement over the subject land.

The *Roads (Opening and Closing) Act 1991* outlines those adjacent owners of road reserves should be considered in the first instance for any transfer of the land to allow for a consolidation of this area into their existing adjacent property titles. This is a relevant consideration given that the area of the road reserve would not be capable of forming a development parcel in its own right. In this instance, there is only one adjacent owner being Leasecorp.

The Surveyor General is the relevant authority to determine the finalisation of any proposed road closure.

If the road is successfully closed under this process, then the resultant land parcel automatically becomes community land under the *Local Government Act 1999* unless it is excluded via resolution by Council prior to the making of the Road Process Order. In this instance, such a resolution would be appropriate to enable the transfer of the road to the adjoining owner and its merging with adjacent allotments.

12.2 Local Government Act 1999

The *Local Government Act 1999* outlines the mandatory process for considering any future change in arrangements or disposal of community land.

Should there be a requirement to dispose of the land within the Seaford District Centre (as identified) then a revocation process would be required prior to any disposal.

The community land revocation process includes mandatory consideration of a number of factors relating to the land and its use in determining whether the land is surplus to requirements and able to be disposed. A report must be tabled for Council's consideration discussing these elements and a preliminary conclusion that the land is surplus to requirements. This is a preliminary viewpoint which is then the subject of public comment through a mandatory public notification process to seek feedback from the community on the effect of the proposal.

There are a series of reports that are required to be considered by Council as part of a revocation process prior to the finalisation of the process and the ultimate disposal of the land.

The Minister for Local/State Government Relations is the relevant authority to determine the outcome of a revocation request by a council.

A further report will be presented to Council following consideration of this report outlining the community land considerations once the outcomes of the next phase of negotiations are known.

13 Negotiation parameters

If Council were to provide 'in principle' support to the proposal, the administration is seeking broad negotiation parameters to take into the next stage of non binding discussions with the developer.

These discussions would take place with no legally binding obligations on the council due to the legislative provisions that would need to take place to facilitate the proposal.

Legal advice has been obtained in relation to council's role for negotiations from Sean Keenihan of Norman Waterhouse and is contained at attachment 5.

Our *Disposal of Land and Other Assets Policy* states that any disposal of land and roads should be at commercial market value. The policy allows for the entering into of direct negotiations with a party if there are broader policy reasons for doing so.

When entering into direct negotiations, the council is to obtain more than one independent valuation of the land and road parcels to ensure that it is achieving an unbiased and independent view on the valuation of the affected land parcels.

13.1 Negotiation framework

The Leasecorp proposal is dependent on a number of factors occurring in relation to the legal considerations that affect the land. These include (but are not limited to):

- Outputs of broader landowner/stakeholder preliminary consultation in relation to the DPA.
- The delivery by the developer of planning policy objectives for the centre.
- Consideration of local industry and employment participation opportunities.
- A successful revocation process for the classification of community land (subject of a future report).
- A successful road closure process (subject of a future report).
- Consideration of council's role in relation to the 2001 car parking agreement.

- Negotiations between the parties in relation to land value and purchase price.
- Engineering arrangements to manage overland stormwater flows that currently exist in Allotments 2126 and 2128.

Should Council support 'in principle' that further investigations be undertaken, a comprehensive report will be provided to Council at a later date that details discussions in relation to all the key points outlined above.

14 Next steps

A strong strategic basis for pursuing this initiative exists. The initiative will help achieve stronger urban design and economic outcomes for the centre, consistent with council's Community Plan and the direction sought through the DPA policy.

If Council supports 'in principle' that it is comfortable to enter into the next phase of negotiations, a further report will be tabled for Council's consideration by April 2012.

It is anticipated that this report will provide the outcomes of discussions with the developer, in particular surrounding the extent of development policy outcomes, commercial negotiations (regarding land costs), our continuing role in the car parking agreement, as well as any other infrastructure gains that may be achieved through the development proposal.

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