

11.2 Confidential - exclusion of community land status - Willunga golf course

This report requests that Council consider the exclusion of land at Allotments 101 and 102 Hall Road, Willunga from its community land classification prior to its acquisition in order to investigate potential land use opportunities.

This is a new proposal, concept or issue.

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Attachments: 1. Aerial photograph of Willunga golf course showing land classifications (1 page)

1 Executive summary

1.1 Topic

This report requests that Council consider the exclusion of land at Allotments 101 and 102 Hall Road, Willunga from its community land classification prior to its acquisition in order to investigate potential land use opportunities.

1.2 Context

Council at its 7 June 2011 meeting resolved to enter into the market for the purchase of Allotments 101 and 102 Hall Road, Willunga in order to provide land for risk mitigation works related to the long term planning of the golf course. Following the Council meeting we subsequently made an offer on the land which has been accepted with settlement designated for 18 July 2011.

If land is acquired by council it automatically vests as community land upon its acquisition unless that land is excluded prior to coming into the council's ownership. If the land vests in council's name as community land, a revocation of its community land status will be required if a portion is to be utilised for alternative land uses following the golf course hole redevelopment.

1.3 Financial implications

Detailed financial analysis is provided at 5.1.

1.4 Suggested outcome

It is suggested that Council consider this item in Confidence. Section (ii) 90(3)(d) 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 the disclosure of confidential information relating to the purchase will conflict with an existing confidential

resolution which states that the land purchase is to remain confidential until the property settlement occurs on 18 July 2011.

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.**
- 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)(d) commercial information of a confidential nature (not being a trade secret) the disclosure of which -

- (i) **could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and**
 - (ii) **would, on balance, be contrary to the public interest;**
 - c. **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.**
1. **That Council in accordance with Section 193(4)(a) of the *Local Government Act 1999* resolves to exclude Allotments 101 and 102 Hall Road, Willunga from the classification as community land to allow for the future long term planning of the Willunga golf course which may include selling a portion of this land for residential, sporting or commercial land use opportunities to offset the golf course augmentation project costs.**
 2. **That Council authorise for the placement of a notice in the Government Gazette in accordance with Section 193(6) (a) of the *Local Government Act 1999* to give effect to the exclusion of this land from its community land status.**
 3. **That the matter of the Exclusion of community land status - Willunga golf course having been considered in confidence under Section 90(3)(d) 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 Exclusion of community land status - Willunga golf course and the minutes and the report of Council relating to discussion of the subject matter be kept confidential until 19 July 2011.**

Key factors

3 Engagement

3.1 Community

There is no requirement under the *Local Government Act 1999* to engage with the community for the purposes of excluding land from its community land status prior to its acquisition.

3.2 Elected Members

Elected members resolved to enter into the market to purchase Allotments 101 and 102 Hall Road, Willunga at its meeting of 7 June 2011.

An email was sent to all members on 17 June 2011 to advise that an offer for the land had been made and accepted by the vendors.

3.3 Staff

A number of staff have been engaged in the preparation of this report.

4 Direction

4.1 Strategic/Corporate Direction

Our Community Plan 2028 objective 2.6 identifies that we will continue to manage the operation of the golf course to ensure that it provides the best possible service to the community in accordance with market trends and community expectations.

4.2 Council's Role(s)

4.2.1 Owner/custodian

In our role as owner or custodian we will continue to manage the Willunga golf course as a community asset.

5 Resource Implications

5.1 Financial

5.1.1 Current

Council resolved to actively seek the acquisition of land at Allotments 101 and 102 as a whole. The resolution provided a price threshold for the purchase of up to \$850,000.

An offer was subsequently made for the land of \$825,000 which has been accepted by the vendors. Settlement has been set to occur on 18 July 2011.

5.1.2 Future

The golf course is currently the subject of a master planning exercise to achieve the desired buffer distances from the fairways in order to mitigate the current risks associated with golf ball strikes. For each hole that requires augmentation current cost estimations are in the order of \$250,000 - \$300,000 per hole.

During debate in the Council chamber on 7 June, it was suggested that this project be undertaken on the basis that it is cost neutral to council in the long term. To achieve this, opportunities for the sale of land (not required for the course or buffer distances) for residential and commercial use will need to be explored.

If these opportunities arise within land that is held as community land, a revocation process (to remove the land from its community land classification) will be required prior to any land being sold.

As part of our preliminary planning, it is envisaged that residential or commercial opportunities may be realised in both the newly acquired land as well as in the existing golf course.

5.2 Operational

The operational impacts from delivering a net cost neutral project for the golf course augmentation will occur when land will need to be divided from the course, revoked and sold to recover funds.

The legislation that guides the management of community land is strict and comprehensive and involves mandatory community engagement.

Before a council can revoke the classification of land as community land, it must:

1. resolve to declare its intention to revoke the land from its community land status
2. prepare a report that contains:
 - a summary of reasons for the proposal
 - a statement of any dedication, reservation or trust over the land
 - a statement as to whether the revocation is proposed with a view of selling the land and whether any government assistance was gained for the original purchase of the land
 - an assessment on how the proposal will affect the area and the local community; and
 - if the council is not the owner, any requirements that the owner has made as a condition of approving the proposed revocation of the classification.
3. follow the relevant steps in its public consultation policy regarding the proposal.
4. after complying with steps 1-3, the council must submit the proposal, together with all submissions made as a result of the community engagement process to the Minister.
5. await the Minister's consideration on the proposal. Noting that the Minister has the power to either approve or refuse the revocation of the land from its community land status.
6. if approved by the Minister, Council must then resolve to revoke the classification as community land.

The Minister for State/Local Government Relations ultimately decides whether the council has undertaken this process appropriately and in particular whether the community engagement has been managed correctly and whether the Council has had proper regard to the feedback from the community.

The above operational requirements will not be required for land that has been excluded from the classification as community land.

6 Risk Analysis

Key risks	Risk details and analysis	How it is proposed to be managed
Socio-political	The process of revocation of community land is socially emotive with key sectors of our community being engaged with views on the management and operation of our land holdings.	<p>The Minister for Local/State Government relations has the administrative power to determine whether a Council has demonstrated its consideration to stakeholder feedback as part of the engagement process for a revocation.</p> <p>The Minister has the power under the Local Government Act to approve or refuse a revocation of land from its community land classification.</p>

7 Discussion

7.1 Land description

Allotment 101 Hall Road, Willunga is contained within Certificate of title register book volume 5800 folio 781. Allotment 102 Hall Road, Willunga is contained within Certificate of Title register book volume 5800 folio 782.

The land at Allotment 101 and 102 Hall Road, Willunga is to the east of the main component of the Willunga Golf course. Allotment 101 comprises 2.546 hectares and Allotment 102 comprises 1.456 hectares, totalling 4.06 hectares. The parcels have frontage to an unmade road reserve in the ownership of the City of Onkaparinga.

Allotment 101 has an approximate frontage to Hall Road of 104 metres, a frontage to the unmade government road of 194 metres with a depth of approximately 115 metres (across a stepped boundary). Allotment 102 is rectangular in shape with a 125 metre frontage to the unmade government road with a depth of approximately 115 metres.

The land slopes away from Hall Road and each allotment is bisected by a relatively deep tree lined gully that forms a water course north of the subject allotments.

7.2 Community land

Sections 193 – 206 of the *Local Government Act 1999* outline the mandatory requirements for the management and control of community land.

Community land status is given to all land owned, controlled or managed by the Council and once classified requires the council to manage the land in the manner prescribed by Chapter 11 (Part 1) of the Act. Community land is required to have management plans in place which identify the management and operational controls and approved uses of each parcel of community land.

If council wishes to change the use of the land (other than what is outlined in its management plan) or change the ownership arrangements of the land it must consult its community on this proposal and signal its intention to revoke the community land classification. The Council must consider all responses to this community engagement when it resolves an alteration of the use or ownership of the land. Generally land that is held for operational or commercial purposes is excluded from its community land status to allow for the effective management of the land.

When Allotments 101 and 102 Hall Road, Willunga are acquired (at settlement) they will automatically vest as community land unless the Council resolves prior to settlement that the land be excluded from its community land classification.

Council will be restricted from exploring any alternative land uses until a revocation has taken place if the land vests as community land.

The master planning for the golf course is currently underway. The project will consider the course layout, expectations regarding amenity and playability of the course as well as achieving the required 70 metre buffer distances from the fairway. In order to achieve a project which is self funding, some land will need to be divided from the course and sold for residential or commercial development. This land will more than likely be located in a section of the newly acquired land in addition to land that already forms part of the main course.

A map is provided (attachment 1) which shows that there is currently a mix of land classifications in the Willunga golf course ranging from gifted land which is the subject of a trust, community land as well as land that has already been excluded from its community land classification.

8 Next steps

Settlement for the purchase of Allotments 101 and 102 is to occur on 18 July 2011. Following settlement it is envisaged that the master planning process will be completed by December 2011 and then reported back to Council for its approval.