

9.2 PROPOSAL TO COMMENCE THE REVOCATION OF COMMUNITY LAND CLASSIFICATION FOR PORTION OF RESERVE, 2 ROOPENA STREET O'SULLIVAN BEACH

Report contact

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Meeting

Council

Date

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1. Purpose

This report requests Council approval to commence the process of revocation of community land classification for a portion of reserve at 2 Roopena Street, O'Sullivan Beach for disposal on the open market.

2. Recommendations

That for the portion of Council owned land described as Allotment (Reserve) 126 in Deposited Plan 9001 comprised in Certificate of Title Volume 5740 Folio 41 and bordered in yellow on Attachment 1 to the agenda report, Council:

1. Declares that the portion of subject Council owned community land is surplus to requirements and potentially suitable for disposal on the open market.
2. Approves the commencement of the revocation process to revoke the community land classification, including undertaking public consultation in accordance with the provisions of subsection 194(2) of the *Local Government Act 1999*, and consult with the community on the basis that Council intends to sell on the open market to realise the highest return for the property.
3. Reserves a 3-metre-wide right of way for vehicle access on the gravel track as required to maintain the Christie Creek drainage infrastructure (refer Attachment 1 to the agenda report – Aerial – indicated by dashed green lines)
4. Approves the net proceeds from the sale of the subject land (if ultimately approved by Council) as a contribution towards the annual \$3 million-dollar budgeted revenue to be raised from the sale of surplus assets as per the Long-Term Financial Plan to fund prioritised projects as planned.
5. Requests a further report be presented to Council following the outcome of the public consultation phase of the revocation process to enable Council to determine if the revocation and disposal should proceed.

3. Executive summary

In a letter dated 19 December 2023, the Southern Montessori School (SMS) requested that the Council consider entering into a long-term lease (up to 42 years) for the community facility (the Facility) at 2 Roopena Street, O'Sullivan Beach, which is located on a portion of Council reserve (see Attachment 2 – Correspondence from SMS).

Since August 2022, SMS has occupied the facility three mornings a week to deliver their 'Baby Steps' and 'Toddler Educational Programs'. Currently, SMS holds a one-year lease with the Council, effective from 1 January 2024 until 31 December 2024.

The request was considered by internal stakeholders with the recommendation that disposal should be on the open market for the highest and best use, noting SMS can participate in open market negotiations.

In an email dated 7 June 2024, SMS confirmed their interest in purchasing the facility should Council declare it surplus to requirements and potentially suitable for disposal. SMS views the facility as an integral part of their strategic direction for the future of the school (see Attachment 2 – Correspondence from SMS).

4. Background

Policy and/or relevant legislation	Disposal of Council Land and Other Assets Policy (<i>Local Government Act 1999</i> , Section 49 requirement). Asset Rationalisation Policy Long-Term Financial Plan <i>Local Government Act 1999</i> – Section 194 Revocation procedure.
Who did we talk to/who will we be talking to	Comprehensive internal consultation was undertaken with the Community Assets team, Parks & Facilities Operations team, and Assets & Technical Services team to ascertain any future requirements for the subject portion of land. Public consultation will be undertaken to seek community views on the proposal to revoke the community land classification of the subject portion of the reserve, enabling its disposal. The approval of the Minister for Local Government will be sought (<i>Local Government Act 1999</i> , Section 194(3)(a) requirement) (if ultimately approved by Council)

5. Discussion

All council-owned land (excluding roads) is classified as community land. In accordance with Section 194 of the *Local Government Act 1999*, the revocation of this classification must precede any disposal of land by the Council.

The Reserve

The Reserve is legally described as Allotment (Reserve) 126 in Deposited Plan 9001, comprised in Certificate of Title Volume 5740 Folio 41. Council records indicate that the Reserve has an approximate area of 1.48 hectares, and the allotment boundary on the eastern side of the Reserve extends to the centre line of Christie Creek.

The Reserve is subject to a 10-metre-wide easement through the centre of the allotment over the portion marked 'A' on the Certificate of Title in favour of the Minister for Infrastructure. Easement "A" contains a SA Water wastewater pipe (see Attachment 1 – Aerial, with SA Water wastewater pipe indicated by a red line). Before You Dig Australia searches do not indicate any other infrastructure, such as APA gas, Council stormwater, NBN, Telstra, SA Power Networks or SA Water fresh water, within the Linear Reserve.

The Facility

The community facility (the Facility) at 2 Roopena Street, O'Sullivan Beach, is located on a portion of Reserve 126 and is contained within the General Community Areas, Service and Social Facilities Management Plan Parcel ID 158 (see Attachment 1 – Aerial, with the Facility bordered in yellow). Parcel ID 158 has an approximate area of 1,900 square metres and includes the Facility, fenced garden surrounds, and an adjacent unfenced gravel car park.

Community land held under the General Community Areas category is used to provide community facilities that contribute to the health, wellbeing, and sense of belonging of the local community and the wider public. The permitted uses of the Service and Social Facilities sub-category include childcare activities. The granting of a lease is allowed where the facilities or services are consistent with the Management Plan objectives.

Before You Dig Australia searches indicates that APA gas infrastructure exists within Parcel ID 158. Additionally, the Facility is connected to NBN, Telstra, SA Power Networks and SA Water freshwater and wastewater infrastructure.

The Facility was built around 1975 for kindergarten purposes by The Kindergarten Union of SA as a requirement of the first lease from council of portion of the reserve.

In the early 2000s, the Department for Education adopted a standard practice to build new kindergartens within local primary schools.

The Facility was then leased by O'Sullivan Beach Children's Centre Inc as a Community Children's Centre, in addition to the new O'Sullivan Beach Primary School kindergarten, until this lease was surrendered in 2022.

The Facility is currently leased to SMS on a commercial basis for educational purposes.

The Linear Reserve

The Linear Reserve is contained within the Reserves, Linear Management Plan Parcel ID 820 with an approximate area of 1.29 hectares. (see Attachment 1 – Aerial, with Linear Reserve bordered in blue) Community land held under the Reserves category is used to facilitate recreational, cultural, social and educational pastimes. The Linear Reserve sub-category provides a continuous reserve that may cater to a variety of uses with primary linkages between the coast and the hills.

Parcel ID 820 contains densely vegetated open space with steep banks down to Christie Creek. It also contains an informal gravel road (Road) that leads from the Roopena Street gravel car park adjacent to the Facility down to Christie Creek. This Road is used by Council to maintain culverts under Galloway Road and Council needs to retain access to this Road.

Consideration was given as to whether the Road could be moved away from the Roopena Street carpark so that the parcel for potential disposal was less encumbered. The Road cannot be reached from Galloway Road as there is a bus stop and stone suburb sign at that location. It is also unlikely that the Road entrance could be relocated further east along Roopena Street as the Linear Reserve is densely vegetated and very steep which restricts entrance relocation options and the Road must remain over the south-eastern portion of the car park regardless as the gradient drops off steeply from that point.

As such, the Road should remain in its existing location and prior to any disposal of the land the Council will need to create a 3-metre wide right of way to preserve its future vehicle access. (see Attachment 1 – Aerial, with Right of Way bordered in green dashed lines)

Internal Consultation

Internal consultation was undertaken with various teams to understand the site, the possible constraints of the request from SMS and council's current and future needs in relation to the Facility:

- The Reserve has not previously been identified as surplus in the Open Space Strategic Management Plan.
- The Community Facilities District Planning for the Central North-West District indicates that this is 1 of 15 facilities within this district, which is well above the target floor area for this district and a reduction of floor space over time should be considered by council.

- The Facilities Management Team have advised that asbestos is noted at the Facility within door and window infill lining, wall lining, ceiling lining and partitions. Inspections are conducted annually, and the asbestos register updated accordingly by a licensed contractor. Removal of known asbestos is funded via PCW (Community Assets) and removed based on a priority and risk management approach across the entire buildings' portfolio, within the allowable budget.
- The Community Assets Team have advised there is concern regarding the age and condition of the Facility. A structural audit was undertaken in 2017 and further upgrades would be required within 12-24 months.
- The Community Assets Team have also advised that any change of land use as a kindergarten or works that would require a development approval will trigger significant capital compliance upgrades relating to access, amenities and car parking which could be in excess of \$500,000.
- Other Council Teams currently provide the security system for asset protection, graffiti management and maintenance of the open space within the Facility including mowing, weed removal, garden bed maintenance/renewal and installation of irrigation system.

Considering the over-supply of community facilities within the district, the asbestos management, the additional upgrades required, and the significant capital potentially needed for current building compliance due to possible development approval works the recommended approach is to divest the land and dispose of the Facility.

Disposal options include either on the open market for the highest and best use or through direct negotiation with SMS to achieve both financial and non-financial outcomes. SMS currently uses the Facility and has demonstrated a strong community-minded approach.

The request from SMS also enquired about the possibility of purchasing an additional portion of the Linear Reserve along with the Facility. This is not recommended due to the position of the existing sewerage easement adjacent to the Facility. Further, if the proposed revocation of the community land classification is approved by the Council, a 3-metre wide right of way through the car park should be reserved to ensure continued access by Council teams to the Road leading to Christie Creek for maintenance purposes (see Attachment 1 – Aerial, with the proposed Right of Way indicated by dashed green lines).

This report seeks Council approval to commence the revocation process to enable the views of the community to be gauged and communicated back to the Council, as required by the legislative process. If the land proceeds to disposal the report also recommends that the disposal should be on the open market for the highest and best use, noting SMS can participate in open market negotiations.

6. Financial implications

A desktop preliminary market valuation of the subject land has been sought from an independent licenced valuer.

Presently, the market value for the proposed 1900m² parcel of reserve land, with its highest and best use being an englobo residential development site, is valued as of (October 2024) at \$1,130,000.00 exclusive of GST. A valuation remains current for approximately six months. An updated market valuation will be sought at the time of disposal on the open market, should the revocation process be successfully completed.

If the proposed revocation of the community land classification is approved by the Council, and the land and facility are disposed of via the open market for its highest and best use, all costs incurred in completing the revocation and disposal process, including public consultation, valuation, surveying and conveyancing, will be covered by the Council's budget.

The net proceeds from the sale of the Facility (if ultimately approved by the Council) will contribute towards the annual \$3 million budgeted revenue, from the sale of surplus assets, as outlined in the Long-Term Financial Plan. These funds will be used to support prioritised projects as planned.

7. Risk and opportunity management

Risk	
Identify	Mitigation
Financial/business sustainability – Council does not approve the commencement of revocation of community land classification and disposal.	The Council manages its land ownership portfolio in an efficient and sustainable manner by continually reviewing its assets and considering disposal options where there is little or no community benefit from retaining the Facility. Given the oversupply of community facilities within the district, the need for asbestos management, the additional upgrades required for the Facility and the significant capital that may be needed for current building compliance due to potential development approval works, it would be preferable to divest the land and dispose of the Facility rather than commit to a long-term lease.
Reputation/community expectation – Council disposes of the Facility on the open market instead of direct negotiation with SMS.	The Council can dispose of the Facility on the open market for the highest and best use. The costs associated with the revocation and disposal process would be covered by the Council's budget. The SMS can participate in open market negotiations. However, there is the risk that SMS may not be successful in purchasing the Facility, which may be contrary to community expectations. Currently, SMS uses the Facility three days per week to deliver their education programs and holds a current lease with the Council for this purpose.
Legislative	To meet the requirements of the <i>Local Government Act 1999</i> a Communication and Engagement Plan (see Attachment 3) has been prepared to undertake public consultation on the proposal for a minimum period of 21 days and seek feedback. A second update report will be presented to Council detailing the outcomes of the public consultation phase to enable Council to decide if it should proceed with the revocation process and apply for the approval of the Minister for Local Government. When a response is received from the Minister for Local Government, a third final report will be presented to Council to formally approve the revocation process.

Opportunity	
Identify	Maximising the opportunity
Council approves the commencement of revocation of community land classification and disposal	Consistent with all proposed revocations and disposals, the subject land has been assessed by internal stakeholders against a range of strategic and operational criteria before being classified as surplus to requirements and potentially suitable for disposal. Consideration was given to the oversupply of community facilities within the district, the need for asbestos management, further upgrades required for the Facility, and the significant capital that may be needed for building compliance due to potential development approval works. Instead of leasing this aging facility to SMS for up to 42 years as requested, it is preferable that the portion of reserve containing the Facility is revoked from its community land classification with a view to its disposal. The revocation and disposal process will allow the net proceeds from the sale (if ultimately approved by the Council) to contribute to the annual \$3 million budgeted revenue from the sale of surplus assets. This revenue will support the Long-Term Financial Plan, funding prioritised projects as planned.

8. Additional Information Summary

Public Report pursuant to Section 194(2)(a) of the Local Government Act 1999

Summary of the reasons for the proposal

The proposed revocation and disposal are a response to a request from Southern Montessori School (SMS) in a letter dated 19 December 2023. SMS asked the Council to consider a long-term lease (up to 42 years) for the community facility (the Facility) at 2 Roopena Street, O'Sullivan Beach, which is located on a portion of Council reserve.

SMS has occupied the Facility since August 2022, utilising it for three mornings a week to deliver their 'Baby Steps' and 'Toddler Education Programs'. SMS currently holds a one-year lease with the Council from 1 January 2024 to 31 December 2024, on a commercial basis for educational purposes. This arrangement is consistent with the General Community Areas, Services and Social Facilities Management Plan.

An internal strategic land assessment identified:

- oversupply of community facilities within the district,
- the Facility (built in 1975) requires regular asbestos management
- further upgrades may be required to the Facility within 12-24 months
- should potential works require development approval, significant capital may be required to upgrade the Facility to meet current building compliance standards.

The Council manages its land ownership portfolio in an efficient and sustainable manner by continually reviewing its assets and considering disposal options where there is little or no community benefit from retaining the Facility.

(i) Statement of any dedication, reservation, or trust to which the land is subject

The land is not subject to any dedication, reservation, or trust.

(ii) Statement of whether revocation of the classification is proposed for sale or disposal of the land, details of any Government assistance given to acquire the land, and a statement of how the council proposes to use the proceeds

This report proposes the revocation of the community land classification for the Facility and the sale and transfer (subject to Council approval) of the Facility on the open market for highest and best use.

The Reserve 126 in Deposited Plan 9001 vested in 1966 in the ownership of the District Council of Noarlunga which is now the City of Onkaparinga. There was no Government assistance given to acquire the land.

The net proceeds from the sale of the subject land (if approved by Council) will contribute towards the annual \$3 million targeted revenue to be raised from the sale of surplus assets, articulated in the Long-Term Financial Plan to fund prioritised projects as planned.

(iii) An assessment of how the proposal would affect the area and the community:

There is an oversupply of community facilities within this district. Due to the ongoing maintenance and further upgrade costs to Council of this aging Facility, disposal is the preferable outcome.

SMS have occupied the Facility since August 2022 for three mornings a week where they deliver their 'Baby Steps' and 'Toddler Education Programs' and have a current commercial lease for the Facility with council for education purposes. SMS sees the Facility as an integral part of their strategic direction for the future of the school.

Council can dispose of the Facility on the open market for highest and best use, noting SMS can participate in open market negotiations.

The sale of the subject land will fund prioritised projects as planned, as the net proceeds will contribute towards the annual \$3 million-dollar budgeted revenue to be raised from the sale of surplus assets as per the Long-Term Financial Plan.

Revocation of Community Land classification process

To commence that process, Council must first declare the land surplus to requirements and potentially suitable for disposal, followed by public consultation.

Disposal of Land and other Assets Policy 2022

In compliance with Section 49 of the *Local Government Act 1999*, Council refers to its Disposal of Council Land and Other Assets Policy (Policy) when disposing of land. Broadly, the Policy provides several disposal options, a range of matters that may influence the disposal process and method, and possible conditions that should be applied to any real property disposal.

The proposal outlined in this report for the disposal of land (subject to Council approval) is in accordance with this Policy and the following relevant points are:

- Council may dispose of Land through several methods including via open market sale.
- The subject Land will be disposed for no less than the current market value, as determined by an independent Land Valuer.
- Where the disposal of Land is via open market sale, all costs associated with the revocation and disposal process will be met by council budget.
- The subject Land will be divided into a separate allotment and new Certificate of Title.

Valuation procedure

The revocation process has the expectation that Council will consider the revocation of community land classification on an objective basis and determine, on balance, what is in the best interests of the community without the financial outcome of the process in mind.

A desktop preliminary market valuation of the subject land has been sought from an independent licenced valuer.

Presently, the market value for the proposed 1900m² parcel of reserve land, with its highest and best use being an englobo residential development site, is valued as of (October 2024) at \$1,130,000.00 exclusive of GST. A valuation remains current for approximately six months. An updated market valuation will be sought at the time of disposal on the open market, should the revocation process be successfully completed.

9. Timelines and deadlines

No specific timelines or immediate deadlines apply as the process of revocation of community land classification and the resultant disposal can take up to two years to complete.

10. Next steps

If the proposed revocation of the community land classification is approved by the Council, The Property team will offer to extend the current lease to SMS during the revocation process period and whilst the building management does not trigger significant maintenance.

11. Attachments

Attachment 1 – Aerial – Reserve 126 (1 page)

Attachment 2 – Correspondence from SMS (3 pages)

Attachment 3 – Communication and Engagement Plan (11 pages)

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