

9.8 Proposal to revoke and dispose of Community Land off Plains Road, Sellicks Beach

This is a new proposal, concept or issue.

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Attachments:	<ol style="list-style-type: none">1. Aerial photograph of the subject land (1 page)2. Aerial photograph of current licenced area/possible right of way easement (1 page)3. Additional Information Summary (3 pages)

1. Purpose

This report requests Council approval to declare a parcel of council land at Sellicks Hill as surplus to requirements and potentially suitable for disposal and to commence the process to revoke the land from its community land classification.

2. Recommendations

That for the council owned land described as Closed Road M in Road Plan 1550A comprised in Certificate of Title Volume 5639 Folio 937 and bordered in red on attachment 1 to the agenda report, Council:

- 1. Declares 'in principle' that the subject council owned community land is surplus to requirements and potentially suitable for disposal to either of the two adjoining land owners bordered in blue on the aerial photograph of the subject land, attachment 1 to the agenda report.**
- 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*.**
- 3. Requests a further report be presented to Council following the outcome of the public consultation phase of the revocation process.**

3. Background

The subject land (bordered in red on attachment 1), located off Plains Road, Sellicks Hill was a former public road that was closed and vested in fee simple in Council in 1870. As a result of the vesting, the land is defined as Community Land and must be dealt with as such. The subject land is unmade except for a small portion adjacent Plains Road that is used for private access.

Council has received an application to purchase the whole of the land from the two adjoining landowners at Allotment 271 Old Sellicks Hill Road and 3905 Main South Road, Sellicks Hill.

The adjoining landowner at 3905 Main South Road constructed a 120 metre long access track over the subject land to his property and has a licence with Council to

use that portion of the subject land (bordered in red on attachment 2 to the agenda report) to access their property.

The adjoining landowners at 271 Old Sellicks Hill Road also hold a licence with Council to use the same portion of the subject land (bordered in red on attachment 2 to the agenda report) to access their property.

Walking SA and Willunga Basin Trails Inc have been contacted regarding the possible revocation and disposal of this community land, and have no objections to the proposal. Willunga Basin Trails Inc identified the importance of Council retaining Old Sellicks Hill Road to the south of the subject land due to its cultural and recreational significance, which was also identified through Council's initial internal investigations. Closure and disposal of Old Sellicks Hill Road is not being considered.

As a result of the application to purchase council's land, the subject parcel of community land has been comprehensively investigated through an internal circularisation process and identified as potentially surplus to council needs. In particular, Council's Infrastructure Asset Management Team has advised that the subject land is not required from a Road Network Planning perspective.

Disposal of the subject land and consolidation into either adjoining landowner's property will formalise the simplest and most convenient access point to the purchaser's property and reduce Council's responsibility and risk management liabilities.

A Right of Way easement will be offered at no less than current market value of the rights being granted to the non-purchasing adjoining landowner to continue to provide convenient access to their property. The easement negotiations are ongoing and will be finalised prior to the eventual disposal (if ultimately approved by Council).

This report seeks approval to commence a revocation process to enable the views of the community to be gauged and communicated back to Council in accord with the legislative process.

The Site

Community Land

The subject parcel of community land (bordered in red on attachment 1 to the agenda report) is a 20m wide long strip of land, measures approximately 19,320 m² and has frontage to Plains Road, Sellicks Hill. The subject land is steep hillside which terminates at a dead end, abutting private land.

There are no existing registered easements on the parcel of land. A possible Right of Way easement to the non-purchasing adjoining landowner may be granted if they choose to acquire an easement from Council. No other requirements for access easements have been identified over the parcel of land.

The subject parcel is not currently fenced on either boundary.

There are a considerable number of native planted trees on the subject land, which are not endemic to the area, nor protected under the *Native Vegetation Act 1991*.

It is understood that these trees were planted by the previous landowner who owned the two adjoining properties either side of Council's community land at the time of planting. The trees were planted approximately 16 years ago, forestry style.

It is not anticipated that the adjoining land owners will clear the vegetation on the subject land (given that the plantings extend across both adjoining properties) other than to possibly erect fencing and possible driveway access.

Internal investigations regarding the use of the subject lands

Internal investigations across the organisation have not identified any strategic or operational need to retain the land.

The subject land does not form part of Council's Trails and Cycling Strategic Management Plan.

No negative impact on council owned infrastructure was identified if the subject area of land was disposed.

Zoning

The subject land proposed for revocation and disposal is Hills Face Zone, in the Character Preservation District.

Open Space

Although our Open Space Strategic Management Plan has no commentary on this specific parcel of council land, no internal concerns were raised with the proposed disposal from an open space perspective.

4. Financial Implications

The proposal outlined in this report for the revocation and disposal of the subject land (should the commencement of the revocation and disposal be approved by Council) is consistent with Council's approved 'Disposal of Council Land and Other Assets Policy'.

All costs associated with the revocation of community land process (if approved by Council), the sale and consolidation of the subject land with the purchaser's land and the payment of not less than the market value of the land will be borne by the purchaser. The subject land will be consolidated with the purchaser's existing title.

All costs associated with Council granting and registering a Right of Way easement will be borne by the recipient of the easement.

Net proceeds from the sale of the subject land (if ultimately approved by Council) will be assigned to the Strategic Acquisitions Reserve Fund to assist with the purchase of future strategic land acquisitions and other projects.

5. Risk and Opportunity Management

Risk	
Identify	Discussion
Revocation of the subject land is not commenced and the land not progressed for disposal.	Council manages its land ownership portfolio in an efficient and sustainable manner by continually reviewing its assets and considering disposal options where little or no community benefit is derived from retention of the land.

	<p>Failing to deal with this parcel of land in the recommended manner will necessitate the continued licence arrangement for the existing uses, which is considered an administrative burden when the land is not considered necessary for retention.</p> <p>There is no strategic or operational requirement for the land to remain in council's ownership.</p>
That one of the applicants misses out on the opportunity to purchase the subject land.	<p>Council is responsible for arriving at the decision to whom it proposes to sell the subject land, based on all of the information available (and assuming that both applicants are prepared to pay not less than the market value of the land and associated costs).</p> <p>The non-purchasing adjoining landowner will be offered a Right of Way easement at no less than the market value of the rights granted and associated costs, over their current licensed area to continue accessing their property.</p> <p>Both adjoining landowners have alternative legal access to their respective properties, albeit that direct access from Old Sellicks Hill Road to Allotment 271 Old Sellicks Hill Road is not supported by our Infrastructure Asset Management Team.</p>

Opportunity	
Identify	Maximising the opportunity
The land is declared surplus and suitable for disposal	<p>Consistent with all proposed revocations and disposals, the subject land is first assessed against a range of strategic and operational criteria prior to being classified as surplus to council's needs and 'in principle' suitable for disposal.</p> <p>In this particular case our strategic land use assessment indicates that the subject land is not required as a community land and disposal is considered preferable to retention.</p> <p>Revocation and disposal of the land will enable net proceeds to be assigned for future more strategic land acquisitions and other projects.</p>

On balance, based on the above, it is recommended that Council commence the revocation and disposal process.

6. Additional information

Additional Information Summary

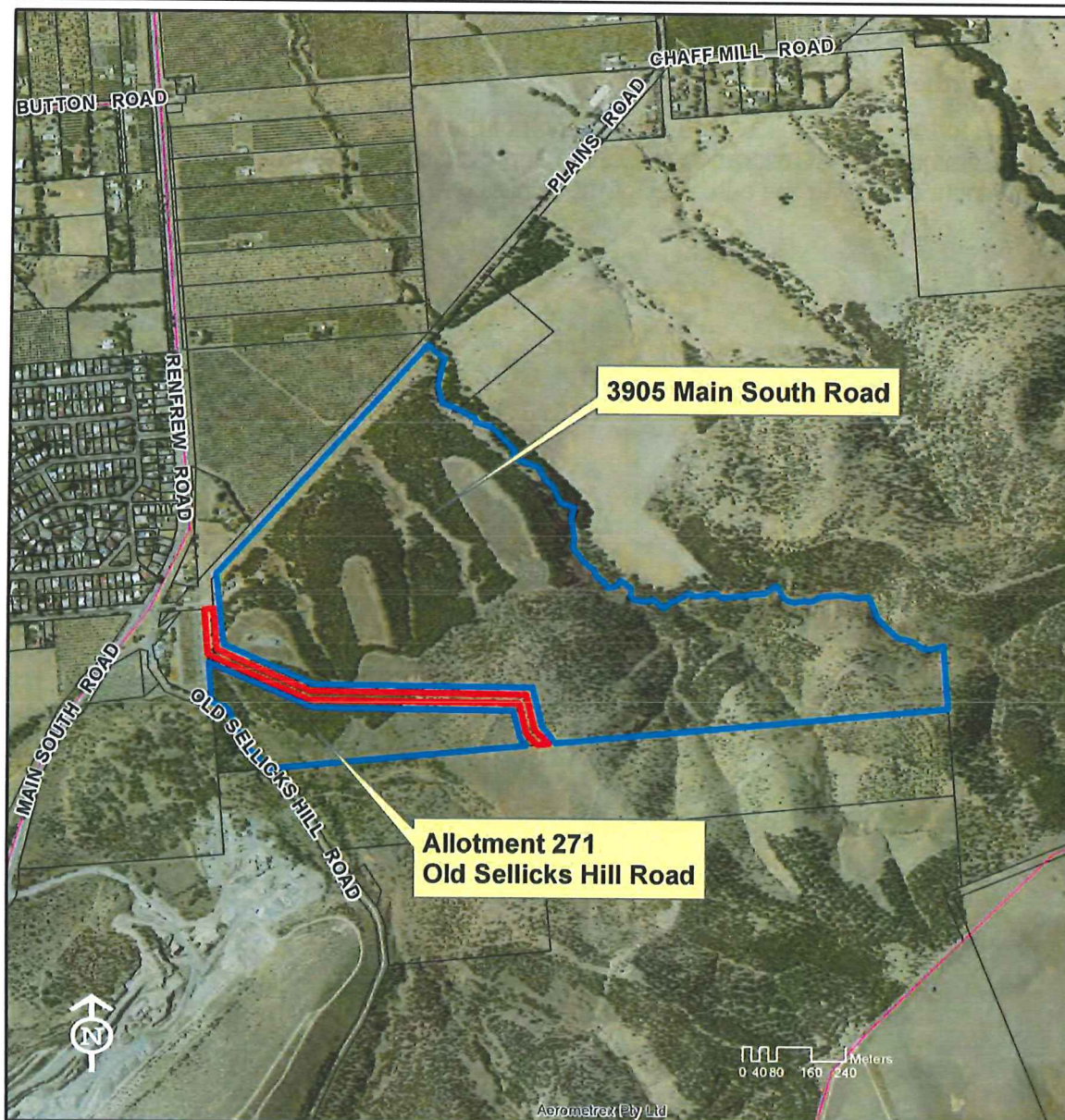
The necessary additional information to commence the revocation of community land process in accord with the *Local Government Act 1999* is provided as Attachment 3.

Further Report

A further report following the completion of the public consultation phase of the community land revocation process (if approved by Council) will be provided to council detailing the outcomes of the public consultation.

Community Land Revocation

Attachment 1



The boundaries plotted hereon are indicative only and their location cannot be relied upon as accurate

Legend

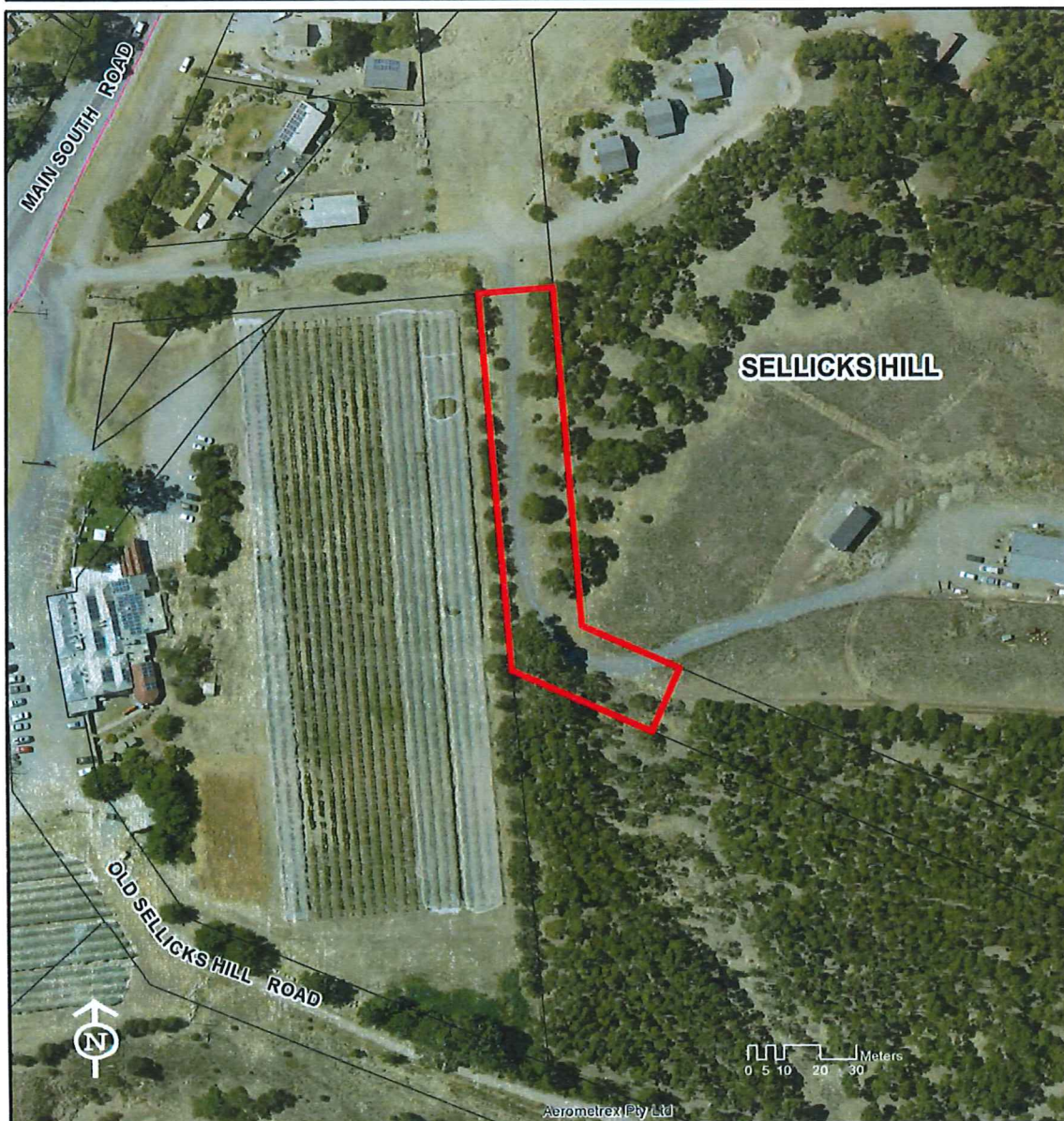


Subject community land



Two adjoining land owners

Community Land Revocation



The boundaries plotted hereon are indicative only and their location cannot be relied upon as accurate

Legend



Licence area / proposed right of way easement

Attachment 3

Attachment 3

Proposal to revoke and dispose of Community Land off Plains Road, Sellicks Hill

Additional Information Summary

Open Space Strategic Management Plan

As the subject land is classified as community land, it automatically forms part of the open space considerations contained in the Open Space Strategic Management Plan (OSSMP). The OSSMP was approved by Council at its meeting on 12 December 2017.

Although our Open Space Strategic Management Plan has no commentary on this specific parcel of council land, no internal concerns were raised with the proposed disposal from an open space perspective.

It is also considered that the subject portion of land has little community value from an open space, recreation and leisure perspective, due to its location, topography, impractical shape and accessibility.

Report pursuant to the *Local Government Act 1999*

The *Local Government Act 1999* prescribes that council must prepare a report before it proposes to revoke the classification of land as community land. The report must address the following:

Summary of the reasons:

The proposed revocation and disposal is as a direct consequence of the adjacent landowners approaching Council to purchase the subject land to consolidate with either of their properties to formalise the simplest and most convenient access point to their properties.

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

Failing to deal with this parcel of land in the recommended manner will necessitate the continued licence arrangement for the existing uses, which is considered an administrative burden when the land is not considered necessary for retention.

It is also felt that the land has little value from a recreational and leisure perspective due to its location, topography, impractical shape and accessibility.

A statement of any dedication, reservation or trust to which the land is subject:

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

Proposal to sell

The intent of this report proposes the revocation of the subject land from its community land classification and the sale and transfer (subject to Council approval) of the land to either of the two adjoining landowners at no less than the current market value.

Proceeds from the sale of the subject land (if approved by Council) will be assigned to the Strategic Acquisitions Reserve Fund to assist with the funding of future strategic land acquisitions and other projects.

Both adjoining landowners have requested the opportunity to purchase the subject land. A Right of Way easement will be offered at no less than the current market value of the rights granted to the non-purchasing adjoining landowner to continue to provide convenient access to their property.

Summary of effect on the community

Disposal of the subject land currently presents little or no impact on current recreational opportunities for the community due to its location, topography, impractical shape and accessibility.

There is no strategic or operational requirement for the land to remain in council's ownership and disposal will reduce Council's responsibility and risk management liabilities.

A sale of the land will assist with the purchase of future strategic land acquisitions and other projects as the net proceeds will be assigned to the Strategic Acquisitions Reserve Fund (if the revocation and disposal is ultimately approved by Council).

Revocation process

The *Local Government Act 1999* states that all council land (excluding roads) is classified as community land and that council may only sell or otherwise dispose of an interest in community land after revocation of this classification.

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

As part of the public consultation process council follows the requirements of the *Local Government Act 1999* and seeks public comment for a minimum period of 21 days, by placing a notice in the local Messenger Newspaper in addition to giving written notice to the applicant and adjacent land owners, uploading the proposal on Council's website and providing information folders at our five Customer Service Centres. If appropriate, council may also erect a sign on the land during the consultation period inviting comments on the proposal to revoke and the intention to ultimately dispose of the land.

A second update report is presented to Council discussing the outcomes of the public consultation phase to enable Council to decide if it should proceed with the revocation process by applying for the consent of the Minister for Planning.

A third report is provided to Council to formally approve the revocation once the consent of the Minister is received.

Council policy on the disposal of council land

Council adopted a 'Disposal of council land and other assets' Policy on 7 September 2010. Broadly, the policy provides a number of 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 the subject land (should a revocation be successful) is in accordance with council's Disposal Policy. Of particular relevance to this disposal are the following:

1. It is intended to deal direct with the adjacent owners.
2. The land will be disposed at no less than the current market value.
3. All costs associated with the disposal together with the purchase price of the land will be borne by the purchaser.
4. The subject land will be consolidated with the purchaser's existing title.

Valuation Procedure

The revocation process has the expectation that Council will consider revoking the classification of community land 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 valuation is sought at the end of the revocation process, once Council has decided on the merits of removing the land from the classification of community land and a final decision on its disposal is known.