City of Marion

Report for Public Consultation

Proposed revocation of community land

Allotment 220 Warracowie Way Oaklands Park

Known as Marion Cultural Centre Reserve

Certificate of Title Volume 5848 Folio 473

Allotment 220 in Deposited Plan 56981

in the area named Oaklands Park, Hundred of Noarlunga

Introduction

All local government land (except roads) that is owned by a council or under a council's care, control and management is Community Land under the Local Government Act 1999 (the "Act"), unless it has been exempted through legislation, excluded by resolution of Council or the classification has been revoked.

The Act provides a framework for the administration and management of all local government land, including Community Land, which aims to ensure a consistent, strategic and flexible approach. Its objectives are to protect community interests in land for current and future generations.

Once classified, Community Land –

- cannot be disposed of, except in prescribed cases (s201(2));
- may require the preparation and adoption of a management plan (s196);
- can be leased or licensed but only in accordance with prescribed requirements (s202); and
- can be used for business or commercial purposes, subject to the use being authorised in an approved management plan for the land (s200).

This report has been prepared to address the requirements of Section 194(2) of the Act and will be made publicly available, this report will include –

- a summary of the reasons for the proposal;
- a statement of any dedication, reservation or trust to which the land is subject;
- a statement of whether revocation of the classification is proposed with a view to sale or disposal of the land and, if so, details of any Government assistance given to acquire the land;
- a statement of how the council proposes to use the proceeds (if relevant);
- an assessment of how implementation of the proposal would affect the area and the local community;
- if the council is not the owner of the land – a statement of any requirements made by the owner of the land as a condition of approving the proposed revocation of the classification; and

- the relevant steps that Council must follow set out in its public consultation policy.

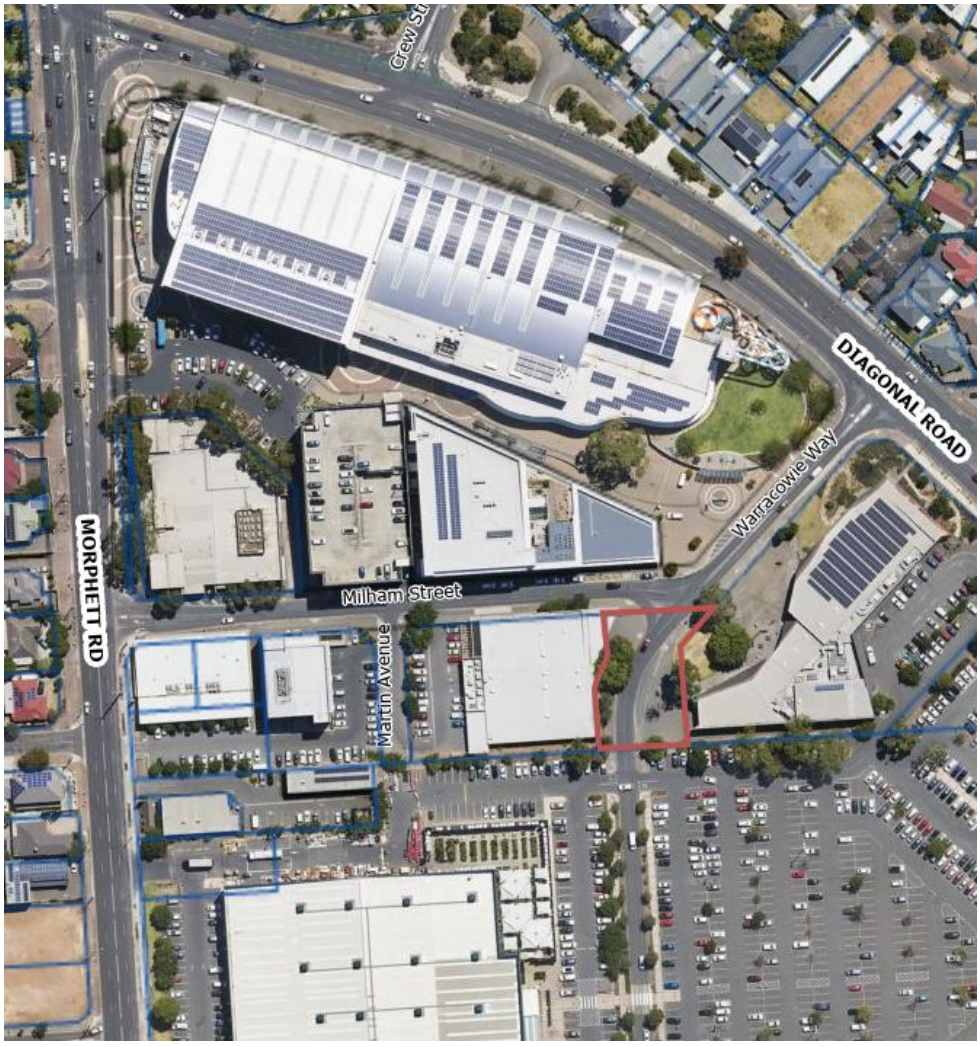
After complying with the requirements of the Act, the council –

- must submit the proposal with a report on all submissions made on it as part of the public consultation process to the Minister; and
- if the Minister approves the proposal, Council may make a resolution revoking the classification of the land as community land.

The Land

The land that is being considered for revocation is located on the corner of Warracowie Way and Milham Street, it is described as Allotment 220 in Deposited Plan 56981 being an estate in fee simple in the whole of the land comprised in Certificate of Title Register Book Volume 5848 Folio 473 (the "Land"). A copy of the Certificate of Title (Attachment 1) and Deposited Plan (Attachment 2) is attached to this report.

The Land is bounded in red on the aerial photograph below.



The Land comprises an irregular shaped allotment with an area of 1,349 square metres. As noted in DP 56981, the Land has a street frontage of 37m facing both Warracowie Way and Milham Street which is also its northern boundary and a southern boundary of 30m.

The Certificate of Title lists the following easements:

> Subject to a right of way on foot only over the land marked A on DP 56981
>
> Subject to an easement for maintenance purposes over the land marked B on DP 56981 (for the building located on the western boundary)

The Corporation of the City of Marion is the registered proprietor of the Land.

The Land is currently a constructed road which provides vehicle and pedestrian access linking Diagonal and Morphett Roads via Warracowie Way and Milham Street respectively with Westfield Shopping Centre Marion.

The Planning and Design Code identifies the Land as being located in the Community Facilities Zone.

The Proposal

The Land was historically residential housing which was purchased by the Council in the 1990s for market value and subsequently demolished before being developed as a community precinct that includes the Marion Cultural Centre, South Australia Aquatic and Leisure Centre and medical and government office buildings.

It is proposed to revoke the Community Land classification for this Land to support the opening of a public road which will allow it to be used by pedestrians and vehicles in perpetuity. It is envisaged that the existing western boundary of this parcel will become the western boundary of the new public road reserve and on the eastern side, the road reserve will extend to include a footpath and landscape treatments adjacent the Marion Cultural Centre (the “MCC”) and the balance of land will be merged with the MCC title.

The land occupied by the MCC was excluded from the Community Land classification by resolution of Council on 23 July 2002 (GC 230702 R402) because the MCC includes multiple uses that are best managed utilising commercial property processes that are incompatible with the community land provisions under the Act.

The Council resolution also included this Land with the intent of excluding it from the Community Land classification, however this Land is subject to a Reservation and its Community Land classification can only be removed by revocation and not a Council resolution on its own.

After the balance of land has merged with the MCC title, this property will remain excluded from the Community Land classification.

The existing easement for a right of way on foot only (marked A in DP 56981) will be extinguished in accordance with Section 90E of the Real Property Act, 1886 upon the Land becoming public road as a private right of way cannot and does not need to exist over a public road.

The existing easement for maintenance purposes (marked B in DP 56981) allows the owners of the building on the western side of the Land at 8 Warracowie Way to maintain their improvements including a small encroachment. The Council will consider its options to continue the easement or resolve the encroachment during the land division process which will occur after the revocation process has been completed.

Community Land Management Plan

Community Land Management Plans were introduced through the Local Government Act 1999. It was the intent of the Act that local government land which is held for the benefit of the community should remain in the ownership or care, control and management of the Council for that purpose. Accordingly, a Council may only deal with Community Land after a formal process of public consultation has been undertaken with the community for whose benefit the land is held.

The Land is included in the City of Marion Community Land Management Plan Reserves and Open Space which was adopted on 13 June 2023.

The Community Land Management Plan provides for open space including "secondary purposes associated with Council's operational needs including but not limited to environmental, urban design, heritage (cultural and built form) and stormwater management requirements".

The land was included in the Community Land Management Plan because it is held for community benefit and it could not be excluded from the Community Land classification prior to 31 December 2002 due to its dedication as a Reserve.

Dedications/Reservations and Trusts

A review of the Certificate of Title indicates that the Land is subject to a dedication for Reserve, there are no other reservations, dedications or trusts affecting the Land. Should the Minister approve the revocation proposal, Council will make an application to the Registrar-General to have the 'Reserve' notation removed from the instrument of title.

Disposal of the Land

Council is seeking to revoke the community land classification to allow it to open the Land as a public road reserve with the balance of the land being merged with the MCC parcel identified as Allotment 3 in Deposited Plan 59367 being the whole of the land comprised in Certificate of Title Volume 5880 Folio 722. The balance of land is estimated to be 395m2.

Council is not seeking to dispose of the land.

Native Title Considerations

The Land is held in "Fee Simple" by the Council and there are no Native Title claims over the Land.

Effect of the Revocation on the area and local community

The revocation of the Community Land classification of this property is not expected to have any detrimental effect on the area or the local community as the proposed revocation and opening of the Land as a public road with the balance merging with the MCC parcel is formalising the existing use of the Land as a vehicle and pedestrian link.

Public Consultation

The revocation process requires a public consultation process that complies with the Local Government Act 1999 and Council's Public Consultation Policy.

Council is keen to understand the issues of its local community and will formally consider all submissions.

Upon receipt of any public submissions, they will be summarised as part of a report which will be presented to Elected Members at a future Council meeting. The Elected Members will consider what the community has to say about the proposal before they make their decision. If the Elected Members resolve to support the proposal, the Council will submit the proposal to the Minister and request that the revocation of Community Land classification be effected for this parcel of land.

Attachments

1 – Certificate of Title Volume 5848 Folio 473

2 – Deposited Plan 56981

3- Proposed land areas.

REAL PROPERTY ACT, 1886
South Australia

The Registrar-General certifies that this Title Register Search displays the records maintained in the Register Book and other notations at the time of searching.

Certificate of Title - Volume 5848 Folio 473

Parent Title(s) CT 5681/920, CT 5681/925, CT 5681/926

Creating Dealing(s) RTC 9081614

Title Issued 30/05/2001 **Edition** 1 **Edition Issued** 30/05/2001

Estate Type

FEE SIMPLE (RESERVE)

Registered Proprietor

THE CORPORATION OF THE CITY OF MARION
OF PO BOX 21 OAKLANDS PARK SA 5046

Description of Land

ALLOTMENT (RESERVE) 220 DEPOSITED PLAN 56981
IN THE AREA NAMED OAKLANDS PARK
HUNDRED OF NOARLUNGA

BEING A RESERVE

Easements

SUBJECT TO RIGHT(S) OF WAY ON FOOT ONLY OVER THE LAND MARKED A ON DP 56981 (RTC 8702452)

SUBJECT TO EASEMENT(S) OVER THE LAND MARKED B ON DP 56981 (RTC 9081614)

Schedule of Dealings

NIL

Notations

Dealings Affecting Title NIL

Priority Notices NIL

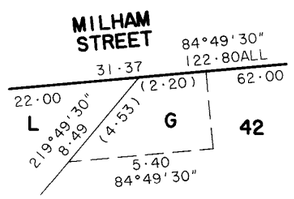
Registrar-General's Notes NIL

Administrative Interests NIL

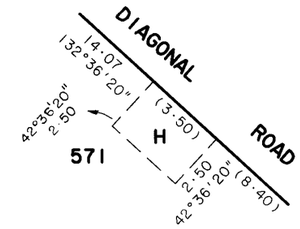
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REFERENCE MARKS

CNR	BEARING	FROM	DIST	PM NO
1	91°45'	SPK FD	1·52	
2	355°02'	MP FD	0·61	
3	92°53'	PM FD	12·72	6627/19010
4	131°17'	MP FD	1·00	
5	-	PM FD	-	6627/9198
6	221°22'	PM FD	24·92	6627/9210



ENLARGEMENT E2
NOT TO SCALE



ENLARGEMENT E1
NOT TO SCALE

Δ Portion of Allotment 221 closed and merged vide DP 59367
pro RG 22·8·2002

* Portion of Milham Street abuttal closed and merged vide DP 59367
pro RG 22·8·2002

ALLOTMENT 50 IS TOGETHER WITH A RIGHT OF WAY ON FOOT ONLY OVER PORTION OF ALLOTMENTS 319 AND 502 MARKED BB ON DP 52571 (RTC 8702452)

ALLOTMENT 50 IS TOGETHER WITH A FREE AND UNRESTRICTED RIGHT OF WAY OVER THE LAND MARKED CC ON DP 52571

PORTION OF ALLOTMENT 221 MARKED M IS SUBJECT TO A SERVICE EASEMENT FOR WATER SUPPLY PURPOSES (SED5257IM)

PORTION OF ALLOTMENT 221 MARKED N IS SUBJECT TO A SERVICE EASEMENT FOR SEWERAGE PURPOSES (SED5257IN)

RIGHT OF WAY ON FOOT ONLY (RTC 8702452) OVER ALLOTMENT 221 (MILHAM STREET) IS EXTINGUISHED BY SECTION 90E OF THE RPA 1886

LEGEND

NETWORK PSM		FD
NETWORK STATION		FD
PERMANENT SURVEY MARK	PLACED	
	FOUND	FD
	GONE	GONE
REFERENCE MARKS	PLACED	MP OR RM
	FOUND	SPK FD
	GONE	BT GONE
DRILL HOLE & WING		
DIRECTION CHANGE		
PART DISTANCES		(20.32)
CALCULATED DATA		20.85 CALC.
COPIED DATA		100.85

ALEXANDER & SYMONDS PTY. LTD.
11 KING WILLIAM STREET, KENT TOWN
P.O. BOX 1000 KENT TOWN 5071
TEL (08) 8363 1600 FAX (08) 8362 0099
REF A016796:05 CAD A016796LTO10
FB A.C.N. 007 753 988

PLAN NUMBER
DP 56981

THIS IS SHEET 1 OF 1 SHEETS

DEPOSITED 8/5/2001 PRO REGISTRAR GENERAL
~~ACCEPTED FOR FILING~~

MAP REF. 6627-1-g DEV. No. 100/0044/00

TITLE SYSTEM REAL PROPERTY ACT

TITLE REFERENCE CT 5681/920 CT 5681/918
CT 5681/925 CT 5681/926

O.B. / LAST PLAN REF. DP 52571 TOTAL AREA 5·04ha

DOCKET No. Approx

FIELD BOOK No.

CLOSURE CHECKED	PLAN EXAMINED	PLAN APPROVED	P.M.S. APPROVED
A.W.	B.F.	B.Fahey 11/4/01	11/4/01

RE-APPROVED 24/04/01 for minor notes

IRRIGATION AREA ..... DIVISION .....
HUNDRED ..... NOARLUNGA .....
AREA ..... OAKLANDS PARK .....
COUNCIL ..... CITY OF MARION .....

PLAN OF DIVISION AND REDESIGNATION OF PARCEL

ALLOTMENTS 219,457 AND 505 IN DP 52571 OF PT SEC 142 AND 143

SCALE 0 7.5 15 30 45 60 75 METRES

STATEMENTS CONCERNING EASEMENTS ANNOTATIONS AND AMENDMENTS

THE RIGHT OF WAY ON FOOT ONLY (RTC 8702452) OVER PORTION OF ALLOTMENT 457 MARKED P IN DP 52571 IS TO BE VARIED TO THE POSITION MARKED A

PORTION OF ALLOTMENT 220 MARKED B IS TO BE SUBJECT TO AN EASEMENT FOR MAINTENANCE PURPOSES APPURTENANT TO ALLOTMENT 42 AS SET FORTH IN THE ACCOMPANYING APPLICATION

PORTION OF ALLOTMENTS 221 AND 571 MARKED D ARE SUBJECT TO AN EASEMENT TO TELSTRA CORPORATION LTD (RTD 8272056)

PORTION OF ALLOTMENTS 221 AND 571 MARKED E ARE SUBJECT TO AN EASEMENT TO THE ETSA CORPORATION (RTD 8272056)

PORTION OF ALLOTMENT 42 MARKED G IS TO BE SUBJECT TO AN EASEMENT FOR ELECTRICITY SUPPLY PURPOSES TO DISTRIBUTION LESSOR CORPORATION (SUBJECT LEASE 8890000) AS SET FORTH IN THE ACCOMPANYING APPLICATION

PORTION OF ALLOTMENT 571 MARKED H IS TO BE SUBJECT TO AN EASEMENT FOR ELECTRICITY SUPPLY PURPOSES TO DISTRIBUTION LESSOR CORPORATION (SUBJECT LEASE 8890000) AS SET FORTH IN THE ACCOMPANYING APPLICATION

PORTION OF ALLOTMENT 31 MARKED K IS SUBJECT TO A FREE AND UNRESTRICTED RIGHT OF WAY

PORTION OF ALLOTMENT 31 MARKED L IS TO BE SUBJECT TO A FREE AND UNRESTRICTED RIGHT OF WAY APPURTENANT TO ALLOTMENT 42

ALLOTMENT 50 (CT 5681/925 & CT 5681/926) DOES NOT FORM PART OF THIS DIVISION

ALL DISTANCES ARE GROUND DISTANCES

COMBINED SCALE FACTOR 1·00022 ZONE 54 MGA 94
BEARING DATUM MGA 94 DISTANCE
DERIVED FROM TERTIARY NETWORK

I, RICHARD ALAN RETALLACK
licensed Surveyor of South Australia do hereby certify-

1) that this plan has been made from surveys carried out by me or under my personal supervision and in accordance with the Survey Act 1992 / ~~Strata Titles Act 1988 (Strike out as appropriate)~~

2) that the field work was completed on the 27th day of MARCH 2001
excepting for the final placement of survey marks.
(strike out if not applicable)

Date 27.03.01 Licensed Surveyor

Existing Community Reserve- Area 1349m2

Proposed Road Reserve - Approximate area 954m2

Proposed merge of land with adjacent
Marion Cultural Centre Certificate of Title
Approximate area 395m2

Marion Cultural Centre
Certificate of Title Volume 5880 Folio 722

Community Land Revocation- Proposed Areas

CITY OF MARION