

12.3 Spinnaker Circuit Reserve East – Revocation of Community Land Classification

Report Reference	GC220823F12.3
Originating Officer	Unit Manager Land & Property – Michael Collins
Corporate Manager	Manager City Property – Thuyen Vi-Alternetti
General Manager	General Manager City Development – Tony Lines

CONFIDENTIAL MOTION

That pursuant to Section 90(2) and (3)(b) of the Local Government Act 1999, the Council orders that all persons present, with the exception of the following persons: Chief Executive Officer, General Manager City Services, General Manager City Development, General Manager Corporate Services, Chief Financial Officer, Manager City Property, Manager Office of the Chief Executive, Chief Financial Officer, Unit Manager Land & Property, Senior Property Officer, Unit Manager Governance and Council Support, be excluded from the meeting as the Council receives and considers item 12.3 Spinnaker Circuit Reserve East – Revocation of Community Land Classification upon the basis that the Council is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep consideration of the matter confidential given the information relates to matters that may impact commercial contract negotiations.

REPORT HISTORY

Report Reference	Report Title
GC190924R03	Spinnaker Circuit Reserve East, Sheidow Park – Potential Sale
GC191210R03	Spinnaker Circuit Reserve East – Community Engagement
GC200225M01	Rescission Motion – Spinnaker Circuit Reserve East
GC201013R05	Spinnaker Circuit Reserve East – Revocation of Community Land Classification
GC210727R11.3	Spinnaker Circuit Reserve – Revocation of Community Land Classification
GC211214R11.9	Spinnaker Circuit Reserve – Revocation of Community Land Classification

REPORT OBJECTIVE

This report sets out to achieve several objectives. Firstly, to advise Council that the Minister has accepted Council's application to revoke the Community Land classification over the land known as Spinnaker Circuit Reserve – East, Sheidow Park and recommendation to proceed with the revocation of community land classification.

The report also presents background and recommendation for the rescission of motion (GC210727R11.3) Spinnaker Circuit Reserve – Revocation of Community Land Classification, to instead enable the progression of negotiations and subsequent sale of the whole of the land at Spinnaker Circuit Reserve – East to the Catholic Church Endowment Society.

For Council to fulfill these report objectives, a resolution has been presented in parts to identify and address all stages of the required process.

EXECUTIVE SUMMARY

Council previously resolved to seek the consent of the Minister for the revocation of community land classification of Spinnaker Circuit Reserve – East following a period of community consultation. The Minister has given their consent to the revocation (refer Attachment 1).

St Martin de Porres School (via the Catholic Church Endowment Society) has now made a formal offer to purchase the whole of the reserve from Council at a figure consistent with Council achieving a market price for the land and in line with an independent valuation obtained by Council. This is a variation to what was resolved by Council in report (GC210727R11.3) Spinnaker Circuit Reserve – Revocation of Community Land Classification where St Martin de Porres proposed to purchase only one portion of the land identified as 'Piece A' with 'Piece B' being put to the open market for sale.

This report seeks Council's authorisation to finalise the community land revocation process. It seeks to rescind (GC210727R11.3) in accordance with Regulation 21 of the Local Government (Procedures at Meetings) Regulations 2013, which allows the CEO to submit a report to Council recommending a rescission motion.

Subsequently it seeks Council to allow the progression of negotiations and sale of the Spinnaker Circuit Reserve – East to the Catholic Church Endowment Society for the whole of the land.

RECOMMENDATION

Part 1

That Council:

- 1. Notes the decision made by the Minister for Planning and Local Government on 18 February 2022 to approve Council's proposal to revoke the classification as community land of Allotment (Reserve) 88 in Deposited Plan 17901 contained in Certificate of Title Volume 5546 Folio 484.**
- 2. Resolves to approve the revocation of the subject land from its community land classification pursuant to section 194(3)(b) of the *Local Government Act 1999* and to publish a Notice in the Government Gazette to this effect.**
- 3. Notes the Registrar General will be notified of the revocation of the classification of community land in accordance with Section 195 of the Local Government Act 1999.**
- 4. Authorises the Mayor and Chief Executive Officer to affix the Common Seal of the Corporation of the City of Marion and to sign, as may be required, any documentation required to finalise the revocation of community land classification of Allotment (Reserve) 88 in Deposited Plan 17901 contained in Certificate of Title Volume 5546 Folio 484 (Pieces A & B).**

Part 2

That in accordance with Regulation 21 of the Local Government (Procedures at Meetings) Regulations 2013, Council rescinds the following resolution from 27 July 2021 (GC210727R11.3):

'That Council

- 1. Confirms its intention is to sell the portion of the reserve indicated as 'Piece A' in Attachment 3 to St Martins De Porres School by negotiation, at or close to market value (based on assumed residential zoning value), subject to the outcome of the revocation process;*

2. *Confirms its intention is to sell the portion of the reserve indicated as 'Piece B' in Attachment 3 on the open market in a manner to achieve maximum net financial return to Council, subject to the outcome of the revocation process';*

Part 3

That Council:

1. **Notwithstanding the Disposal of Land and Assets Management Policy to obtain two independent valuations in the event of a direct sale, is satisfied with the one independent valuation by Council and one by the School which have been obtained to establish the market value of the property prior to disposal.**
2. **Having considered the criteria outlined in its Unsolicited Proposals Policy, authorises Administration to negotiate terms for the sale of the whole of the land being Allotment (Reserve) 88 in Deposited Plan 17901 contained in Certificate of Title Volume 5546 Folio 484 (Pieces A & B) to the Catholic Church Endowment Society (CCES) for a sum of \$1,695,000 which achieves market value for Council.**
3. **Authorises the Mayor and Chief Executive Officer to affix the Common Seal of the Corporation of the City of Marion and to sign, as may be required, any documentation to finalise the sale of the whole of the land at Allotment (Reserve) 88 in Deposited Plan 17901 contained in Certificate of Title Volume 5546 Folio 484 (Pieces A & B), to the Catholic Church Endowment Society (CCES) or nominee for a sum of \$1,695,000 which achieves market value for Council.**

Part 4

That in accordance with Section 91(7) and (9) of the Local Government Act 1999 the Council orders that all financial information identified within this report, any appendices and the minutes arising from this report having been considered in confidence under Section 90(2) and (3)(b) of the Act, except when required to effect or comply with Council's resolution(s) regarding this matter, be kept confidential and not available for public inspection until the execution of the sale of the whole of the land at Allotment (Reserve) 88 in Deposited Plan 17901 contained in Certificate of Title Volume 5546 Folio 484 (Pieces A & B), to the Catholic Church Endowment Society (CCES) or nominee or until the review of this confidentiality order at the General Council Meeting in December 2022.

BACKGROUND

Spinnaker Circuit Reserve – East (the Reserve) is a reserve of approximately 6,158 square metres of land with street frontages at Spinnaker Circuit and Berrima Road Sheidow Park. The Reserve is community land adjacent St Martin de Porres School (the School). A map of the reserve is attached (refer Attachment 2).

The School approached Council expressing interest in the Reserve as additional parking and potentially for construction of a new playground and hall. The School currently licences a portion of the Reserve for car parking and storage of site sheds. The current licence expires on 30 December 2022.

On 27 July 2021 (GC210727R11.3) Council resolved:

1. *Confirms its intention is to sell the portion of the reserve indicated as 'Piece A' in Attachment 3 to St Martins De Porres School by negotiation, at or close to market value (based on assumed residential zoning value), subject to the outcome of the revocation process;*

2. *Confirms its intention is to sell the portion of the reserve indicated as 'Piece B' in Attachment 3 on the open market in a manner to achieve maximum net financial return to Council, subject to the outcome of the revocation process;*

After considering the outcome of the public consultation undertaken in accordance with the requirements of the Local Government Act 1999 at its General Meeting held on 14 December 2021 (GC211214R11.9), Council resolved:

1. *Notes the outcome of the community consultation process undertaken for the revocation of the Community Land Classification for the whole of Spinnaker Circuit Reserve – East, Sheidow Park, at Lot 88 in deposited Plan 17901, Certificate of Title Volume 5546 Folio 484 and for the potential disposal of the approximately 6,158 square metres of land.*
2. *Declares that the retention of the land does not contribute to Council's strategic objectives and is surplus to Council's requirements.*
3. *Authorises the lodgement of the request for consent to revoke the Community Land Classification over the whole of Spinnaker Circuit Reserve – East for the potential disposal of the land with the Minister for Local Government in accordance with Section 194 of the Local Government Act 1999 :*
 - a. *With a report on all submissions made as part of the public consultation process.*
 - b. *A request to approve the revocation of the Community Land Classification over Spinnaker Circuit Reserve – East.*
4. *Notes a further report will be presented to Council upon receipt of the determination from the Minister for Local Government in relation to the revocation. Subject to Ministerial approval, the net proceeds from the sale will be paid into the Open Space Reserve Fund for the development of open space as provided by Council.*

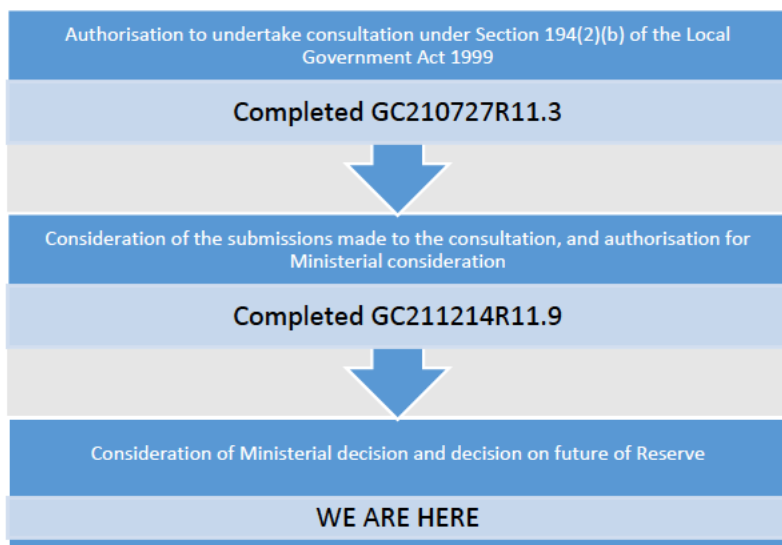
Discussions at the General Council Meeting held on 14 December 2021 indicated a preference, based on the consultation feedback, for the whole of the reserve to be sold to the school, rather than Piece B being sold separately on the open market, likely for residential development.

DISCUSSION

Following Council's resolution, a request was submitted to the Minister for Planning and Local Government seeking their approval of the revocation of community land classification. Ministerial approval of the revocation was received by Council on 18 February 2022 (Attachment 1).

Council is now able to finalise the revocation by passing a resolution revoking the community land classification over the Reserve pursuant to Section 194(3)(b) of the *Local Government Act 1999*.

The following diagram illustrates Council's approval process to revoke the community land classification. Council is currently at Stage 3 having received Ministerial advice supporting the revocation, and the decision now sits with Council to finalise revocation process.



Council may decide not to proceed with the community land revocation, in which case it will need to consider the future options for the management and maintenance of the reserve.

Discussions with School

Following the School's unsolicited proposal to Council, further discussions have taken place with the School which has identified that they would prefer and are in a position to purchase the entirety of the land (Pieces A and B) and they have now made an offer of \$1,695,000 plus GST for Council's consideration. This offer has been made on the basis of an independent valuation obtained by the school and is also based on the land being unencumbered. They have advised that the formal entity purchasing the land would be the Catholic Church Endowment Society (CCES). The offer is in excess of their own valuation for the whole of the land, a copy of which they have provided to Council Administration. [REDACTED]

The offer has been made to Council via email, at the time of writing a formal written letter of offer has been requested but not received. CCES has advised that the proposal required the formal endorsement of the CCES Board, which meets on 23 August 2022. The formal letter of offer will be provided to Council following this meeting (subject to Board approval).

Valuations

Council initially obtained an independent valuation of the land on 14 May 2020. This valuation gave a valuation figure of [REDACTED] plus GST based on the sale of the land as a whole to a third party for residential development. This valuation also gave an individual figure of [REDACTED] plus GST for Piece B if sold to a third party for residential development.

Council recently obtained an updated independent valuation (refer Attachment 3) of the whole of the land based on market value, dated 13 July 2022. The valuation noted that Piece B is of steeper sloping topography than Piece A which potentially impacts its developability.

Market Value of Piece A (2,995 sqm) - [REDACTED] plus GST
 Market Value of Piece B (3,163 sqm) - [REDACTED] plus GST
 Market Value of overall site (6,158 sqm) - [REDACTED] plus GST

Note that the valuation obtained by the school valued Piece B at [REDACTED] less than Piece A.

It should be noted that currently Spinnaker Reserve – East is on one title, and should Council

choose to sell Pieces A & B separately there would be additional costs to Council for land division and sale, together with the length of time to undertake these processes if the pieces were to be sold separately, noting the potential for a falling property market in 2023.

Policy Considerations

Unsolicited Proposals Policy

Council has an Unsolicited Proposals Policy which is applicable where the value of an unsolicited proposal is in excess of \$500,000. The proposal by St Martins de Porres School to purchase the land would be covered by this Policy.

The Policy provides that Council may, at its absolute discretion, enter into a period of exclusive negotiations with a proponent. The Policy requires that Council give consideration to various criteria to determine whether a period of exclusivity should be entered into with a proponent in an unsolicited proposal. These criteria are:

- No competing proposals exist
- Urgency
- Community benefit
- Uniqueness – promoting the development of unique and innovative ideas for the ultimate purpose of increasing public value through jobs creation and more efficient and effective services
- Ensuring an open, transparent and fair process that involves a high standard of probity and public accountability
- Value for money unlikely to be matched in an open tender
- Capacity and capability of the proponent

Having given consideration to the above criteria, Council has the discretion under the Policy to enter into exclusive negotiations with the School. The proposal could objectively be said to meet most of the above criteria, perhaps with the exception of Urgency, and no competing proposals existing (on the basis that the site could potentially be sold on the open market for residential development).

Disposal of Land & Assets Policy

Council has previously declared that the land was surplus to requirements and would be disposed of in accordance with Council's *Disposal of Land and Assets Policy* (the Policy), the Policy allows for the disposal of land 'by negotiation' with adjoining owners. Council has entered into negotiations with the School and the School has made an offer for Council's consideration.

Where land is being disposed of 'by negotiation', the Policy guidance is that a minimum of two independent valuations should be obtained within 12 months of the disposal unless the Council resolves otherwise. In this case two independent valuations were obtained, one by the School and the second by Council, noting that in 2020 Council has previously obtained an independent valuation to determine the market value of the land.

Offer by the School

Council has recognised its responsibility to obtain the market value of the land for Council throughout this process. This was initially thought to be achieved by selling a portion to the School with the balance of land being sold on the open market for residential subdivision. However, the School has expressed strong interest and subsequently made an offer for the whole of the land which is in line with Council's intention to achieve market return.

It is therefore recommended that Council accept this offer, authorise Administration to negotiate terms for a sale, and authorise the Mayor and Chief Executive Officer to affix the Common Seal of the Corporation of the City of Marion and to sign, as may be required, any documentation required to finalise the revocation of community land classification of Allotment (Reserve) 88 in Deposited Plan 17901 contained in Certificate of Title Volume 5546 Folio 484 (Pieces A & B), and to effect the sale of the land to the Catholic Church Endowment Society (CCES) or nominee.

ATTACHMENTS

1. 22 ML G 0063 - Ministerial Letter - HARRISON, Tony [**12.3.1** - 1 page]
2. Spinnaker Circuit Reserve East - Plan of Reserve [**12.3.2** - 1 page]
3. F 2241050100700 72 Spinnaker Circuit FINAL [**12.3.3** - 37 pages]

The Hon Josh Teague MP

22MLG0063

Mr Tony Harrison
Chief Executive Officer
City of Marion

By email: tony.harrison@Marion.sa.gov.au



**Government
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**Minister for Planning
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Dear Mr Harrison ,

I write in response to your recent correspondence seeking my approval of the proposal by the City of Marion (the Council) to revoke the community land classification of 72 Spinnaker Circuit Reserve East, Sheidow Park, also known as Allotment (Reserve) 88 in Deposited Plan 17901 contained in Certificate of Title Volume 5546 Folio 484 (the subject land).

After carefully considering the effect of the revocation of the subject land on the area and the local community, I am of the opinion that, on balance, the revocation will be more positive than not in its effect. I approve the Council's proposal to revoke the classification as community land of Allotment (Reserve) 88 in Deposited Plan 17901 contained in Certificate of Title Volume 5546 Folio 484.

If the Council wishes to proceed with the revocation it will need to pass a motion to revoke the community land classification pursuant to section 194(3)(b) of the *Local Government Act 1999*.

Yours sincerely ,

A handwritten signature in blue ink, appearing to read "Josh Teague".

Hon Josh Teague MP
Minister for Planning and Local Government

18 / 2 / 2022

CC: Heather Carthew, Land Asset Officer - Heather.carthew@Marion.sa.gov.au

PLAN OF RESERVE

Indicative Plan showing Piece A & Piece B of Spinnaker Circuit Reserve East



GC210727 - General Council Meeting - 27 July 2021