

# **PROPOSAL FOR REVOCATION OF CLASSIFICATION AS COMMUNITY LAND**

## **Portions of land comprised in WH Holmes Reserve**

### **Section 194 Local Government Act 1999**

#### **Report**

##### **Overview**

Council owns WH Holmes Reserve which is located between Ayr Street and Park Avenue in Rosslyn Park and consists of two tennis courts, public toilets, playground and open space. A review of the Reserve's property boundary indicates that it has unusual triangular shaped indentations into ten surrounding private properties.

Council has determined that these portions of triangular shaped indentations of reserve are surplus to its requirements and intends to pursue the disposal of this land to the adjoining owners. It is intended that revenue generated by each sale will be applied to Council's Open Space Fund.

To facilitate the disposal of the subject land, Council must first seek revocation of Community Land status for the subject land. This report details the process for Community Land revocation, including the reasons for the revocation, the legislative obligations of Council and the process for community consultation.

Should you wish to provide comment to the proposed revocation, community consultation will commence on Wednesday, 16 April 2014 and end at **5pm on Monday, 16 June 2014**.

Written comments should be directed to:

Mr Mark Buckerfield  
Manager Asset Services  
City of Burnside  
PO Box 9  
Glenside SA 5065

Or via email to: [mbuckerfield@burnside.sa.gov.au](mailto:mbuckerfield@burnside.sa.gov.au)

##### **Further Information**

Enquiries regarding the proposed Community Land revocation of portions of WH Holmes Reserve should be directed to:

Mark Buckerfield  
Manager Asset Services  
08 8366 4252  
[mbuckerfield@burnside.sa.gov.au](mailto:mbuckerfield@burnside.sa.gov.au)

## **Community Land and requirements of the Local Government Act 1999**

The *Local Government Act 1999* (**the Act**) establishes a framework for the classification of land owned or under a Council's care, control and management as "Community Land". The Community Land framework ensures a consistent and strategic approach to the administration and management of local government land. Its objectives are to protect the interests of the whole community through the preservation and management of land for current and future generations.

On 1 January 2000, the Act classified most land owned or held under the care, control and management of a Council (except roads) as Community Land. Soon after this date, Council prepared its Neighbourhood Parks - Community Land Management Plan and listed the WH Holmes Reserve as 'Public Open Space'.

A Council may only revoke Community Land classification in accordance with prescribed procedures listed in section 194 of the Act provided that:

- The land is not required to be held for the benefit of the community; and
- A regulation does not exclude the right to revoke.

These conditions are satisfied and consequently Council can proceed with community consultation in accordance with the Council's Public Consultation Policy and consider a report (ie this report), as per the requirements of section 194(2) of the Act, on the proposal.

Following Council's consideration of this report and the results of community consultation, and assuming that Council agrees to seek revocation of Community Land classification, the proposal will then be submitted to the Minister for approval.

### **Reasons for the Proposal**

The Community Land in question is known as the WH Holmes Reserve (**Reserve**) which is located Ayr Street and Park Avenue in Rosslyn Park and has a total area of 4,953 square metres consisting of two tennis courts, public toilets, playground and open space.

A review of the Reserve's property boundary indicates that it has unusual triangular shaped indentations into ten surrounding private properties. Of these ten properties, it has been determined that six of the properties have fenced off the indentations and are therefore marginally encroaching on the Reserve. These parcels of land are each approximately 9 square metres, odd shaped and provide no real amenity to the City of Burnside.

Council Administration commenced discussions with the encroaching property owners with the intention of negotiating fair sale prices for the encroached portions of the Reserve. In all correspondence, Council staff confirmed both orally and in writing that should the owners not wish to proceed with the proposed purchase of the land, Council will require in each instance that the owners remove the encroachments.

The owners of the land adjacent to the encroachments at 12, 12A, 14 & 16 Taylor Terrace, Rosslyn Park have each offered \$100.00 for approximately 9 square metres of land arguing that the costs to affect each transfer are between \$7,200.00 and \$9,663.00, which outweighs an otherwise unrealisable value to Council.

The owners of the land at 13 and 15 Primrose Terrace, Rosslyn Park have also placed fencing upon Council land to straighten the western boundary of the Reserve. The owners were of the understanding that Council was in support of the fencing being realigned due to the tennis court fencing providing very little access to maintain the two small triangular portions of land. The owners similarly have offered \$100.00 for each portion of the land and have agreed to meet all legal costs associated with the transfer.

If the fence lines were to re-instated to the original boundaries the cost would be approximately \$4,500.00 in total, plus the surveying costs of approximately \$3,500.00. As the reserve is less than 10,000 square metres Council would be required under the *Fences Act 1975* to meet half of the cost of the fencing works.

The current owners of 17 and 19 Primrose Terrace, 6 Ayr Street and 21 Park Avenue, Rosslyn Park have fences erected on the correct boundary, but it is proposed that the Community Land status should also be revoked on these small triangular pieces of land to allow a future sale to the current or future owners as this land also has little value to Council.

There is no benefit to Council in retaining these triangular portions of land and the straightening of the fence lines has made the maintenance of the reserve easier and has reduced the secluded locations that some members of the public have used in the past to undertake inappropriate activities when the fence line followed the actual boundary.

The *Local Government Act 1999* does not permit the sale of Community Land until revocation of that classification in accordance with Section 194. Consequently, Council proposes to revoke the Community Land classification of the portions of land as delineated in Appendix 1 and subsequently allow the amalgamation of them with the adjoining properties.

#### **Statement of any dedication, reservation or trust to which the land is subject**

The subject property being Allotment 10 in Deposited Plan 2299 described as Reserve in Certificate of Title Volume 6118 Folio 163.

The subject land is classified as Community Land in accordance with the provisions of the *Local Government Act 1999*.

There is no dedication or trust.

#### **Purpose of Proposal**

The purpose of this proposal is to remedy 8 encroachments as well as dispose of 2 small triangular pieces of unusable land totalling approximately 72 square metres which are Community Land known as WH Holmes Reserve through boundary realignment with the adjoining property owners.

Proceeds from the sales will be placed in Council's Open Space Reserve Fund to implement the acquisition and development strategies contained in the Open Space Strategy. A copy of this strategy can be viewed on Council's website at [http://www.burnside.sa.gov.au/Live/Environment/Conservation\\_Land\\_Management/Open\\_Space/Open\\_Space\\_Strategy](http://www.burnside.sa.gov.au/Live/Environment/Conservation_Land_Management/Open_Space/Open_Space_Strategy)

No Government assistance was provided to acquire the Community Land and it does not form part of the Metropolitan Open Space System (MOSS) network.

## **Affect of the Proposal**

The proposal to revoke Community Land classification will have no detrimental effect on the local community as the subject land is fenced off or are small triangular pieces of unusable land on the perimeter of the Reserve and therefore serves no useful purpose in terms of recreational open space. WH Holmes Reserve totals approximately 4,953 square metres and a reduction by approximately 72 square metres will not impact on the reserve as a whole.

## **Owner of the Land**

The subject land is owned by the City of Burnside.

## **Community Consultation**

As part of the revocation process, *the Local Government Act 1999* requires Council to undertake community consultation in accordance with the Act and Council's Public Consultation Policy. A copy of this policy can be viewed on Council's website at <http://www.burnside.sa.gov.au/Council/Policies>

Council is committed to ensuring maximum community input in the decision to revoke the Community Land classification and will ensure that it considers the community's voice prior to making its final decision. Accordingly, Council will undertake the following consultation process:

- Council will provide 2 months to stakeholders for the display of information and invitation for feedback commencing Wednesday, 16 April 2014 and end at **5pm on Monday, 16 June 2014**.
- Council will advertise consultation and invite public feedback by way of:
  - mail drop to directly affected parties;
  - signage erected on the subject sites detailing Council proposed intent for revocation and future disposal of the land;
  - publishing details of the proposal on <http://www.burnside.sa.gov.au> and <http://www.engage.burnside.sa.gov.au> (Council's websites);
  - public notices to be placed in the Advertiser and Messenger Press.
- Council will have adequately informed, skilled and authorised staff available to attend enquiries during consultation.
- Any material change in information concerning the revocation will be conveyed to participants as expediently and efficiently as possible and, if necessary, Council may seek additional feedback.
- Council will acknowledge all submissions in writing advising them of when Council will consider their submission and invite them to attend the meeting and or make a deputation. At the conclusion of the consultation and will communicate the outcome to all participants.

## **Appendix 1 – Location of Subject Land**





**WH Holmes Reserve**

Map Scale: 1:442.5

This map is a representation of the information currently held by City of Burnside. While every effort has been made to ensure the accuracy of the product, Council accepts no responsibility for any errors or omissions. Any feedback on omissions or errors would be appreciated.



## **Appendix 2 – Certificate of Title**



# Title Register Search

## LANDS TITLES OFFICE, ADELAIDE

For a Certificate of Title issued pursuant to the Real Property Act 1886

REGISTER SEARCH OF CERTIFICATE OF TITLE \* VOLUME 6118 FOLIO 163 \*

COST	: \$25.75 (GST exempt )	PARENT TITLE	: CT 2746/38
REGION	: EMAIL	AUTHORITY	: RT 11999307
AGENT	: CS04 BOX NO : 000	DATE OF ISSUE	: 06/09/2013
SEARCHED ON	: 09/04/2014 AT : 11:33:18	EDITION	: 1

### REGISTERED PROPRIETOR IN FEE SIMPLE

CITY OF BURNSIDE OF PO BOX 9 GLENSIDE SA 5065

### DESCRIPTION OF LAND (RESERVE)

ALLOTMENT 27 DEPOSITED PLAN 2299  
IN THE AREA NAMED ROSSLYN PARK  
HUNDRED OF ADELAIDE

BEING A RESERVE

### EASEMENTS

NIL

### SCHEDULE OF ENDORSEMENTS

NIL

### NOTATIONS

#### DOCUMENTS AFFECTING THIS TITLE

NIL

### REGISTRAR-GENERAL'S NOTES

APPROVED FILED PLAN NO UNIQUE IDENTIFIER FX53910  
WITH NEXT DEALING LODGE CT 2746/38  
THIS TITLE ISSUED VIDE 11999307

END OF TEXT.

