

PROPOSAL FOR REVOCATION OF CLASSIFICATION AS COMMUNITY LAND

Portions of land comprised in Magill Stone Mine Reserve adjoining 37 and 55 Wyfield Street, Wattle Park and 27 Coach Road, Rosslyn Park

Section 194 Local Government Act 1999

Report

Overview

Council owns the Magill Stone Mine Reserve which is located in the valley landscape south of Coach Road and to the east of the Rawson Penfold Drive cul-de-sac.

Whilst undertaking a management plan for the reserve, Council Administration identified that there were three encroachments from properties surrounding the reserve.

Council has determined that the portions of reserve which are subject to the encroachments are surplus to its requirements and intends to pursue the disposal of this land to the owners of the encroaching properties. It is intended that revenue generated by each sale will be applied to Council's Open Space Fund.

To facilitate the disposal of the encroachments, Council must first seek revocation of Community Land status for the portions of the reserve currently occupied by the encroachments. 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

Further Information

Enquiries regarding the proposed Community Land revocation of portions of Magill Stone Mine Reserve should be directed to:

Mark Buckerfield
Manager Asset Services
08 8366 4252
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 Special Features Reserves - Community Land Management Plan and listed the Magill Stone Mine 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

Council owns a significant number of recreational properties throughout the City ranging from developed sporting facilities including modern clubroom building, playing fields and supporting infrastructure, to single undeveloped allotments of land, most of which are classified as Community Land. Council has specific statutory management requirements in regard to its Community Land.

The Community Land in question is known as the Magill Stone Mine Reserve (**Reserve**) which is located in the valley landscape south of Coach Road and to the east of the Rawson Penfold Drive, Rosslyn Park cul-de-sac. The land is owned by the City of Burnside in fee simple and is described in Certificates of Title Volume 5110 Folios 443 & 444 and Volume 5553 Folio 573. Irregular in shape, the Reserve has a total area of 45,000 square metres and consists of an abandoned olive grove, areas of native vegetation, State Heritage listed stone mines and incorporates two 'Bush for Life' sites.

Whilst undertaking a management plan for the Reserve, Council Administration identified that there were three encroachments from properties surrounding the reserve.

Subsequently, Council received a request from the owners of the encroaching properties being 27 Coach Road, Rosslyn Park, 37 Wyfield Street, Wattle Park and 55 Wyfield Street, Wattle Park to purchase portions of the adjoining Reserve to rectify encroachments. A review of existing property boundaries indicates that the encroachments extend approximately 65 square metre, 120 square metres and 1,060 square metres respectively into the Reserve. A map indicating each encroachment is attached at Appendix 1.

Valuations for each encroachment were obtained using a before and after method which identified the value of each site and formed the basis of Council's offer of sale subject to the completion of the Community Land revocation. The amount of each offer is specified in the paragraph below. These valuations were accepted by the residents and it is intended that Council will honour its original offers subject to the outcomes of this community consultation.

At its meeting on 22 October 2013, Council resolved:

4. *That Council endorse, subject to the completion of the Community Land revocation, the land encroached upon by the property owners of:*
 - 4.1 *27 Coach Road, Rosslyn Park be sold to them for \$8,000 plus GST;*
 - 4.2 *37 Wyfield Street, Wattle Park be sold to them for \$10,000 plus GST;*
and
 - 4.3 *55 Wyfield Street, Wattle Park be sold to them for \$35,000 plus GST.*
6. *That Council note that a condition of sale of the encroached land to the owner of 55 Wyfield Street Wattle Park is that the property owner provide a right-of-way over their existing land, with a two metre frontage to Knox Terrace, to allow public access to the most southern tip of the Reserve.*

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 subject to the encroachments as delineated in Appendix 1 and subsequently, amalgamate them with the adjoining properties.

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

The Magill Stone Mine Reserve being Allotment 1 in Filed Plan 100220, Allotment 2 in Filed Plan 100221 and Allotment 19 in Deposited Plan 10838 described as Reserve in Certificates of Title Volume 5110 Folios 443 & 444 and Volume 5553 Folio 573.

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 three (3) encroachments of over Community Land known as Magill Stone Mine 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

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 includes a private gazebo, landscaping, private lawn tennis court (portion), backstop fencing and rock embankments and therefore serves no useful purpose in terms of recreational open space. Magill Stone Mine Reserve totals approximately 45,000 square metres and a reduction by approximately 1,245 square metres will not impact on the reserve as a whole.

It is further proposed that any sale of land being encroached upon at 55 Wyfield Street, Wattle Park will be subject to the owners granting a right-of-way over their existing land with a two metre frontage to Knox Terrace to allow public access to the most southern tip of the Reserve providing a very valuable access to the community. There is no pedestrian access currently available from the southern boundary of the reserve.

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 ensuing 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 on 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



Appendix 2 – Certificates 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 5110 FOLIO 443 *

COST	: \$25.75 (GST exempt)	PARENT TITLE	: CT 2888/9 & OTHERS
REGION	: EMAIL	AUTHORITY	: RT 7451808
AGENT	: DASTP BOX NO : 000	DATE OF ISSUE	: 03/03/1993
SEARCHED ON	: 17/12/2013 AT : 15:30:52	EDITION	: 1
CLIENT REF	ASSET SERVICES		

REGISTERED PROPRIETOR IN FEE SIMPLE

CITY OF BURNSIDE OF PO BOX 9 GLENSIDE SA 5065

DESCRIPTION OF LAND (RESERVE)

ALLOTMENT 1 FILED PLAN 100220
IN THE AREA NAMED WATTLE PARK
HUNDRED OF ADELAIDE

BEING A RESERVE

EASEMENTS

SUBJECT TO THE EASEMENT OVER THE LAND MARKED A TO THE ELECTRICITY TRUST OF
SOUTH AUSTRALIA (T 1793368)

SCHEDULE OF ENDORSEMENTS

NIL

NOTATIONS

DOCUMENTS AFFECTING THIS TITLE

NIL

REGISTRAR-GENERAL'S NOTES

NIL

END OF TEXT.

Page 1 of 2

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.

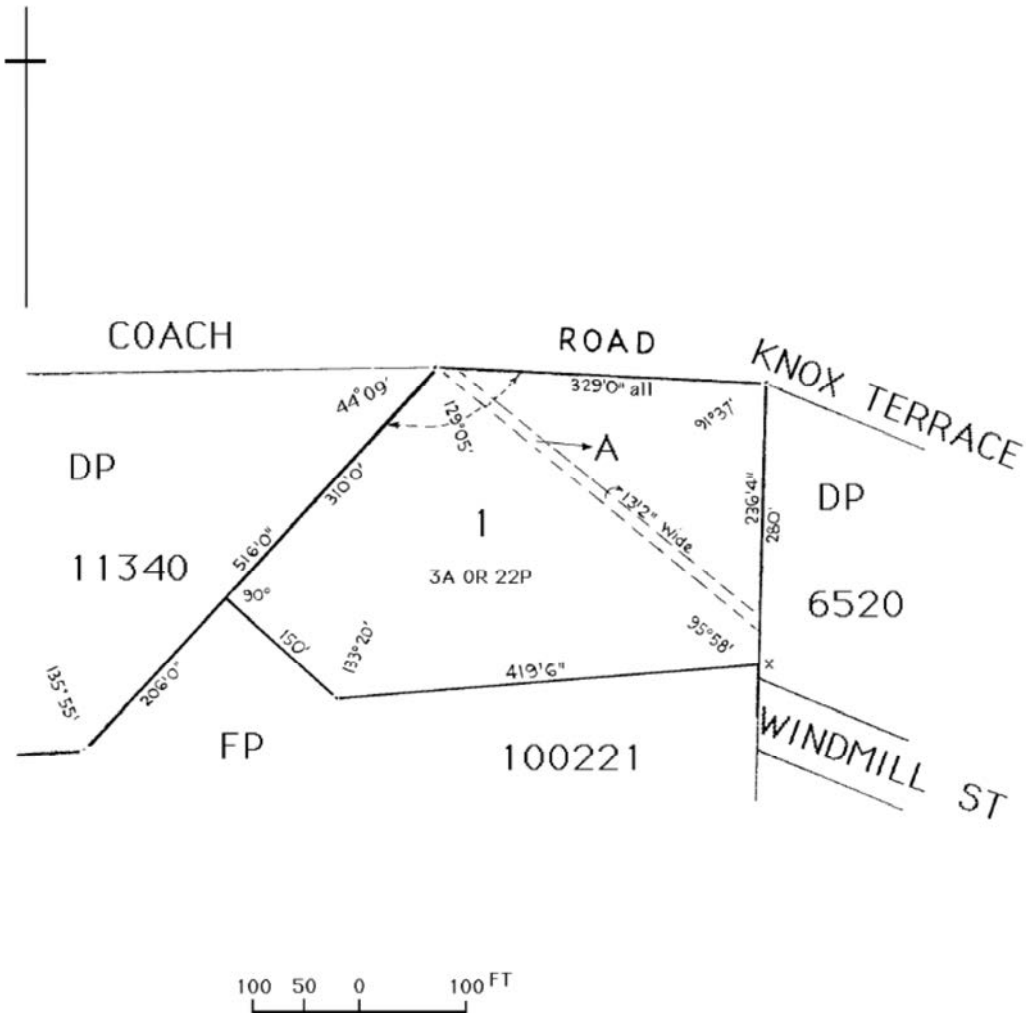
Registrar-General 

LANDS TITLES OFFICE ADELAIDE SOUTH AUSTRALIA
 DIAGRAM FOR CERTIFICATE OF TITLE VOLUME 5110 FOLIO 443
 SEARCH DATE : 17/12/2013 TIME: 15:30:52

This plan is scanned from Certificate of Title 2718/92

See title text for easement details.

Note: Allotment 1 is a Reserve vide Docket 442/59



Note: Subject to all lawfully existing plans of division

FOR METRIC CONVERSION	
1 FOOT	= 0.3048 metres
1 INCH	= 0.0254 metres
1 ACRE	= 0.4046 hectares
1 ROOD	= 1011.7m ²
1 PERCH	= 25.29 m ²



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 5110 FOLIO 444 *

COST	: \$25.75 (GST exempt)	PARENT TITLE	: CT 2888/9 & OTHERS
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AGENT	: DASTP BOX NO : 000	DATE OF ISSUE	: 03/03/1993
SEARCHED ON	: 17/12/2013 AT : 15:30:53	EDITION	: 1
CLIENT REF	ASSET SERVICES		

REGISTERED PROPRIETOR IN FEE SIMPLE

CITY OF BURNSIDE OF PO BOX 9 GLENSIDE SA 5065

DESCRIPTION OF LAND (RESERVE)

ALLOTMENT 2 FILED PLAN 100221
IN THE AREA NAMED WATTLE PARK
HUNDRED OF ADELAIDE

BEING A RESERVE

EASEMENTS

SUBJECT TO THE EASEMENT OVER THE LAND MARKED A TO THE MINISTER OF PUBLIC
INFRASTRUCTURE (T 3667985)

SCHEDULE OF ENDORSEMENTS

NIL

NOTATIONS

DOCUMENTS AFFECTING THIS TITLE

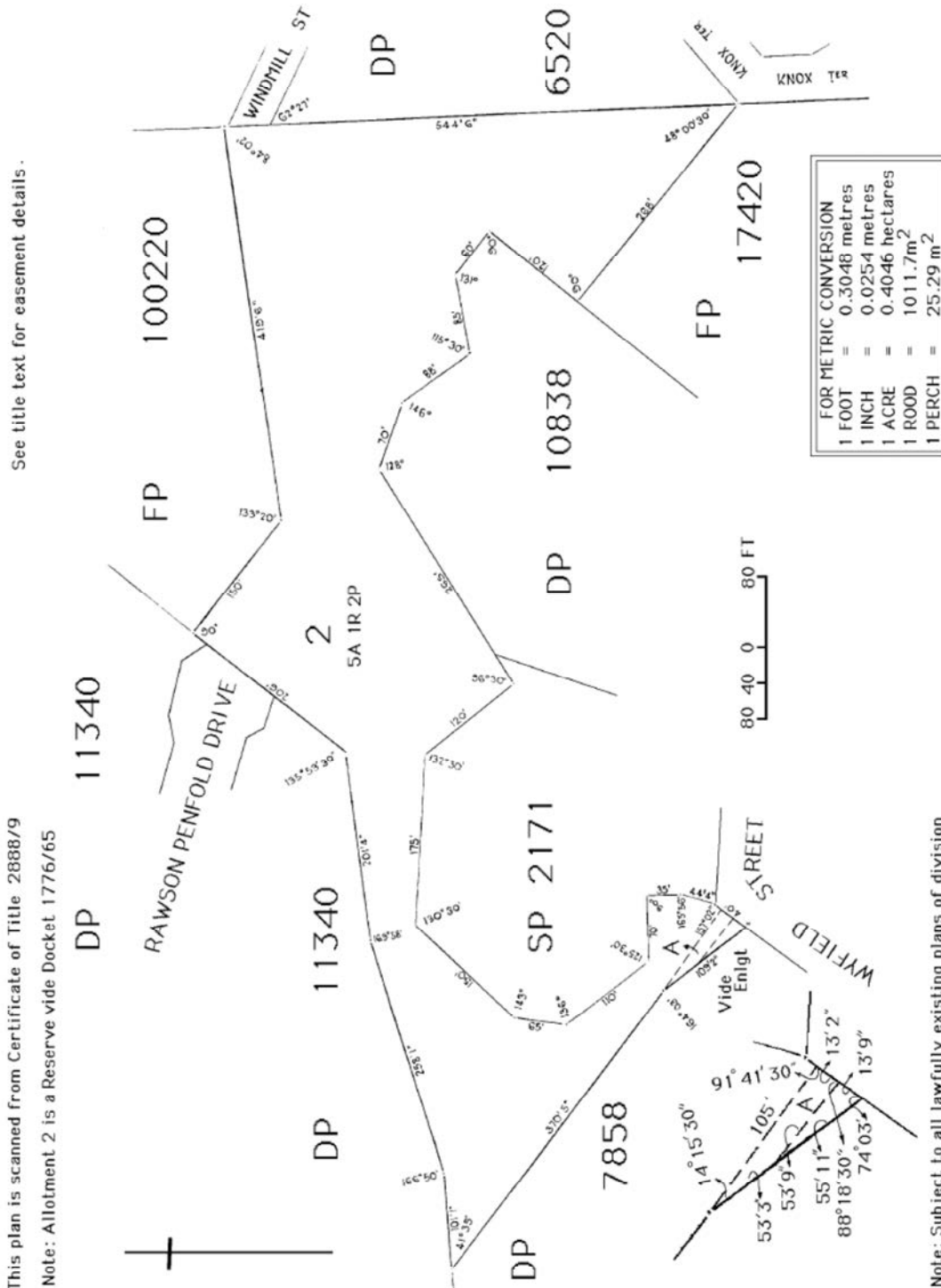
NIL

REGISTRAR-GENERAL'S NOTES

PROVISIONALLY IN STATE HERITAGE REGISTER 09/12/2011
CONFIRMED IN STATE HERITAGE REGISTER 07/12/2012

END OF TEXT.

SEARCH DATE : 17/12/2013 TIME: 15:30:53





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 5553 FOLIO 573 *

COST : \$25.75 (GST exempt)	PARENT TITLE : CT 4151/220
REGION : EMAIL	AUTHORITY : CONVERTED TITLE
AGENT : DASTP BOX NO : 000	DATE OF ISSUE : 09/07/1998
SEARCHED ON : 17/12/2013 AT : 15:30:54	EDITION : 1
CLIENT REF ASSET SERVICES	

REGISTERED PROPRIETOR IN FEE SIMPLE

CITY OF BURNSIDE OF PO BOX 9 GLENSIDE SA 5065

DESCRIPTION OF LAND (RESERVE)

ALLOTMENT 19 DEPOSITED PLAN 10838
IN THE AREA NAMED WATTLE PARK
HUNDRED OF ADELAIDE

BEING A RESERVE

EASEMENTS

NIL

SCHEDULE OF ENDORSEMENTS

NIL

NOTATIONS

DOCUMENTS AFFECTING THIS TITLE

NIL

REGISTRAR-GENERAL'S NOTES

CONVERTED TITLE-WITH NEXT DEALING LODGE CT 4151/220
PROVISIONALLY IN STATE HERITAGE REGISTER 09/12/2011
CONFIRMED IN STATE HERITAGE REGISTER 07/12/2012

END OF TEXT.