

Revocation of Community Land Classification Public Consultation Report

Lot 99 Hindmarsh Road, McCracken 5211

Figure 1



January 2023



Introduction

The *Local Government Act 1999* (the Act) establishes a framework for the classification of land as 'community land' as a default of all land that is owned by Council or under Council's care, control and management. The community land framework aims to ensure a strategic approach to the management of the land, with the objective of protecting the community's current and future interests in the land. The classification of community land occurs by default under the Act when Council acquires land unless resolved by Council to exclude at the time of acquisition.

Whenever Council proposes to revoke the community land status over such land, Council is required to prepare a report for public consultation/consideration and provision to the Minister for Local Government. This report is a '*Revocation of Community Land Classification Public Consultation Report*', for the land identified below, pursuant to Section 194 of the Act.

Subject Land

The subject parcel of land (the Land) borders Hindmarsh Road and Down Street, McCracken. The Land adjoins the newly constructed Wohlers Homeware and Furniture retail shop in the Coles/Bunning shopping precinct.

The Land was created through the land division process for the Coles/Bunnings development and acquired by Council for drainage purposes. At the time of acquisition, Council resolved to exclude the Land from the classification of community land under Section 193(4)(a) of the Act. However, Land Services SA have also directed Council to conduct a formal community land revocation process to enable the removal of the reserve (dedication) status from the lands Certificate of Title.

The subject Land is shown on **Figure 1** of this report.

The area of the whole Land is approximately 4032 square metres and consists of the following Title:

Certificate of Title - Volume 6220, Folio 605
Deposited Plan - 120595, Allotment 99

A copy of the Title for the Land is attached as **Appendix A**.

A copy of the Deposited Plan is attached as **Appendix B**.

Purpose for the Proposal

The purpose of this report is to revoke the classification of community land on the **whole** Land known as Lot 99 Hindmarsh Road, McCracken as shown in **Figure 1** of this report.

The reason for the revocation is to allow Council to formalise the occupancy of a narrow portion of the subject Land, to the adjoining property owner, Wohlers Properties Pty Ltd (Wohlers) on which the existing retaining wall encroaches onto lot 99. The land to which the retaining wall encroaches is approximately 160 metres in length, 1.3 metres in width for a total of 205 square metres in area and shown highlighted in yellow in **Figure 2** of this report. Council intends to sell the 205 square metres of land associated with the encroachment to Wohlers through a boundary realignment. This process consistent with Council's *Disposal of Land and other Assets Policy*.

- 6.3.7.5 – By negotiation – with the owners of the land adjoining the land or others with a pre-existing interest in the land; and
- 6.3.8 – Council will seek to dispose of the land at or above the current market valuation whichever method is likely to provide Council with a maximum return. Unless there are reasons for the Council to accept a lesser return which is consistent with the Council's overall strategic direction.

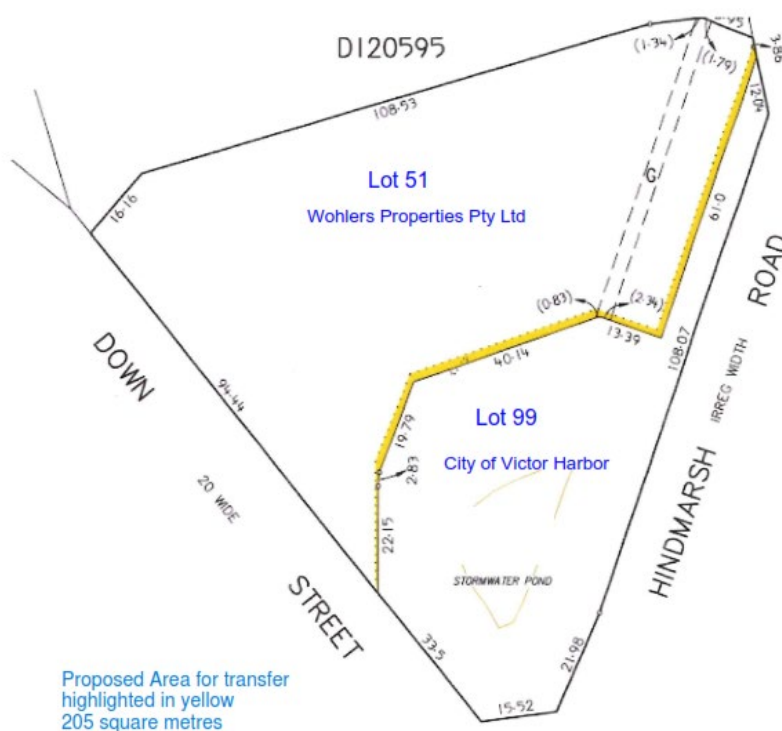
Before Council is able to dispose of any land, its classification of community land must first be revoked.

The gabion retaining wall has been architecturally designed to be aesthetically pleasing in the highly visible location. Vegetation will also be added to complement the stepped design of the gabion wall.

The proposal from the Wohlers is for 205 square metres of Lot 99 only, with the remainder of the Land to continue its function for drainage purposes. Any change to this purpose or potential disposal of the remaining Land requires separate proposals and resolutions from the Council.

The area and location of the proposed 205 square metre boundary realignment and impact on the size of the whole Land is highlighted in yellow and shown in **Figure 2**.

Figure 2





Dedication, Reservation or Trust

The whole Land of lot 99, is affected by a dedication as 'reserve' on the Certificate of Title as part of the original land division for the Coles/Bunning development. On revocation of the classification of community land, the Council will give notice of the revocation to the Registrar-General to amend the Certificate of Title.

Revocation and Financials

The revocation of the classification of community land proposal is to allow for 205 square metres of Land as shown highlighted in yellow in **Figure 2** to be sold to the owners of the Wohlers. The agreed market value purchase amount of \$36,980.00 ex gst received will be allocated to Capital revenue for general use.

Community Impact from Proposal

As the Land was acquired by Council for drainage purposes, removing the community land status will have no perceived impact upon community recreation. The existing pedestrian walking path will remain as a walking path and is not affected by this proposal.

The proposed portion of land for disposal to Wohlers, averaging 1.3 metres in width having minimal impact to the size, purpose or future use of the whole Land.

Council proposes to upgrade the stormwater outlet and potentially fill the stormwater basin on lot 99. This will provide greater opportunity for the future use of the land which may include disposal of the land. This is subject to future Council considerations and resolutions.

Owner of the Land

The Land (Lot 99 of DP 120595) is owned by the City of Victor Harbor.

Public Consultation

This public consultation report for the revocation of the classification of community land for the whole land known as lot 99, forms part of the consultation requirement in accordance with the City of Victor Harbor 's Public Consultation Policy and Section 194 of Local Government Act 1999, which includes:

- Minimum 21 days public consultation period. Consultation
- Notice of community land revocation to be placed in the local newspaper 'The Fleurieu Sun'.
- Community Land Consultation Report and information made available on Council's website (www.yoursay.victor.sa.gov.au) and at the Civic Centre during the consultation period.
- Council to receive written submissions from the public on the proposed revocation and land transfer up until 5pm on the final day of public consultation.

Written submissions should be addressed to the Chief Executive Officer (Community Land Consultation) and sent via:

- Post: City of Victor Harbor, PO Box 11, Victor Harbor SA 5211
- Email: localgov@victor.sa.gov.au
- Web: Complete the online submission form
www.yoursay.victor.sa.gov.au

Further information contact: Property Team - Phone: 8551 0500

Email: localgov@victor.sa.gov.au

Appendix A

	Product Date/Time Customer Reference Order ID	Register Search (CT 6220/605) 05/03/2019 04:15PM 20190305009883
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REAL PROPERTY ACT, 1986

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 6220 Folio 605

Parent Title(s) CT 5422/89
Creating Dealing(s) RTC 13066348
Title Issued 05/03/2019 **Edition** 2 **Edition Issued** 05/03/2019

Estate Type

FEE SIMPLE (RESERVE)

Registered Proprietor

CITY OF VICTOR HARBOR
OF PO BOX 11 VICTOR HARBOR SA 5211

Description of Land

ALLOTMENT (RESERVE) 99 DEPOSITED PLAN 120595
IN THE AREA NAMED MCCrackEN
HUNDRED OF GOOLWA

Easements

TOGETHER WITH EASEMENT(S) OVER THE LAND MARKED B ON D120595 FOR DRAINAGE PURPOSES (RTC 13066348)

Schedule of Dealings

NIL

Notations

Dealings Affecting Title	NIL
Priority Notices	NIL
Registrar-General's Notes	NIL
Administrative Interests	NIL

Land Services SA
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Appendix B

