

ADELAIDE HILLS COUNCIL MEETING
Tuesday 26 August 2014
AGENDA BUSINESS ITEM

Item: 18.1

Originating Officer: Tim Piper, Director Corporate Services

Responsible Director: Tim Piper, Director Corporate Services

Subject: Lobethal Recreation Ground Sports Club Inc Proposal

1. Lobethal Recreation Ground Sports Club Inc Proposal

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, with the exception of appropriate Council staff:

- CEO, Andrew Aitken
- Director Strategy & Development, Marc Salver
- Director Corporate Services, Tim Piper
- Director Engineering & Assets, Deb Richardson
- Director Community & Customer Service, David Waters
- Manager Governance & Risk, Lachlan Miller
- Minute Secretary, Kylie Hopkins

be excluded from attendance at the meeting for Agenda Item 18.1 (Lobethal Recreation Ground Sports Club Inc Proposal).

The Council is satisfied that, pursuant to section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to the Agenda Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because disclose confidential information provided by the Lobethal Recreation Ground Sports Club Inc which may then prejudice its commercial options.

Lobethal Recreation Ground Sports Club Inc Proposal

SUMMARY

The Lobethal Recreation Ground Sports Club Inc (“the Club”) approached Council late in 2013 to request assistance managing its \$130k outstanding self-servicing loan, and ensuring that it would be able to make the final \$86k balloon payment when it ended in 2017.

The Club proposed sub-dividing an unused block fronting Jeffrey Street, Lobethal, which can potentially be sold for a suitable amount, but required Council assistance in securing a free title to allow the subdivision to comply with planning zoning requirements. Council agreed to support that proposal in principle, and this report sets out the proposed scheme devised by staff with the Club to meet its aims. By consenting to the combination of two Community Land titles on the adjacent Bundurra Reserve, Council can facilitate the Club’s proposed subdivision.

The scheme is still dependent upon the Club securing Development Approval, and Council will subsequently need to revise the Community Lands Register. Because, however, there will be no change to the community’s interest in Bundurra Reserve and the land itself will be unchanged, there is no associated Community Land Register consultation requirement for this proposal. The majority of the work will be done by the Club and its officers, but in close consultation with council staff.

RECOMMENDATION

That Council resolves:

- 1. That this report be noted.**
- 2. That the Council supports the proposed scheme for Lobethal Recreation Ground Sports Club Inc to re-structure its freehold land titles and subdivide to create a new freehold title to be sold for development**
- 3. That council consents to the amalgamation of the two titles in Bundurra reserve (Lot 95, CT5793/676) into one title, and the transfer of the other to the Lobethal Recreation Ground Sports Club Inc to use in its application to the Development Approval Commission.**
- 4. That the CEO writes to Lobethal Recreation Ground Sports Club Inc and the Development Approval Commission to advise them accordingly.**

1. GOVERNANCE

➤ **Strategic Management Plan/Council Policy**

Goal 1 A Safe and Connected Community

Key Issue 1.2 Community Participation

Key Action 1.2.6 Provide support to enable people to maintain and be connected and engaged in community activities

➤ **Legal Implications**

None. Council has the power to support community organisations in this way and has confirmed that the proposed amalgamation of two community land titles in Bundurra Reserve does not affect the Community Land Register except for revising it to a single title once completed. .

➤ **Risk Management Implications**

Council reduces its financial risk because it remains liable for the loan from the LGFA, even if the community organisation defaults on its repayments to Council. Resolving such situations if they arise can also expose Council to reputational risk.

➤ **Financial and Resource Implications**

The effect of this item is budget neutral, although it will result in increases to both current assets and current liabilities for Council on its next five balance sheets, with a slight increase in associated risk.

➤ **Customer Service and Community/Cultural Implications**

The community is accustomed to securing this type of Council support for suitable projects, subject to the parameters set by Council's policy.

➤ **Environmental Implications**

None

➤ **Community Engagement/Consultation**

Not required: Lobethal Centennial Hall Inc has a long-standing relationship with Council and is recognised for its role in the Lobethal community.

2. BACKGROUND

In January 2014 Council received two requests from Lobethal Recreation Ground Sports Club Inc ("the Club"), as a result of which it resolved to accept only interest repayments on the Club's self-servicing loan for the balance of its term until 2017. It also resolved that:

staff work with the Lobethal Recreation Ground and Sports Club Committee to prepare a potential title transfer scheme facilitating a subdivision at the Jeffery Street boundary to be sold by the Club before July 2017, and report back to Council with the proposed scheme by July 2014 .

This second resolution was necessary to secure a means for the Club to make the final "balloon" repayment due when the loan expires. Originally \$86k, that repayment will have increased to as much as \$125k following the Club's suspension of capital repayments until then. (In the meantime, the Club has managed to make a full payment in July 2014, offsetting its previous arrears, limiting its exposure to additional interest, and demonstrating its resolve to meet its commitments.)

3. ANALYSIS

Staff duly identified a potential scheme to combine two titles (one within the other) on the Bundurra Reserve located immediately adjacent to the Lobethal Oval. This would liberate a title for the Club to use to achieve the required subdivision at Jeffrey Street. A potential complication arose from the conditions of the Community Land Register, where both Bundurra Reserve titles are recorded. Legal advice was sought to determine whether the combining those titles would constitute a change to land on the Community Lands Register that required community consultation.

The legal advice subsequently obtained confirmed that no community consultation is required. This is because the land itself and the community's interest therein will not be affected. The advice also suggested that there should be no obvious objections to the amalgamation proposal as a result of planning legislation, and confirmed that council could proceed with the scheme as planned.

Further meetings have been held with the Club to confirm what additional work it will have to undertake to prepare its application. This appears to be an unprecedented situation, and so the Club is keen to work closely with council's Planning and Property staff at every stage to ensure the scheme's success. Whilst a combination of circumstances prevented this report from being made to the July meeting, the proposed timetable has not been compromised, and has been simplified and shortened because there is no Community Land Register consultation requirement.

The Application to be lodged by the Club will require a letter of consent from Council, and it will be subject to the normal public consultation processes applied to any such application. Assuming that it is successful, Council will then be required to amend the Community Lands Register once new certificates of title have been issued.

4. OPTIONS

Council appears to have two options to deal with this situation.

- a) Approve the proposed scheme and issue consent for the two Bundurra Reserve titles to be combined. This will need to be communicated to the Club and the DAC.
- b) Reject the proposed scheme, in which case the Club will need to consider an alternative arrangement to secure the additional title it needs, or submit its application as non-complying. In either case, the long term viability of the Club will be seriously compromised (as explained in January) because it will have little prospect of repaying the final \$86k repayment when its self servicing loan expires in 2017.

5. APPENDIX

- (1) Lobethal RGSCI Proposal Plan and Timeline

Appendix 1

Lobethal RGSCI Proposal Plan and Timeline

ADELAIDE HILLS COUNCIL

LOBETHAL RECREATION GROUND SPORTS CLUB INC

SUBDIVISION PROPOSAL

Objective: to provide LRGSC with a subdivided block of land on Jeffrey Street capable of sale for residential development (to enable repayment of SSC Loan in July 2017)

Following various preliminary meetings and discussions between Council officers and LRGSC Committee members, a meeting was held on 17 March to consider all aspects of the proposed scheme and prepare a simple plan and checklist to bring it to completion. Tim Piper (Director, Corporate Services) and Vanessa Nixon (Team Leader Statutory Planning) met with David Fechner and Kristan Georgiou, Dave Prior being an apology. The meeting identified a proposed timeline and a list of potential risks for the proposed subdivision.

Legal advice was obtained to clarify whether all of the steps in the proposed timeline were necessary and whether any critical elements had been overlooked. Consequent upon that advice and the intervening passage of time, a revised timeline has been prepared as follows:

Revised Proposed Timeline:

Actions:	AHC	LRGSC
Council secures legal advice to confirm correct sequence of events to merge two community land titles in Bundurra Reserve and transfer the surplus title to LRSGC, including any public consultation requirements	April 2014 <i>Completed May/ June 2014</i>	
Council (or SPDPC) notes the requirement for it to consent to merge two community land titles in Bundurra Reserve and transfer the surplus title to LRSGC to achieve the subdivision.	August 2014 Council meeting	
Council resolves to support and assist Club in pursuing this subdivision to help secure the financial sustainability of the community managed sport and rec facility at Lobethal Recreation Ground.	August 2014 Council meeting	
Council staff prepare necessary letter of consent for LGRSC to submit with its application.	August 2014	
LRGSC obtain/prepare survey plans for affected AHC titles (required for combined application)		August 2014
LRGSC prepare Application Form and Plans of Division for submission to DAC, including supporting information for all affected titles, and submits them.		September 2014
Land Division Consent and complete Development Approval obtained.		December 2014
LRGSC obtains Land Division Certificate and lodges it with Registrar General for deposit in Land Titles Office		January 2015
AHC amends Community Land Register to reflect new single title for Bundurra Reserve (no consultation required, per legal advice)	February 2015	
AHC reviews Community Land Management Plan for Bundurra Reserve and amends if required (per legal advice)	February 2015	
LRGSC secures title certificate for new allotment and commences marketing for sale		April 2015

Potential Risks for Scheme:

Risk	Severity	Likelihood	Mitigation
1. DAC will have to assess application: may perceive conflict arising through Council CSSC loan owed by Club, or interaction with Bundurra Reserve titles	Medium	Medium	Clearly communicate financial "transparency" of Council ie ultimate recipient of funds is not Council but LGFA. If necessary, stress Council contribution in "contributing" Bundurra reserve title.
2. Proposed block size at 700sqm and frontage below 25m may be deemed too small in Jeffrey street by the DAC	High	Low	Ensure LRGSC application illustrates and explains size in context of neighbourhood
3. DAC may consider that the Bundurra Reserve allotment is not currently developable	Low	Low	Ensure LRGSC application illustrates and explains size in context of neighbourhood
4. Proposed rear boundary (Eastern) of new block may be deemed too close to new building behind tennis courts	Medium	Low	Ensure LRGSC application illustrates and explains distances and effect on that club building
5. Site may be deemed necessary for tennis court parking	Medium	Medium	Ensure LRGSC application illustrates and explains lack of current parking use and adequacy of alternative parking
6. Easement along Northern side of plot needs preserving – it might impede development /construction on new allotment	High	Medium	LRGSC to investigate full details of easement and address in application
7. Bore power box location close to SE boundary might compromise subdivision	Medium	Low	Ensure LRGSC application illustrates and explains adequacy of proposal
8. Stormwater overflow across site might be deemed inadequate	Medium	Medium	Ensure LRGSC application illustrates and explains adequacy of proposal
9. Increased pollution risk arising due to proximity to existing watercourses and river might be deemed unacceptable	Medium	Medium	Ensure LRGSC application illustrates and explains adequacy of proposal
10. New allotment may prove difficult to sell due to proximity of oval and surrounds, all on Community Land Register.	Medium	Low	LGRSC to consider and address implications for fencing etc prior to commencing marketing

Next Steps:

As identified in the timeline above – AHC to prepare reports for August Council meeting and letter of consent, LRGSC to progress subdivision application.

Propose follow up meeting in mid-September to review progress and identify any new challenges or developments before Application Form and Plan are submitted by LRGSC.

Tim Piper

Director Corporate Services, July 2014

Lobethal Recreation Ground



Proposed Jeffrey Street subdivision

Bundurra Reserve second title to be combined into surrounding title

7. Lobethal Recreation Ground Sports Club Inc Proposal – Period of Confidentiality

That having considered Agenda Item 18.1 (Lobethal Recreation Ground Sports Club Inc Proposal) in confidence under section 90(2) and 90(3)(d) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act, orders that the documents and reports pertaining to this matter be retained in confidence for a period of 12 months.