

Economic Prosperity  
Cultural Vitality **Community Well-being** Social Equity  
Environmental Sustainability



# Revocation of Community Land Classification

Fifth Avenue, St Peters Drainage Reserve



City of  
Norwood  
Payneham  
& St Peters

## Contents

<b>1.</b>	<b>Introduction</b>	<b>1</b>
1.1.	The Proposal	1
1.2.	Background to Proposal	1
1.3.	Subject Land	1
1.3.1.	Description	1
1.3.2.	The Locality	2
1.3.3.	Current Use of the Subject Land	2
1.3.4.	Zoning	2
<b>2.</b>	<b>Strategic Considerations</b>	<b>2</b>
<b>3.</b>	<b>Community Land Management Plan</b>	<b>2</b>
<b>4.</b>	<b>Response to Section 194(2)</b>	<b>2</b>
4.1.	Summary of Reasons for the Proposal	2
4.2.	Any Dedication, Reservation or Trust to which the Land is Subject	3
4.3.	Native Title Considerations	3
4.4.	Sale or Disposal of the Land	3
4.4.1.	Sale of the Land	3
4.4.2.	Details of Government Assistance in Acquiring the Land	3
4.4.3.	Council's Sale and Disposal of Land and Other Assets Policy	3
4.5.	Assessment of the Proposal's Impact on the Area and Local Community	4
4.5.1.	Impact on the Subject Land	4
4.5.2.	Impact on the Current Occupiers	4
4.5.3.	Impact on Other Surrounding Properties	4
4.5.4.	Conclusion	4
<b>5.</b>	<b>Community Consultation</b>	<b>4</b>

# Revocation of Community Land Classification Fifth Avenue Drainage Reserve, St Peters

## 1. Introduction

This report has been prepared to address the requirements of Section 194 (2) of the *Local Government Act 1999*, regarding the revocation of the Community Land classification, which currently applies to the Fifth Avenue Drainage Reserve, St Peters.

Since 1 January 2000, when the *Local Government Act 1999* was introduced, all land, other than roads, owned or held under the care, control and management of a Council, is classified as 'Community Land'. This classification affects the way in which a Council can manage and use the land. It does not affect the ownership, tenure, development or zoning of the land. However, as long as the land is classified as 'Community Land', it cannot be sold. Should a Council resolve to sell a piece of 'Community Land', it must first revoke the 'Community Land' classification applying to the land. Section 194 of the *Local Government Act 1999*, outlines the process that a council must undertake to revoke the Community Land Classification applying to a piece of land. As the first step in this process, before a Council is able to revoke the Community Land Classification, the Council must prepare and make publicly available, a report on the proposal. It is this report which forms the basis of the Council's consultation with the community and ensures that the community is involved in the revocation process.

The Revocation of Community Land Classification Consultation Report for the Fifth Avenue Drainage Reserve, St Peters, has been drafted to enable the community to consider and comment on the proposal being presented by the Council.

### 1.1. The Proposal

The City of Norwood Payneham & St Peters is seeking to revoke the 'Community Land' classification applicable to Fifth Avenue Drainage Reserve, St Peters (the subject land), which contains an underground stormwater box culvert drain. The subject land is currently occupied by the adjoining owners at 71 Fifth Avenue, St Peters and 73 Fifth Avenue, Joslin.

The proposal to revoke the 'Community Land' classification will enable the property to be disposed of by the Council to the adjoining owners at 71 Fifth Avenue, St Peters, with the proceeds from the sale being placed in the Council's Open Space Development Account, to assist with the acquisition and capital development of open space and reserves within the Council area.

Any sale of the subject land would be subject to an easement for drainage purposes being granted to the Council.

### 1.2. Background to Proposal

The former Corporation of the Town of St Peters acquired the subject land on 1 October 1908. It is not known when occupation of the subject land first occurred.

In March 2011, the Council wrote to the owners of 71 Fifth Avenue, St Peters and 73 Fifth Avenue, Joslin notifying them of the occupation of the subject land. Subsequent discussions to formally resolve the occupation of the subject land resulted in this proposal, whereby the owners of 71 Fifth Avenue, St Peters will purchase the subject land, provided the Community Land classification can be revoked, granting an easement back to the Council over the whole of the subject land at the same time.

### 1.3. Subject Land

#### 1.3.1. Description

The subject land, with front and rear frontages to Fifth Avenue and Fifth Lane, St Peters of 1.52 metres and a depth of 45.72 metres (area 69.49 square metres) abuts 71 Fifth Avenue, St Peters on the south western side and 73 Fifth Avenue Joslin on the north eastern side. The location map contained in **Attachment A**, illustrates the location of the subject land.

The Certificate of Title Volume 5789 Folio 65 identifies the subject land as Allotment 29 in Filed Plan 135879, in the area named St Peters, within the Hundred of Adelaide. There are no easements, or endorsements noted on the Certificate of Title.

The Corporation of the City of Norwood Payneham & St Peters of PO Box 204, Kent Town SA 5071 is the registered proprietor of the land. A copy of the Certificate of Title is contained in **Attachment B**. A copy of the Identification Certificate prepared by a Licensed Surveyor is contained in **Attachment C**.

### **1.3.2. The Locality**

The subject land is located on the boundary of the residential suburbs of St Peters and Joslin within the City of Norwood Payneham & St Peters.

### **1.3.3. Current Use of the Subject Land**

The subject land is occupied by the adjoining owners for private residential use, and for the purpose of draining stormwater from Fifth Lane to Fifth Avenue.

### **1.3.4. Zoning**

The subject land, which abuts the property at 71 Fifth Avenue, St Peters, is currently located in the Residential Historic (Conservation) Zone.

## **2. Strategic Considerations**

There are no strategic issues associated with the proposal. The existing stormwater drain will not be affected by the proposed sale of the subject land.

## **3. Community Land Management Plan**

Community Land Management Plans were also introduced through the *Local Government Act 1999*, as an accountability measure for Councils. The Plans are intended to provide transparency and certainty in respect to what the Council will allow on a particular piece of Community Land and how the Council intends to manage/maintain the Community Land. A copy of the current Community Land Management Plan that applies to 71 Fifth Avenue, St Peters, is contained in **Attachment D**.

## **4. Response to Section 194(2)**

This section of the report responds to the issues identified under Section 194 (2) of the *Local Government Act 1999*.

### **4.1. Summary of Reasons for the Proposal**

The Council Community Land Management Plan for the subject land states that the purpose the Council is holding the land, is to provide stormwater drainage works.

A drainage easement in favour of the Council, will achieve the same purpose, without the Council having to maintain the land.

Selling the subject land will ensure that it is used and enjoyed by the proposed purchasers, i.e. a small example of efficient and effective resource management by the Council.

Apart from its stormwater disposal role, the subject land has no strategic or open space value. Conversely, by placing the proceeds of the sale into the Council's Open Space Reserve Account, there will be enhancements to the Open Space within the City of Norwood Payneham & St Peters.

## **4.2. Any Dedication, Reservation or Trust to which the Land is Subject**

Apart from the classification of Community Land, there are no other dedications, reservations or trusts on, or over the subject land. A drainage easement in favour of the Council is to be registered over the subject land, once the subject land is merged with the allotment at 71 Fifth Avenue, St Peters.

## **4.3. Native Title Considerations**

There are no Native Title claims over the land located at Fifth Avenue Drainage Reserve, St Peters. The land is held in "Fee Simple" by the Council.

## **4.4. Sale or Disposal of the Land**

### **4.4.1. Sale of the Land**

Once the Community Land classification is revoked, the Council will enter a formal agreement to sell and merge the subject land into the adjoining allotment at 71 Fifth Avenue, St Peters, subject to an easement for drainage purposes being granted over the subject land.

### **4.4.2. Details of Government Assistance in Acquiring the Land**

No Public Parks Subsidy or similar Government assistance was ever provided for this unimproved drainage reserve, which has no open space value.

### **4.4.3. Council's Sale and Disposal of Land and Other Assets Policy**

The sale of the land will comply with the Council's Sale and Disposal of Land and Other Assets Policy adopted by Council on 21 June 2001 and reviewed on 2 August 2004. The Policy is available on the Council's website.

The policy statement requires the Council to comply with the following principles when seeking to sell land:

- consistency with the Council's Strategic Management Plan;
- transparency and accountability in sale and disposal procedures and practices to ensure that Council (where appropriate) obtains best value;
- opportunities to enhance local amenity, the environment, economic development and sustainable growth;
- compliance with Statutory and other obligations; and
- commercial confidentiality, where appropriate.

When identifying the circumstances in which apply to disposal of land and other assets, the Council will consider a number of issues, including, but not limited to:

- the number of likely purchasers of the land or assets;
- the original intention for the use of the land or asset when purchased, where relevant;
- the current and possible preferred future use of the land or assets;
- the opportunity to promote local economic growth and development;
- the total estimated value of the sale;
- compliance with statutory and other obligations;
- the existence of potential local purchasers with an interest in the asset, or in the case of land, nearby owners or others, possibly with a pre-existing interest in the land, where negotiations may be appropriate.

In this case, the Council has obtained an Acquisition Valuation from a Certified Practising Valuer for the subject land. The assessed amount is ten thousand four hundred dollars (\$10,400.00).

Joint discussions between the Council and the owners of 71 Fifth Avenue, St Peters and 73 Fifth Avenue, Joslin, regarding how the subject land should be merged, resulted in a mutual agreement that the whole of the subject land will be sold to the owners of 71 Fifth Avenue, St Peters for \$10,400 (excluding GST) and costs, provided the Community Land classification can be revoked.

## **4.5. Assessment of the Proposal's Impact on the Area and Local Community**

### **4.5.1. Impact on the Subject Land**

There will not be any impact on the Council's drainage infrastructure, because the Council's right to enter the land will be protected by an easement. Costs in keeping the land well maintained and free of weeds and long undergrowth will be avoided through this proposal.

### **4.5.2. Impact on the Current Occupiers**

The owners of 71 Fifth Avenue, St Peters, the adjoining land on the south western side of the subject land are maintaining their use and occupation of the front section of the subject land, pending resolution of the current process to revoke the Community Land classification of the subject land.

Once the subject land is merged with their allotment, the owners will fence the remainder of the boundary between 71 and 73 Fifth Avenue

The proposed disposal of the subject land will provide the owners of 71 Fifth Avenue, St Peters, with assurance that current improvements on the subject land can remain, with the Council granting back a licence for such improvements. This is a positive outcome, compared with the alternative of the Council assuming occupation of the subject land, requiring all improvements to be removed and a fence erected on the south western boundary of the subject land.

The owner of 73 Fifth Avenue, the adjoining land on the north eastern side of the subject land, relinquished use and occupation of the rear section of the subject land several months ago, meaning that the proposal will have no impact on the occupants of the premises, apart from the installation of boundary wall and fence.

### **4.5.3. Impact on Other Surrounding Properties**

As no changes to the fencing arrangements in Fifth Avenue or Fifth Lane are envisaged, there will not be any impact on the visual aspects, or traffic movements, or on the amenity of the area.

The proposal to sell the subject land and merge it with 71 Fifth Avenue, St Peters will not impact on any of the other surrounding properties.

### **4.5.4. Conclusion**

The revocation of the Community Land classification from the subject land and its subsequent sale will result in a positive outcome for the community.

## **5. Community Consultation**

This revocation process incorporates a community consultation process that complies with the *Local Government Act 1999* and the Council's Community Consultation and Communication Policy, a copy of which is available on the Council's website and by request to Council Officers.

The City of Norwood Payneham & St Peters recognises that community consultation enables the Council to best meet the needs of the community, by ensuring that planning and decision making is based upon an understanding of the needs, aspirations and expectations of the Community.

Therefore, the consultation process includes the following elements:

- Placement of notices in the two (2) Messenger Newspapers circulating within the Council area inviting interested persons to provide a submission;
- Letters mailed to the owners and occupiers of properties near the subject land;
- Information regarding the proposal uploaded on the Council's webpage at <http://www.npsp.sa.gov.au>; and
- Information regarding the proposal available at the:
  - Norwood Town Hall Customer Service Centre, 175 The Parade, Norwood
  - St Peters Library - 101 Payneham Road, St Peters.

In line with the Council's philosophy of equity in access of information, all documents will be provided free of charge.

The Council is keen to further understand the issues of its local community and will formally consider all submissions. After consideration of submissions, the Council can choose to cancel the revocation process or proceed to request the Minister for State/Local Government Relations' approval. If the Council chooses to continue with the revocation all copies of the community submissions will be forwarded to the Minister for his consideration.

The public consultation period officially commenced on 18 June 2014 and will run for twenty three (23) days.

Therefore, written submissions regarding the Proposal should be submitted no later than **5.00pm, Friday 11 July 2014 as follows:**

- By post: PO Box 204, Kent Town DC SA 5071
- By email: [townhall@npsp.sa.gov.au](mailto:townhall@npsp.sa.gov.au)
- By delivery: to either the Norwood Town Hall, or the St Peters Library
- By facsimile: 08 8332 6338