

IN-CONFIDENCE REPORT – 11 JUNE 2014 SPECIAL COUNCIL MEETING

Item No	19.3
Report Title	American River
Council Meeting Date	11 June 2014
Author	Andrew Boardman
Title	Chief Executive Officer
Attachments	Crown Lands Current Plans Current Cadastre Proposed Plans
File Ref - Records	
Hours to compile	35 (to date)
Strategic Plan Reference	1.3 – to provide good governance that is transparent, equitable and accountable. 4.10 – Manage & maintain Community Land and other Council land in accordance with best practice.
Purpose	To brief Elected Members on land ownership options in American River Foreshore for two enterprises.
Executive Summary	Both American River Shellfish and the Rebuild Independence Group (RIG) are looking to secure long term leases over pieces of Foreshore in American River that are currently under a “trust” arrangement and managed by DPTI. This “trust” arrangement precludes the issue of a long term lease and there have been negotiations between DPTI and DEWNR for a rededication of the land such that DEWNR would have care and control. This would then allow them to issue a long-term lease. It is DEWNR’s position that it is prepared to do this but believes that it is far more appropriate for Council to have care and control and issue the leases as Council has the remainder of the land either side of the two parcels held as coastal recreational reserve and that the land represents no environmental value and is in the town centre zoned area. A potential contamination issue has been identified and that has caused concern for Council in this respect. This matter has now been resolved and formal revocation / dedication can now occur.
Recommendation	That Council resolve to accept the dedication of Section 271 and Section 357 for care and control of the land for harbour purposes, accepting the Conditions of Dedication that pertain to the current level of identified minor contamination.

Discussion

Council passed the following resolution at the 10 April 2013 Meeting of Council

Item No 17.5

Report Title American River Progress Association – Boundaries

Moved Cr Denholm

Seconded Cr Clements

That Council administration considers and recommends to Council at its earliest, the processes required to enable Project Independence to obtain a secure and long term lease for an operational base within the desired waterfront area DTEI land H110500 5271.

CARRIED.

And then the following resolution at a 27 November 2013 Special Meeting of Council:

Item No 3.5

Report Title American River

3.5.1

Moved Cr Denholm

Seconded Cr Boxall

That Council

1) Direct the Chief Executive Officer to confirm with DPTI the intent to accept rededication of Sections 271 and 357 on plan H1105005 at American River into Council care and control.

2) Once dedication is complete, Council then enter into lease negotiation arrangements with the two interested parties – American River Shellfish and the Rebuild Independence Group.

CARRIED.

Since this time the CEO has been in various discussions with DEWNR / DPTI / Crown Lands and others with regards to the issues around land ownership / control of both parcels of land (Section 357 / 271).

The main issue to overcome was the report that there had been contamination found in this area (Section 357 / southern 271) and the CEO had advised Council that no commitment to take over the land should be made until the full extent and implications of this contamination was understood and clarified such that no latent risk to Council would exist should we take over the land. The report (27 November 2013) detailed the contamination issues, the recommended approach to managing these and the fact that there is no direct risk to the public from work / access occurring in these areas.

Attached is a letter from Crown Lands effectively indemnifying Council from any responsibility for rehabilitation of the existing contamination in the event that Council wished the “care and control” dedication to be revoked at some point in the future. The undertaking makes the point that additional contamination would be to our account and therefore we need to exercise care and control provisions with prospective tenants to ensure that they do not create any legacy issues on their departure in the future.

This letter effectively paves the way for Council to formally write to Crown Lands stating that they have resolved to accept the “care and control” Conditions Dedication of these parcels of land for “Harbour Purposes”.

Attached are the Plans showing the Sections now, current cadastre overlay and the plans showing the proposed allotments created that will be assigned over to Council.

Lot 101 is the northern element of Section 271 that is currently occupied by Kangaroo Island Shellfish.

Lot 102 is a right of way to the current wharf area (currently seabed which will be titled Lot 100) which will remain in DPTI dedication.

Lot 103 is the southern section of Section 271 which is proposed to be leased to RIG for the purpose of boat building / museum / café

Section 357 is the small section of land to the south of Lot 103 (section 271) which then butts up to Section 356 – this is already under Council “care and control” as Recreation Reserve.

Council resolution is required.

Governance Considerations

(relates to consistent management, cohesive policies, guidance, processes and decision-rights for a given area of responsibility)

Need to ensure that land dedication processes are completed in accordance with best practice.

Risk Management Considerations

(identification, assessment, and prioritization of risks (defined as the effect of uncertainty on objectives, whether positive or negative) followed by coordinated and economical application of resources to minimize, monitor, and control the probability and/or impact of unfortunate events or to maximize the realization of opportunities)

The time taken to ensure that there is no latent risk from the potential contamination of the land has proven to be valuable. The risk assessed by both Expert Consultants and EPA is that the land is suitable for its planned usage (commercial / industrial) and that there is a need to manage building material selection only to mitigate the possibilities of increased risk of corrosion. This will be an issue for the leaseholders. Lease documents will ensure that built asset remains the property of the lessee. This will also mitigate any additional asset coming onto the Council’s Balance Sheet.

Economic Considerations

(Assessment of likely financial implications of pursuing a course of action)

This will be a no-cost operation for Council up until the point where lease establishment commences. The areas will be surveyed and marked by DPTI and the dedication process will be managed by them. The potential exists for Council to derive lease revenue from both land areas.

Security of lease is a major requirement for investment for both RIG and American River Shellfish and with this investment comes the opportunity for employment and economic growth – both important opportunities for the American River Community.

Social Considerations

(Assessment of likely impacts with the Community)

Security of lease is a major requirement for investment for both RIG and American River Shellfish and with this investment comes the opportunity for employment and economic growth – both important for the American River Community.

Environmental Considerations

(Assessment of likely impacts on the environment)

Nil at this time.