

**ADELAIDE HILLS COUNCIL
SPECIAL COUNCIL MEETING
Tuesday 7 May 2019
CONFIDENTIAL AGENDA BUSINESS ITEM**

Item: 8.1

Originating Officer: Natalie Westover, Manager Property Services

Responsible Director: Terry Crackett, Director Corporate Services

Subject: Unsolicited Approach to Purchase Community Land

For: Decision

1. Unsolicited Approach to Purchase Community Land – Exclusion of the Public

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except:

- CEO, Andrew Aitken
- Director Infrastructure & Operations, Peter Bice
- Director Development & Regulatory Services, Marc Salver
- Director Corporate Services, Terry Crackett
- Director Community Capacity, David Waters
- Executive Manager Governance & Performance, Lachlan Miller
- Governance & Risk Coordinator, Steven Watson
- Sport & Recreation Planner, Renee O'Connor
- Minute Secretary, Pam Williams

be excluded from attendance at the meeting for Agenda Item 8.1: (Unsolicited Approach to Purchase Community Land) in confidence.

The Council is satisfied that it is necessary that the public, with the exception of Council staff in attendance as specified above, be excluded to enable Council to consider the report at the meeting on the following grounds:

Section 90(3) (d) of the *Local Government Act 1999*, the information to be received, discussed or considered in relation to this 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, or to confer a commercial advantage on a third party.

Accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

2. Unsolicited Approach to Purchase Community Land – Confidential Item

SUMMARY

The purpose of this report is to provide information to Council regarding the receipt of an unsolicited bid to purchase community land in Crafers and seek a resolution of Council to formally respond to the approach.

Council staff have received a formal request from the Agostino Group (Applicant) to purchase a portion of community land adjacent to the existing Crafers BP service station for the purposes of redeveloping the service station.

The land that is the subject of the request to purchase is approximately 674m², being the area of land occupied by the disused tennis court as identified in **Appendix 1** (Land). The Land is part of the Crafers Institute and Tennis/Netball site contained in Certificate of Title Volume 5192 Folio 258.

RECOMMENDATION

Council resolves:

1. That the report be received and noted
2. That the CEO be authorised to advise the Agostino Group in writing that the Council is not in a position to make a decision in respect of the request to purchase a portion of the land in Certificate of Title Volume 5192 Folio 258 at this time, however following the completion of the Crafers Urban Design Framework project, the Council will further consider the request.

1. GOVERNANCE

➤ Strategic Management Plan/Council Policy

Goal	Organisational Sustainability
Strategy	Risk and Responsibility

Any proposed disposal of local government land needs to be undertaken in accordance with Council's **Disposal of Land Policy**.

➤ Legal Implications

Whilst this report recommends that a disposal process not be commenced at this time, it is important to note that the Land is community land as defined in the *Local Government Act 1999*.

Any proposed disposal of community land requires the community land classification to be revoked prior to sale, the process of which is set out in section 194 of the Act, which requires a number of steps as summarised below:

- Resolution of Council to commence a revocation process
- Preparation of a consultation report addressing the prescribed requirements
- Full community consultation including the reason for the proposed revocation
- Resolution of Council to apply to the Minister for Planning to approve the revocation

- Application to the Minister for Planning for approval to revoke
- Subject to receipt of that approval, resolution of Council to revoke the community land classification

➤ **Risk Management Implications**

The formal communication to the applicant will assist in mitigating the risk of:

Inability to formally respond to the applicant in a timely manner leading to loss of confidence in Council.

Inherent Risk	Residual Risk	Target Risk
High (2A)	Medium (2C)	Medium

The report issue is specific to the report and does not require a new mitigation action.

Delaying making a decision regarding the unsolicited bid until the Crafers Urban Design Framework is completed will assist in mitigating the risk of:

Selling community land for a specific purpose that may be at odds with the Crafers Urban Design Framework leading to the inability for the Applicant to undertake the development and achieve the required sports court on the roof on the building.

Inherent Risk	Residual Risk	Target Risk
High (3B)	Low (2D)	Low

Delaying making a decision regarding the unsolicited bid until a full assessment of possible future uses of the Land and the appropriate manner of disposal will assist in mitigating the risk of:

Acceptance of an unsolicited bid leading to possible action for breaches of the Council's Disposal of Land Policy.

Inherent Risk	Residual Risk	Target Risk
High (4C)	Low (2D)	Low

➤ **Financial and Resource Implications**

Not Applicable

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

Formally responding to the request to purchase from the Applicant will assist to manage the expectations of both the Applicant and the Crafers Sports & Social Club Inc.

➤ **Environmental Implications**

Not Applicable

➤ **Engagement/Consultation conducted with Council Committee, Regional Subsidiary, Advisory Group, the Administration and Community**

Consultation on the development of this report was as follows:

Council Committees: Not Applicable

Advisory Groups: Property Advisory Group

Administration: Executive Leadership Team
Sport & Recreation Planner

Community: Not Applicable

2. BACKGROUND

The Crafers Sports & Social Club Inc (Club) is the lessee of the parcel of community land on which the Crafers Institute and Tennis/Netball courts are located.

The Club is desirous of a useable fourth court at the site to enable efficient tennis tournaments to be played. The existing disused court is unsuitable in its present state, both due to size of the court and the condition of the court surface.

In 2016, the Agostino Group made an informal approach to the Club to determine a level of interest in a possible redevelopment of the adjoining Crafers BP service station site that would involve the Land. The proposed development would result in a new building being constructed on the Land with a tennis/netball court being constructed on the roof of the new building. The Club is supportive of the proposal although recognises that there are some complexities.

The Agostino Group held an informal meeting with Council staff to discuss its proposal and was asked to submit a formal proposal to Council for consideration.

The Applicant has submitted a formal request to purchase the Land. The basis of the request is for the purchase of the Land, at a rate determined by a valuation (\$100,000), with the Applicant to construct a new single storey building on the Land which would service the shop needs of the new service station and include a full size tennis/netball court on the roof. The roof area would then be leased to Council under a long term lease.

Lease terms have not been included in the proposal so it has not been determined if the Applicant has an expectation that the Council would pay rent for the lease. There would, at the very least, be a liability for maintenance and services for the court.

Refer **Appendix 2** for concept plans provided by the Applicant.

3. ANALYSIS

There are a number of complexities in assessing the request from the Applicant, including:

- the impact of an additional functional court on the already limited car parking at the site (and in Crafers more generally);
- the requirement to construct very close to the heritage listed Crafers Institute;
- the need for the relocation of the kitchen attached to the side of the Institute;
- interest shown in the Land by another party who sees tourism development opportunities; and
- the lack of a masterplan or design guidelines for the Crafers village.

Council staff have commenced a project to develop an Urban Design Framework for Crafers which is likely to be completed in the second half of this calendar year. This project will include consultation with the occupiers of businesses and residences in the Crafers village about the main street precinct including the look and feel, car parking and future development. This will be a useful document to assist with the assessment of the request to purchase from the Applicant.

During this time, assessments are also being undertaken of the various sporting facilities in the southern end of the Council area including future needs of the various sports and clubs. It is feasible that this assessment may include a recommendation to explore the relocation of the Crafers Tennis & Netball Clubs to the Upper Sturt site.

Whilst the above is being undertaken, it would be inappropriate to make determination on the request to purchase from the Application. As such it is recommended that consideration of the request be deferred until late in 2019 when the Crafers Urban Design Framework has been completed and the Council has made a decision regarding the sport and recreation site assessment.

4. OPTIONS

Council has the following options:

- I. Resolve to formally respond to the Applicant advising that the Council is not in a position to make a decision at this time (Recommended)
- II. Resolve to proceed to commence a process for sale and revocation of community land (Not Recommended)
- III. Resolve to formally respond to the Applicant that they do not support the proposal (Not Recommended)

5. APPENDICES

- (1) Identification of the Land
- (2) Concept Plans

Appendix 1

Identification of the Land

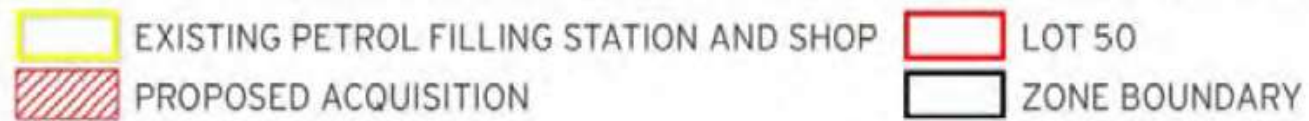
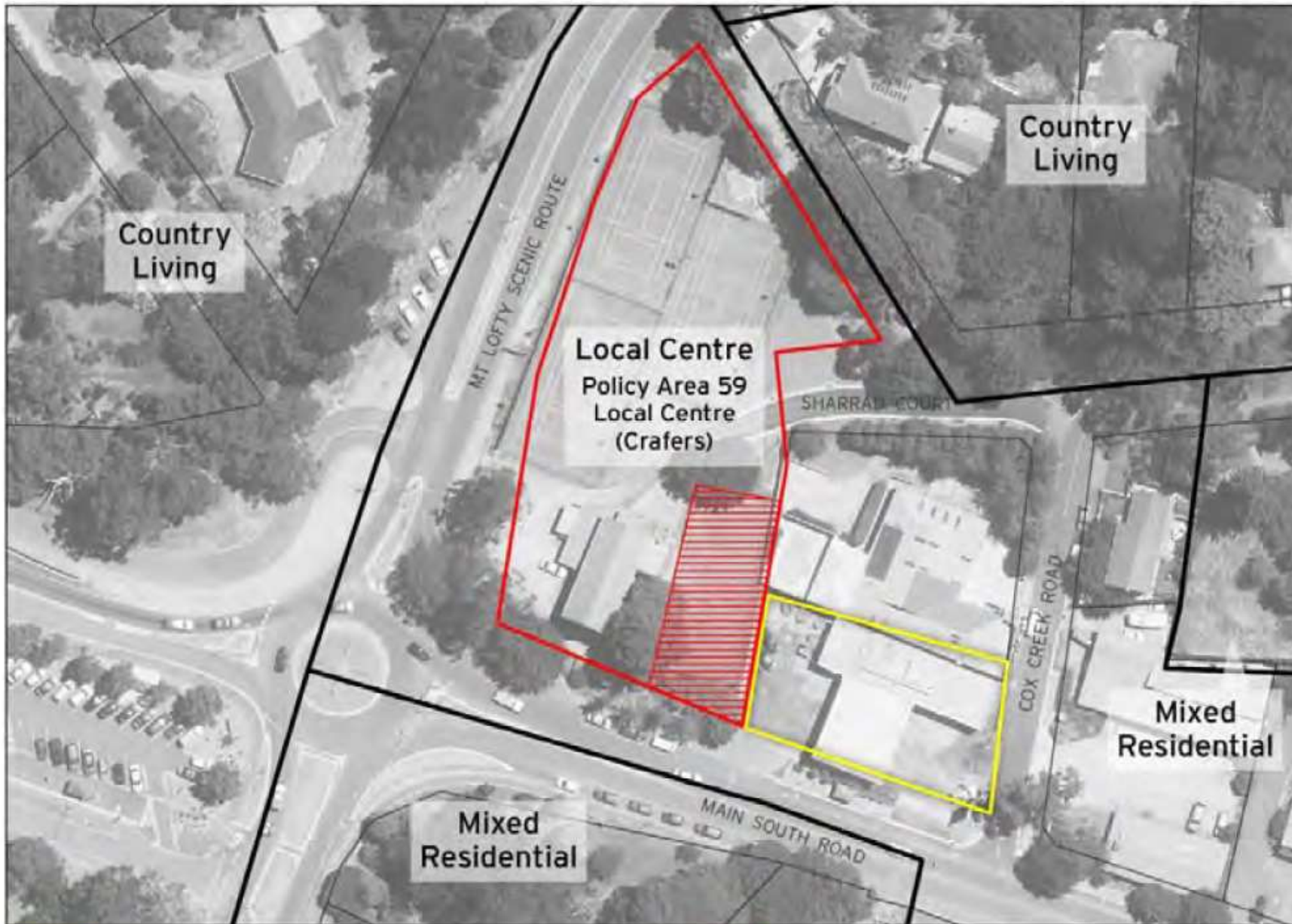


Figure 1: Proposed land purchase

Appendix 2

Concept Plans



FOR INFORMATION



ALWAYS SERVICE STATION - CRAFRS

Cheesman Architects

101 The Peninsula, Charleston, S.C. 29405
 Tel: 843.711.1144
 Fax: 843.711.1143

Drawing: **SITE LAYOUT**

Scale: **1 : 200 @ A1**

Date: **10-01-2018**

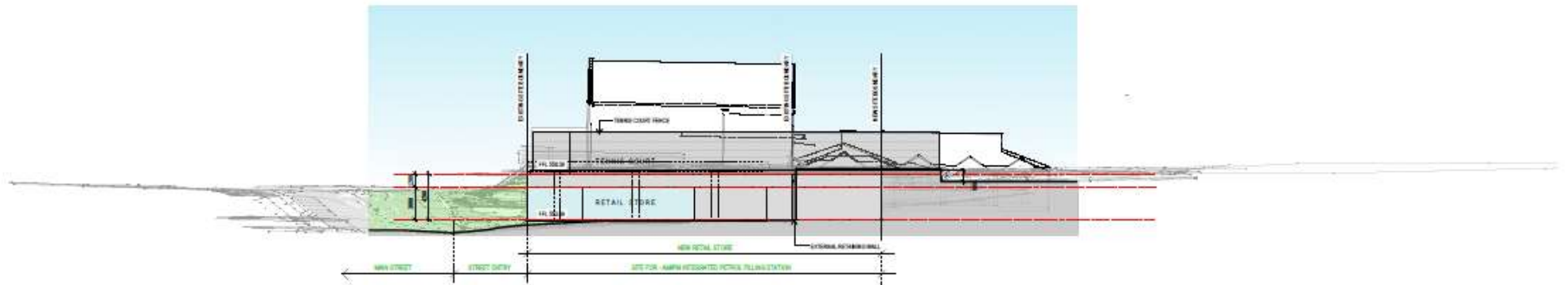
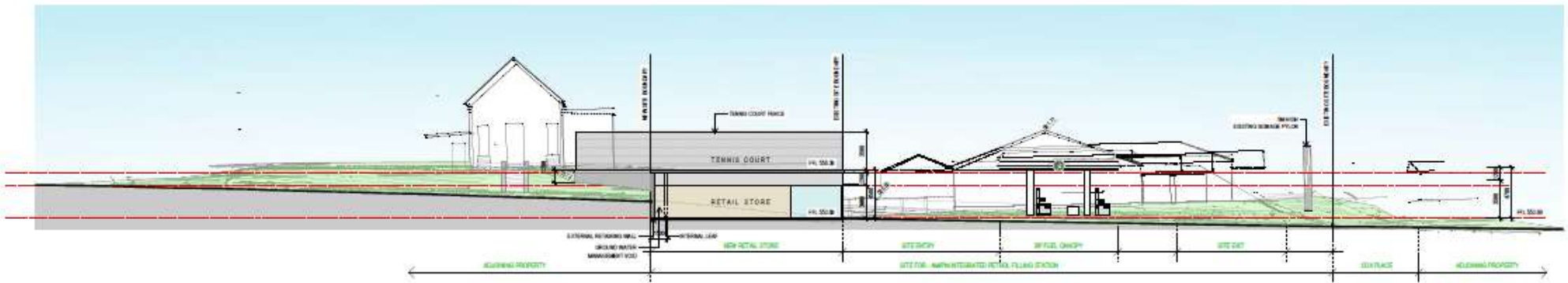
Drawing No: **11139_SD09**

Revision: **-**



FOR INFORMATION

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ALWAYS SERVICE STATION - CRAFERS



Cheesman Architects Inc
301 The Pavilions, Georgetown, L.A. 2028
Tel: 410 852 1140
Fax: 410 852 1142

Drawing
SITE ELEVATIONS

Scale
1 : 200 @ A1

Date
09-02-2018

Drawing No.
11139_SD11

Revision
-

FOR INFORMATION

Path: C:\Users\jg\OneDrive\Documents\proj\ALWAYS_CRAFERS_11139_2018.dwg

Plot Date: February 20 2018 10:30

3. Unsolicited Approach to Purchase Community Land – Period of Confidentiality

Subject to the CEO, or his delegate, disclosing information or any document (in whole or in part) for the purpose of implementing Council's decision(s) in this matter in the performance of the duties and responsibilities of office, Council, having considered Agenda Item 8.1 in confidence under sections 90(2) and 90(3) (d) of the *Local Government Act 1999*, resolves that an order be made under the provisions of sections 91(7) and (9) of the *Local Government Act 1999* that the report, related attachments and the minutes of Council and the discussion and considerations of the subject matter be retained in confidence until the matter is further presented to Council for a decision, but not longer than 12 months.

Pursuant to section 91(9)(c) of the *Local Government Act 1999*, Council delegates the power to revoke the confidentiality order either partially or in full to the Chief Executive Officer.