

REPORT FOR CONSULTATION
SECTION 194(2)(a) OF THE LOCAL GOVERNMENT ACT 1999
UNSOLICITED PROPOSAL – PORTION OF KIMBERLEY RESERVE
6 – 8 KIMBERLEY AVENUE, MODBURY NORTH

The following information is required under Section 194 of the *Local Government Act 1999* when Council is consulting with the community about a proposal to revoke community land classification. There is reference to a Report to the Council meeting on 27 June 2023. This is available on Council's website by clicking [here](#).

Legislative Requirement and Response	
1. Description of the proposal:	Council has received an unsolicited proposal from Mrotek Planning on behalf of Oasis (Modbury North) Pty Ltd as Trustee for Oasis (Modbury North) Unit Trust (the proponent) to purchase approximately 533 square metre portion of Kimberley Reserve located at 6 - 8 Kimberley Avenue, Modbury North (subject land). The reason for the proposal is set out in Item 4 below.
2. Description of the community land:	• The subject land is classified as 'community land' as defined in the <i>Local Government Act 1999</i>. • It is identified as portion of Allotment 49, DP 9814 contained within Certificate of Title Volume 5111, Folio 510. Kimberley Reserve is dedicated as a Reserve with a total area of 5,206sqm. The street address is 6-8 Kimberley Avenue, Modbury North. • The subject land is approximately 52.3metres wide x 10.2 metres deep, is located to the east of the main area of the Reserve and south of land at 285-289 Milne Road, Modbury in the ownership of the proponent. It is undeveloped with a dolomite path running east to west with a number of trees and some vegetation on it. The trees have been assessed by Council and are considered to be in poor to fair condition. A copy of the assessment report is provided in the Report to the Council meeting on 27 June 2023. • The subject land is in the General Neighbourhood Zone (Planning and Design Code SA).
3. Ownership:	• The City of Tea Tree Gully owns the subject land in fee simple. A copy of the Certificate of Title is provided in the Report to the Council meeting on 27 June 2023.
4. Summary of reasons for the proposal (Section 194(2)(a)(i)):	• The proponent wishes to purchase the subject land from the Council to amalgamate it with land to the north in its ownership. Refer to aerial map below. • Combining both parcels of land will provide a total of around 2,000 square metres which is proposed to be developed for low-density housing, with frontage to Kimberley Avenue. • The proponent has provided a conceptual design for the proposed housing development in the Report to the Council meeting on 27 June 2023. • The land is classified as community land and will require revocation of the community land status prior to sale. This is subject to Council considering the community's views on the proposal and obtaining the Minister's approval to revoke the classification.

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5. **Statement of any dedication, reservation or trust to which the land is subject (Section 194(2)(a)(ii)).**
 - Kimberley Reserve is designated as a “Reserve” on the Certificate of Title.
 - There are no other dedications or trust known to Council.
6. **A statement of whether revocation of the classification is proposed with a view to sale or disposal of the land (Section 194(2)(a)(iii)).**
 - The revocation is proposed with a view to the proponent purchasing it from Council for the purpose of developing it for low-density residential housing (5 – 7 houses, maximum 2 storeys).
7. **Details of any Government assistance given to acquire the land; and a statement of how the council proposes to use the proceeds (Section 194(2)(a)(iii)).**
 - The Council will use the proceeds of a sale to improve the remainder of Kimberley Reserve and for upgrades/improvements in the local area.
 - No Government assistance was forthcoming to acquire the land.
8. **If sale or disposal is contemplated, the report should indicate if the proposal is consistent with the council’s policy on sale or disposal of land (Section 49(1)(d)).**
 - The proposal is consistent with Council’s [Disposal of Land and Assets & Acquisition of Land Policy](#) as follows:

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	• The proposal is consistent with the objectives In Council’s Strategic Plan 2025, particularly Objectives 1.5, 3.3, 4.1, 4.5, 5.3 and 5.6 – refer to the Report to the Council meeting on 27 June 2023. • Decision making will be by Council resolution. • The procedure to revoke the community land classification will be in accordance with legislative requirements. • There has been consideration of the principles set out in 2.4.3(d) of the Policy with a summary in the Report to the Council meeting on 27 June 2023. • An independent property valuation by a Certified Practising Valuer in South Australia has been obtained and will be the purchase price (plus GST) if the sale were to proceed. The subject land has been valued in the range of \$290,000 to \$315,000. • A risk assessment has been undertaken and is summarised in the Report to the Council meeting on 27 June 2023. • There are opportunities to enhance local economic development and growth.
9.	An assessment of how implementation of the proposal would affect the area and the local community (Section 194(2)(a)(iv)). Implementation of the proposal would affect the area, the local community/residents as follows: Positive effects: • The local community and the area will directly and indirectly benefit through economic stimulus and job creation from the housing development. • Maximum development of the Child Care Centre would result, providing a needed service in the area. The capacity of the Child Care Centre would be reduced without the Council’s land to provide access to the proposed housing development. • Implementation of the proposal would result in efficient use of land, integrated development, better town planning outcome (eg frontage to Kimberley Avenue rather than rear fences, consistent setbacks, landscaped front yards, passive surveillance) and additional housing in the area. • The proponent has significant experience in the building industry and property development. • Improved and consistent streetscape. • Opportunity for Council to fund community projects in the local area using proceeds from the sale of an underutilised asset. • The proposal meets a number of Council’s Strategic Objectives – see Report to the Council meeting on 27 June 2023. Negative effects: • Loss of public open and green space. • Potential loss of a ‘buffer’ between Kimberley Avenue and development on 285-289 Milne Road. • Housing development will increase traffic and on-street parking on Kimberley Avenue and surrounding street network. • The development may not proceed after sale and amalgamation.

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Conclusion:

On balance, it is considered that the benefits of the proposal outweigh the disadvantages as the sale proceeds would be invested in the local area and improvements in Kimberley Reserve. The existing trees are in poor to fair condition, one is likely to be retained, others could be replaced and landscaping in front of the proposed dwellings would enhance the streetscape.

When it is constructed the proposed Child Care Centre would remove the sense of openness and sight lines from Kimberley Avenue to Milne Road that currently exist. The remainder of 285-289 Milne Road is in private ownership and likely to be developed in some form, if not for housing. This inevitability will remove the openness, regardless of what occurs on the subject land.

The following is also noted:

- The area of public open space that is the subject land consists of approximately 533 square metres of undeveloped land. This is adjacent to the larger portion of Kimberley Reserve which will remain as community land for use by the community. Removal of the subject land represents approximately 10% of all of Kimberley Reserve and will leave 4,673 square metres of public open space for community use.
- It is likely that on-street parking will increase in the vicinity of the proposed development as residents and visitors may choose to park on the road. This would result in changed conditions for road users but is manageable on low volume roads such as Kimberley Avenue and Apex Avenue.
- There will be an estimated increase in traffic of 35 – 49 vehicles/day (based on an additional five to seven properties and seven trips per day which is the industry standard for estimating traffic volumes). Kimberley Avenue is able to adequately cater for this additional traffic.
- Stormwater management and flow implications would be assessed during the development application process and flooding risk mitigation measures identified during this process.
- The proponent has advised that a development application would be lodged within six months from revocation or sale and is prepared to enter into an agreement *requiring best endeavours to be exercised to complete the development within 3 years of obtaining planning consent*. As a means of mitigating this risk to some extent, this timeframe could be included in an agreement and/or as a condition of sale.

10. The statement should take into consideration any relevant strategic planning documents prepared by the council (Section 194(2)(a)(iv)).

- The proposal is consistent with the objectives In Council's [Strategic Plan 2025](#), particularly Objectives 1.5, 3.3, 4.1, 4.5, 5.3 and 5.6. More information is available in the Report to the Council meeting on 27 June 2023.
- Council's [Open Space Policy](#) acknowledges that high quality open space provides a number of benefits in areas undergoing urban consolidation (it is noted that infill development has occurred in Kimberley Avenue at Nos 7, 14, 16 and land has been cleared at 18 Kimberley Avenue). Proceeds from the sale of the subject land would be used to improve Kimberley Reserve and for other improvements and upgrades in the local area.