

REPORT FOR CONSULTATION
SECTION 194(2)(a) OF THE LOCAL GOVERNMENT ACT 1999
PROPOSAL – COMMUNITY LAND REVOCATION
JANLYN RESERVE, JANLYN ROAD AND ALLAN STREET, VISTA

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 are references to Council Reports which are available on Council's website by clicking [here](#).

Legislative Requirement and Response	
1. Background and Context:	There are a number of encroachments over Janlyn Reserve by adjacent land owners that have occurred over many years, including fencing, a structure and other materials. There are no authorisations on record granting permission for the residents to use the land. This presents a risk to Council in terms of liability. As the Reserve contains critical Council and SA Water infrastructure it is imperative that there is adequate access to the land for maintenance and repairs. This is currently constrained due to the encroaching items on the Reserve and the width of the Reserve (1- 1½ metres) . More details of the issues, constraints and options are set out in a report to Council on 30 January 2024.
2. Description of the proposal:	Council proposes to transfer the portion of Janlyn Reserve to property owners currently occupying it and create adequate easements over the infrastructure within the Reserve, at no cost to the property owners. This approach was considered to be the option causing least inconvenience to property owners/residents and is subject to the property owners agreeing to the transfer and easement creation. Fourteen property owners would each gain land ranging from 3.6m² to 64.7m², two property owners would not gain or 'lose' land, one property owner would lose 4.6m² of land and would be compensated accordingly. If agreement is not reached Council may still consider revoking the community land classification (subject to the Minister's approval) as the land is used purely for drainage, has no recreational value and is not accessible by the public (private gates at both entry points on Janlyn Road and Allan Street). Other options to address the encroachments would be explored by Council.
3. Description of the community land:	Janlyn Reserve is classified as 'community land' as defined in the Local Government Act 1999 but not contained within a Community Land Management Plan. Janlyn Reserve is located at the rear of 17 residential properties in Janlyn Road and Allan Street and a common side boundary with three residential properties in Allan Street, Vista. It is a narrow strip of land 1- 1½ metres wide and 214 metres long with a total area of approximately 360m². Described within CT5715/708 as Allotment (Reserve) 57, Deposited Plan 3688 – "Drainage Reserve" and zoned General Neighbourhood Zone. Contains Council stormwater infrastructure and Community Wastewater Management System (CWMS) pipes now in the ownership of SA Water.

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Legislative Requirement and Response



Janlyn Reserve, Vista

4. Ownership:

The City of Tea Tree Gully owns the subject land in Fee Simple (Reserve). A copy of the Certificate of Title is provided in the Report to the Council meeting on 11 March 2025.

5. Summary of reasons for the proposal (Section 194(2)(a)(i)):

- The existing fence alignments do not align with true property boundaries.
- The use of Council land without authorisation presents potential liability for Council.
- Access to the infrastructure is constrained due to the width of the Reserve and fence encroachment.
- The area is unkempt and not adequately maintained.
- A property owner in Janlyn Road wishes to replace a rear boundary fence and is seeking direction regarding the small area of Council-owned land between his rear boundary and that of the neighbouring rear property boundary. Similar enquiries are likely to arise in the future as other property owners seek to replace old fences.

6. Statement of any dedication, reservation or trust to which the land is subject (Section 194(2)(a)(ii)).

- Janlyn Reserve is designated as a “Drainage Reserve” on the Certificate of Title.
- There are no other dedications or trust known to Council.

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Legislative Requirement and Response	
7. 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 Council transferring to property owners the portion of Janlyn Reserve currently occupied by them as delineated by existing fencing.
8. 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)).	- No Government assistance was forthcoming to acquire the land. - There will be no proceeds from the transfer as it is proposed to transfer the land for nil consideration. All costs will be borne by the Council.
9. 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: - The proposal is consistent with the objectives In Council's Strategic Plan 2030, particularly Objectives 5.1 and 5.3 – refer to the Report to the Council meeting on 11 March 2025. - 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 reference to this as Attachment 5 in the Report to the Council meeting on 11 March 2025. - A risk assessment has been undertaken and is included in Attachment 5 to the Report to the Council meeting on 11 March 2025 .
10. 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: - Property boundaries are accurately represented on property titles. - Council would gain income from increase in rate revenue and retain access to its infrastructure through establishment of the easement. - Least inconvenience to property owners/residents. - Improved access to the infrastructure for maintenance purposes through a 3m-4m easement in favour of Council. - Council not responsible for maintenance. - Limits liability. Negative effects: - There is a cost to Council of land survey, land division, transfers etc - Easement to be 3m-4m metres wide on private land. - There is a greater risk of damage to public infrastructure when located on private land however this is a standard practice for service infrastructure when required.

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Legislative Requirement and Response	
	Conclusion/Summary: Janlyn Reserve contains critical stormwater infrastructure and CWMS infrastructure now in SA Water's ownership. It is Council's responsibility to ensure that access to its infrastructure is readily available for maintenance and servicing, etc. A consistent approach to Council's tenure over the land with reduced risk of objection from property owners would be to transfer the land (without cost) to the property owners that currently occupy portion of Janlyn Reserve. This approach is subject to them agreeing to the transfer and creation of a 3m–4m easement in favour of Council and SA Water which would provide improved access to the infrastructure. The advantage of this approach is that all existing fencing and structures would remain in place and be replaced by the owners as required. The approach also has the least impact and would have minor inconvenience to property owners/residents. As Janlyn Reserve is a drainage reserve revocation of the community land classification would not disadvantage the community or reduce the community's interest or benefit over the land.
11.	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 2030, particularly Objectives 3.2, 4.1, 5.1, 5.3. More information is available in the Reports to the Council meetings on 30 January 2024, 27 August 2024 and 11 March 2025. - Council's Open Space Policy acknowledges that high quality open space provides recreational opportunities for the community and enhances well-being. Janlyn Reserve provides no recreational opportunities as it is predominantly a drainage reserve and inaccessible to the public .