

ATTACHMENT TO AGENDA ITEM

Ordinary Meeting

19 August 2014

Agenda Item 6.1 Transfer of Land to Mooroopna Cemetery Trust

Attachment 1 Plan of proposed site..... 148

Attachment 2 Letter from Mooroopna Cemetery Trust 149



Mooroopna Public Cemetery

ECHUCA ROAD, MOORoopNA, 3629
Postal: PO Box 68, Mooroopna, 3629

12 March, 2014

Mr Gavin Cator
Chief Executive Officer
Greater Shepparton City Council
90 Welsford Street
SHEPPARTON VIC 3630

Greater Shepparton City Council	
File No	
Record No	
14 MAR 2014	
Referred To	
Copies To	

Dear Sir,

Re: Council Land in Huggard Drive, Mooroopna

We refer to our previous request to have land currently owned by the Greater Shepparton City Council adjacent to the Mooroopna Public Cemetery reserved for future cemetery use (attachment 1. – letter dated 29/11/2011).

We also refer to an email from Ms Leeanne Higgins prior to the submission of a motion to Council on 19th June 2012 summarising the intention of the motion (attachment 2.).

The transfer of land has been agreed to as part of a motion carried and listed in Council minutes of 19th June 2012, a copy of the relevant extract is enclosed for your information (attachment 3.).

For the purpose of bringing you up to date on the current position we briefly set out the events so far:

- Following our request for the transfer of the land dated 29th November 2011, we were advised that the Shepparton Family Relationship Centre had also expressed interest in part of the land in question to establish a "Well-being" Centre primarily for the Min-Jarra group.
- Under advisement from council staff we entered into discussion with the Shepparton Family Relationship Centre and the Min-Jarra group and resolved to provide them with a lease of the land for a 21 year period, following the transfer of the land to the crown for cemetery purposes.
- Through discussions with Department of Human Services and council staff it became evident that in order to provided expediency for the lease of the land, that the Council should enter into the lease and then transfer the land to the crown for cemetery purposes, incumbent of the lease.
- The motion put to the Council meeting on 19th June 2012 was passed endorsing the above course of action (attachment 3.).

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The current position:

- In November 2012 Ms Leeanne Higgins replied to my phone enquiry (attachment 2A.) re: progress advising that the Shepparton Family Relationship Centre was having funding issues and that Council had passed a resolution approving the transfer of land which we can rely on.
- In June 2013 we attempted to communicate with Ms Leeanne Higgins to gain an update on the current position. Upon follow up by phone we were advised that Ms Higgins no longer worked at the Council. Ms Karen Dexter explained that there had been reluctance by Shepparton Family Relationship Centre to enter into a lease and she advised that they would be sent a letter requesting them to formally state whether or not they intended entering into the lease.
- Having heard nothing further, we made further enquiries by phone to Ms Dexter on 11th March 2014, during which, she indicated that Shepparton Family Relationship Centre had formally replied indicating that they no longer wished to enter into the lease.
- During our telephone discussions with Ms Dexter, she indicated that the matter would have to be re-submitted to Council as the lease is not proceeding.

The Council has, via its motion contained in the minutes of 19th June 2012 (attachment 3.) agreed to the transfer of the land for future cemetery purposes (see 6a. and 6b. of the motion). We contend that clauses 1 – 5 of the motion were to allow for expediency in facilitating a lease to the Shepparton Family Relationship Centre prior to the transfer of land.

As the Shepparton Family Relationship Centre has now formally withdrawn its intention of entering into the lease, we request that the transfer of land be proceeded with as quickly as possible.

The transfer of the land in question has been discussed with the previous Rodney Shire Council where the trustees believe, "in principle" agreement was reached. It was further discussed with the Commissioners during the council amalgamation process where the trustees believe "in principle" agreement was reached.

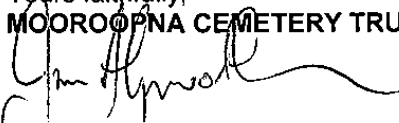
It has now been discussed with various council officers over the last seven to eight years culminating in the motion to council on 19th June 2012.

The trustees are keen to undertake works to establish a formal entrance off Huggard Drive as well as plan the next stage of the lawn cemetery, none of which can be done without the land issues being resolved.

Please advise if there are any further issues to be addressed by the trustees and if not, we would appreciate advice as to when the process will be advanced to completion.

Thank you.

Yours faithfully,
MOOROPNA CEMETERY TRUST



Jim Hepworth
Secretary/Treasurer
Ph: (03) 5831 3155

Encls

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(Attachment 1.)

Mooroopna Public Cemetery

ECHUCA ROAD, MOOROOPNA, 3629

C/- Hepworth & Co Pty Ltd,
PO Box 1226, Shepparton VIC 3632
45 Wyndham Street, Shepparton VIC 3630

29th November 2011

The Mayor
Mr G Dobson
Greater Shepparton City Council
Locked Bag 1000
SHEPPARTON VIC 3632

COPY

Dear Mayor & Fellow Councillors,

Re: Land adjacent to the Mooroopna Cemetery

The Trustees of the Mooroopna Cemetery Trust request that land adjacent to the Mooroopna Cemetery be transferred to the Crown to be reserved for Cemetery purposes (approximate land area marked in blue and pink on the attached map).

The purpose of the land marked in blue is to provide a treed area to act as a "buffer zone" between the Cemetery and the industrial estate.

When the industrial estate was established during the Rodney Shire period, the strip of land was specifically set aside for the purpose of a "buffer zone". Transfer of the land to the control of the Crown for Cemetery purposes will ensure that this parcel of land cannot be used for any other purpose.

The purpose of the land marked in pink is to secure the land for access purposes, car parking and for future use by the Cemetery for burial purposes. The parcel of land is the only available land which can be used for the future expansion of the Cemetery.

Securing the use of the land marked in pink will immediately allow for the creation of an additional entrance to the Cemetery from Huggard Drive and provide car parking facilities away from Echuca Road.

Currently the entrance to the Cemetery is located in a section of roadway between two blind bends with a speed zone of 100km per hour. Funeral Directors using the Cemetery have frequently expressed concerns to the Trustees of the significant danger to funeral processions turning into, and parking along the roadway.

The longer term use of the land marked in pink will be for burial purposes.

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OC-568088

2.

The Mooroopna Cemetery Trust is financially sound and continuing to make provision for perpetual ongoing maintenance and accordingly places minimal drain on council resources. The Cemetery is located in an expanding urban area adjacent to the council identified "Mooroopna West Growth Corridor". It is well presented and will attract increasing use in the future.

Currently the development of the lawn grave area is on the southern side of the Cemetery and whilst it can continue to expand to the east, there is currently a limitation to the land available. Access to the requested land will ensure continuation of the Cemetery facilities.

The Department of Human Services' requirements for land to be used for Cemetery purposes are contained in an email attached herewith.

In summary:

1. D.S.E. Survey to ensure that the land is not subject to Native Vegetation or other environmental restrictions.
2. Community consultation regarding acquisition and proposed use of the land.
3. Agreement between the Trust and the owners of the land.

The trustees are currently in discussion with the DSE office in Benalla to have an appropriate survey done. Given that the area was redeveloped as part of the industrial estate we do not anticipate an adverse survey report.

The land is currently zoned "Land subject to inundation" which is the same as the existing Cemetery land.

The land is adjoining the Cemetery and would allow for beautification and enhance the amenity of the Cemetery and surrounding area in Huggard Drive.

The Mooroopna Cemetery Trust formally requests that both parcels of land referred to above be transferred without cost for the exclusive use of the Cemetery. The Trust is prepared to meet all reasonable costs associated with the transfer of the land.

Please contact Chairman, Mr Bill Parsons 0418 570020 or Secretary, Mr Jim Hepworth 58313155 to discuss the matters raised.

Yours faithfully
MOOROOPNA CEMETERY TRUST

Per:

OC-568088

(Attachment 2.)

Jim Hepworth

From: Leeanne Higgins <Leeanne.Higgins@shepparton.vic.gov.au>
Sent: Wednesday, 30 May 2012 2:21 PM
To: Jim Hepworth
Subject: Land beside Mooroopna Cemetery
Attachments: Council Agenda Report - community use of Part Council land, 22 Huggard Dr Mooroopna.DOCX

COPY

Hello Jim

Attached is an agenda report I have submitted for the June Council meeting, of which I would like to advise the Trustees. I believe this is in line with our last discussions, so I hope there are no surprises in it for you. I did have another discussion with DHS following your last email, but it was still along the same lines regarding time frames, although reading between the lines I suggest they had been given an indication that the Minister would not withhold approval for the land to be transferred with the lease in place.

That being said I have tried to cover all basis in this report, to allow us

- to move forward with the proposed lease
- to then progress transferring the land to Crown (For future cemetery purposes) with lease in place
- if unable to transfer with lease in place, to still transfer other portions such as end of court bowl and tree buffer, and perhaps incorporate something into lease to allow for some use of car park area by cemetery visitors
- to give a legal undertaking to transfer leased area at the end of the lease period.

If the recommendation is adopted by Council, I will then publish a public notice of the intent to lease and invite submissions. This is a requirement of the Local Govt Act. We do not have the same requirement when transferring land to the Crown, so while I might refer to the proposed transfer of land for future cemetery purposes it is not part of the submission process.

I believe this will achieve desire outcomes for all parties. I imagine there may be some media interest following the Council meeting, so I would like to ask you to make all the Trustee’s aware of this so they are not put on a spot without warning. It may be even worth drafting a response or media release in preparation but that’s your call.

Please contact me if you would like to discuss anything.

Regards



Leeanne Higgins
Manager Business Support
Greater Shepparton City Council
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(Attachment 2A.)

Jim Hepworth

From: Leeanne Higgins <Leeanne.Higgins@shepparton.vic.gov.au>
Sent: Friday, 2 November 2012 4:19 PM
To: Jim Hepworth
Subject: land adjoining Mooroopna Cemetery

COPY

Hello Jim

Karen let me know that you were wanting an update on the progress of Min-jarra and some surety that the Cemetery Trust will still acquire the land. From my last discussions with Noel from Family Relationship Centre I understood that they had used last year's funding to lease a property in the Industrial area of Shepparton to use as a base at the moment and were pursuing more funding to progress the planning on the Mooroopna land. I have highlighted that the Cemetery Trustees need to be involved in the planning, to which he readily agreed.

I will try and meet with the Family Relationship centre staff soon to get some scope of time lines from them and we will look at moving forward. My initial thoughts are that we arrange a three lot subdivision – the entrance part for cemetery which can then be transferred, the area to be leased and later transferred to cemetery and the part to be retained by the Council.

I can confirm though that we have a Council resolution approving the transfer of the land which you can rely on.

Regards



Leeanne Higgins
Manager Property and Procurement
Greater Shepparton City Council
 Phone: (03) 5832 9764
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 Email: leeanne.higgins@shepparton.vic.gov.au
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(Attachment 3.)



6. MANAGEMENT REPORTS

6.5 Community Use of Council Land in Huggard Drive, Mooroopna

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Disclosures of conflicts of interest in relation to advice provided in this report
No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Summary

Vacant Council owned land in Huggard Drive, Mooroopna has been identified as suitable for the development of Min-Jarra, a Men's wellbeing centre. The Mooroopna Cemetery Trustee's have also expressed a desire to secure the site for long term planning for cemetery expansion.

While the involved parties negotiated an excellent solution which will satisfy all needs, the logistics to enact it required further work. This briefing provides an outline of the issues to be overcome and proposes a recommendation to progress the formal process required to achieve desired outcomes.

**Moved by Cr Crawford
Seconded by Cr Ryan**

That the Council:

1. In accordance with Sections 190 and 223 of the *Local Government Act 1989* ("the Act"), public notice be given in the *Shepparton News* of the intention to enter into a lease of the Council owned land at 22 Huggard Drive, Mooroopna being certificate of title volume 9753 folio 140 with the Shepparton Family Relationship Centre for a period of 21 years for the purpose of developing Min-Jarra, a men's wellbeing centre
2. The public notice stipulate that persons may make a submission on the leasing of the land in accordance with Section 223 of the Act and that written submissions must be received on a date that is at least 28 days after the publication of the notice
3. The Chief Executive Officer be authorised to undertake the administrative procedures necessary to enable the council to carry out its functions under section 223 of the Act in relation to this matter

That if submissions are received under section 223 of the Act:

- a) a special meeting of the council be convened to hear from any person or persons who request to be heard in support of a section 223 written submission and, if required, the special council meeting be held at a time and date to be determined in the Council Offices, 90 Welsford Street, Shepparton, and
- b) report on any section 223 submissions received by the council, along with a summary of any hearings held, be provided to the ordinary council meeting of 21 August 2012; and
4. If no submissions are received within the prescribed period, the council resolves to enter into a lease and authorise the signing and sealing of the lease of Council owned land at 22 Huggard Drive, Mooroopna being certificate of title volume 9753 folio 140 with the Shepparton Family Relationship Centre for a period of 21 years



6. MANAGEMENT REPORTS

6.5 Community Use of Council Land in Huggard Drive, Mooroopna (Continued)

5. for the purpose of developing Min-Jarra, a men's wellbeing centre without further resolution of the council.
6. That, on the condition that the lease is executed
 - a. transfer part of the land at 22 Huggard Drive, Mooroopna being certificate of title volume 9753 folio 140 to the Crown, in accordance with section 191 of the Act, to be reserved for cemetery purposes with the land encumbered with the lease, if approved by the Minister
 - b. If Ministerial approval is not received, provide the Mooroopna Cemetery Trustee's with an undertaking by way of a legally binding agreement that that the Council will relinquish the land to the Crown to be reserved for cemetery purposes at the expiration of the lease.

CARRIED

Background

The Council was asked to provide, by way of a community lease, a Greenfield site for the Shepparton Family Relationship Centre to establish Min-Jarra. The required specifications were that the site be close to river and bush environments, in addition to satisfying planning zone requirements. The pocket of Industrial Zoned land in Huggard Drive, Mooroopna was identified as ideal.

The Mooroopna Cemetery Trustees identified the same parcel as being required to plan for the future expansion of the cemetery. Although the site will not be needed for development for the next 25 to 35 years, the Trustees desire a commitment from the Council that the land will be secured for future use. This would require the site to be transferred to the Crown, to be reserved for cemetery purposes.

The proposed solution was that the Council relinquish ownership of the site to the Crown on the basis that the Crown provides a 21 year community lease to the Shepparton Family Relationship Centre. A lease of this type would require Ministerial consent on land reserved for cemetery purposes. The Cemetery Trustees requested that Department of Health (DHS) seek Ministerial consent to assure the Council and the Family Relationship Centre that it would be approved, however DHS advise is that it would not seek Ministerial consent until the land is handed over.

The Shepparton Family Relationship Centre propose to develop a Min-Jarra on the site which is a centre for men's health and wellbeing which seeks to foster empowerment, encouragement and dignity back to men through personal growth and development. The centre will bring men from indigenous, cultural and linguistic diverse backgrounds together to share experiences in a culturally safe environment.

It was then proposed to DHS that the Council enter into the lease and then pass the land to the Crown encumbered with the lease. While this seems likely to be acceptable, it would be many months before they could confirm approval. Such a delay would seriously jeopardise the success of the Min-Jarra funding and development.



6. MANAGEMENT REPORTS

6.5 Community Use of Council Land in Huggard Drive, Mooroopna (Continued)

Therefore, in consultation with both interested parties the following staff advice is proposed to be presented to a Council meeting. This will be subject to compliance with the *Local Government Act 1989* of providing public notice and inviting submissions

Risk Management

Risks to be considered by the Council are noted here.

- Is there community support for Council committing the land for long term lease and transfer to the Crown? Public consultation will assist in assessment of this
- Are we potentially committing the Council to a legally enforceable requirement to relinquish the land in 21 years for cemetery purposes when future alternative unforeseen demands for the land arise? Council would need to determine acceptance of this risk
- Will development and use of the land by the proposed tenant meet expectations? – this will be managed by the terms of the lease, planning processes and ongoing supportive relationship by Council officers
- Will there be Ministerial approval of cemetery land being leased for other purposes? – The recommendation provides alternatives to overcome this eventuation

Policy Implications

The lease and possible transfer of land to the Crown does not conflict with any policy. The intent of the *Asset Management Policy* is to support the Council's commitment to maximising its resources to achieve the best outcome for the community.

Best Value Implications

The Local Government Act 1989, Best Value Principles section 208B,

(b) ... all services provided by a Council must be responsive to the needs of its community and

(c) each service provided by a Council must be accessible to those members of the community for whom the service is intended.

Financial Implications

There would only be nominal administrative costs incurred by the Council in implementing the recommendation of this report, which will be covered by existing budget. However in the event that land is relinquished to the Crown, the Council will be forgoing the capital value of the land. The land however will continue to be used for public purposes.

Victorian Charter of Human Rights and Responsibilities Act 2006 Implications

This proposal does not limit any human rights provided under the act.

Legal/Statutory Implications

Implementation of the recommendations will need to consider the requirements of the *Local Government Act 1989*. Section 190 provides that the Council may lease land providing it gives public notice at least 4 weeks prior to entering into a lease and receives and considers submissions in accordance with section 223.

Both parties expressing an interest in the use of the land will have their own statutory requirements to abide by, including acquiring planning permits for the development of the site.



6. MANAGEMENT REPORTS

6.5 Community Use of Council land in Huggard Drive, Mooroopna (Continued)

Consultation

The Shepparton Family Relationship Centre and the Mooroopna Cemetery Trustees have been involved in discussions to ensure support of the recommendations. The Department of Human Services have also been consulted and its advice considered.

The recommendation provides for public consultation by way of giving public notice in accordance with section 223 of the *Local Government Act 1989*

Officers believe that appropriate consultation has occurred and the matter is now ready for Council consideration.

Strategic Links

Council Plan

The Council Plan identifies that *"integrated planning is a process that aims to achieve a whole-of-community approach and sustainable community outcomes. This is achieved by ensuring that the environmental spheres of influence built/physical, social, economic and natural) are holistically taken into account through a combination of linkages and partnerships in planning, decision-making, implementation and performance"*. The ongoing partnerships which will be established between the Cemetery Trust and the Family Relationship Centre through the joint interest in the land and their collective desires to provide community services reflects this integrated planning approach.

Supporting the Min-Jarra development with the provision of land meets every aspect of the Strategic Objective *'Community Life'* which states that "Greater Shepparton City Council will enhance social connectedness, physical and mental health and well being, education and participatory opportunities in order to improve liveability and a greater range of community services."

The Strategic Objective *'Infrastructure'* identifies an objective to "provide affordable and sustainable community infrastructure" which would be achieved by providing the land for Min-jarra in the short term and cemetery development in the longer term.



6. MANAGEMENT REPORTS

6.5 Community Use of Council land in Huggard Drive, Mooroopna (Continued)

Site Plans of Huggard Drive, Mooroopna

