



**BLACK POINT  
PROPOSED REVOCATION OF  
COMMUNITY LAND  
SUBMISSIONS TOTAL 24  
(2 request that they remain  
confidential)**

## Maddy Pulling

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**From:** Deborah & Kim Lodge <kim.deborah@kfdjlodge.com.au>  
**Sent:** Wednesday, 23 November 2016 9:03 PM  
**To:** Corporate Email Address  
**Subject:** Attention Roger Brooks -Revocation of Community Land- Black Point

Submission 1

Kim Lodge, Lot 150 Black Point.

23/11/16

Dear Roger,

I write in response to Council's proposed revocation of Community Land at Black Point.

Our family has had involvement at Black Point since the early 1950's with my late Grandfather- Lawrie Stock & my late Father Desbrough Lodge.

The Lodge family had been paying rates on Shack Site 20 since the early 1960's & when Prodec started the Freeholding process , Kym Bourke was told by Council that Shack Site 20 was never a Rated Block. This was simply not true as we had rate notices & pictures of our old shack to prove this.

Council did acknowledge this later ,but would not offer any solution, so we were left on our own to negotiate with Prodec on other alternatives which we did.

As you maybe able to appreciate our Family is disappointed at this proposal, suffice to say my late father Desbrough Lodge,a former DCYP Councillor would be very angry to say the least.

Shack Site 20 is a personal issue for the Lodge Family ,but regarding the other allotments ,having read Dr John Gray.s submission we are in full agreement with his ideas.

If Council does go ahead with this proposal the Lodge Family will be looking at some form of compensation.

Yours Sincerely,

Kim Lodge.

Dr. John Gray  
22 Black Point Drive,  
Black Point SA 5571

jandcgray@bigpond.com

20th November 2016

**Revocation Black Point**

**Attention: Mr Roger Brooks /Director Development Services**

I provide the following submission in response to Councils proposal to reclassify and then sell the beachfront reserves at Black Point. I have been holidaying at my family shack at Black Point since 1961 and have lived there in my new residence full time since 2008. I have a good knowledge of the Peninsula and Black Points history and development. I have provided general medical practitioner services for every doctors practice on Yorke Peninsula for twenty years and have treated many of the local residents and visitors. I was the principal medical officer and a board member of the Ardrossan Community Hospital during my eight years of full time medical practice at Ardrossan. I am also a past committee member of the Black Point Shack Owners Association (now the Black Point Progress Association). I believe that these experiences enable me to provide a credible submission in relation to Councils proposal.

Black Point is already a "Cash Cow" for both local and state governments with rates, land tax and stamp duty. I view the current proposal by Council as nothing more than a short sighted cash grab (for upfront profit from land sales and recurrent rates) at the expense of the many other stakeholders.

Current Lots 201, 202, 203 and 204 are the shack sites behind those who held crown leases on shack sites 19/20, 72,90/91/92 and 119/120/121 These lots were reserves created during the freeholding of Black Point in 1996 and were provided as beachfront green open spaces. They are natural wood lot buffers between the shacks and provide access and sea views to the beach for both residents and visitors. Should the proposal to sell off the "Parklands" proceed then Council would need to consider the impact on and possibly compensation for some of the stakeholders. My feeling is that the negative impacts of selling all 9 sites would be far greater than the benefits of leaving the reserves as is and maintaining the status quo.

Who are the stakeholders and to what should they be entitled? What are their needs? Now and in the future?

1. Council – revenue from land sales
  - additional and ongoing rates from new residences
2. Current freehold land owners/current and future residents at Black Point
  - Foreshore/cul de sac
    - their sea views (visual amenity) to remain unaffected by the outcome
    - adequate infrastructure especially with regards mains water pressure
    - future provision for a community facility (meeting place) as more and more residents become permanent
    - foreshore green open space that the reserves provide
    - ? Compensation if negatively impacted by outcome
    - protection of property values
    - fair share of any proceeds for current needs and future projects

3. Current crown lease holders (who did not take up their freeholding opportunity) with land immediately behind their crown lease.

Sites 19, 72, 90, 91, 92, 119, 120, 121

- access to their shacks and the beach
- perhaps another opportunity to freehold?

4. The family of Desmond Lodge /Site 20

- Past YP Councillor and crown lease holder and rate payer of this site.
- Was unjustly by "Oversight" never afforded the opportunity to freehold the land behind his crown lease despite having continually paid his crown lease and council rates up until the 1996 freeholding offer.
- his site was gifted as a reserve to the council that is now proposing to sell it for their profit.
- I was surprised that litigation was not pursued at that time.
- what compensation or actions will council propose?
- this site should **never** be sold.
- what recognition should be afforded to rectify the injustice?

5. Day visitors to Black Point

- off street car parking (Site 20 is currently the only off street public car park available other than the boat ramp car park)
- beach access
- Facilities – Shelter/seating facilities
  - BBQ
  - Toilets

6. Other rate payers of YPC

- value for money if land is sold by council (selling now would not yield the same value as dwellings already exist in front of 8 of the 9 sites). This would change on the 30<sup>th</sup> June 2037 as existing crown lease shack sites would be cleared. There is an argument to do nothing until 2037.

7. Prospective purchasers of beachfront Black Point land

- there is already unsold land available at Black Point

## SUGGESTIONS FOR A COMPROMISE IF A SALE WERE TO PROCEED

Sell 4 sites

- Lot 203.....Sites 90 and 92
- Lot 204.....Sites 119 and 121

Add an encumbrance to these sites to limit the dwelling to single storey. Limiting the height to single storey would minimize the visual impact on cul de sac residences.

- Retain Lot 203.....Site 91 as a reserve
- Retain Lot 204.....Site 120 as a reserve
- Retain Lot 202.....Site 72 as a reserve

This would still retain 1 beachfront green open space in front of the residences of each of the three cul de sacs situated south of Black Point Drive. It would allow beach access to all parties.

Retain Lot 201.....Sites 19 and 20

- Name site 20 "Des Lodge Reserve" in recognition of a past councillor, farmer and the crown lease holder of that site to rectify the past injustice.
- Provide facilities for day visitors
  - o Upgrade the existing off street public car park
  - o Provide shelter (rotunda or similar)
  - o Toilet facilities

Transfer ownership of site 19 to the Black Point Progress Association (BPPA) as a site for a future community facility.

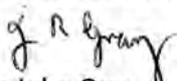
Create a fund comprising 25% of land sales proceeds to be managed in partnership by YPC and BPPA for projects such as

- Rectification of Boat ramp safety issues
- Facilities in "Des Lodge Reserve"
- Funds towards the development of a Community Club on site 19
- Other joint projects

I believe my submission provides a fair and practical plan which will enhance a constructive conversation and outcome re council's proposal. An outcome which provides a compromise and wins for the majority of stakeholders.

I request the opportunity to appear before Council on 8<sup>th</sup> February, 2017 as per your Community Engagement Plan.

Yours faithfully,

  
Dr John Gray

Kym Woolford  
Lot 46 Black Point.  
c/o 63 Barker Road.  
Prospect SA 5082.  
18<sup>th</sup> November 2016.

To: Yorke Peninsula Council  
Subject: REVOCATION BLACK POINT  
c/o: Director Development Services – Mr. Roger Brooks.

Dear Roger,

I write this Submission as permitted by Council in response to the Yorke Peninsula Council's proposed Revocation of Community Land Classification and the intent to sell allotments 201, 202, 203 and 204 at Black Point which presently have Land Classifications as "Reserves".

I acknowledge the work of Council staff and elected members who undertake a balancing act on a broad range of issues affecting our Community. I regard myself as a local having been leaseholder and ratepayer with my family since 1961 in the Yorke Peninsula district –although not a permanent resident, as yet. I know, socialise and do business with many of your ratepayers and therefore believe I have a good gauge on Community opinions.

I have no prior or current issues or disputes with Council, its staff or elected Members that may cloud my judgement. I am basing my submission on the facts and history of how these "Reserves" became declared.

You all should be well aware of the history, but I believe it is worth repeating.

The "Reserves" were declared in the mid 1990's at the request of your Council's predecessor – The District Council of Central Yorke Peninsula (DCCYP), so as to provide both sea views and beach access for a new freehold development proposed by a developer -Prodec. Prodec had acquired the farm land immediately in-land from the Black Point Crown Lease sites and wished to create a new large scale freehold development. Council would not approve this development because of its size and a need to resolve the issue of Crown Land occupancy which was out of favour with the then State Government. With input from the Black Point Shackowners Association (BPSA) and consultation between the DCCYP and Prodec, a deal was struck where Prodec developed a land package that enabled all participants to benefit. Existing Crown Land lease holders were able to purchase the adjoining freehold blocks with all services and the required DCCYP "Reserves" included. This was only possible through a majority take up of the land package by Crown Land Lease Site holders. The land package also included the purchase of the Council owned dirt access road and creation of a new bitumen road which enabled the creation of the existing beach front freehold allotments.

This indicates that the "Reserves" were purchased through the Prodec freehold land package by the Black Point Community from Prodec. Council only owned the portions of allotments 201, 202, 203 & 204 that were part of the road reserve - pre the development.

The "Reserves" are a Community asset vested to the Council. Council have had no affiliation with these allotments or applied any works to demonstrate ownership.

Additionally, in the YPC Community Engagement Public Report, the "Reserves" were labelled as "under-utilised". The Black Point Community or Council for that matter cannot develop these

reserves until the adjoining Crown Land Leaseholder has vacated their site due to the requirement for vehicular and essential services access. So until the leases have expired, no logical "Reserve" like development can commence. The exception is Lot 320 within Allotment 201 which has been made a useable "Reserve" with off street parking, bushland setting and beach access as this has no adjoining Crown Land Lease attached. This is what can be achieved, and should be.

**These "Reserves" belong to the Black Point Community and are not Council property. Therefore I strongly ask you to remove your application for the Revocation of the Land Classification at Black Point for all allotments.**

I have included several documents for your information that will help you understand the situation. Document 1 – Preliminary Sale Plan Black Point Holiday Settlement, shows clearly the positioning of the "Reserves" opposite the new culdesac development allotments with the allotment number prefixes of 4, 5, 6 and 7 highlighted in orange. Also you will notice that in the middle of 3 of these areas are allotment numbers which are out of step with their neighbours. This is because these numbers (72, 90, 91, 92, 119, 120 and 121) are the lot numbers from the "Reserves" and adjoining Crown Land lease sites. This clearly shows that these allotments were never to be classified as anything but "Reserves".

Document 2 – Section 30 Review Submission, another plan that was adopted by the DCCYP.

Document 3 – Newspaper article, Black Point Holiday Opportunity, which highlights the involvement by the DCCYP and the unique development it created. C1996.

Document 4 – BPSA, Government Freehold Review of Black Point Shacks, back ground from a BPSA Information Paper circulated to members in February 1996.

Furthermore, I believe the "Reserves" will become an even greater Community asset for all Yorke Peninsula rate payers and the general public in the years to come. When the Crown Land Leases do expire, this will create a unique day tripper experience by allowing the public access to a beautiful beach which they can enjoy without sitting in front of somebody else's dwelling. A real positive for local rate payers or visitors to enjoy a safe swimming beach – this would only enhance the Yorke Peninsula Experience, which we are all only custodians of.

As I stated at the beginning, I believe I have a good gauge on Community opinions as a "local" and serving as a BPPA Committee Member since 2003. I have been extremely surprised at the level of angst against Council's Revocation Proposal. This is not only from our Community but from other parts of Yorke Peninsula who are either experiencing a similar Council Proposal or are worried about an impending one.

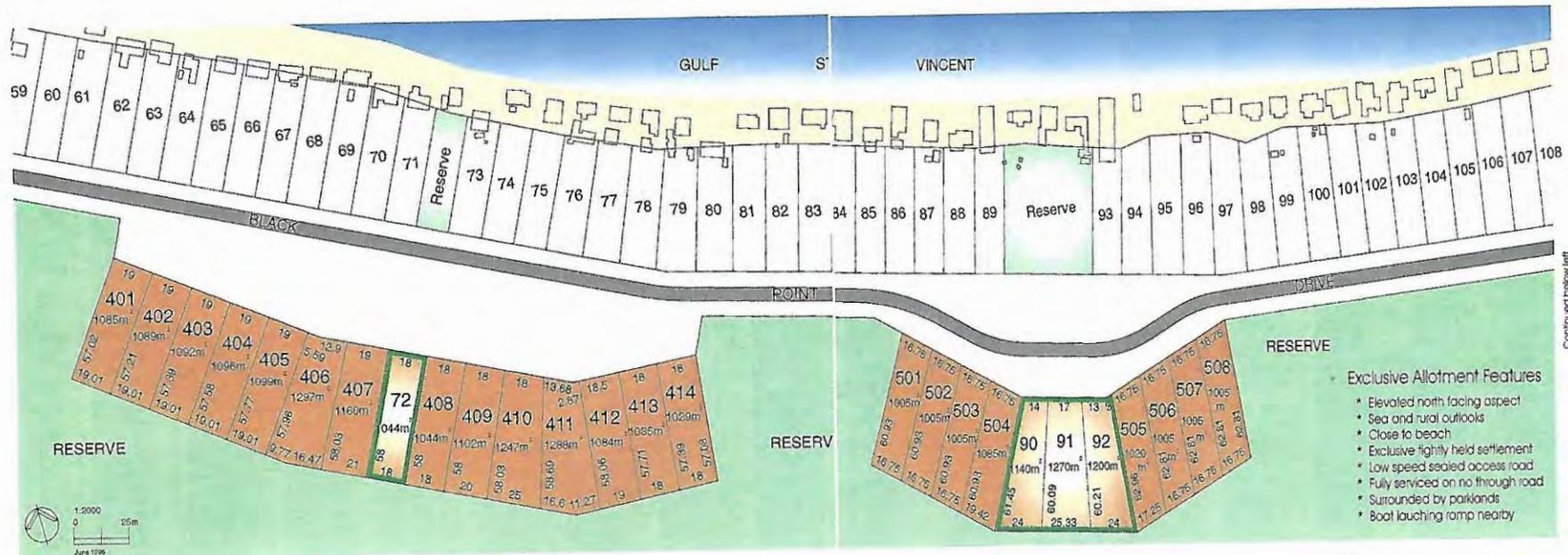
**Finally, I state I have no personal axe to grind with any YPC representative but rather with the Council's proposal and implore you to rescind your application for the Revocation of the Land Classification at Black Point for all allotments. I am willing to appear before Council.**

Yours Sincerely,



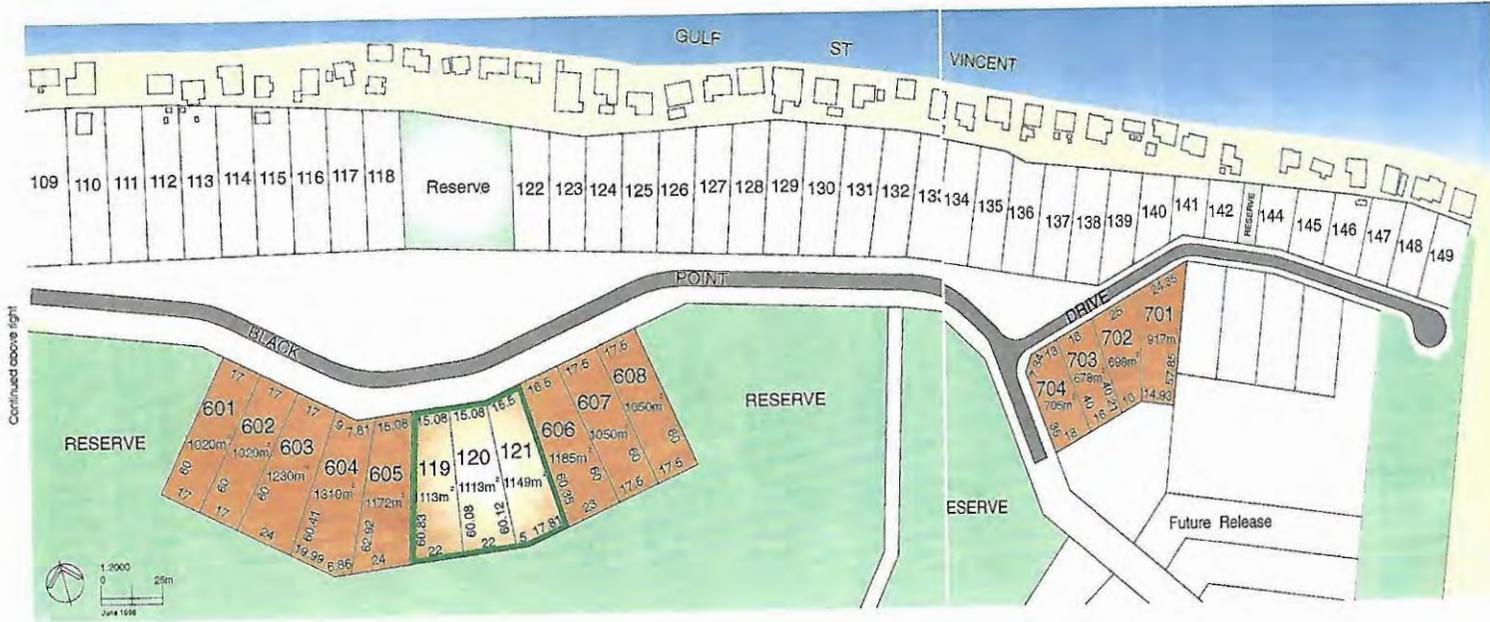
Kym Woolford.

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Continued below left

- Exclusive Allotment Features**
- \* Elevated north facing aspect
  - \* Sea and rural outlooks
  - \* Close to beach
  - \* Exclusive tightly held settlement
  - \* Low speed sealed access road
  - \* Fully serviced on no through road
  - \* Surrounded by parklands
  - \* Boat launching ramp nearby



Continued above right

- Denotes Allotments reserved for future corresponding shack relocation
- Denotes Allotments for sale

**PRODEC PTY LTD**  
 655 THE PARADE, MAGILL SA 5072  
 Telephone (08) 332 9239 Fax (08) 364 0553

**Purchasers Note**  
 The particulars of this sale information do not form part of any contract. Whilst care has been taken in the preparation, no representation has been made and no responsibility is accepted for the accuracy of the whole or any part and interested persons are advised to make their own enquiries and satisfy themselves in all respects. Data herein is subject to approval by the relevant authority and may be subject to further easements and alterations.

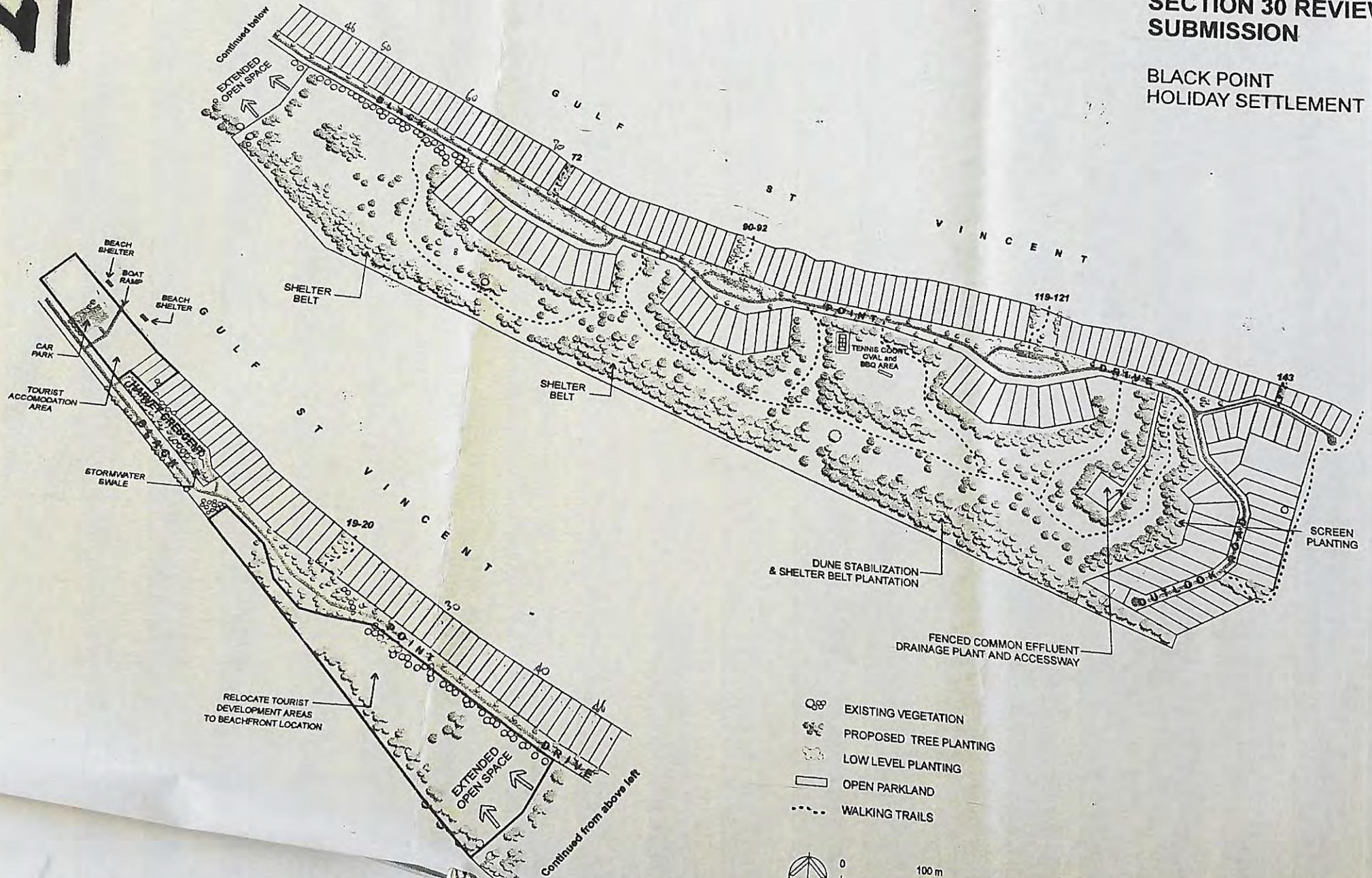
## PRELIMINARY SALE PLAN BLACK POINT HOLIDAY SETTLEMENT

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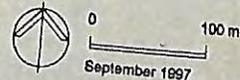
# SECTION 30 REVIEW SUBMISSION

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## BLACK POINT HOLIDAY SETTLEMENT



- EXISTING VEGETATION
- PROPOSED TREE PLANTING
- LOW LEVEL PLANTING
- OPEN PARKLAND
- WALKING TRAILS



September 1997

BLACK POINT SHACKOWNERS ASSOCIATION

mi



# Black Point Holiday Opportunity

**H**oliday settlement allotments at Black Point, Yorke Peninsula's best seaside retreat are now available. Just 20 kilometres south of Ardrossan or about 1 1/2 - 2 hours drive from Adelaide a site inspection is highly recommended.

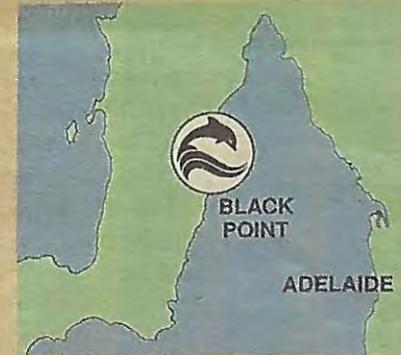
For many years an exclusive shack settlement, the area has recently undergone an outstanding transformation as a result of an innovative and comprehensively planned arrangement between the developer, Prodec Pty Ltd, the SA Government, the District Council of Central Yorke Peninsula and the Black Point Shack Owners Association. The building on freehold sites and refurbishment of the coastal shacks, the provision of services and access from a gently winding low speed community road will now see this fantastic foreshore as the most sought after holiday site in this State. Proud local residents together with the District Council of Central Yorke Peninsula are soon to be revegetating 11 hectares of public reserve to be known as the Maxine Hawke Park creating a green buffer which will enclose and shelter the settlement and provide recreational facilities and nature walking trails.

**T**he new Torrens Title allotments to be created within a tightly controlled residential area allowing only 60 new sites are generous at over 1,000 square metres in an area with the first stage comprising just 30 allotments in 3 small separate exclusive groupings adjacent to the coast.

**A**s a limited release, these large allotments have guaranteed services of underground electricity, mains water and common effluent. The first stage allotments have a northern orientation, most with views to the coast and within a short walking distance of several kilometres of the Peninsula's most prized white sandy swimming and recreational beaches. The area is a wonderful retreat adjacent to the aquamarine waters of Port Alfred Bay and it's adjacent north facing beach.

**M**rs Kym Burke, managing Director of Prodec Pty Ltd said that in the 1980's and 90's had seen a changing awareness and appreciation of the environment and the need to protect sensitive coastal margins. The allotments at Black Point are planned and located where residents can appreciate natural views, the areas rural character and the coast without destroying the local environment.

# Seaside Retreat...



- LAND SALE -

- Yorke Peninsula's most prized holiday area, within 2 hours drive of Adelaide can be yours by the sea. The land affords fine coastal views within a short drive of a superb north facing white sandy swimming beach.
- Surrounded by large areas of parkland, the allotments, all in excess of 1,000 square metres are priced from \$35,000.

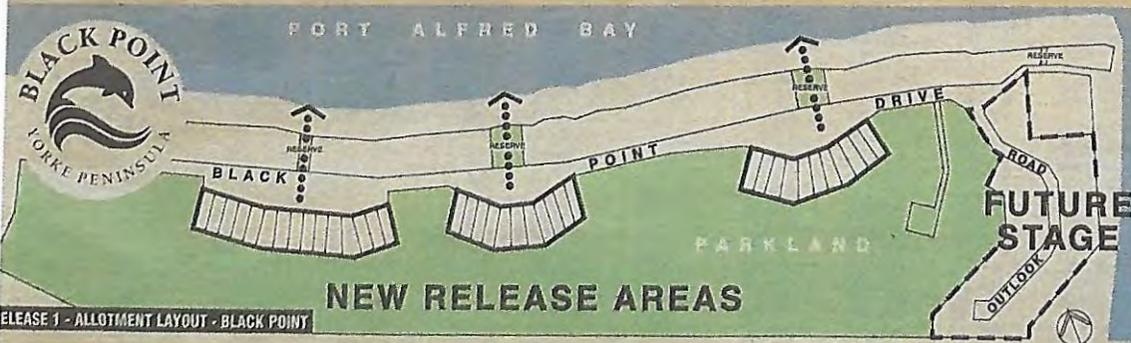
**B**lack Point holiday settlement is the typical "family holiday destination where everyone, from grandparents to toddlers, can engage in safe, leisurely activities such as fishing, crabbing or windsurfing.

**L**ong acknowledged as an excellent fishing ground, boaters can find nice catches of the migratory snook, garfish, tommy ruff and even the occasional mulloway, from either a boat or the beach. "The area is particularly popular for its whiting" Mr Burke went on to say, "and these can be caught from the sandy patches out from the Black Point's sheltered anchorage".

**W**ith prices starting at \$35,000 for fully serviced land in a unique environment Black Point presents a once off opportunity for owner occupancy, holiday living or investment.

For further details contact:

Mr Len Easter of L.J. Hooker Ardrossan on (088) 8373 or Mr Joseph DeConno of Torrens Realty on (08) 8362



### EXCLUSIVE ALLOTMENT FEATURES

- Surrounded by parklands
- Sea and rural outlooks
- Close to beach
- Exclusive tightly held settlement
- Low speed sealed access road
- Fully serviced on no through road
- Boat launching ramp nearby
- Elevated north facing aspect

RELEASE 1 - ALLOTMENT LAYOUT - BLACK POINT

BLACK POINT SHACKOWNERS ASSOC. INC.GOVERNMENT FREEHOLD REVIEW OF BLACKPOINT SHACKS4.  
—PRELIMINARY INFORMATION PAPER

1. The Hon. David Wotton MP advised John Maddigan, Chairman SA Shackowners Assoc. on 14 November 1995 that a review of the Black Point shack area would shortly commence to assess the possibility of freeholding sites.
2. Brian Harmer was appointed as the representative of Black Point Shackowners Association (BPSA) during the evaluation process.
3. Brian Harmer met briefly with Doug Faehrmann of State Government Asset Management Task Force (AMTF) and Colin Hore of Dept of Environment & Natural Resources (DENR) on 21 December 1995.
4. Messrs Faehrmann and Hore had previously met with Roger Wood of DCCYP.
5. Messrs Faehrmann and Hore have subsequently met with Simon Tonkin representing Prodec Pty Ltd.
6. DCCYP is opposed to any further freeholding at Black Point and has advised DENR accordingly, but we understand that their opposition is not likely to affect the review.
7. Brian Harmer advised the AMTF & DENR representatives at the December 1995 meeting that BPSA believed that:
  - majority of shackowners at Black Point desire the option to purchase from the Crown the land upon which their shacks are presently located (ie: to be treated in same way as all other shackowners throughout the State)
  - most shacks are located wholly on Crown land north of the freehold land recently acquired from Prodec
  - some shacks straddled the Crown land and the freehold land recently acquired from Prodec
  - a very small number of shacks are located wholly on the freehold land recently acquired from Prodec
  - approximately 20 shack lessees did not take up the freehold land offered by Prodec but the majority of these now have, due largely to changes of ownership in the intervening period and the new owners accepting Prodec's revised offer
  - a very small number of shack lessees were unable to be offered freehold land by Prodec due to the beach accesses demanded by DCCYP but have been offered alternative sites.

- Rentals
- Legal Access - Ownership of Adjoining Land
- Purchase Price
- Erosion Potential & Protection Works
- Effluent Disposal
- Saleability of Shack Site
- Indemnity Agreements
- Relocation
- Council Attitude
- Shackowners Preferred Outcome
- Redevelopment - Development Line
- Land Management Agreements

9. The survey undertaken by your Committee in November 1995 indicated that approximately one half of present shackowners intend to rebuild within 10 years while approximately 9% intend to rebuild within 12 months.
10. The Committee considers that serious divisions will arise within our community if the present review is not finalised *prior to the commencement* of the erection of any new dwellings at Black Point.
11. At least two extremely obvious divisions will immediately arise:
  - the owners who want to build new dwellings and relocate in conformity with the current development line will be discouraged from doing so if their immediate neighbours propose to remain indefinitely in their present location, ie: a new dwelling set back behind the existing development line may be partly, or even totally, behind the immediate neighbours, who may never wish to relocate.
  - the owners of existing shacks, particularly where they have upgraded, will be dissatisfied if pressured to relocate, ie: owners of new homes will want their immediate neighbours to relocate as well, as remaining where they are they may be an impediment to the view and general outlook of the relocators.
12. The Committee believes that the simplest and most practical solution is for all parties (ie: those who wish to build a new dwelling and those who wish to remain in their present and maybe upgraded shack) is to have a new development line created, such that *all existing shacks*, other than the boat sheds, are located behind the new development line.
13. Patrick Hill, Brian Harmer (representing BPSA), Kym Burke, Simon Tonkin (representing Prodec) met with the government representatives again on 31 January 1996 and put forward the above solution and explained its benefits and emphasised the problems that will occur if such a new development line is not created. Mr Faehrmann explained that the question of development lines had not yet been fully addressed in relation to other shack areas where free holding of existing sites had already been offered to existing lessees.
14. The new development line will ideally provide a continuity of existing frontages to ensure that the maximum number of sites will not be effected by the set-back or set-forward of adjoining sites.

15. Under this solution a new dwelling will be able to be built or extensive improvements made on the present shack site, subject of course to any restrictions imposed under the additional freehold arrangements presently being determined.
16. As a converse to para. 11 (above) existing rights will have to be protected to prevent owners building "forward" to the proposed new development line, if so doing will prejudice immediate and near neighbours.
17. To achieve the proposed solution, the great majority of freeholders will have to acquire such additional Crown land as is necessary to accommodate the proposed new development line.
18. The Committee does not know what this additional freehold may cost but given that freeholders already have their own land, it will be argued that the value of any additional land to be acquired can at most only be proportional to the value of the land they already own.
19. Land management requirements will presumably have to be set to control future building alterations and improvements, and maintenance.
20. Shack sites requiring sea walling to protect them may have to provide an engineering solution and an undertaking to fund and implement the solution eg: blue rock boulders or some other stabilisation which will provide a common approach and be visually acceptable.
21. The government committee advised that they will be providing an "options report" which will include our "new development line" proposal to the Minister by the end of this month.
22. It is impossible to speculate upon the date that the Minister will make his decision but members are assured that the Committee will be in constant contact with the government committee.
23. Shackowners will be informed immediately any information is received.

**BRIAN HARMER**

**Secretary**

**10 February 1996**

**Maddy Pulling**

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**From:** Deb Callery <callerys@bigpond.com>  
**Sent:** Thursday, 24 November 2016 9:44 PM  
**To:** Corporate Email Address  
**Subject:** Proposed Revocation of Community Land at Black Point

Attention: Mr Roger Brooks, Director Development Services

Dear Sir

We write in response to your letter of September 15, 2016 advising a successful motion to proceed with the Community Engagement process, to consider reclassification of selected allotments currently held by the Yorke Peninsula Council, in the Black Point community.

We are not in favour of the proposal, despite the inducements offered should the revocation and reclassification be successful.

Having enjoyed the beauty and serenity of Black Point over the last 30 years, before becoming property owners, we are very aware of the strong sense of community and the value that community places on ensuring the allotments under review remain communal land. It is our understanding these arrangements were very much part of the process which allowed the initial managed development to occur along this pristine stretch of coastline, in keeping with the state and local governing bodies' desire to preserve our coastal heritage.

Yorke Peninsula Council's own documents acknowledge their responsibility to provide adequate and safe public access to the Black Point beach, which, were revocation to proceed as proposed, would be compromised.

We recognise the need of all levels of government to explore any and all income opportunities to provide amenities expected by rate and tax payers, but believe the proposal to develop *each piece* of community land to its absolutely maximum potential is unnecessary and against the spirit in which the earlier developments were permitted to proceed.

We sincerely believe this proposal is *not* in the best long term interests of the community.

<sup>13</sup> **Vin Callery and Deb Callery**  
**0418831086      0418831054**

deb@vincallerytransport.com.au

**From:** Cr Naomi Bittner  
**Sent:** Wednesday, 23 November 2016 2:21 PM  
**To:** Andrew Cameron  
**Cc:** Corporate Email Address  
**Subject:** Fwd: Council agenda Wednesday 14th September 2016 - pages 127-134 - DA/ITEM 6.4 10. REVOCATION OF COMMUNITY LAND - BLACK POINT ALLOTMENT 202

FYI

Begin forwarded message:

**From:** Andrew Derrington <derrington@adam.com.au>  
**Date:** 23 November 2016 at 2:17:58 pm ACDT  
**To:** <jeffrey.cook@yorke.sa.gov.au>, <naomi.bittner@yorke.sa.gov.au>, <scott.hoyle@yorke.sa.gov.au>  
**Subject:** Council agenda Wednesday 14th September 2016 - pages 127-134 - DA/ITEM 6.4 10. REVOCATION OF COMMUNITY LAND - BLACK POINT ALLOTMENT 202

Dear Council Members,

I am writing to you to seek your support in disallowing the above proposal to sell the land adjacent the back door of my family's shack, number 72 Black Point.

Apologies for the length of this email but my family feels strongly that the proposal at Allotment 202, Black Point Drive will significantly affect the enjoyment of the amenity we have been fortunate to partake in over the past 50 years.

In the mid 1980's as you would be aware, a proposal to sell off the shacks to the lease holders was floated and by the early 1990's nearly all lessees bought their shacks for \$28,000. This price included the cost of providing mains water, underground power and a telephone line to the shacks. The Prodec development under Kym Burke sought to have shacks 70,71 and 72 provided as an access site for the development occurring behind these shacks on the other side of the new road. Whilst my family sought to purchase the shack 72 we were unable to do so and our shack had thus to remain as a term of life leasehold, one of only four along the beach front.

As the regional property manager at the time, Steve Horsell, said in his correspondence of 16 July, 1998, "as you would be aware, located to the rear of your site is a Council reserve, which is set aside to permit casual public access to the beach. Due to your life tenure, it is unlikely that site will be vacated for 40 years or more, so Council and the Department have looked at options to develop a low key walkway to the beach through part of the site." The outcome of the discussions with Steve Horsell and Rick Wilkinson of your Council at the time was to permit the water tank to be moved so a path could be provided from the roadway to the beach. I and my family and friends have bent backwards to ensure the new tenants at the rear were not disadvantaged in gaining access and I continue to befriend those at the rear. As I said to one of the owners recently, "When I'm not there feel free to use the couches on the porch."

As I wrote to Rick Wilkinson in reply on 20<sup>th</sup> July 1998 when exploring ways to help facilitate access to the beach for those building behind us, "I must state at this point we still feel strongly that natural justice was not served in selecting our site for public access in initial plans for the development, and that although I made numerous representations to Prodec and the Department that we were not given an option to purchase the site. Our family (including myself) have been regular tenants at Black Point since 1957 when only the 3 Knapman brothers had erected shacks. During the early 1960's we were one of the earlier developers on the site and with my Uncle's Ian and Ward Derrington and their families very much part of the Black Point community and privy to its growth and development over the years. As a result we feel our site should have been one of the last chosen for an access site."

It was my father Jim Derrington and Mr Palin at shack 74 that built a permanent diving board for the children in the 1960's. John Patton also built one in front of his shack 80 at the time.

My father and others were involved in supporting the projection of films at Pine Point on sheets alongside the store. I remember watching 'South Pacific' and 'Born Free' before their release at mainstream cinemas. I ran through sand hills with other kids as a child collecting yellow capsicums and water melons where shacks now stand. For me and friends and family the shack is the most permanent place in my life time of 63 years, and I hoped my 22 year old son Sascha, Emily (15) and Liam (13) could be as fortunate as I to continue to enjoy the wonderful location so safe for children and adults alike.

The current proposal as shown on the aerial photograph (page 132 I believe) shows the proposed land acquisition (630 square metres) as taking in the back door of the shed and only metres from the rear door. (Before the ramp we used a pulley system to get the boat into the water for fishing). The land also takes in part of the She-Oak (Casuarina) tree my grandmother planted nearly 50 years ago and which for decades was the largest tree on the foreshore. The driveway through the middle left hand side of the property through which I drive my car to take the boat to the ramp is on this block. It is where I wash down the boat and flush the motor. The area is used by my teenage children and their friends as a place for their tent. The pepper trees and natives I have sought to keep well is on this land. I have been frequently working hard to rid the place of box thorns.

Should this proposal occur the amenities everyone else enjoys at Black point would no longer exist for us. There would be no way of getting to it by car and retrieving my boat as mentioned above.

I note that there are 4 allotments of community land that are presented in this Council agenda, nominally, Allotments 201, 201, 203 & 204 Black Point Drive, Black Point. In the proposals concerning Allotments 201, 203 & 204 the shacks concerned are not hampered in accessing their sites to anywhere near the same extent. In the case of Allotment 202 there is a 3 metre wide path, whereas for Allotments 201 and 204 wide pathways to the beach front properties are provided and the community land is NOT adjacent the rear of the shacks. Access for Allotment 203 appears to be at least 6 metres.

I contacted Council on 8 September and spoke with Marilyn who informed me of the Council agenda out today and with the Director Development Services, Roger Brooks today, following a scan of the agenda papers. I outlined my concerns to both. I enquired of Mr. Brooks why I had not been contacted about the possible sale of the land in the first instance. He said it was against the law to single out a potential buyer which I understood. However I pointed out to him that on page 128 under the heading 'DISCUSSION', it stated, "There has been significant interest expressed by adjoining property owners and other interested parties, in the possibility of purchasing the property." This sentence raises questions for my family as to what consultation may have already occurred with members of the local community without my families knowledge or involvement.

The discussion quotes, "The open space reserve has minimal value from a recreational or leisure perspective and little or no impact on future recreational opportunities for the local or wider community." In response I would like to make 2 points. Firstly Mr. Brooks said that should the land be sold there would be restrictions on its use for any potential owner until 2037, when in his mind the crown lease sites would no longer be in the lessees hands. I said I had spoken with Margaret in Kadina a few months back and she had said the Term of Life Lease would still apply. Should my niece Kylie Derrington live to an average age (Kylie is 45) our leasehold rights would continue well beyond 2037, as Steve Horsell of the department indicated above. Secondly, families don't go to Black Point to play on open reserves but to sit on the beach or in front of their shacks. But should this be the case and the Council/Community have plans for other recreational infrastructure, the other 3 Allotments (201-1750 square metres, 203-2430 square metres & 204 - 1260 square metres) would be far better placed for developing new amenities given they far exceed the proposed space behind my families shack (630 square metres). As the agenda notes under 'Proposal' indicate on page 129, "The electricity line appears to end in the middle of the property..."

I would add that my extensive discussions over the past 30 years with Prodec, Council and Departmental staff was quite clear that following the termination of the current family lease the land would provide for even better access to those shacks on the other side of Black Point Drive.

The agenda notes continue, "The land is not being utilized in this manner due to the location of the reserve being at the rear of an existing leasehold shack and both adjoining properties are residential." I have 2 points to make here. Firstly I do not accept that there is no operational need. I have outlined above the intrinsic need of my family for use of the land, without which my families enjoyment and amenity would be severely and adversely impacted. Secondly I do not like the distinction that ours is a 'shack' and the those adjacent "residential properties". My mother and since her death the children have constantly sought to upgrade and maintain the property as finances allow, by new cladding and aluminium windows and septic tanks (approx. \$14,000). The comment on page 128, ("As there is no strategic or operational need to retain ownership of the subject land, Allotment 202 has been identified as being surplus to the Council's need."), I feel runs contrarily to the good will of both Council and Departmental staff in discussions with my family over the past 30 years, as noted above in correspondence from Steve Horsell above and in all other correspondence and discussions.

Finally I would like to raise the broader concerns many of the local community have voiced over the years since the Prodec development proceeded. In July 2001 the Black Point Shackowners' Association undertook a survey of members with 91 of the 150 odd shack owners completing the questionnaire with 56 providing further comment.

In a letter to the Mayor, Mr Robert Schultze dated 21 August 2001 from the Chairman PDH Hill, he summarized the views expressed. These concerned views on proposed new developments at the time. The comments included,

"...a summary of the main views appear below:

- The development proposals would bring significantly more dwellings, people, cars and boats to Black point and would result in over-crowding on the beach...
- The proposals would detract from the serenity and ambience of black Point and compromise the fragile environment..
- Allowing any of the development proposed would likely be “the thin edge of the wedge” and open the gate to further development in the future;
- They would lead to further depletion of dwindling fish and crag stocks in the Black Point area;”
- 

Other points spoke of crowding at the ramp and , increased pressure on water supplies and sewerage infrastructure.

Since the Prodec developments I have seen the level of community spirit fall away as Black Point has become a “millionaires paradise” (as quoted elsewhere) as big money has been required to purchase land and develop double or single storey homes that slowly replace the real shacks of old. The number of people using the beach has dwindled as the profile of wealthier families steadily increases. In earlier days the socioeconomic profile was mixed, with many families constantly using the shacks as they had little capacity to holiday overseas. Those looking at the increased revenue to be generated for Council may favour new developments but I believe the future strength of the community will depend in part on limiting further developments, not increasing densities any further and supporting the four families who’s opportunity to own the land in perpetuity were denied.

I cannot speak for those affected by the other 3 Allotments, but the impact on Allotment 202 for my family would be severe should the proposal proceed. I thus implore all the Councillors to reject the proposed change in land status from community land to private land for the Allotment 202.

Yours Truly,  
 Andrew Derrington  
 On behalf of the other Lessees  
 Rodney Derrington  
 Kylie Derrington  
 Janet Derrington

**Maddy Pulling**

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**From:** potterrj@bigpond.com  
**Sent:** Friday, 25 November 2016 1:40 PM  
**To:** Corporate Email Address  
**Subject:** Submission against Revocation of Community Land Classification at Black Point

Revocation Black Point. Attention- Director Development Services.

We wish to make a submission of disapproval in relation to the proposed Revocation of Community Land Classification pertaining to blocks designated as Reserves at Black Point, as advised in recent correspondence from the Yorke Peninsula Council.

We are the initial and long term owners of a property on Lot 404, a culdesac allotment behind the leased site of shack number 72 which is subject to the proposed revocation process.

Prior our purchase of allotment 404 we were assured that the leased sites now in question which also included unrestricted access to the beach, could not be further developed and hence disrupt the sea views of properties in the culdesacs nor restrict beach access.

The advantage of sustained sea views and ready beach access was further reflected in the increased land value of those properties immediately behind the allotments now designated for reclassification.

We cannot support the proposed Revocation Process as this proposal potentially will restrict our sea vista and beach access as with the other properties south of Black Point Drive and our confidence in the Council's ability to consider what is in our best interest as rate payers is diminished.

From our perspective the negative impact of this Revocation of this Community Land proposal far outweighs any positive outcome that will result from this proposal if it proceeds and we strongly oppose it.

We do not wish to appear before the council on this matter.

Robert & Janet Potter.

Sent from my iPad

**From:** G Derrington <gderrington1@bigpond.com>  
**Sent:** Tuesday, 25 October 2016 7:55 PM  
**To:** Corporate Email Address  
**Subject:** revocation of Black Point land

Dear council,

I am Graham Derrington and I own the allotment 407 behind allotment 202 at Black Point.

When I purchased 407 I understood that the allotment 202 was designated as beach access and public car park.

I understand that the beach access will not change and while the life tenure on the lease hold shacks unable any public car to be established in the near future,

I think it is important to think of the next generation and their ability to be able to access a public beach which will include some where to park for several hours.

If your drive along the back of the seafront dwellings now there are several signs requesting people not to use private land to access the beach. These signs indicate if you dismantle the future access points you will contribute to problems in decades to come.

The South Road Corridor in Adelaide is an example of short term money gain came at a significant cost later on.

thanking you for receiving my opinion,

Graham Derrington  
PO Box 246  
Port Victoria 5573 SA

**Maddy Pulling**

---

**From:** Paul Ware <PWare@compliantfire.com.au>  
**Sent:** Tuesday, 4 October 2016 2:10 PM  
**To:** Corporate Email Address  
**Subject:** Revocation Black Point - Attention Director Development Services  
**Attachments:** 20161003\_101757.jpg

To Whom it may concern,

Please refer to the attached photo of Allotment 202 Black Point Drive Black Point.

Our residence is directly behind this Allotment at 409 Black Point Drive Black Point, when we purchased our property we were aware when Allotment 202 was out of lease was to become a car park with clear access to the beach. This was the major factor why we purchased our property. The current beach access is very small and not practical, we have persisted over the years knowing development to make access better would soon arrive. To revoke the current agreement and consider selling the Allotment we reject and strongly oppose.

Our children have large canoes and small boats we wheel down to the beach and struggle with the current beach access, it's too small and are concerned an injury will occur if the current setup remains or if the Allotment is sold access is made smaller ?

I wish to be heard by council regarding this matter. Please contact me on the numbers below.

Thank you in advance.

Regards

Paul Ware  
Director  
Compliant Fire Services Pty Ltd  
11 Woodlands Tce, Edwardstown SA 5039  
Phone: 08 8277 3884  
Mobile: 0413 546 993  
Fax: 08 8276 4258  
E-Mail: [pware@compliantfire.com.au](mailto:pware@compliantfire.com.au)  
<http://www.compliantfire.com.au>

Like us on Facebook : [www.facebook.com/compliantfire](http://www.facebook.com/compliantfire)



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Glenside East 5045  
©H10058665  
rodkeyfox@gmail.com  
08 82940642

YORKE PENINSULA COUNCIL.

MR ROGER BROOKS

DEAR MR BROOKS,

Thank you for the advice re the proposal of  
recreation of community land at Black Point.

You will be aware, that we requested to  
buy the land directly behind our shack 90  
which now is under LIFE TENURE LEASE.

Our letter dated 9<sup>th</sup> APRIL 2015. - to Mr A CAMERON

We are pleased that this request may be  
realized and look forward to updates on the  
progress of your/council proposal.

Yours sincerely

For RW KM AG LG + DP FOX

**Arch and Jana Thorne**  
**235 Esplanade**  
**Henley Beach**  
**SA 5022**

Att: Roger Brooks  
To: Director Development Services Y.P.C  
Email: [admin@yorke.sa.gov.au](mailto:admin@yorke.sa.gov.au)

Hi Roger,

I'm the lease holder of Lot 91 at black point. It is great news that the council is considering the subdividing of the council land, as stated in my letter to the council back in April 2015. My neighbours and I are keen to purchase the blocks. My current lease expires in 2037 which gives me 20 years before my shack would go at shack 90 and 92. They have life tenure with a possible 40+ years before they have to go.

A lot of the negatives being expressed by the owners of the block behind are unfounded. For example;

1. We will not be moving for 20-40 years anyway.
2. The existing tree line is higher than most shacks and if was to stay reserve I would think a lot more trees would be planted.
3. There would be no more strain on amenities as we are currently using them.
4. The adjacent property owner to the side of us have not objected. Bells shack at 93 has been derelict for the past 25 years they should be complaining about this eyesore.
5. Money raised from the sale would benefit all rate payers and make the boat ramp a lot safer.
6. The current beach access in the form of the walkway would not be reducing, but being wider the current leased land cannot be used for 20+ years. You cannot drive on the beach so why would you need any more than a walk way?
7. As far as being a strain on the public confidence and a mistrust of Y.P.C I can only applaud the council for having the initiative to look at ways of raising additional revenue to reduce the strain on rate payers with little impact on the community.

The only concerns I have are that the council do not give current lease holders 1<sup>st</sup> refusal on the blocks. In light of the current terms of the existing leases I fail to see a buyer who would wait 20 years before being able to build, other than us.

Also I would hope, that would be made clear that no building on the new blocks, until the current lease holder have moved.

Yours Faithfully,

**Arch Thorne**

13/11/16

Mr Roger Brooks

Director Development Services, Yorke Peninsula Council

Email: admin@yorke.sa.gov.au

Dear Sir,

I write in response to the proposal to revoke the Community Land classification and subdivide the land immediately behind our shack, number 92, designated as allotment 392 in the Community Engagement Report.

The shack is currently held under an annual license to occupy, with two families as leaseholders, Bonnins and Barsons. When the original land allocations were made in 1996, the lease was held by the Bonnin family. Ian Alastair Bonnin was the only member of the Bonnin family who wanted to retain access to the shack and he therefore bought out the interests of his siblings, who lived interstate. The Barson family purchased an interest at this time.

In 2010, when the option of transfer to a lifetime lease was offered by the Department of Environment and Heritage, the licensees accepted the offer. The department has recently confirmed receipt of this application. However, this process has not been completed, and is now on hold pending the outcome of the subdivision proposal.

My submission is on behalf of my family, Bonnins, and the Barson family, who endorse its contents.

Our primary concern is security of tenure. We consider that we should be entitled to a life-tenure agreement, as offered and accepted in 2010, and that the subdivision proposal should not in any way compromise that agreement.

We have some specific feedback and questions regarding the proposal as documented in the Community Engagement Report.

1. Page 9, point 7. The proposal incorrectly describes an existing access way as being shared between 390 and 391. As shown in the accompanying satellite image, the shared access way is between 391 and 392. The proposal includes references to access based on this incorrect information
2. Page 9 point 14. What does a "public road" mean in this context, and how wide will it be? Is it planned to be 6m wide, and if so, why does it need to be this wide? What traffic will be allowed? If it is a walkway, is 6m necessary?
3. Page 9, final point. It is not clear what is meant by "easements for services to the three shack allotments", and, more importantly, what is meant by "access to the beach". Given that there is already a public walking access way to the beach between 390 and 391, why would another access path be required, and how would it impact on our existing occupancy?

We do not consider that we have sufficient information as yet to allow an informed decision as to whether we support or oppose subdivision of the reserve land, except to say that we would most certainly oppose it if it meant any risk to our security of tenure and access to a life-tenure lease.

However, if the subdivision went ahead, we may be interested in purchasing the land, but this would depend on a number of related factors, including

1. The purchase cost of the allotment
2. Any encumbrances placed on the land use such as height restrictions or development timelines
3. Whether the land can be purchased by another party if we were unable or did not wish to do so. In this event
  - a. Would there be any restriction on our access to a life-tenure lease?
  - b. Would the new owners be able to develop the land prior to the end of our life-tenure lease?
  - c. Would the new owners have right of way to beach access through our leased land?
  - d. Would the new owners have the right to remove native vegetation we have planted on the Community Land?

We note that a number of objections have already been raised through the Black Point Progress Association newsletter, some of which we wish to address

1. Concerns regarding further development placing additional “strain on water and sewerage services and amenity” are unfounded. The total number of allotments will increase by one only. All other sites are already occupied and the proposal would only mean exchange of buildings from old to new.
2. There would be no reduction in current levels of access for property owners south of the road. In fact, the proposal as drawn would significantly enlarge the existing access path
3. With regard to sea vistas for those south of the road, the current tree-line is already higher than most shacks. If this is a genuine concern, a compromise measure may be to place height restrictions on new development on the newly created allotments

Yours Sincerely

Ian Alastair Bonnin

Per

Sean Charles Lawrence

Murray Ian Barson

Emma Mary Barson

**Maddy Pulling**

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**From:** John Morgan <gillesjrm@yahoo.com.au>  
**Sent:** Friday, 25 November 2016 4:42 PM  
**To:** Corporate Email Address  
**Subject:** Submission against proposed revocation of community land classification - black point

Hi,

I am the owner of lot 502, black point drive, black point.

Thank you for the opportunity to provide feedback in the proposed revocation. I am totally against all of the proposed revocations, particular allotment 203 which is adjacent to my house/lot.

The detail provided by council for allotment 203 only contains 3 bullet points and is way below the level of detail expected by me and indeed if I attempted to do such a proposal this scant, it would be soundly rejected by council.

Concerns I have are the nasty precedent of creating a new row of housing behind the front houses in front of my house/black point drive.

Also, no detail relating to the current walkway was provided other than saying a road would be created, but how do we enter the beach if the walkway disappears? Very ordinary. I chose my lot because of the proximity to the beach via the walkway. Without a walkway, my land value will drop and I will be seeking damages from the council.

No mention is made of the width of the proposed new allotments but the width is below any others in the area when you take into account the proposed public road and right of way. Again, I believe I would struggle to get this small width per allotment approved by council.

I have already signed a petition against the proposal and also advised the black point progress association of my opinion against the poor proposal.

I purchased my lot back in 1999 with the belief that these allotments were reserves and would stay that way. The proposal needs to be withdrawn as I know many black pointers are against it. The only people voting for the proposal will be those that own or lease the land in front of the proposed allotments and will be agreeing to it for their own self interests.

Again thank you for allowing the community to comment on the proposal and I am happy to appear before the matter if required. As stated above, a very nasty precedent will be created by this proposal which will spoil the amenity and goes against many of your land principles as detailed in your development guidelines.

Regards

John morgan

Ph: 0413 598 850

Owner lot 502, black point drive, black point

**From:** Karen Corbett <warren-karen@bigpond.com>  
**Sent:** Monday, 14 November 2016 10:47 AM  
**To:** Corporate Email Address  
**Subject:** Revocation Proposal Black Point

Andrew Cameron  
CEO Yorke Peninsula Council  
PO Box 57  
Maitland, SA  
5573

November 14<sup>th</sup> 2016

Dear Andrew

I am the owner of 503 Black Point Drive and are writing to strongly object to the proposal by the Yorke Peninsula District Council to revoke the Community Land classification of allotments 201, 202, 203 & 204 Black Point Drive, with the intent to subdivide these Reserves and sell them for profit.

My reasons for our objections are outlined below:

1. I purchased the property in 2001. I secured this allotment with the knowledge that beach front allotments 90, 91 and 92 would be created into a reserve in the future, 'which would provide public beach access and utilised for recreational purposes'\*, and space on the beach that was not directly in front of other dwellings for my family and friends to enjoy. I paid a premium for this position and selling the community land will undoubtedly devalue my property, by blocking out my sea-views as a result of proposed future building and restricting beach access for future use. I also note that at the time of purchasing Lot 503, that the allotments surrounding me, 504, 505 & 506, had already been purchased and this was to only allotment behind the 'reserve' allotments 90, 91 & 02 (now renamed allotments 202, 203, 204). Therefore revoking the Community Land classification will result in devaluing of my property, both financially and recreationally.
2. In the 'Community Engagement Report', dated September 2016, the report states that 'The open space reserves have minimal value from a recreational or leisure perspective and little or no impact on future recreational opportunities for the local or wider community.' I find this absolutely perplexing as the existing reserves, which are owned by Yorke Peninsula Council have never been maintained by the Council. Currently these reserves look to the general public as privately held residential land, with leaseholders property signs on the road boundary, vehicle access via driveways and essential services running through them; giving the

impression that it is privately. The Council have not invested resources to enable the land to be 'utilised' by the local or wider community. One of the properties proposed for revocation actually has a pet grave on this land, another indication that the Council does not maintain the 'reserve' and it is seen by the community as privately held land. It is suggested by us as rate payers and stakeholders in the Black Point community, that YP Council, in conjunction with the Black Point Progress Association, collaborate to assist in the rehabilitation of this land for environmental purposes, as well as recreational and leisure pursuits. This reason for revoking the Community land, as outlined by Council, is ludicrous to say the least. Therefore it is impossible that the reserve land be 'utilised in a recreational or leisure perspective' by the local or wider community due to the above reasons stated.

3. Council have failed to invest in infrastructure to encourage the local or wider community to enjoy Black Point. The Council rates we pay are high and compared to other properties we own are the most expensive. I quote rates for 2015/16 financial year:

**Yorke Peninsula Council - \$2236**

Brisbane City Council Rates - \$2092

Norwood Payneham St Peters Council rates - \$1565

Both properties (Brisbane & Adelaide) are 4 bedroom residential properties in highly desirable locations within capital cities. I find it difficult to find value for money as a shack holder at Black Point, who does not use dirt roads within the district, nor other council services, such as libraries or health centres. I regularly mow and maintain the verge land (Council property) in front of my property and maintain a fire break at the rear, on council land. Council investment at Black Point, in the form of providing land for the local and wider community, will only enhance the enjoyment of the community, ie wheelchair and pram friendly walkways, shelters, barbecues, playgrounds, community meeting points and creating a place for opportunities for fundraising activities to fund these possibilities. With the recent State Government focus on small business these reserves would also provide a place for pop-up markets for small business from the surrounding local area. Providing opportunities for small businesses to thrive in a very difficult financial environment is one of the critical roles of Local Councils. The creation of a reserve will only enhance Black Point and the opportunities for all to benefit from and enjoy.

4. Removal of the Community Land classification and selling of the land will prevent much needed community meeting places. There is no area other than the beach where Black Point residents and shack owners can meet and the current plans for these reserves will create a larger sense of community and greater enhance the region.

Existing Black Point residents, who have purchased land North of Black Point Drive, will also have the opportunity to congregate as a group while allowing other shack owners (beach front) privacy at their own dwellings, which they too have paid a premium for. The reserve will also allow freedom of access to a public beach for the general public, without impacting on existing shack owners. The car park behind 202, 203 and 204 is regularly full during school holidays, Easter, Public holidays and

Christmas. Catering for more cars to park safely is essential to ensure safety of the residents, including many children, who are forced to dodge in and out of cars parked on the verges, which is unsafe and potentially hazardous.

5. The proceeds from the sale will not directly improve Black Point. The potential returns to YP Council cannot be under-estimated and with only \$300k of any proposed proceeds identified for improvements to Black Point it seems as a desperate measure to raise revenue for other YP Council projects. \$150k of this earmarked to repair the flawed boat ramp design, with concerns raised about engineering before the building process began, and \$150k for Black Point community projects, it is obvious that the proceeds are to be used for 'Council's long term financial plan', not the improvement of Black Point rate payers lifestyle and financial investment.

In summary the reasons the Yorke Peninsula Council has put forward to revoke the Community Land classification of 201, 202, 203 & 204 Black Point Drive, Black Point are not justified. It seems clear that this is a desperate 'grab for cash' as the expense of shack owners and the Black Point community. There are many reasons, as listed above, that the classification must remain as per the original intentions of the YP Council and Black Point Progress Association. I look forward to a sensible resolution to this matter.

I would like to state my intentions to appear before council should the outcome of this matter not be resolved favourably.

Regards

Karen & Warren Corbett  
36 Elizabeth St  
Evandale  
5069  
8362 7389  
0419 833 335

\*Community Engagement Report, Yorke Peninsula Council

RH and GA Lake  
19 Seaforth Avenue  
HAZELWOOD PARK SA 5066  
Ph: Greta: 0417 837 847  
Ph: Rob: 0417 831 006

14 November 2016

Roger Brooks  
Director Development Services  
Yorke Peninsula Council  
PO Box 57  
MAITLAND SA 5573

Dear Roger

**Re: Revocation of Community Land Classification**

We recently received notification from the Yorke Peninsula Council regarding the above matter.

Our house is situated at Lot 91 Black Point Road, on the southern side of the road and directly behind the blocks the council are referring to as Allotment 203 (as per the Community Engagement Report).

We are strongly opposed to the council revocation of community land classification and are writing to express our concerns relating to the proposed development as per correspondence received by the council.

Our concerns relating to the council's proposed revocation are as follows:

1. We purchased our property in 2011 with the knowledge the land referred to as A203 would be created into a reserve in the future; a key benefit presented by the agent and this was reflected in the price we paid for our land.
2. In the Community Engagement Report issued from the council, you refer to the reserves as if they have already been created and that they are being underutilised.

The lack of development and access is the reason for any underutilisation. The land being referred to is currently being utilised by the existing leasehold shack owners. This, in our opinion is why the council believe and state that the reserves are underutilised and we believe that council members may be uninformed about the current state and use of the land.

3. Council have previously recognised and acknowledged the lack of open space in Black Point; hence the original agreement and nothing has changed to remedy this since then.
4. We believe the creation and development of open space reserves at Black Point would create a community meeting place for existing shack owners to congregate and for children to play. There is currently no area other than the beach where the community can meet and we believe this would create a larger sense of community and greater enhance the region.

5. There is currently limited public space and access for the broader community to enjoy Black Point. An open reserve with foreshore access would provide an obvious place for visitors to park and provide easier access to the beach.
6. Existing shack owners and visitors would all receive amenity from a community open space.
7. The council have indicated that only \$300,000 from the sale proceeds of all allotments would be reinvested back into Black Point with the majority and remainder of funds being injected back into the broader Yorke Peninsula areas, such as the Councils Unsealed road network. In our view this does not represent a good return on investment for the loss of amenity within Black Point.

To us, this seems like an easy and quick cash grab for the council without proper consideration about how this will affect the existing Black Point Community and the future use of the land for the broader community. This is a huge 'about face' by the council from their previous position which greatly disappoints us.

We will be considering our legal position in relation to this should the revocation be approved with a view that it will considerably devalue our property and to determine if any compensation would be available to us by the council.

We strongly oppose the proposed revocation of community land classification and ask that the council withdraw their proposal and further, work with the community to create useable reserves within Black Point to further enhance the region and make it a better place for the community.

Should you wish to discuss any of these matters with us please do not hesitate to contact us at your convenience.

Yours sincerely

*Greta Lake*

**ROB & GRETA LAKE**

25 NOV 2016

23<sup>rd</sup> November 2016

**Attn:** Director Development Services  
Mr. Roger Brooks  
Yorke Peninsula Council

**Subject:** Revocation of Black Point Reserves

Dear Mr Brooks

As a council rate payer and a property owner at Black Point I have major concerns regarding the revocation of community land , allotments 201,202,203,204 on Black Point drive.

I am concerned that the council and its members have not considered future outcomes. As you have stated in the community engagement report, back in the mid 90's when the new development was made offering freehold land to existing shack owners that the council was **mindful** at the time that public access to and from the beach would be restricted.

We have to be mindful at present time and for the future, that as new developments occur and more residents move into Black Point, public access and retreating from the public beach has to be considered.

There is times were tourists and visitors Holiday in Yorke Peninsula during our summer periods in large amounts and accommodation at Black Point is not available so you reside at neighboring towns. By restricting public access along a 3 Km approximately stretch of beach you are preventing families, tourists and visitors the use of Black Point Beach. As there is a substantial amount of property owners the beach front, council reserves have to be obtained.

As stated on a government web site [www.beachsafe.org.au](http://www.beachsafe.org.au) Black Point is a safe and protected beach, with a general beach hazard rating of 1/10 ( less hazardous).

And Due to not being a patrolled beach by surf life saving Australia the council have to obtain open reserve areas along the beach front, to be able to obtain and improve that rating.

You have to be mindful that with a new upgraded user friendly boat ramp and with the largest recreational marine reef in Australia to be built between Ardrossan and Black Point as stated in your Media release allot more visitors, tourists and families will be utilizing Black Point together with its locals.

As you are aware majority of Black Points Beach is occupied by private freehold owners with direct access to foreshore. As tourists and visitors spending the day at black point it is mindful to advance and retreat from Community or council land on the beach than in front of some ones private property , for safety and privacy reasons.

It is common sense to preserve the allotments as was agreed on when development occurred.

At the some time I am meticulous for the council's reason of selling of the community allotments, to prosper from the funds to assist in the projects mentioned, as well as remaining money to be injected into the council's future projects.

But in saying this there is other options, for example

- Allotment 201 one property out of the two can be sold as there is properties for sale behind it and open access is needed.

- Allotment 202 to stay as agreed till crown license is up due to being in front of cul-de-sac and dwellings behind it.
- Allotment 203 one property out of three to be sold .
- Allotment 204 one property out of three to be sold

In total 3 properties can be put on the market to a public auction sale. Without knowing what the balance of open recreational land to residential properties is or if there is a law, I believe this is a fair outcome.

And since the council believes that the open space reserves have minimal value for future recreational opportunities, the remaining lots can be cleared off shrubs and terrain and be made into open car park space were the existing current crown lease owners in front of the council reserves will have ample vehicle access to there properties until the crown license is up.

Were existing walkways to beach can stay. Were car park spaces on each allotment will involve less maintenance and costs.

Please consider my opinion for that it will benefit the council the state the tourism industry and the locals of Black Point.

To make you aware when I purchased my property at Black point I was under the impression were I am located that Lots 90,91,92 is were the council reserve is destined to be as advertised by the real estate agent.

I am in the process of building on the property but I am not confident due to the mistrust of the council.

I have attached copies of important documents to this submission for you to look upon. Any enquires do not hesitate to contact me on 0417864890.

Regards

George Kourlis  
Lot 505 Black Point drive



## Black Point (north) SA

★ FOLLOW

Home (/) / SA (<https://beachsafe.org.au/sa?features=>)  
 / Yorke Peninsula (<https://beachsafe.org.au/sa/yorke-peninsula?features=>)  
 / Black Point (<https://beachsafe.org.au/sa/yorke-peninsula/black-point?features=>)

Black Point is a large cusped foreland that protrudes 3 km in to the gulf. The northern side faces northeast into the more protected embayment called Port Alfred, whereas the east side faces straight into the gulf. The northern beach (275) curves round for 4.3 km from Rocky Point to the Black Point. It is a continuous low energy sandy beach with seagrass growing almost to the shore. The beach is initially backed by sloping grassy bluffs as far as the landing. The old landing half way along the beach is now the site of a concrete boat ramp, to the east of which is a continuous row of more than 100 beachfront shacks, some of which are using a variety of techniques to combat episodic erosion. Many of the shacks have boat ramps to the beach and numerous boats are moored off the beach. A gravel road parallels the back of the shacks out to the point.

**Swimming** The northern shack beach offers usually calm water and seagrass covered sand flats.

**Surfing** None. **Fishing**

Best along the northern beach with its deeper seagrass meadows close to shore. **General**

The Black Point shack settlement faces a low energy, northeast facing beach, with a good boat ramp and usually calm anchorage.

READ LESS

 **UNPATROLLED** CHANGE DAY

There are currently no services provided by Surf Life Saving Australia for this beach. Please take the time to browse the Surf Safety section of this website to learn more about staying safe when swimming at Australian beaches. Click here to visit general surf education information. (/surf-safety)



# ABOUT

Black Point, SA 5571

Length: 4.3km

General Beach Hazard Rating: 1/10 (Least hazardous) ⓘ

## NEARBY BEACHES



**Rocky Point (north 1)**

2.27km

(<https://beachsafe.org.au/beach/sa/yorke-peninsula/pine-point/rocky-point-north-1>)



**Black Point (south)**

2.5km

(<https://beachsafe.org.au/beach/sa/yorke-peninsula/black-point/black-point-south>)



**Rocky Point (north 2)**

2.59km

(<https://beachsafe.org.au/beach/sa/yorke-peninsula/pine-point/rocky-point-north-2>)

## INFORMATION SYMBOLS



TODAY

TOMORROW

7 DAYS

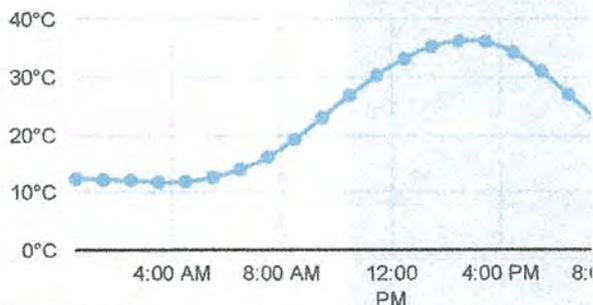
### Weather ⓘ

FRIDAY 11, NOV 1:48 AM

▲ Day 35° ▼ Night 12°

15.5°C

  
Possible  
shower

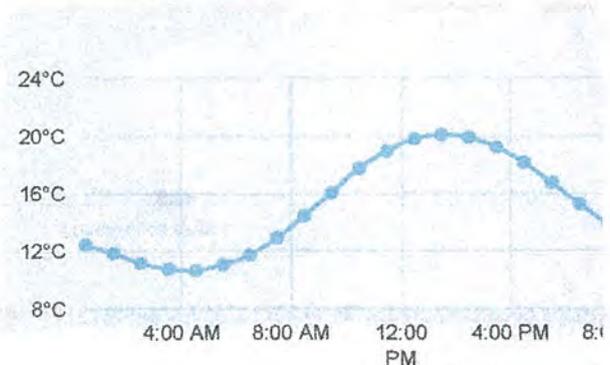


### Weather ⓘ

SATURDAY 12, NOV

▲ Day 20° ▼ Night 11°

  
Shower or  
two.  
Windy



**Water Temperature ⓘ 17°C**

# Yorke Peninsula Council

7 October 2016

## LARGEST RECREATIONAL MARINE REEF IN AUSTRALIA TO BE BUILT ON YORKE PENINSULA

Following previous community consultation, the Federal Government has announced the building of a 20 hectare marine reef located south of Ardrossan near Rogue's Point.

All tiers of government, non-government, industry, private enterprise and community have all joined forces in this multi-million dollar project. The project is being led by The Nature Conservancy in collaboration with PIRSA, the Department of Environment, Water and Natural Resources, and other government agencies and community stakeholders. The Federal Coalition Government will also contribute \$990,000 through its Stronger Regions Fund.

The Yorke Peninsula Council's contribution to this momentous project is \$100,000.

The reef will be made up of 120 rows at 80 metres long and 4 metres wide up to 1 metre high built of 11,000 cubic metres of limestone, thousands of tonnes of oyster shells and pre-seeded native oysters and various sized reef balls. It is estimated it will take 40 weeks to build stretching from Ardrossan to Rogue's Point.

This will provide a major boost to fish and marine species stocks in St Vincent Gulf.

The Yorke Peninsula Council has been advocating for this project for a number of years. YP Council CEO Andrew Cameron said "this is the first large scale blue infrastructure project to be built in Australia. It will involve multiple funding partners working together across ecology and natural resource management".

"Construction costs will be up to \$4 million with significant in-kind support provided by funding partners."

"The new reef will be able to be utilised for education and aquaculture programs, divers, fishers and community groups."

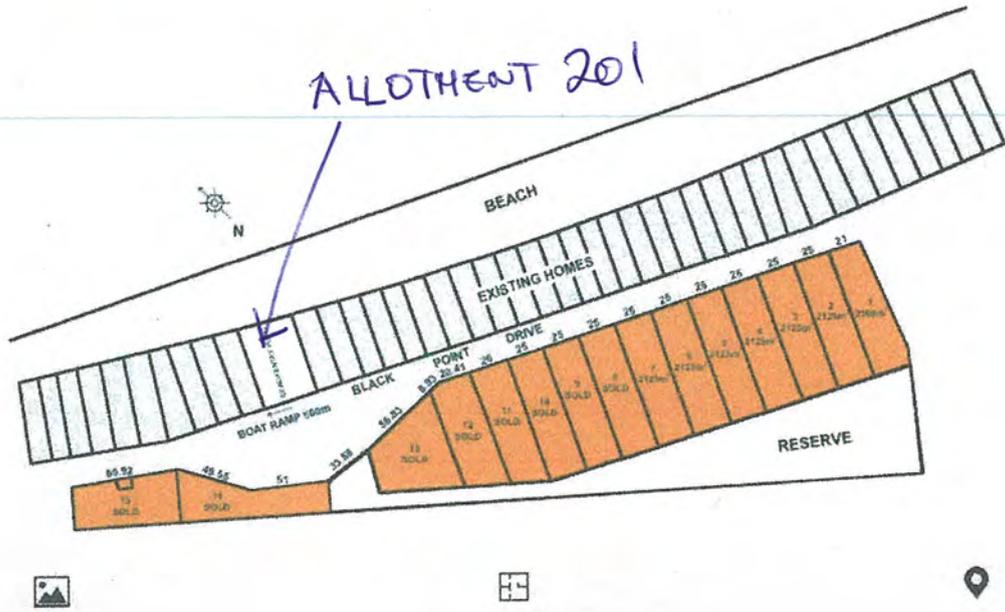
"Tourism is crucial to our local economy and the flow through benefits to our region will be significant, creating jobs in the construction and operational phases as well as through increased international and national tourists. The reef will also be extremely attractive to local and state recreational fishermen with excellent access from several boat ramps."

End

For further information:  
Carolyn Wakefield  
Communications Officer  
0417 524 269

### BRANCH OFFICES

MINLATON: Phone 08 8853 3800  
YORKETOWN: Phone 08 8854 2000  
WAROOKA: Phone 08 8854 5055



For Sale -

Property ID : **100P9162**

Description:  
**BUILD YOUR DREAM HOLIDAY GETAWAY** [See more](#)

Share this property

## Contact



Nathan Casserly





## Black Point land with a unique difference \$239,000-\$259,000

Build your dream holiday getaway, with a property different to all the others, with clear beach views in the not to distant future!

- Approximate land size of 1019sqm (16.75m, 62.81m, 17.25m, 62.96m)
- Mains water and power already connected
- Shed dimensions of 9m long X 6m wide - cemented and powered
- 10,000 L rain water tank with water pump connection
- No time frame to build or exclusivity to builders

### Shed

Shed dimensions are 9m long X 6m wide, with a sliding door of 2.6m wide with 2.4m height clearance. The external walls of the shed are 3m high. The shed is cemented and fully powered with plenty of power points, and a front flood light for those early morning fishing trips. There is even a weather station to check the latest weather details and download historical data.

### Rainwater Tank

The 10,000 L rain water tank is connected to a water pump. This services the plants surrounding the platform area at the back of the block and provides cleaning water after those long day fishing trips. It's currently set up with an automatic timer to keep the plants watered.

Black Point is one of South Australia's unique holiday destinations with its unique 'North Facing' beach. One of Yorke Peninsula's prized gems, renowned for its amazing fishing, crabbing, water sports, and a popular holiday destination or retirement location. An easy 2 hour drive from Adelaide or 2 hours by boat from the Cruising Yacht Club at North Haven. Most definitely an opportunity that will be shared by many of your friends and family, and enjoyed for years to come.

Note: Lot 90, 91, and 92 on the beach front (which is now identified as A203 in the map attached), is where the Council Reserve is destined to be when the current lease owners of these properties either pass away or hand it back to the Crown, where all man-made structures (inc shacks), will then be demolished/removed. If you have any specific enquiries on the Council Reserve process, Steve Horsall or Margaret Rooney at the Kadina Dept of Environment and Heritage (88212588) are more than happy to assist.

10<sup>th</sup> November 2016

To Whom It May Concern at the Yorke Peninsula Council

I am writing in regards to Yorke Peninsula Council revoking the community land at Black Point

My Lot number is 121, my block has the same block number as the crown land property at the front, this was due to the block behind the crown land property being community land/Reserve

I totally disagree to the council revoking the community land and putting them up for sale. I paid a premium price for the land due to the reserve being at the front of my property, also having beach access along with sea views

Revoking the land will put further stress on our water and sewerage services and amenities at Black Point, I have had to install a pump many years ago due to the strain on the water supply and water restrictions by council, this has been a costly exercise as I have had to change my pump every few years to a bigger pump due to the strain on the water supply

If the sale of the community land goes ahead I will be seeking compensation from the council due to the fact that I paid premium price for my land due to the land being situated behind a reserve and also the property having sea vistas and easy beach access at the front of my property, the sale of the community land will considerably reduce the value of my property situated at Lot 121 Black Point Drive. If I was made aware at the time that the community land in front of me was to be revoked, subdivided and sold I would never have bought at Black Point as I was at the time also looking at a block at the Marina in Wallaroo

I look forward to your response

Kind Regards



DAVID HINDMARSH

2/2A Woodley Road, Glen Osmond SA 5064

**From:** Head 2 Toe Massage <Head2ToeMassage@outlook.com.au>  
**Sent:** Friday, 25 November 2016 11:35 PM  
**To:** Corporate Email Address  
**Subject:** We are Shack 119 Expressing Interest in Lot 204

Attention Roger Brooks

As per my phone call some weeks ago, We are expressing interest in purchasing Lot 204 which is directly behind us at Shack 119. , If this opportunity arises. My son Jaimen Stringer may have expressed interest in the last two days or so, BUT he is uncontactable at the moment, so to ensure you receive an email of interest I'm now sending it to you.

On behalf of Denise, Jaimen, Alicia Stringer.

Im sorry this appears to be late but Its 11.32pm on the 25th Nov. the last day to respond.  
Please inform us of any opportunity and further info that ariisesmin the future

Please acknowledge receipt of this email

Regards

Wayne Stringer  
Head 2 Toe Massage  
46 Hammersmith Drive  
Meadows, SA 5201  
0417 385 835

**From:** Diane McGrath <dianemcgrath@me.com>  
**Sent:** Thursday, 24 November 2016 8:53 AM  
**To:** Corporate Email Address  
**Cc:** Black Point Progress Association  
**Subject:** Proposed Revocation Black Point.

Roger Brooks  
Director of Development Services  
Yorke Peninsula Council.

Thank you for the opportunity to express my views and position regarding the "Proposed Revocation". This matter has caused me worry, concern, confusion and sadness. I am being very honest when I say the above and know that the financial concerns of the Council far outweigh and consequently make me a "hard luck" case. It hurts me to admit this and it has taken a long time to come to terms with the Proposed Revocation.

Some time ago, about four years I think, I enquired about the possibility of buying the land behind my shack. At that time I was in a financial position to do this. I was advised that land regulations as they were, prohibited me from doing this. Paradoxically the proposed Revocation would make it possible for the sale of this land. Unfortunately my financial position has changed, making it impossible now to be a potential buyer. Hence my sadness.

On reflection of the issues, I have asked myself "Am I standing in the way of progress?" Yet there has been progress, carefully and respectfully made, essentially by the people who know and love Black Point for what it really is .....a haven for families and friends, uncommercialised and egalitarian.

I believe that the destruction of the beachside charm can happen particularly when two storey mansions dominate the coastal vista in general and in particular block out the sea views of shacks located behind them. If that is the result of Revocation, then , that is "sad progress"

Furthermore I am concerned about the privacy of my shack, especially if a two storey dwelling is built behind, which would also compromise my access.

Keeping the charm and dignity of Black Point has meant for me maintaining the standard of my shack, a shack which I and my family are proud to have, and not taken for granted.

Again, given the proposed Revocation, I have a range of feelings. ...from glad that I have maintained the shack , to questioning the sacrifices I have made to do this. I get confused, angry and disappointed with myself in this regard and end up feeling like a “victim of the system”.

In regard to my present lease, I am confused how this (if at all) will affect the sale of land behind my shack. I have interpreted the proposal to mean that the land behind cannot be built on while I hold the lease.

Finally my concern is not only personal but also for the future of Black Point.

Yours Sincerely  
Diane McGrath  
Shack 120 Black Point

ph: 0419828954



# THE FIRE SERVICE FUND

Established 1936

Submission 20

First floor  
20 Chancery Lane  
Adelaide SA 5000

Telephone 8204 3851  
Facsimile 8204 3847  
Email [info@fsfsa.org.au](mailto:info@fsfsa.org.au)  
website [www.fsfsa.org.au](http://www.fsfsa.org.au)

Mayor & Councillors of the Yorke Peninsula Council,  
[admin@yorke.sa.gov.au](mailto:admin@yorke.sa.gov.au)

8<sup>th</sup>. November 2016

Re: Public Consultation to revoke community land at Black Point SA.

I have been requested by Directors of Fire Service Employees Nominees Pty Ltd. (ACN 008 026 006) and Committee of The Fire Service Fund (The Fund), owners and Council ratepayers of Lot 604 Black Point Drive, Black Point to formally request that Council should not revoke the Community Land at Black Point.

I would take this opportunity to point out The Fund has owned the block since 1999. Upon purchase, building regulations were quite strict in that two storey residences were not permitted, however it is apparent in the intervening years, regulations have been relaxed to the extent there are now a number of two storey residences in Black Point. The Fund's single storey residence does currently enjoy a view across Allotment 204 of your proposed plan, and if subdivided, sold and built, quite likely two storey, our view and amenity would certainly be lost.

Not-with-standing a certain substantial drop in value of The Fund's property, I would point out that this residence is used exclusively for the Rest and Rehabilitation of SA Metropolitan Fire Service employees and their families. The quiet amenity and outlook has over the years been most beneficial to these employees and the Committee would certainly not like to see this lost as it certainly would be if Allotment 204 was built out with up to three two storey dwellings.

We would therefore urge Council not to proceed with the subdivision and sale of community land at Black Point. We wish this submission to be tabled at Council meeting when this matter is formally considered.

Yours sincerely

Noel Johnson  
Manager - FSF

**From:** cosi cardone <cardonect@bigpond.com>  
**Sent:** Monday, 7 November 2016 7:13 PM  
**To:** Corporate Email Address  
**Subject:** Revocation Black Point

Attention Director Development services

Hello my name is Cosimo Cardone, I am the owner of lot 606 black point drive.  
I am writing to you to inform you that I strongly oppose revocation of the community land classification at black point.  
This would obstruct my view of the beach and devalue my property.  
When I purchased my block I was told that there would be nothing built in front of me on crown land.  
Feel free to contact me on 0400407397

Yours Faithfully  
Cosimo Cardone

YP Council

Attn Roger Brooks

Re Revocation Black Point.

Dear Sir,

We present this submission to YP Council, re the proposed revocation of Community Land classification.

1 Public access. It was our understanding that when freehold land was originally made available for purchase by existing shack-owners, it was considered essential that several groups of parcels of land, now subject to proposed revocation, were not to be available for purchase, but were to remain as Community Land, to ensure long term permanent public access to the beach.

If this proposal proceeds, public access to the beach will be denied, apart from adjacent to the boat ramp.

What has changed that it is no longer considered necessary to have several designated areas of public access along the length of Black Point.

2 Houses to south of Black Point drive. Allotments of land were designated for sale for housing, in groupings behind these clusters of Community Land. People have been purchasing these blocks in the knowledge that in the future ie 2037, when the shack leases for those shacks expired & the shacks were demolished, they would have a clear vision & easy access to the beach & sea, immediately in front of their homes.

It could be considered a breach of trust if they no longer had this view & beach access.

3 Lease of shacks. We understand that the shack owners leasing their shack site to the beach side of this Community Land will retain their leases until 2037, & therefore their right to retain their shacks until 2037.

We believe it is a Council regulation that when a house is built on freehold land, the shack to the beach side must be demolished within 1 year. Therefore how can freehold land be sold from this proposed revocation of Community Land, with the buyer intending to build a house & be consistent with current Council regulations?

We therefore oppose this proposal by YP Council.

However, if YP Council does go ahead with this proposal, we strongly believe that the freehold allotments should be first offered to the current shack owners who have the lease on the beach side of these newly created allotments, & at a similar price to that paid by all the shack owners when freehold land was initially offered approximately 20 years ago, but adjusted for inflation.

We consider that to charge otherwise would deny these people natural justice, as they were denied the opportunity to buy a freehold allotment 20 years ago.

We request that YP Council considers these points of view when deciding on this proposal.

Yours sincerely,

PD & BJ Sanders

JK White

BJ Dare

MWD Sanders



**Revocation Black Point**

**Attention: Director Development Services**

Petition **AGAINST** the revocation of the classification of Community Land for the following properties; Allotment 201, Allotment 202, Allotment 203 and Allotment 204 located on Black Point Drive, Black Point.

Attached are 100 signatures from Yorke Peninsula Council ratepayers opposed to the revocation of Community Land at Black Point for the purpose of raising revenue for the Council. The ratepayers believe the reserve classification of this land should remain as designated by the council twenty years ago. Nothing has changed to suggest this reserve land will not be required in the future to improve the amenity of the Black Point community. It is appreciated that development of these reserves cannot proceed until the lease hold properties on adjoining crown land are removed. If this land is sold it will not be possible to meet the future, yet to be established needs of the Black Point community.

The ratepayers on the southern side of Black Point Drive behind these reserves feel this is a betrayal of the conditions under which they purchased their allotments. When the leasehold shacks are removed their allotments will have improved views of the sea which is expected to enhance the value of their property (more rate money for Council). There is considerable anger amongst this group and Council may have to defend compensation claims. Attached are promotional brochures from Prodec Pty. Ltd. and L.J.Hooker which clearly show the reserves.

The petition numbers are not as high as hoped as contact with a large number of ratepayers has not been possible. The weather during the public consultation period has been poor and many ratepayers have not visited Black Point. It is suggested if Council is genuine about really seeking the views of their ratepayers the advice letter to all ratepayers should have included a form and return addressed envelope in which all Black Point ratepayers could have supported or rejected the proposal.

The attached spreadsheet has been prepared to give some clarity to the level of opposition to this revocation proposal.

- The blue shaded cells are vacant allotments. There is still a large quantity of marketable land at Black Point
- The red cells are householders for the proposal (2%)
- The yellow cells are householders and vacant allotments against the proposal (38%)
- The white cells are householders who have not been approached or who wish to remain neutral (60%)

Statistically this petitions sample size of 40% of the total householders at Black Point can give Council a high confidence level that if they surveyed the whole population of property holders at Black Point they would find 90% are against the revocation proposal.

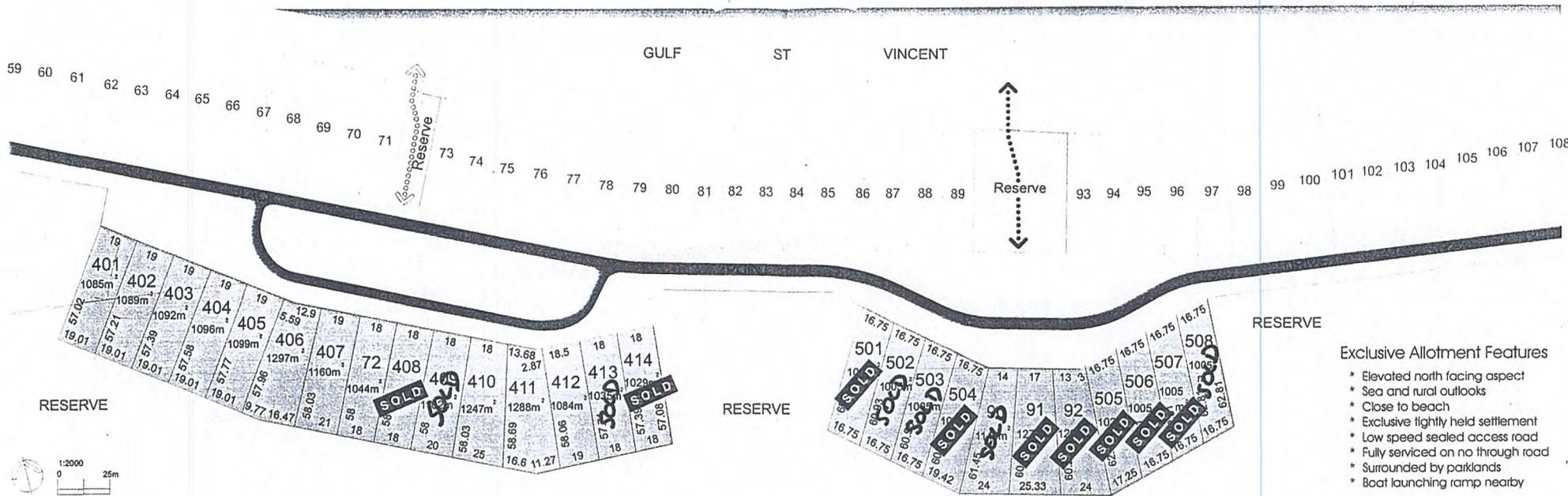
This petition clearly shows that the majority of ratepayers owning property in the holiday village of Black Point are opposed to the revocation of Community land (allotments 201,202,203 & 204) and request that the elected members of Council honour the wishes of the Black Point community and reject the revocation proposal.

It should not be necessary to remind elected members of Council that clause 6(a) of the Local Government Act (1999) requires Council "to act as a representative, informed and responsible decision-maker in the interest of its community"

The petitioners reserve the right to appear before Council when this revocation proposal is further considered by the elected members of Council.

Revocation of Black Point community land petition - status report									
Black Point Allotments									
1	31	61	S91	S121	161	L501	L708	L1	
2	32	62	S92	122	162	L502	L709	L2	
3	33	63	93	123	163	L503	L710	L3	
4	34	64	94	124	164	L504	L711	L4	
5	35	65	95	125	165	L90	L712	L5	
6	36	66	96	126	151	L91	L713	L6	
7	37	67	97	127	151A	L92	L714	L7	
8	38	68	98	128	152	L505	L715	L8	
9	39	69	99	129	152A	L506	L716	L9	
10	40	70	100	130	153	L507	L717	L10	
11	41	71	101	131	153A	L508	L718	L11	
12	42	S72	102	132	154		L719	L12	
13	43	73	103	133	155	L601	L720	L13	
14	44	74	104	134	156	L602	L721		
15	45	75	105	135	157	L603	L722		
16	46	76	106	136	L401	L604	L723		
17	47	77	107	137	L402	L605	L724		
18	48	78	108	138	L403	L119	L725		
S19	49	79	109	139	L404	L120	L726		
20	50	80	110	140	L405	L121	L727		
21	51	81	111	141	L406	L606	L728		
22	52	82	112	142	L1072	L607	L729		
23	53	83	113	143	L407	L608	L730		
24	54	84	114	144	L408	L701	L731		
25	55	85	115	145	L409	L702	L732		
26	56	86	116	146	L410	L703	L733		
27	57	87	117	147	L411	L704	L734		
28	58	88	118	148	L412	L705	L735		
29	59	89	S119	149	L413	L706	L736		
30	60	S90	S120	S150	L414	L707	L737		
Vacant Allotment		53	Against revocation			75	For revocation		
30	30	30	30	30	30	29	30	13	
7	10	8	9	16	9	14	2	0	
% Allotments Against		30%	% Allotments For			1%	Total Allotments		
S= shack without freehold allotment									
Total Houses at Black Point								199	
% Householders		Against			38%	% Householders For			
					2%				

ANNEXURE 'A'



Exclusive Allotment Features

- \* Elevated north facing aspect
- \* Sea and rural outlooks
- \* Close to beach
- \* Exclusive tightly held settlement
- \* Low speed sealed access road
- \* Fully serviced on no through road
- \* Surrounded by parklands
- \* Boat launching ramp nearby

- ..... Pedestion Walkways
- ..... Proposed Walkway 1999

Purchasers Note

The particulars of this sale information do not form part of any contract. Whilst care has been taken in the preparation, no representation has been made and no responsibility is accepted for the accuracy of the whole or any part and interested persons are advised to make their own enquiries and satisfy themselves in all respects. Data hereon is subject to approval by the relevant authority and may be subject to further easements and alterations.

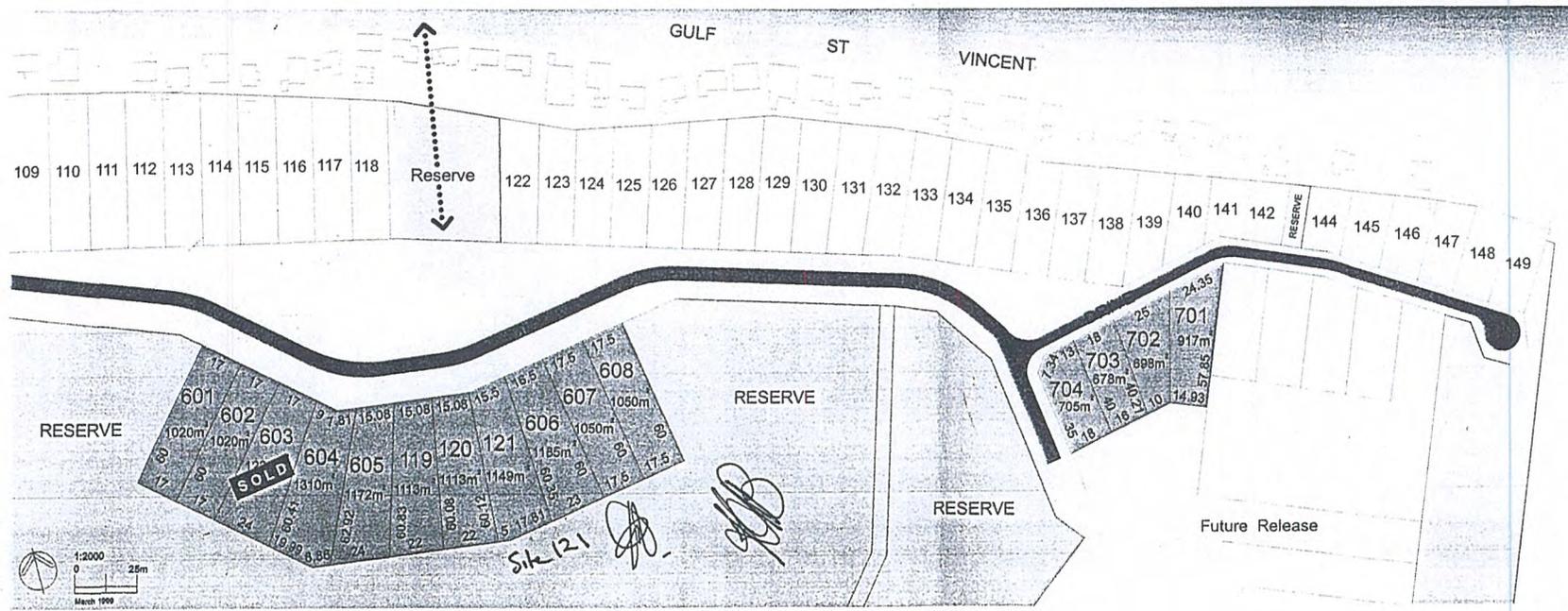
Vendor finance available to approved applicants.



SALE PLAN  
BLACK POINT  
HOLIDAY  
SETTLEMENT

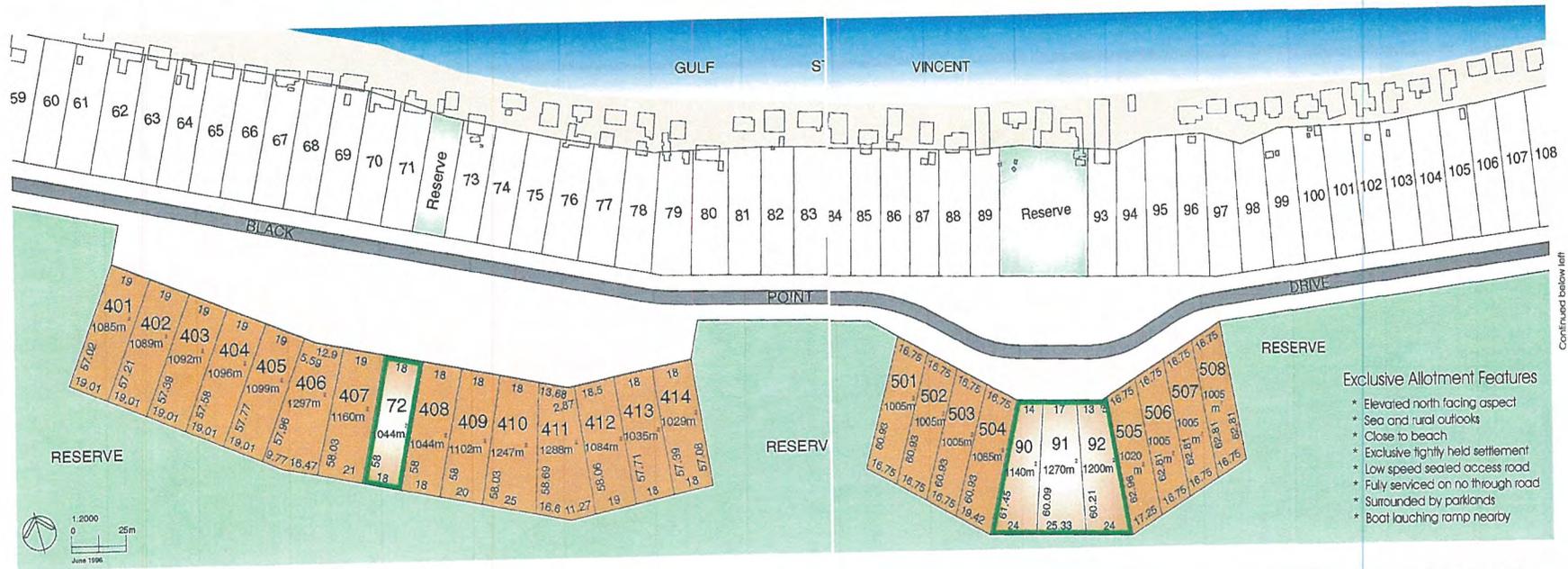
**L.J.HOOKER**  
**Ardressan**

For Details contact Len Easter Phone (088) 8373 620



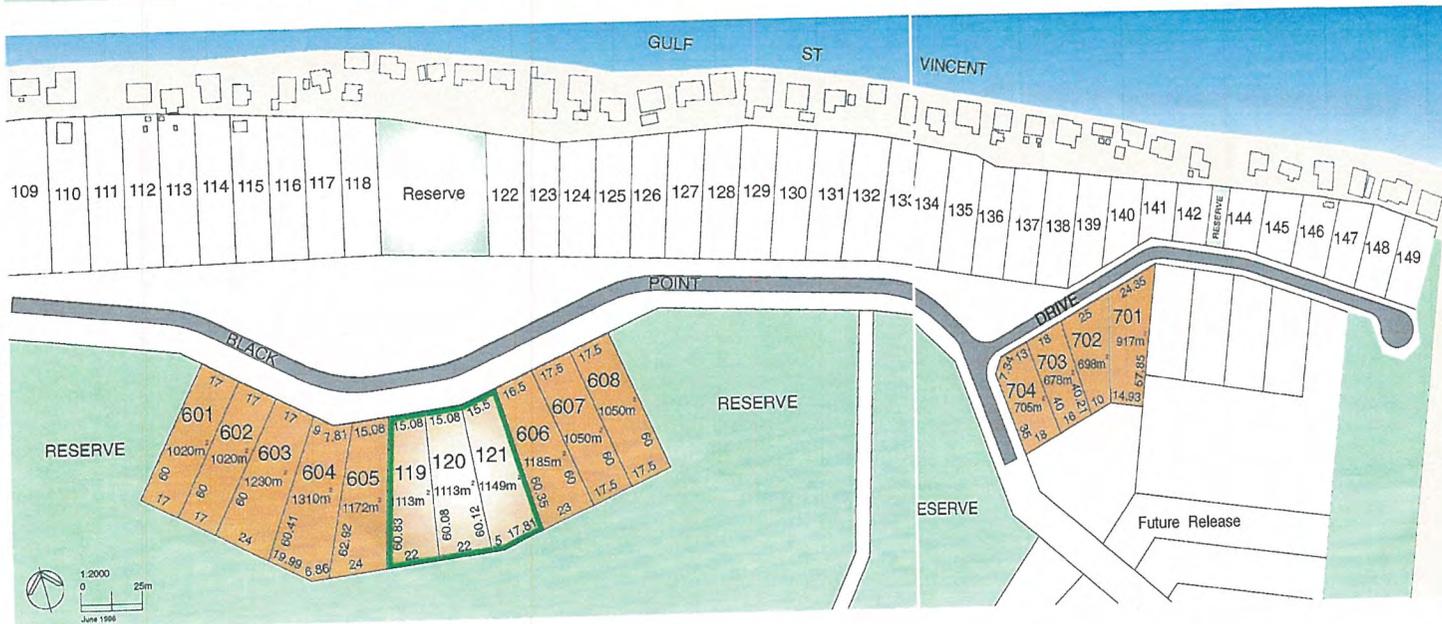
Continued above right

Continued below left



Continued below left

- Exclusive Allotment Features**
- \* Elevated north facing aspect
  - \* Sea and rural outlooks
  - \* Close to beach
  - \* Exclusive tightly held settlement
  - \* Low speed sealed access road
  - \* Fully serviced on no through road
  - \* Surrounded by parklands
  - \* Boat launching ramp nearby



Continued above right

- Denotes Allotments reserved for future corresponding shack relocation
- Denotes Allotments for sale

**PRODEC PTY LTD**  
 555 THE PARADE, MAGILL SA 5072  
 Telephone (08) 332 9288 Fax (08) 364 0633

**Purchasers Note**  
 The particulars of this sale information do not form part of any contract. Whilst care has been taken in the preparation, no representation has been made and no responsibility is accepted for the accuracy of the whole or any part and interested persons are advised to make their own enquiries and satisfy themselves in all respects. Data herein is subject to approval by the relevant authority and may be subject to further easements and alterations.

# PRELIMINARY SALE PLAN BLACK POINT HOLIDAY SETTLEMENT

Dr R N Sexton  
Black Point Progress Association  
c/- 72 Sturt Street  
Adelaide SA 5000

23 November 2016

Mr Andrew Cameron  
Chief Executive Officer  
District Council of Yorke Peninsula  
Principal Office - Maitland  
E: [andrew.cameron@yorke.sa.gov.au](mailto:andrew.cameron@yorke.sa.gov.au)

Dear Andrew,

### **SUBMISSION TO COUNCIL- REVOCATION OF COMMUNITY LAND CLASSIFICATION AND PROPOSED SALE OF CERTAIN LAND ALLOTMENTS AT BLACK POINT**

We make this submission without prejudice.

We are writing on behalf of the members of the Black Point Progress Association (BPPA), all of whom are property owners and/or residents of Black Point, to follow up your correspondence of 6 September 2016 in relation to the revocation, and proposed subsequent sale, of certain land allotments at Black Point. We appreciated the opportunity to have an initial discussion on these matters on 28 October 2016.

The Black Point Progress Association (BPPA) has been surprised at the intensity (and speed) of the reaction to the Council's proposal from a large number of Black Point property owners.

The first opportunity which our BPPA Committee had to meet and consider the correspondence from Council was on Monday 3 October, 2016. At that time, we became aware that a number of petitions were already circulating amongst residents to protest against the proposal. We understand that the number of petitions has increased in number since this time.

These have occurred quite independently of, and without the prior knowledge of, the BPPA Committee. We have also become aware that a number of Black Point residents have written directly to the Council in recent weeks expressing their dismay about the proposal.

Since becoming aware of these petitions and representations to Council, the BPPA has undertaken its own survey of members. The overwhelming response from the survey was that the members of the BPPA are opposed to the land revocation proposal. Indeed, only two respondents indicated support for the proposal, both of whom have declared their interest in purchasing land from Council, were the land revocation proposal to proceed.

The BPPA has now considered the Council's proposal at length, and your explanation of the proposal in your correspondence of 6 September 2016 and the undated letter from Roger Brooks, as well as the further information provided during our meeting on 28 October 2016.

We advise that we are unable to support the land revocation proposal put forward by Council, for the following reasons:

1. Breach of Trust

The various areas of land, now referred to as Allotments 201 to 204 inclusive, were specifically designated as public reserves at the time of the original subdivision at Black Point so as to:

- 1.1 allow walkways to the beach for the general public, and particularly for those persons who would ultimately acquire the blocks created on the southern side of Black Point Drive (in the area now designated as Lot 3008). The owners of the blocks opposite Lot 72, Lots 90, 91 & 92, and Lots 119, 120 & 121 purchased their blocks on the specific understanding that the area immediately to the north of their blocks would remain as public reserve, and not be built out, so that they had ready access to the beach;
- 1.2 Those parcels were the maximum available land at the time to also afford a view of the ocean (refer attached sale plan, Attachment A) and hence a connection between the sea and the land to the rear;
- 1.3 To create opportunities for the general public to park their motor vehicles in the areas to the south of these walkways and thus access various sections of the beach.

For Council to now revoke this public space and sell off the land is a breach of trust – not only with the owners of the blocks on the southern side of Black Point Drive but also with the whole community of Black Point residents and the broader community of South Australians who travel to Black Point at holiday and other times to use the beach and other public facilities.

We note that you Council in its documentation advises that it acquired those reserves by the following statement:

*“Council are not aware of any Government assistance to initially acquire the land.”*

This is a misrepresentation as the reserve areas were in fact demanded by Council of the developer to vest those spaces with Council specifically because Council considered these spaces critical to the character and the accessibility to the broader community.

It could be contemplated that the shack owners who owned the shack sites that were selected for public reserve areas (and walk ways) by the Council at the time of the land division and therefore denied the opportunity to freehold their site, will have a right of action to claim compensation from the Council.

We understand that a number of the owners of blocks situated behind the public walkways and reserves now subject to the proposed revocation have already raised the issue of compensation from the Council. These owners consider they paid a premium for their blocks on the understanding that they would have views of the ocean across the public reserves and would have direct access to the beach via the public walkways. These understandings were reinforced by marketing materials provided at the time. We have been advised by these owners that they paid a premium of around \$70,000 to \$80,000 for their blocks facing the reserves as compared with other blocks which do not.

While the issue of compensation for the diminution in property values is a matter for individual residents to pursue with the Council, the breach of trust arising from the Council's land revocation proposal is a wider problem and of great concern to the BPPA.

Council has had a history of "changing the rules" at Black Point with different approaches being applied from time to time in relation to building development approvals. That said, it is unacceptable for Council to impose Planning Guidelines on Black Point residents and for Council to then breach its own guidelines to suit its revenue objectives.

While it was obviously well known within the Council, and to some members of the BPPA, the approval given to the development of Lot 3003 came as a surprise to a large number of property owners at Black Point, who believed that this land formed part of the Maxine Hawke Park. The lack of community consultation on this decision, rightly or wrongly, had the unfortunate effect of harming the reputation of Council amongst Black Point residents.

The current land revocation proposal has further undermined community trust in the Council and is being seen by many Black Point residents as a further breach by Council of the understanding reached between the Council and Black Point shack owners, in good faith, at the time of freeholding.

The section on the "Reason for Proposal" in the Council's proposal is contrary to the historical and functional basis for these spaces and is a failure of Council to properly report the matter. The discussion is cursory, dismissive and inadequate justification for such a significant revocation. To argue that the reserves are "surplus to Council's needs" is to deny the nature of the reserves and the purpose for which they were intended.

Council states in its submission the following:

*"Since the creation of the reserve, the primary use of the reserves is by the adjacent shack owners for access and storage of vehicles and boats."*

This is a biased and misleading justification for the revocation of these reserve areas. Although some licence may have been taken, Council's failure to manage the use of the reserve is not reason to forgo these areas.

For the Council to argue that these areas of land are not being used for the "intended recreational and leisure purpose" is not only misleading but is tantamount to misfeasance on the part of the Council. The Council has allowed the adjacent Crown lease holders to use these lands for their own purposes (e.g. to store boats, bins and for private parking) rather than ensure that the lands are used for community use. This could have been achieved with appropriate signage, fencing and/or surface treatment (so as to enable the areas to be used for recreational purposes and public parking). No such management has occurred.

In several cases, the current lease holders on these allotments have erected their own signs and numbers on the land to indicate that the areas are not available for public use (i.e. to deter the use for which they were intended). This failure by Council is not reason for the revocation.

## 2. Double Dipping

As part of the conditions imposed by the Council on the subdivision of Black Point, at the time, Council required that the developer purchase the "old" Black Point road, (the "existing road

reserve”) for an amount of \$955,000. This cost was passed onto all the parties who acquired the freehold allotments.

The understanding of the Black Point Shack Owners Association (the predecessor of BPPA) was that these funds would be used by the Council to pay for infrastructure for the betterment of Black Point.

The BPPA is not aware that any of these funds have been used by the Council to fund infrastructure at Black Point (aside from the upgrading of the caravan park and the recent redevelopment of the Boat Ramp, which was half funded by the State Government).

In other words, the Council has, in the past, effectively appropriated funds from the Black Point community for use in other parts of the Council area, and is now proposing to “double dip” by doing this all over again, at the expense of the Black Point community. Based on the figures provided in the proposal, the redirection of funds from Black Point to other uses by Council in this instance could be in the order of \$8.7 million (based on an assumed sale of allotments at “market value”).

It can be argued that the Council was paid by Black Point landowners for the public reserves which it created at the time of the subdivision. As such, it can be argued that these reserves “belong” to Black Point property owners and that community, and that is certainly the way in which most Black Point residents view these reserves.

### 3. Diminution of Public Space

The amount of open space for access and visual connection between the sea and the Black Point Road and the allotments to the south is a critical element of the character of this settlement as it is also with many of the shack settlements around South Australia. Indeed, the Council made much of the character and the desire to maintain that character in its arguments to the State Government in the mid-nineties in support of the Black Point Subdivision.

The point made at the time was that the open space would protect the iconic nature of shack development typified by a run of shacks with occasional openings to gain views of the beach and the sea from behind. The loss of these open space areas flies in the face of the most energetic discussions held at the time of the land division design between Council, Prodec and the then Black Point Shack Owners Association (BPSOA).

To undermine and deny the importance of this character is no less than opportunism at the expense of the wider community benefits that were once so highly valued by Council and which remain critical to this community. Such loss is also inequitable to the travelling and visitor community who otherwise will have their reasonable expectations for visual and physical connection to the beach and sea, largely denied along this broad development area of the coast.

Black Point has been classified by the Surf Life Saving Australia (SLSA) as one of the safest beaches in South Australia for swimming (refer [www.beachsafe.org.au](http://www.beachsafe.org.au)). Yet the SLSA also notes that there are no barbecue or picnic areas available at Black Point for the public... nor any public parking... or public toilets.

This confluence of observations by the SLSA is a very sad reflection on the original planning which went into the Black Point subdivision.

The areas reserved for use as public space at the time, and for good reasons, have not as yet been put to the use for which they were intended. That is, to provide an opportunity for the public to have access to the pristine beach and safe swimming facilities which are currently largely enjoyed only by Black Point residents.

We believe that the public reserves at Black Point should be developed for the purposes which they were intended, before any more time elapses. The reserves, if properly delineated and developed, would allow locals and visitors to access the beach at Black Point rather than having to pick their way through private properties to find a place on the beach, as now tends to be the case (and which has led to the erection of many signs on private properties warning the public not to trespass).

The lack of well-defined public access to the beach, despite the land being set aside for this purpose, has led to an anti- Black Point sentiment amongst the general public and has contributed to the area being labelled as “millionaires row” ... a label which no resident at Black Point enjoys.

If the public were welcomed with appropriately developed public areas which incorporated delineated spaces for public parking, public toilets, barbecues and picnic areas with see through vistas and easy access to the beach, we believe that the public perception of Black Point would be quite different. Such action (as was intended in the original subdivision design for Black Point) would also bolster the Council’s image with other rate payers on Yorke Peninsula and the general public.

Indeed, we believe that, if put to proper use, the public reserves would benefit the rate payers of Yorke Peninsula so much more in the years to come than would the use of any monies which might stem from their sale. Once the public reserves are gone, they are gone for good. And so is any monies which derive from their sale.

Having access to appropriate public space and facilities at Black Point will also attract more tourists to Yorke Peninsula and provide long term economic multiplier benefits which will far outweigh any short-term benefits which might be generated by applying the funds from these reserves to “road renewals” as is proposed in the Council’s proposed “Revocation of Community Land Classification” document.

The BPPA would be pleased to work with Council and its officers to design a layout for all of the public reserves detailed in the above Council document so that original objectives which were intended for these reserves can now be achieved.

#### 4. Inadequate Infrastructure

As the BPPA has made known to Council on numerous occasions in the past, the existing infrastructure at Black Point is incapable of dealing with the pressures placed on it during the summer months, and at other peak periods (such as during the school holidays period from Christmas through to the end of January and the Easter period).

The delivery of mains water is reduced to a trickle, at best, during these periods, and the common effluent system struggles to cope.

The management of household waste also becomes a challenge during these periods. The Council has already declined requests from the BPPA to increase the frequency of waste

collection services to cope with the influx of additional population (both property owners and tourists) during these times.

The recent decision of Council to approve the sub-division of the area of land designated as Lot 3003 will add another 15 families to the population of Black Point and further exacerbate the problems experienced by existing property owners as a consequence of the inadequate infrastructure at Black Point.

The BPPA is extremely concerned about the risks to life and property in the event of bushfires, because of the inadequate water infrastructure. The ability for property owners to protect their properties from fire via the use of the mains water supply in this situation is virtually nil.

We submit that the subdivision of Lot 3003 should not have been approved without a requirement on the developer to at least double the size of the header tanks which supply water to Black Point, and, at the same time, double the size of the feeder pipe which carries water from these tanks to households.

It is apparent that Council has recognised the limitations which exist with the effluent infrastructure at Black Point by requiring each new allotment in the Lot 3003 subdivision to provide for their own in-situ effluent treatment.

Recognition of these capacity constraints in the existing community STED scheme has not been carried over into a requirement on the developer to expand the capacity of the other essential utilities, particularly water supply.

For the Council to now add to these serious infrastructure problems via its land revocation and sale proposal, could be deemed to amount to a dereliction of its public duty responsibilities.

It should also be pointed out, in this same context, the issue of public parking at Black Point, has failed to be addressed despite it being some 20 years since the completion of freeholding.

Portions of the land which are subject to this land revocation proposal are currently used by "day-trippers" for parking of cars – an issue which becomes exacerbated at holiday periods. They have a reasonable expectation for adequate parking and access to the beach.

##### 5. Determination of Fair Value

Although there is no support from BPPA for the proposal to sell these areas, it is interesting to note that there is no information provided in the proposal from Council about how the fair value of the allotments to be offered for sale by Council will be determined or, whether a reserve price will be set. We believe the sales must ensure that fair value prices are achieved, and presume therefore that either auctions or public tenders will be used.

Because of the position and nature of the allotments and the fact that in the case of all but one of the allotments, a leasehold tenant is already in place, it is likely that the only buyers will be either the existing leasehold tenant or an immediate neighbour. Others are unlikely to be interested while a leasehold tenant is in place with a 40 year lease.

This means that the prices offered may be artificially low. If this is the case, the parties involved could stand to make a windfall profit, at the expense of the Council (and ratepayers).

If, hypothetically, the land revocation was to go ahead and a reserve price is to be set for each allotment, on what basis will this price be determined? If the reserve is to be based on fair

market value, what guidelines or instructions will be provided to the Valuer to determine “fair market value”? What will happen if the reserve price is not reached?

It is clear from information provided to the BPPA as part of its survey of residents that the parties who have expressed interest in purchasing allotments from the Council if the land revocation were to proceed have an expectation that the purchase price of the allotments will be substantially less than the market prices achieved in sales of land at Black Point over the past few years. Providing a “windfall gain” to a select few residents is inconsistent with the application of good public policy. And yet, the particular circumstances which now apply at Black Point (i.e., with shacks sitting on Crown land with 40 year leases in front of public reserve land) would cause such an outcome to be virtually certain.

#### 6. Conflict Between Freehold Land Owners and Leasehold Owners

As Council would be aware, a number of conflicts currently exist at Black Point between freehold title owners and leasehold owners.

These conflicts have commonly involved disputes over rights of access. Some freehold owners have fenced off, or otherwise restricted, access to leasehold shacks, giving rise to difficulties by leasehold owners in accessing their beach front shack.

In all cases, as far as we are aware, Council has been reluctant to get involved in resolving such disputes.

The land revocation and sale proposal, as per the material contained in the undated letter from Roger Brooks, could create more of these access problems and potentially generate more conflicts between freehold owners and leasehold owners.

If so, we submit that such outcomes are not acceptable as Council has a public duty of care in making decisions about land use and the allocation of ratepayer’s funds.

#### 7. Summary and Conclusion

For all the reasons set out in this submission, the BPPA is opposed to the Council’s proposal to revoke the community land designation on the public reserve lands now known as allotments 201, 202, 203 and 204, to enable them to be sold as freehold land to generate windfall revenues for the Council.

These areas were intended to be open spaces/reserves for community use, and should remain so.

The areas in Allotments 201-204 were intended for reserve purpose at the time of freeholding, and should now be put to the use for which they were originally intended i.e., as open space and areas for recreational and leisure purposes and access and views (including public car parking) rather than having them subsumed by the Council for sale as freehold land.

It is not fair, nor equitable, that the Black Point community be asked to fund the Councils search for additional revenue for its road renewal program, and other projects pursuant to its long-term plan, by foregoing these lands which were always designated as open space and for recreational and leisure use.

For the Council to argue, even further, that the allotments are “surplus to Council needs” is quite extraordinary to put it mildly. Council has a responsibility to the rate payers of Black Point

to ensure that adequate open space is provided to service the recreational and leisure needs of the 200 or so households that comprise the Black Point community as well as the needs of the broader community of South Australia.

The Black Point community has a pressing need for this public space – a need which will become even more acute as further development proceeds at Black Point (e.g. as a result of the Lot 3003 subdivision). If lands designated for public use are taken to prop up short term revenue needs, they will be lost forever, to the detriment of both the current and future generations.

Aside from the beach, Black Point currently does not have any areas that can be used for community gatherings, recreational sport, public celebrations or other similar events. There are no areas that could be used to establish public barbecues or public shelters (away from the beach) or areas that can be used for public car parking, or general public use and there are no public toilet facilities.

The areas designated as Allotments 201 to 204 should have been made available by Council for these purposes twenty years ago – and should be now, before any further time elapses.

Notwithstanding the information contained in the “Proceeds of Proposed Sale” section of the Council’s document that \$150,000 would be earmarked for the “Black Point Boat Ramp”, we appreciate your confirmation at our meeting on 28 October, 2016 that the funding of the boat ramp safety works is not contingent upon this land revocation proceeding.

Clearly this is quite a separate matter. The BPPA has been pleased to work with Council over the past twelve months on the resolution of the boat ramp safety issues and to secure 50% of the funding for the requisite rectification works from the State Government. These works represent an OH&S matter which require urgent attention, before more serious accidents occur (as you are aware, there has already been a number of injuries incurred by boat ramp users, which have required significant knee and shoulder reconstruction surgery).

In summary, the document provided by Council:

- Fails to provide a factually rigorous background to the proposal;
- Is inadequate in its attempt to justify the revocation;
- Does not reflect the origins and rationale for the public reserves;
- Reflects a breach of the trust with the community by ignoring the rationale for these reserves and foregoing the value that they have for the Black Point and Yorke Peninsula district;
- Is opportunistic with no regard for the community’s interests that were carefully crafted with the original plan for Black Point.
- Is not supported by the majority of Black Point property owners.

For all of these reasons, and those set out in the body of this submission, including the strong opposition of most of our members, the BPPA is unable to support the Council’s proposal for revocation of the public reserves at Black Point and contend that the proposal should not proceed.

We appeal to the Council to put aside any short-sighted inclinations to use these reserves to fund projects which should be properly funded in other ways (e.g. by applying “use-pays” principles) and respect the foresighted actions of your predecessors at the Council who ensured

that these public reserves were set aside for the use and enjoyment of the general public, both now and for future generations.

The BPPA strongly believes that the earlier actions of the Council in demanding that the public reserves at Black Point be set aside as part of the land division approval for the enjoyment of the broader community was a right and proper decision at the time, and remains so.

In order to ensure that the wishes of the earlier decision-makers on the land division at Black Point are honoured, and to ensure that the rights of the residents of Black Point (and indeed of the whole of the Yorke Peninsula community and the public of South Australia) are preserved and protected in relation to the requirements for public open space at Black Point, the BPPA has, at the request of a number of our members as well as the Black Point and broader community, retained Legal Counsel to act on behalf of the Black Point community in the event that Council chooses to ignore the issues and concerns detailed in this Submission and continue with its proposals for land revocation.

Yours Sincerely,



Roger Sexton AM  
Chairman  
Black Point Progress Association



**Friday, 24 November 2016**

Mr Andrew Cameron  
Chief Executive Officer  
Yorke Peninsula Council

Email: - [admin@yorke.sa.gov.au](mailto:admin@yorke.sa.gov.au)

Dear Andrew,

**RE: BLACK POINT LAND REVOCATION CONSULTATION**

The Yorke Peninsula Council's Community Engagement Report of September 2016 invites submissions from interested parties with respect to a proposed Revocation of Reserves at Black Point. Burke Urban Developments Pty Ltd, (previously Prodec Pty Ltd) is a significant land owner at Black Point and the developer referred to within the Community Engagement Report.

As Managing Director of Burke Urban I have strong recollections and documentary support for the comments made herein. I submit the following on behalf of Burke Urban and for consideration by Council.

My specific interests lie in the sections of the Report namely; "Background to that Report" and the "Reasons for the Proposal" set out on page 2 of the Report.

As this background is pivotal to the justification for the revocation and sets out the basic premise from which all else flows, it is important that Councillors of 2016 understand the context, the process and the reasons behind these reserves being created just 20 short years ago; a timeframe incidentally which would have me believe that some Councillors and staff today would have reasonable recollections of the events and actions about which I comment.

In short, the summation in the report lacks context and history and most importantly does not reflect Council's resolve at that time, which turned to demands on Prodec (Burke Urban) and the free-holding Scheme more generally.

In the late 80's and early 90's when the Black Point Free-holding Scheme was being promoted by State Government and after our purchase of the land from then owner, Mr

Max Arbon, there was significant conflict between the parties and I recall Council not being overly supportive of the free-holding Scheme preferring the then Crown Leases to expire at the end of their terms. Most leases at the time were annual leases, but with end dates of circa 1996-2000. I can recall the actual rezoning of the land in 1993 being supported by Council with only a slim one vote margin.

A major concern of several Councillors and some staff at that time was the fact that the Crown Lease shacks occupied or dominated the 3 kilometre beach and whether accurate or not, the perception was that the "Shackies" saw it (Black Point) as " their beach" . Council had very strong concerns that the general public did not feel welcome on the Beach and expressed that a sense of "intimidation" pervaded for outside visitors.

Council's strong desire to open the beach to the public was the driving force behind the demands on Burke Urban to create at least 3 significant reserves from the overall division of lots to enable:-

1. Car parking areas and public access.
2. Sufficient space and orderly breaks in the free-holding lots so that the long linear nature of the shack environment would be broken and with the objective of making the area more public friendly.

The demand for these reserves was in fact a non - negotiable condition placed on Prodec. I specifically wrote at the time that we would have to reluctantly accept the road purchase (as distinct from a land swap) and the allocation of reserve lots, but this was conceded "under duress".

Note:- I will refer to this mood by Council at the time (at least from my recollection) as one of indifference to the free- holding scheme and importantly in term of Council's negotiations over the old road reserve and the public access reserve demands, this indifference I believe informed and empowered Council staff to " negotiate" terms from a no lose situation. In other words agree to the terms or we won't support the free-holding. We don't care. This is my interpretation of events, but the correspondence and the meetings of the time clearly reflected that mood.

This resulted in us not being able to offer free- holding opportunities for future purchasers of those 9 reserve lots. Such was the impact of the reserve requirement I received a legal action threat against Prodec by one shack purchaser who after the event felt aggrieved that this opportunity was not forthcoming.

That desire to freehold land exists today from those abutting crown lease shack owners except that Council now wishes to appropriate that asset, which in hindsight should now be assessed in terms of a Prodec asset unfairly secured. Any revocation and sale which does not properly address this history and which ignores Burke Urban's (Prodec) position is an inappropriate action by any reasonable assessment based on fairness and equity until and unless appropriate compensation is made.

The requirement to provide these 9 allotment equivalents was a cost to Prodec in many ways, but clearly there was a commercial opportunity lost in not being able to sell this land to the willing buyers during and after the free-holding period. Prodec had already committed a massive reserve area behind Black Point Drive, which reserve is now described as Maxine Hawke Park. The demand for the beach-front reserves to meet the statutory 12.5% was not relevant as we had exceeded that percentage already by a large margin.

In Council's background statement to this "Community Engagement Report" it states that "Council negotiated to obtain several reserves within the "old road" area. This infers incorrectly that the reserves were excised from the old road reserve and that Council actually negotiated an outcome. Anyone reading this statement would conclude that this was all quite reasonable, but in fact the reserves were not excised from the old road reserve. A reader might also assume the words "negotiated to obtain" actually means there was some purchase or negotiated consideration for these allotments. The reverse was true.

This inference that Council somehow "obtained the land" from Prodec is reinforced in Council's background statement where it states "Council are not aware of any Government assistance to initially acquire the land". If "the land" referred to here is the reserve allotment land there was no acquisition by Council of these reserve allotments. They were demanded as part of the process.

Council at that time would agree to the scheme and the land division only if Prodec paid an amount on valuation for the "old road" reserve. That valuation prepared by Council's consultant Valuer and sought under instruction by Council derived a consideration of \$950,000 for that "old road" reserve. We were not privy to the valuation brief. I vigorously protested (upon receipt of the valuation) that the Valuer had assessed the old road reserve as enjoying absolute beach front access when in fact the shacks leases had been extended to life tenure and so the road was not in fact beach front land. The CEO's position at the time was to avoid discussing this fundamental point and instead said "Kym I am not a Valuer". Incredibly there was no recognition that the \$950,000 figure could only crystallize after the value uplift via the free-holding scheme and the subsequent relocation of shacks, in turn only made possible by Prodec creating the new road reserve and installing the necessary infrastructure.

Council accepted that valuation as they could, despite my protestation.

Even today I can't recall in my dealings with Local Government a more blatant misuse of position than that so called "negotiation" over the "old road". But accept it we did "under duress" and the money was paid for the road reserve.

It is important to note in all of this that the normal rights of planning appeal in relation to Council's demand for these reserve areas were irrelevant to the process because without the old road reserve being consolidated and included in the new land division,

the Free- Holding Scheme was in all practical ways unachievable. Council held all the cards in terms of this so called "negotiation".

Having consolidated the old closed reserve with the Arbon title, paid \$950,000 to Council and provided new road and utility services to the allotments (including the demanded reserve allotments) we were finally in a position to proceed to create titles. The reserve allotments, the subject of this revocation, were created from the consolidated and improved land and NOT from the old reserve.

This is a fundamental point of difference, which will form the basis of challenge if Council proceeds with the revocation without addressing Burke Urban's position.

My final points relate to the section of Council's report "reasons for the proposal". In this Council states:-

1. **"There has been significant interest expressed by adjoining property owners, and other interested parties, in the possibility of purchasing the properties"**. This is not news. Purchasers were interested back in 1996 and prepared to pay \$45,000 per free- hold lot to Prodec with a shack in front.
2. **"Since the creation of the reserve, the primary use of the reserves is by the adjacent shack owners for access and storage of vehicles and boats"**. Why? This has been allowed by Council and through any lack of policing I would argue the adjoining shack owners have been empowered to continue to utilize this space. How would the public feel about accessing this space when for all intents and purposes it is perceived and as reaffirmed by Council's own admission as for use by "adjacent shack owners for access and storage of vehicles and boats"? What action did Council take to rectify this situation and to follow through with their initial intention to encourage public access?
3. **"The open space reserves have minimal value from a recreational or leisure perspective and have little or no impact on future recreational opportunities for the local or wider community. The land is not being utilised in this manner due to the location of the reserves being at the rear of the existing leasehold shacks and the adjoining properties being residential.**

Commented [1]:

**As there is no strategic or operational need to retain ownership of the subject lands, they have been identified as being surplus to Council's needs.**

**Disposal, with the view to sell the properties, is considered to be appropriate in this instance."**

So there we have it! The land which Council demanded of Prodec to be made available for future public access and which at the time would have yielded at least \$450,000 income to Prodec to help pay for a Council old road " negotiated" under duress, is now surplus to Council's needs. Why? Well because the land has not been used for the purpose intended by Council because Council has allowed the space to

be used for unintended uses, like adjoining shack owners parking cars and boats and using the land as an extension of their shack.

As a result we can convert this asset that Prodec paid for, serviced, marketed and value added and make several million dollars. After all the public never use it because the shack owners have taken effective ownership of it anyway. So much for the concern about "their beach".

Thank you for the opportunity to make comment in relation to this proposed revocation.

I would like to have representation at the time of the Council Meeting when this is discussed and reserve my rights to make a claim against Council if this proceeds to Revocation.

Yours faithfully,



**Kym Burke**  
Managing Director  
Burke Urban (previously Prodec).