



COMMUNITY CONSULTATION

CAPE ELIZABETH - CARE, CONTROL AND MANAGEMENT OF LAND

Piece 3 in Deposited Plan 33745, Hundred Tiparra CR 5751/48

Piece 4 in Deposited Plan 33745, Hundred Tiparra CR 5751/48

Section 547 in Deposited Plan 211000, Hundred Tiparra CR 5766/11

Section 553 in Deposited Plan 211000, Hundred Tiparra CR 5772/151

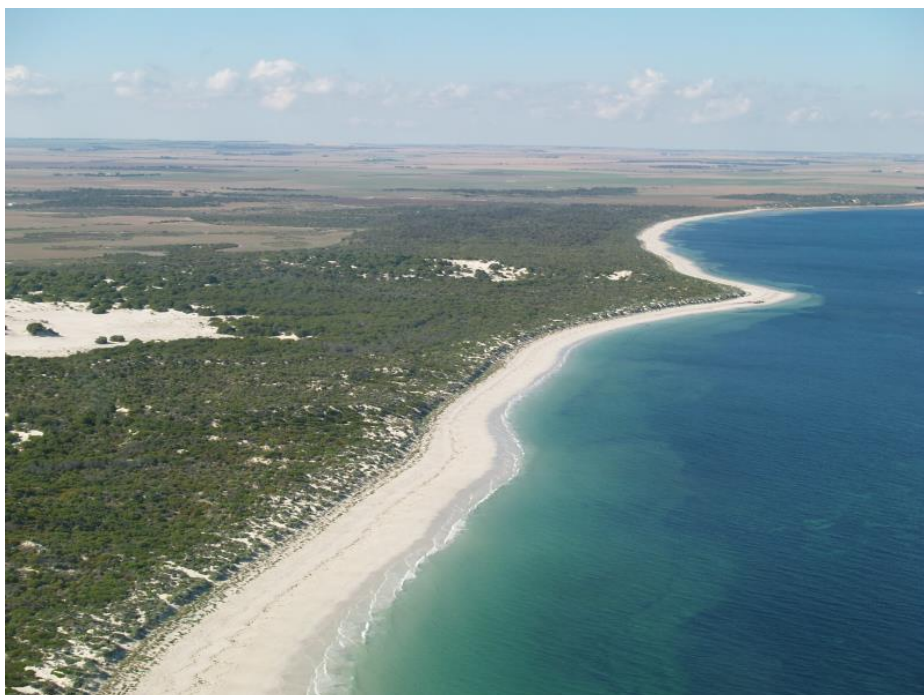
PROJECT SUMMARY

The Yorke Peninsula Council (Council) are in the process of considering a request to the Minister for Climate, Environment and Water (the Minister) to cancel a licence, and revoke a dedication, to land parcels under Council's care, control and management in the area known as Cape Elizabeth.

If the Minister revokes the dedication, the classification of the dedicated land as community land under the Local Government Act 1999 is taken to be revoked.

Cancellation of the licence and revocation of the dedication will result in the land no longer placed under the care, control and management of Council, and will see the land revert back to the status of unalienated Crown land.

At the Council Meeting on 13th December 2023, Council gave permission to proceed with a community engagement process and therefore pursuant to Council's PO057 Community Engagement Policy, Council is seeking responses to the proposal.





Purpose

The Yorke Peninsula Council invites you to comment on the proposal to request the Minister cancel the licence and revoke the dedication to land parcels under Council's care, control and management in the area known as Cape Elizabeth.

Common Name: Cape Elizabeth

Address:

Piece 3 in Deposited Plan 33745, Hundred Tiparra, Crown Record Volume 5751 Folio 48

Piece 4 in Deposited Plan 33745, Hundred Tiparra, Crown Record Volume 5751 Folio 48

Section 547 in Deposited Plan 211000, Hundred Tiparra, Crown Record Volume 5766 Folio 11

Section 553 in Deposited Plan 211000, Hundred Tiparra, Crown Record Volume 5772 Folio 151

Background

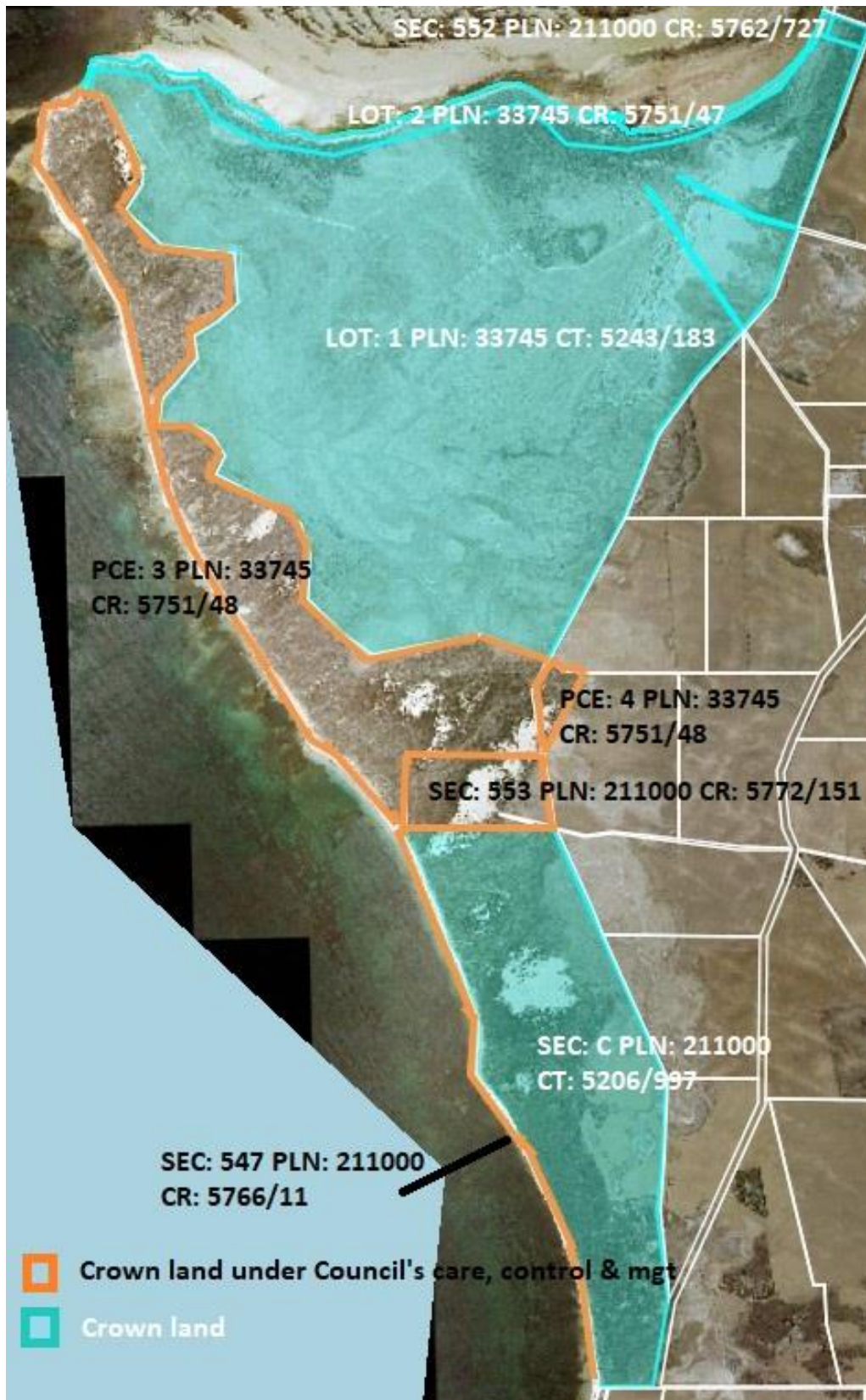
Cape Elizabeth is a series of eight (8) Crown land parcels found in the far north-west of the Council area. In the early 1990's, four (4) of these parcels were placed under the care, control and management of Council by way of a licence and a dedication, namely:

- Licence OL021780 purpose conservation covering wholly:
 - Piece 3 in Deposited Plan 33745, Hundred Tiparra CR 5751/48;
 - Piece 4 in Deposited Plan 33745, Hundred Tiparra CR 5751/48; and
 - Section 547 in Deposited Plan 211000 Hundred Tiparra CR 5766/11; and
- Dedication purpose conservation to Section 553 in Deposited Plan 211000 Hundred Tiparra CR 5772/151.

Prior to this, the largest land parcel (Lot 1 in Deposited Plan 33745, Hundred Tiparra CT5243/183) was in private ownership and transferred to the Crown (to status unalienated Crown land); it is believed the purpose was for eventual handover to the Narungga community (the precursory entity to Narungga Nation Aboriginal Corporation) for management.



Map 1 – Cape Elizabeth Land Tenure





The dedicated parcel, Section 553 in Deposited Plan 211000 Hundred Tiparra CR 5772/151, is registered as community land, Category 1 – Reserves. The Community Land Management Plan (CLMP) for Reserves states that the purpose for which land is held is:

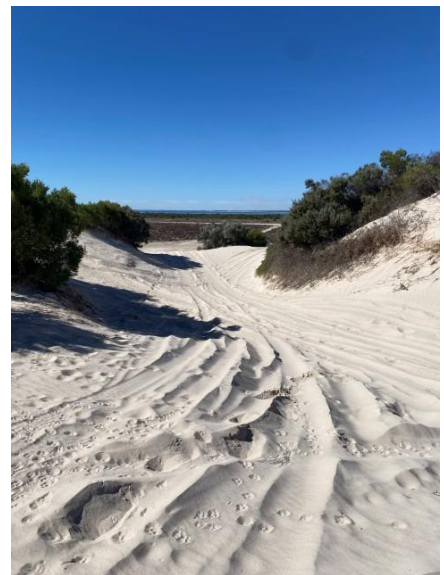
Conservation reserves primarily used to protect flora and fauna. Coastal reserves primarily used to minimise harm to coastal areas. Water or Stone reserves primarily established to provide water and stone resources for use now or in the future. Reserves to allow trails and access compatible with conservation use but excluding any commercial or sports activities.

Objectives for the management of the land includes:

- To retain land for use as a conservation reserve in order to protect flora and fauna.
- To retain land as a Coastal reserve to minimise harm to coastal areas and provide a buffer zone between the dunes and the sea.
- To allow trails and access compatible with conservation use.
- Strictly exclude any commercial, recreational or sports activities.

However, the dedicated land is utilised by locals and visitors for inappropriate activity including camping and off-road vehicle driving. Overtime, but particularly since the Covid-19 endemic, this has led to considerable environmental degradation. Council has not been in a position to strictly exclude recreational activities due to resource limitations.

The licenced land is predominately utilised by locals and visitors for recreational activities, providing access to the beach for day use activities such as fishing, swimming and other beach activities. The licenced land is not registered as community land and therefore is not subject to the objectives of the CLMP which strictly excludes recreational activity.



Council's Local Government By-Laws 2020: By-Law No 2 – Local Government Land applies to both the licenced and dedicated land. This prohibits activity that threatens the integrity of the sand dunes, and prohibits camping (as it is not a place designated by resolution of Council for that purpose).

Council has long been challenged by Cape Elizabeth and its management. Council currently has approximately 238 coastal land parcels it has responsibility for, of which:

- 61 are held in Fee Simple to Council; and
- 177 are Crown land parcels under Council's care, control and management

However Council has a limited population base and ability to raise revenue to care, control and manage land that is owned by the State Government.



The varying land tenures (with only approximately a quarter of the Cape Elizabeth area under Council's care, control and management) makes management to achieve the purposes of conservation extremely difficult. For example, vehicle users are entering one of the Council land parcels in breach of Council's By-law No.2 of 2020. However, access to this parcel is via a track on unalienated Crown land, therefore Council cannot close this track, as it has no authority to do so, and if did, would be in breach of the Crown Land Act 2009.

Whilst Council has always lacked resources for conservation management as per the purpose of the licence and dedication, the environmental degradation caused by inappropriate recreation has escalated rapidly, as a direct result of increased visitation, of which Covid-19 and social media have contributed greatly.

Of greatest concern is impact to Narungga heritage by inappropriate recreational activity. Cape Elizabeth contains a huge amount of cultural significance, with protections under the Aboriginal Heritage Act 1988.

Currently in development, the Wardang Island Sea Country Indigenous Protected Area (IPA) Expansion, that includes Cape Elizabeth, will at a minimum, see Narungga IPA Rangers caring for Country and attending to cultural obligations at the cultural sites.

Council would like to seek the cancellation of the licence and revocation of the dedication due to the following reasons:

- there is support within the community to explore an approach whereby Narungga people are directing management of Cape Elizabeth;
- issues with varying land tenure and resultant applicable legislation results in challenges to any access management and compliance activity by Council;
- visitation and resultant degradation has increased significantly since covid, and Council does not have the resources/capacity to care, control and manage the land parcels licenced and dedicated to Council;
- IPA Rangers will be undertaking works in the area, that will contribute to dune restoration and conservation, including weed control, revegetation, installation of signage and management of visitor impacts. Therefore whilst Council does not have the capacity, a framework is being put in place to manage the land for conservation purposes under the IPA.



Implications of the Project

Should the Minister cancel the licence and revoke the dedication, the land will revert to unalienated Crown land. The Crown Land Management Act 2009 will apply to these parcels, as it does the other four (4) Crown land parcels in the Cape Elizabeth area.

Under the Crown Land Management Act 2009, the principles of Crown land management includes to safeguard the life-supporting capacity of air, water, land and ecosystems, and to avoid, remedy or mitigate any adverse effects of activities on the environment.

The Misuse provision will apply, namely:

61—Misuse of Crown land

- (1) A person who, without lawful authority or excuse—
 - (a) occupies Crown land for longer than any period prescribed by regulation; or
 - (b) cultivates Crown land or causes or permits animals (for which the person is responsible) to enter or remain on Crown land; or
 - (c) drives a motor vehicle (within the meaning of the *Motor Vehicles Act 1959*) on Crown land, other than on an established road or track or in circumstances prescribed by regulation; or
 - (d) damages or removes fossils from Crown land; or
 - (e) excavates or otherwise damages or interferes with Crown land, or anything on Crown land; or
 - (f) cuts down, lops branches from or otherwise damages any tree or bush (whether alive or dead) on Crown land; or
 - (g) erects any structure or fixture or carries out any works, on Crown land; or
 - (h) deposits litter or abandons property on Crown land; or
 - (i) closes off or obstructs (whether by fences, gates or any means) a road or track on Crown land,

is guilty of an offence.

Maximum penalty: \$20 000.

Expiation fee: \$315.

Under the Crown Land Management Act 2009, occupation of unalienated Crown land by way of camping is permissible. Permissible camping will increase the number of visitors to the area and their associated impacts that result in environmental degradation. This is also a risk to cultural sites that are protected under the Aboriginal Heritage Act 1988.



Benefits of the Project

Council sees the following benefits to the community and stakeholders:

- initiating release of the Council land parcels may help expediate an approach whereby Narungga people are directing management of Cape Elizabeth;
- one land tenure across all parcels will ease management of the area as a whole and decrease associated bureaucratic impacts;
- as the land will revert to unalienated Crown land, under the Crown Land Management Act 2009, the principles of Crown land management includes to safeguard the life-supporting capacity of air, water, land and ecosystems, and to avoid, remedy or mitigate any adverse effects of activities on the environment; and
- the Minister will have available the option to protect the land under the Crown Land Management Act 2009 by declaring the provisions of the National Parks and Wildlife Act 1972 apply, as if it were a reserve under that Act.

Consultation on the proposal will further assist Council and other stakeholders to consider the community expectations for the use of the Cape Elizabeth area.

Timeline

The consultation period will begin on Friday 5th January, 2024, and close at 5pm Friday 2nd February, 2024.

Following the consultation period, a report will be presented to Council on the outcome of the consultation process for their consideration.

Project Impact

The land will continue to be managed in accordance with the licence conditions for the licenced parcels, and for the dedicated parcel, as per the current CLMP Category 1 – Reserves. This will continue until Council has considered the community feedback and made a decision to either proceed with seeking cancellation of the licence and revocation of the dedication or not.



How do I provide my feedback?

Written Submissions

Submissions must be in writing, be received by 5pm Friday 2nd February 2024, and be addressed to:

Community Consultation

Cape Elizabeth – Care, Control and Management

PO Box 57

Maitland SA 5573

Email: admin@yorke.sa.gov.au

Please include in your submission if you wish to be heard before Council on this matter.

What happens to my feedback?

- The information from the public consultation process will assist Council in its deliberation associated with adopting the proposal to seek cancellation of the licence and revocation of the dedication.
- Submissions received from the public consultation process will be collated and presented in a report to Council if required.

How do I know my feedback has been received?

All feedback (submissions or correspondence) will be acknowledged.

Contact Person - For more information, please contact:

Name: Letitia Dahl-helm
Title: Environment Officer
Phone: 8832 0000
Email: admin@yorke.sa.gov.au

This detailed report is available for viewing at Yorke Peninsula Council offices at Maitland, Minlaton, and Yorketown and on Council's website, www.yorke.sa.gov.au