

## 2. EXCHANGE OF LAND AT 177 AND 179 MONCKS SPUR ROAD

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Corporate Plan Output: Supply of Water	

The purpose of this report is to obtain approval for an amendment to a resolution previously adopted by the Council pursuant to Section 40 of the Public Works Act 1981, in order to authorise a proposed land exchange on Moncks Spur Road (see [attached plan](#)).

### BACKGROUND DETAILS

The Council has previously approved an exchange of Council and privately owned land at 177 and 179 Moncks Spur Road to provide for a proposed water reservoir and reserve, and improved access to private land. In order to complete the exchange and to comply with the Council's obligations under the Public Works Act, the Council at its meeting on 23 March 2000 resolved, pursuant to Section 40(2)(a) of the Public Works Act 1981, not to offer back to the former owner the land described in the schedules below:

#### First Schedule

All that parcel of land containing 235m<sup>2</sup> being Part Lot 1 DP 19078 and contained in Certificate of Title 10B/316.

#### Second Schedule

All that parcel of land containing 430m<sup>2</sup> being Part Lot 2 DP 19078 and contained in Certificate of Title 10B/317.

The Council is now in receipt of a legal opinion from Buddle Findlay that Section 40(2)(a) is not applicable and that Section 40(4) of the Public Works Act 1981 is relevant and excuses the Council from making an offer back to the former owner. The reason is that the proportion of the Council's land to be transferred to the adjoining owner is below the minimum allotment size for the underlying zone and is also very irregular in shape. The land could only ever have practical value when transferred to an owner of adjoining land.

In order for the land exchange to comply with the Council's statutory requirements it is therefore necessary for the Council to amend its previous resolution.

**Recommendation:** That for the reasons set out in this report the Council:

1. Rescind its previous resolution of 23 March 2000, as set out in clause 3 of the Hagley/Ferrymead Community Board's report of 1 March 2000.
2. Resolve, pursuant to Section 40(4) of the Public Works Act 1981, not to offer back to the former owner the land described in the First and Second Schedules above.