

 Adelaide Plains Council	21.2	Land Acquisition Reserve Funding Options
	Department:	Infrastructure
	Report Author:	General Manager Infrastructure
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EXECUTIVE SUMMARY

- Bruce Eastick North Para River Flood Mitigation Dam was built in 2007 by the Gawler River Flood Management Authority (GRFMA) to mitigate flood waters passing through the North Para River and ease flooding to downstream areas including Gawler and Two Wells.
- To ensure adequate access to the dam, realignment of boundaries and the acquisition of land are required.
- Negotiations with the land owner over the last 7 to 8 years have occurred with an agreement reached to purchase the land.
- GRFMA unanimously resolved (GRB 17/050) to utilise the sum of \$110,000 from GRFMA reserves to fund purchase of the additional land.
- It was agreed by members of GRFMA that the Executive Officer write to each constituent council outlining the actions of the Board in undertaking the land purchase and to seek council views on preferred internal financing options in meeting the cost of the purchase.
- Two (2) options are:-
 - Cost of the land purchase to be met from a once off withdraw from GRFMA cash reserves.
 - Cost of the land purchase to be met from GRFMA cash reserves with appropriate future annual repayments from successive annual GRFMA Budgets to repay the purchase cost, plus interest forgone (internal financing). The annual repayments could be constructed according to Board requirements

RECOMMENDATIONS

“that Council, having considered Item 21.2 – *Land Acquisition Reserve Funding Options*, dated 18 December 2017, receives and notes the report and in doing so:-

1. Supports Option 1 - Cost of the land purchase to be met from a once off withdraw from GRFMA cash reserves; and
2. Advises the GRFMA of its preferred position.”

BUDGET IMPACT

Estimated Cost:	Nil
Future ongoing operating costs:	Management of the land being repair and maintenance of the tracks, fencing and the control of pests.
Is this Budgeted?	Yes

RISK ASSESSMENT

By adopting the recommendations the GRFGMA will be able to adequately manage the Bruce Eastick Dam on behalf of constituent councils.

Attachments

Letter - use of reserve funds by GRFMA to facilitate purchase of land

DETAILED REPORT

Purpose

The purpose of this report is to seek Council's preference as to how the GRFMA should manage the funding of the purchase of land associated with the Bruce Eastick North Para River Flood Mitigation Dam.

Background/History

The GRFMA has been in negotiation with the land owner for some time and recently resolved an amicable agreement to secure the necessary land required to properly accommodate, access and manage the dam site.

At its 24 August 2017 meeting, the GRFMA unanimously endorsed the negotiated position.

The attached letter provides further details and requests constituent councils to advise the GRFMA of their preferred funding option.

Discussion

The GRFMA having resolved at its 24 August 2017 meeting to purchase the land at a purchase price of \$130,000 (\$110,000 funded from GRFMA reserve funds and \$20,000 funded by Mutual Liability Scheme), also agreed that the Executive Officer should write to each constituent council outlining the actions of the Board in undertaking the land purchase and to seek council views and preferences on the options available in meeting the cost of the purchase through the reserve funds. Preferred options identified in the GRFMA report are as follows:-

Option 1 - Cost of land purchases to be met from cash reserves.

The cost of the land purchase to be met from a once off withdraw from GRFMA cash reserves. The current reserve balance is \$195,027 and will be reduced to \$85,027 with no specific requirement to top up the funds.

This option provides the cleanest and simplest method and is thus recommended.

Option 2 - Cost of land purchases to be met from cash reserves with appropriate future annual repayments from successive annual GRFMA Budgets (internal financing).

The cost of the land purchase would be met from GRFMA cash reserves with appropriate future annual repayments from successive annual GRFMA Budgets to repay the purchase

cost, plus interest forgone (internal financing). The annual repayments could be constructed according to Board requirements. For example, five annual repayments of \$25,500 (total \$127,500 includes CPI escalator of 3% interest foregone on \$110,000). Note as at August 2017 current 24 HR at call interest rates on deposits as per the Local Government Finance Authority (LGFA) are 1.5%. On 1.5% deposit rates, five annual repayments would be \$23,700 (total \$118,500)

This option is more complex and given the current discussions regarding the GRFMA Charter and in particular the review of each constituent Council's percentage contribution split, it is suggested that this option should not be supported.

Conclusion

The Bruce Eastick North Para River Flood Mitigation Dam was built in 2007 and is a vital piece of infrastructure to protect areas downstream including Two Wells from flooding. Purchase of the land surrounding the dam and to which it sits, has been negotiated with the present owner at a purchase price of \$130,000 with \$110,000 funded from GRFMA reserve funds and \$20,000 funded by Mutual Liability Scheme. Of the two options available to fund the GRFMA portion of the purchase, both rely on the GRFMA reserve fund (current balance \$195,027). The option to execute a once off withdraw from GRFMA cash reserves as a once off withdraw is recommended.

References

Legislation

Local Government Act 1999

Confidential

Gawler River Floodplain Management Authority
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Telephone: 0407717368 Email: davidehitchcock@bigpond.com Website:
www.gawler.sa.gov.au/grfma

James Miller
Chief Executive Officer
Adelaide Plains Council
2a Wasleys Road
MALLALA SA 5502

26/9/17

Dear James

I am writing regarding use of reserve funds by GRFMA to facilitate purchase of land for boundary realignment of GRFMA land upon which the Bruce Eastick North Para River Flood Mitigation Dam is located.

Having unanimously resolved (GRB 17/050) to utilise the sum of \$110,000 from GRFMA reserves to fund purchase of the additional land, it was agreed by members that the Executive Officer should write to each constituent council outlining the actions of the Board in undertaking the land purchase and to seek council views on preferred internal financing options in meeting the cost of the purchase.

The current balance of GRFMA cash reserves is \$195,027.

Preferred options:

1. Cost of the land purchase to be met from a once off withdraw from GRFMA cash reserves.
2. Cost of the land purchase to be met from GRFMA cash reserves with appropriate future annual repayments from successive annual GRFMA Budgets to repay the purchase cost, plus interest forgone (internal financing). The annual repayments could be constructed according to Board requirements.

Note: As at August 2017 current 24 HR at call interest rates on deposits as per the Local Government Finance Authority (LGFA) are 1.5%. Utilising 1.5% deposit rates to calculate cost of internal finance and to repay the purchase cost in five years would require five annual repayments of \$23,700pa (total \$118.500)

I would be pleased to receive any response your council might have in this regard.

Council response may be provided on the attached *Land Acquisition Payment* response form to davidehitchcock@bigpond.com by Tuesday 31 October 2017.

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Please also see attached background information that will assist in understanding the GRFMA considerations in undertaking the boundary realignment and a copy of the boundary realignment plan.

The GRFMA has further resolved that this matter be considered in confidence pursuant to Section 90(3)(d)&(e) of the Local Government Act 1999 and that it remain confidential until settlement of the transaction concludes.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'D. Hitchcock', with a long horizontal flourish extending to the right.

David Hitchcock
Executive Officer

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Gawler River Floodplain Management Authority

Land Acquisition Background discussion.

The September 2016 Flood event materially impacted on the GRFMA operations relating to management of the Bruce Eastick North Para Flood Mitigation Dam.

Floodwaters washed away large sections of the river bank which included the roadway utilised by the GRFMA as right of way access. The result being the upstream and downstream roads now terminate partway at large crevasse's which cannot be crossed.

Trash (vegetation and silt) removal was also urgently required at the upstream dam wall due to risk that any subsequent flood event of magnitude would result in further blockages which would impede the ability of the dam to effectively discharge water downstream.

The result was GRFMA did not have vehicle access to the dam unless access was obtained via M/s JW and LD Phillips property. However, as a consequence of the continuing dispute with GRFMA, Mr. Phillips had previously advised that GRFMA was not to enter their private property, other than via the formal right of way access roads.

Independent contractor quotation for repair of the upstream right of way access, so as to enable removal of the trash, was quoted at \$60,000. It is likely a similar cost would be incurred to repair the downstream access which was also damaged by the September 2016 flood event.

Additionally, even if repaired there is no guarantee that a future flood event would not result in the same sections of road access being similarly destroyed.

In working these issues through it was proposed that a cost-effective approach would be to consider purchase of additional land from M/s JW & LD Phillips so that there is room to guarantee access to the dam by providing alternate road way access from Kemp Road (public road) and otherwise around the damaged area (including in event of any future access damage). Additional land area would also provide capacity for future expansion of the dam should it be deemed feasible.

Following endorsement from the Board, Mr. Ian Baldwin, GRFMA Chair and Mr. David Hitchcock GRFMA Executive Officer met with Mr. John Phillips for an informal discussion regarding the ongoing dispute concerning the previous land swap and right of access associated with the Bruce Eastick North Para River Flood Mitigation Dam.

Mr Phillips supported sale of additional land to the GRFMA and indicated willingness to offer for GRFMA purchase portion of section 750 Kingsford (Light Regional Council) that encompasses the southern side of Kemp road down over the North Para and where it adjoins land designated D75767 in the Barossa Council Area. An area of approximately 18.5 HA

The meeting agreed that:

- there was intent to further progress the proposal to consider sale (Phillips) and purchase (GRFMA) of additional land surrounding the Bruce Eastick North Para River Flood Mitigation Dam; and
- any proposed settlement would need to recognise and include both land purchase and discontinuation of the long-standing land swap dispute litigation.

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Mr Phillips also agreed in good faith to allow GRFMA to access his land around the upstream wash away to facilitate trash removal from the dam wall.

Independent valuation by Asset Valuation and Consulting of St Peters, SA indicated the market value of the land Portion of Allotment 750 Kemp Road Kingsford/Concordia, SA as \$110,000.

Mr Phillips agreed this was a fair price for the land but sought separate value to recognise extinguishment of his dispute with GRFMA.

The LGA Mutual Liability Scheme (MLS) noted that Mr. Phillips had previously rejected their ex gratia offer of settlement with MLS (representing GRFMA) on the land acquisition dispute and that they would not be providing any further offers to Ms. JW and LD Phillips.

However, it was agreed that the proposed land purchase (from Phillips) by the GRFMA would be a good opportunity to include agreement in the eventual sale agreement that the Phillips family would "sign off" on the commitment that no current or future claims would be sought.

The MLS agreed to contribute \$20,000 toward the land purchase and up to a maximum further \$10,000 for other costs associated with land titles and planning consent etc and to meet costs of drafting the proposed land purchase agreement to ensure the right wording and agreements are covered.

Following further discussion with Mr Phillips agreement was reached, subject to GRFMA endorsement and final planning consents being obtained, that the Authority would purchase the land from the Phillips family for the sum of \$130,000.

The 24/8/17 GRFMA meeting unanimously endorsed the land acquisition proposal.

In a financial context, the land acquisition outcome for the GRFMA is as per the table below.

Detail	\$ Cost	\$ MLS	\$ Net
Land Purchased	\$130,000		
Land title/planning consent	\$10,000		
Less MLS contribution to purchase		\$20,000	
Less MLS contribution planning consents		\$10,000	
Total	\$140,000	\$30,000	
Net cost to GRFMA for land acquisition			\$110,000
Note Phillips to provide fencing (costs) following planning approval			