

5.2. Cr Lou Nicholson - Middleton Creek Management Plan

Responsible Officer: Nigel Morris (Chief Executive Officer)

Report Author: Nigel Morris (Chief Executive Officer)

Prior Resolutions

Nil

Information

The following questions from Cr Lou Nicholson were taken on notice.

Question

1. *'What clean-up has Council done in Middleton Creek?*
2. *What additional work does Council need to do in the Creek and what is the timeline for completion of this work?*
3. *Who owns the various segments of the creek line in the catchment area?*
4. *For all creeks in Alexandrina:*
 - 4.1 *What are the roles and responsibilities of individual owners of the land?*
 - 4.2 *What activity requires authorisation to complete, and what agency provides this?*
 - 4.3 *What authority does Council have to enforce required action in the creek line?'*

Answer

1. *'What clean-up has Council done in Middleton Creek?*
 - i. Selected flood related vegetation removal
 - ii. Assorted rubbish removal
 - iii. Stones placed around skate ramp to secure concrete
 - iv. Reporting to Aboriginal Affairs and Reconciliation SA for finding of historic Aboriginal use of the area.
 - v. Ramp works
 - vi. Small pieces of asbestos removed by contractor (continued monitoring and removal of asbestos as required/identified)
2. *What additional work does Council need to do in the Creek and what is the timeline for completion of this work?*

Council is currently out to tender for design and construction contracts to repair/replace the two affected pedestrian bridges.

- Contract award – Mid April
- Current timeframes for completed IFC detailed designs are around 3 months
- Construction timeframes will be unknown until the tenders have been evaluated, however we are hopeful that work will be complete prior to the 2023/2024 Summer period.

No further work is programmed for the creek from the Assets Team, however the outcome of a hydrology assessment of the catchment may propose future works.

3. *Who owns the various segments of the creek line in the catchment area?*

There is a catchment area of approximately 20 km² north of Middleton. This encompasses the land of numerous private landowners. From the rail corridor to the sea, the creek is for a short distance on road reserve owned by Council and for the remainder of the distance it traverses a reserve in the freehold ownership of Council. Determining the ownership of the 'drain' sections through Middleton is not a straightforward matter. Middleton was originally a township privately developed by Mr Thomas Higgins in the 1850s. Evidence from Land Services SA indicates that Mr Higgins had purchased the land in 1849. General Registry Office Plan 508 of 1856 laid out the township and all of the land was owned by Mr Higgins at that time. The 'drain' sections are shown on this plan, indicating that Mr Higgins had already channelled the creek through the township, or was intending to do so in the near future. This is what is referred to as 'old system land' because it has never been brought under the *Real Property Act 1886* (RPA) and it has never had a certificate of title. If the land has ever been transferred, it was prior to 1886 when the RPA was introduced. Investigations of old system land rely on inspection of original non-digitised documents, which is a slow process. A search is continuing for any evidence that the 'drain' land may have been transferred from Mr Higgins, either to the Council of the day or to any other person. At this point no such evidence has been found and it is probable that the 'drain' land remains in the ownership of the estate of Mr Higgins, who died in 1899.

As per Attachment 1.

4. *For all creeks in Alexandrina:*

4.1 *What are the roles and responsibilities of individual owners of the land?*

Landscapes Board have authority and education programs for individual owners of land with creeks for weeds, protecting banks and animal controls, landowners are responsible to apply for a water affecting activity permits or discuss with the Landscapes team prior to undertaking works, Abiding by Native Vegetation Council Act and Legislation, any EPA requirements.

4.2 *What activity requires authorisation to complete, and what agency provides this?*

1. Should Council need to enter DEW and/or other private lands, agreements would need to be sought and negotiated prior to entering and undertaking any works.
2. Water Affecting Activity Permit from Landscape Board for works along water ways
3. Ngarrindjeri monitoring and liaison
4. Coast Protection Board for works at the beach/outfall end
5. Native Vegetation Removal proposal from Native Vegetation Council

4.3 *What authority does Council have to enforce required action in the creek line?*

1. Council can enforce dumping (of asbestos and other debris) on our land and we can report to State Government Authorities any breaches
2. Bushfire prevention control measures via Council's Community Safety Team
3. Send letters to property owners to support waterway restoration initiative (In good faith gesture)

Attachments

Attachment 1 - Middleton Creek Land Ownership

Attachment 1 - Middleton Creek land ownership

The following details the Middleton Creek Ownership for highlighted area below:



Ownership is defined in the following pages defined by the letter on the following map:



MIDDLETON CREEK LAND

A

ACT3745/142 – Owned by Council



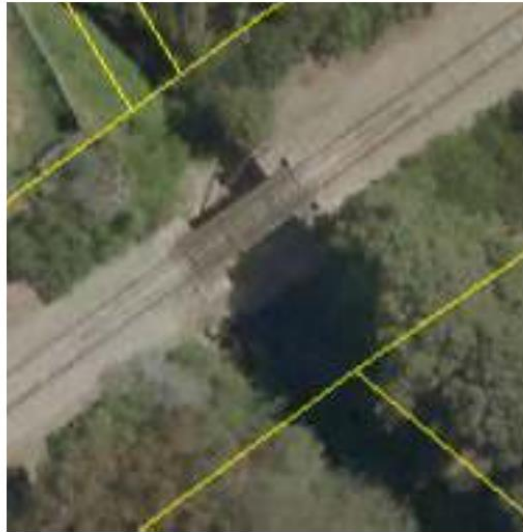
B

Road Reserve – Owned by Council

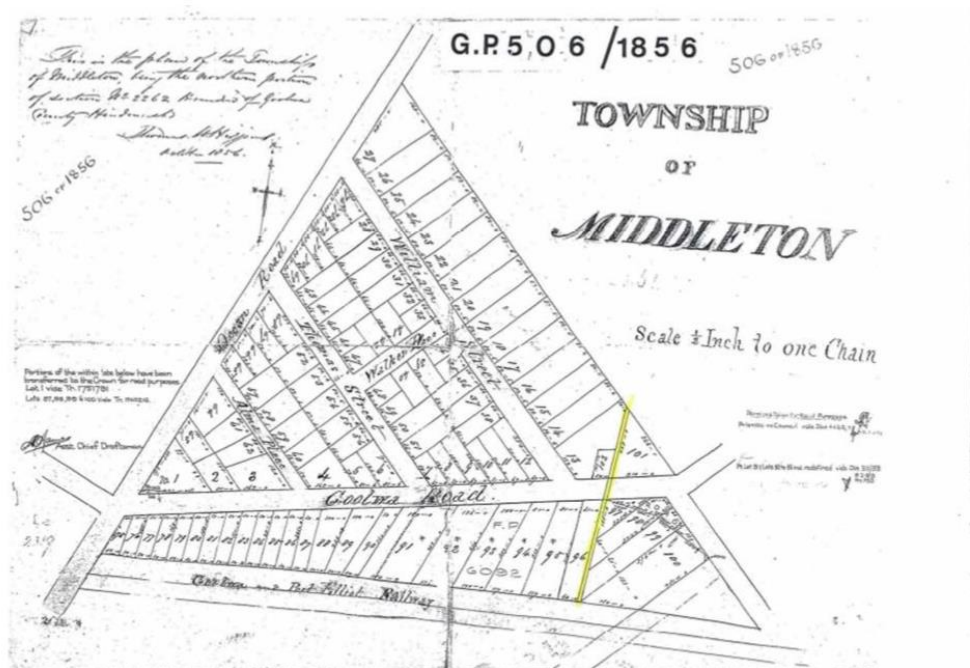


C

CR5747/58 – Unalienated Crown land – Rail corridor



Between C and D – Highlighted in yellow below – Yet to be determined – Seeking Legal Advice



D

CT5425/549 – Owned by Private Ownership



E

CT6148/779 – Owned by Private Ownership



F

CT5260/155 – Owned by Private Ownership



G

CT5260/156 – Owned by Private Ownership



H

CT6104/715 – Owned by Private Ownership



I

CT6104/714 – Owned by Private Ownership



MIDDLETON CREEK CATCHMENT AREA



