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| REPORT FOR: | Council | | |
| MEETING DATE: | 23 November 2015 | | |
| REPORT FROM: | Chief Executive Officer | | |
| REPORT TITLE: | Bowhill Property Group Pty Ltd – Proposed Development adjacent Aerodrome | | |
| FILE NAME: | F10/610 | RECORD NO: | AR15/43887 |

COMMUNITY VISION & STRATEGIC PLAN OUTCOMES

1 We Thrive

- 1.4 Develop partnerships to attract investors in business proposals and new developments that contribute to a diversified and robust economy.

PURPOSE

The purpose of this report is to seek Elected Members' advice on whether to proceed with negotiations with Mr Patrick Cheetham of Bowhill Property Group Pty Ltd in respect of a proposed development on specific Council land adjoining his St Eyre residential development.

RECOMMENDATION

Council:

1. To determine and approve the Option listed below, that is to be actioned by the Chief Executive Officer:

Option 1

Supports the proposal put forward by Mr Cheetham to purchase 10 allotments being 602, 604, 605, 606, 607, 608, 609, 611, 612 and 1001 and authorised the Chief Executive Officer to recommence negotiations.

Option 2

Reject the indicative offer, and make a counter-offer to sell only proposed lot 1001.

Option 3

Approves discontinuing further negotiations with Mr Cheetham and advise him that if Council decide to put any of the Airport Land on the open market in the future, that he will be advised.

Option 4

Approves discontinuing further negotiations with Mr Cheetham and advise him that if Council decides to put any of the Airport Land on the open market within the next 60 months, that Mr Cheetham will have a 'first right of refusal' (at a then professionally-assessed determined market value).

Option 5

Approves discontinuing further negotiations with Mr Cheetham for the sale of the Airport Land.

BACKGROUND

Council at its meeting held on 26 October 2015 resolved:

1. *Requests a further report in respect to the potential sale of specific lots of land to Bowhill Property Group Pty Ltd.*

DISCUSSION

Since 2006/2007 Council staff have been in negotiations with Mr Patrick Cheetham in relation to purchasing Council land adjacent the Aerodrome for a proposed residential development. Initially, Mr Cheetham requested to purchase the entire allotment 'in globo' however over a period of time the contractual agreements have been renegotiated. Due to the fact that the company identified within the *Instrument of Agreement* has been deregistered, these contractual arrangements are now invalid.

Mr Cheetham has now reapproached Council to ascertain if Council would consider allowing him to purchase a smaller portion of the Council land adjoining the St Eyre Residential Development. An email from Mr Cheetham in relation to his dealing with Council on this matter is attached for Elected Members' consideration (refer Appendix A).

As per Mr Cheetham's email dated 12 August 2015 he has proposed to purchase 10 proposed lots being 602, 604, 605, 606, 607, 608, 509, 611, 612 and 1001 identified on the draft sub-division plan, which equate to a total area of 35.59ha. It is noted that Mr Cheetham has not included Allotments 603 and 610 to be purchased, as identified on the draft sub-division plan (refer Appendix B).

Mr Cheetham has provided an indicative sale price of \$34,723.18 per ha which is based on the provisions of the 2010 contract. This price per ha equates to a total sale price of \$1,238,516.14 exclusive of GST.

Development within Port Augusta has been very slow for some time now, and consideration must be given to the economic climate and what opportunities this proposed development will have for the community.

Obviously if Council support Mr Cheetham's development proposal, fresh contractual arrangements will need to be entered into and a sub-division including all costs and regulatory delays will need to be factored into any Instrument of Agreement.

There is an opportunity in Council disposing of the lots requested by Mr Cheetham, while retaining the balance of the Airport Land, as it would allow Council to retire some of its current debt. Although Mr Cheetham has indicated a settlement date of 1 July 2016, it is considered, that if supported by Council to recommence negotiations again for the sale of the property, the fact that a sub-division is required and further re-negotiations would be required by Mr Cheetham with Department of Transport, Planning and Infrastructure in relation to their concerns, the likelihood of achieving settlement by 1 July 2016 is considered very optimistic and more than likely unachievable.

It is acknowledged that as outlined within Mr Cheetham's correspondence to Council that he has invested heavily in Port Augusta through the St Eyre Estate development and he has indicated that he is still committed to finalise his development proposal with the purchase of the 10 allotments identified.

Council must now consider the benefits that any development within this area would have for the community of Port Augusta, the opportunity to retire a portion of its current debt and this is better than no sale at all or whether at this time, Council wishes to cease negotiations with Mr Cheetham. It should be noted that if Council resolves to cease negotiation, that from the tone of his previous emails, that he may complain publicly about his dealing with the Port Augusta City Council.

It is considered that the following options are available to Council:

Option 1

Supports the proposal put forward by Mr Cheetham to purchase 10 allotments being 602, 604, 605, 606, 607, 608, 609, 611, 612 and 1001 and authorised the Chief Executive Officer to recommence negotiations.

Option 2

Reject the indicative officer, and make a counter-offer to sell only proposed lot 1001.

Option 3

Approves discontinuing further negotiations with Mr Cheetham and advise him that if Council decide to put any of the Airport Land on the open market in the future, that he will be advised.

Option 4

Approves discontinuing further negotiations with Mr Cheetham and advise him that if Council decides to put any of the Airport Land on the open market within the next 60 months, that Mr Cheetham will have a 'first right of refusal' (at a then professionally-assessed determined market value).

Option 5

Approves discontinuing further negotiations with Mr Cheetham for the sale of the Airport Land.

CONFIDENTIALITY PROVISIONS

Council is satisfied, pursuant to Section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information.

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of this information could reasonably be expected to prejudice the commercial position of the person who supplied the information, regardless of whether the Council is, or proposing to, conduct business with the person and may result in the person refusing to negotiate with Council in the future and this may have a detrimental impact on future development within the City.

It is recommended that Council maintain the confidential provisions as outlined above until negotiations with the person have been either terminated or renegotiated and fully executed.

RISK MANAGEMENT

1: Financial/Budget

Revenue raised by the sale of Council land could be used to retire debt.

2: Legal/Policy

Section 36 of the *Local Government Act 1999* provides that Council has the legal capacity of a natural person and, in particular may enter into any kind of contract or arrangement and may sue and be sued.

3: Environment/Planning

Not applicable.

4: Community

4.1 General

Not applicable.

4.2 Aboriginal Community Consultation

Not applicable.

4.3 OPAL – Healthy Lifestyle Program

Not applicable.

J BANKS

CHIEF EXECUTIVE OFFICER

17/11/2015

Lee Heron

From: John Banks
Sent: Tuesday, 17 November 2015 8:36 AM
To: Lee Heron
Cc: Melanie Jenkins
Subject: FW: More than 800 homes planned in for former munitions store site in MacDonald Park | AdelaideNow

From: John Banks
Sent: Thursday, 29 October 2015 9:34 AM
To: Pat
Cc: Carmel; fred@landassistsa.com.au
Subject: Re: More than 800 homes planned in for former munitions store site in MacDonald Park | AdelaideNow

Hi Pat,

I'm out of the office this week attending to Council business.

As you aware Council has requested further reports in respect to the questions presented by you there are several matters of complexity that need to be further explored. The reports will be prepared and presented to Council as soon as practicable & upon the receipt of legal advice.

To ensure that Council is fully briefed of the matters you have raised, copies of you recent emails will be included within the reports to Council.

Regards

John Banks
Chief Executive Officer



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On 28 Oct 2015, at 17:18, Pat <augustadevelopment@bigpond.com> wrote:

John

This is a \$3.5 million land purchase it made the Advertiser today , SA premier paper (St Eyre first 100 acres was over a \$4 million purchase) and it didn't rate a mention in the local transcontinental paper !!

Port Augusta council needs to wake up and see how other council Chiefs promote there region

How they support not hinder development !

How they assist development !

How they believe in development !

How they assist fast tracking development !

St Eyre does not rank a mention from PACC !!

Once again it's an absolute disgrace !!

Be proud John how PACC is promoting the town !

Be even more proud how it treats developers !

Creating a promotional DVD with the illusion of new housing bike trails green trees yes that was brilliant promoting Port Augusta as a place where your famines should live .

Fantastic I almost wanted to move there .

But when I look at St Eyre for my new family there was something missing !!!

Yes John not one green tree in the horizon !!!

PACC has not provided one green tree not even a \$2 seedling for St Eyre .

Once again outstanding support as a regional council an absolute disgrace .

In fact what I do have the pleasure of is paying enormous rates and then chasing the PACC constantly to try and get the new roads swept and some weed spray to at least kill the weeds for the estate

This consistently proves a struggle but again thank you for the once 3 monthly sweep and I'm not sure if the weeds have even been sprayed .

If they have thank you the estate will look so much better with dead weeds not live ones !!

No wonder developers and investors cringe when I mention the name Port Augusta .

I have a list of developers that would quit there development land in Stirling North and Port Augusta below Cost in an absolute heart beat !

That's both comforting and reassuring for your township !!

Land in Footner road has just been listed under half the value it was purchased for My conveyancer has a house in your town " he cannot rent it " worst investment ever he said (not one in St Eyre either)

Wow another great advocate for your town !

Your town is viewed so poorly to main stream developers and investors

The one developer you do have that has consistently invested millions of dollars continued through downturns and believed in the town "You treat so Poorly !!

Go figure "

Council needs to wake up John and quit the ridiculous time frames to make decisions take a pro active supportive approach to development

Assist developers to make development work , because it won't be long before I throw my arms in the air and turn my back on Port Augusta .

I guess that's a laughable gesture as Council has proven it does not give a dam about St Eyre and whether it moves forward or not !

Without Prejudice

<http://www.adelaidenow.com.au/messenger/north-northeast/more-than-800-homes-planned-in-for-former-munitions-store-site-in-macdonald-park/story-fni9ll1r-1227585109663>

Kind Regards

Pat Cheetham

Ph0412945644

Augusta developments Pty Ltd

augustadevelopment@bigpond.com

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APPENDIX B

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AR15/31018

Melanie Jenkins

From: John Banks
Sent: Wednesday, 12 August 2015 3:49 PM
To: Mark Sallis
Subject: FW: Airport Master plan
Attachments: A104209PROP(C) MEETING.pdf; ATT00001.txt

Hi Mark,

A further Email has been received from Pat Cheetham.

Once again, any comment or advice you may offer would be appreciated.

Regards

John

John Banks
 Chief Executive Officer

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-----Original Message-----
From: Pat [<mailto:augustadevelopment@bigpond.com>]
Sent: Wednesday, 12 August 2015 1:58 PM
To: John Banks
Cc: augustadevelopment@bigpond.com; Carmel
Subject: Airport Master plan

Hi John

Further to our conversation late last week I wish to clarify as requested the following

I wish to offer a revised agreement based on the current economic climate and in the best interests of making the expansion into the Airport land work most effectively

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I would like to propose the following

For clarity the total land area measures 359.2 ha in accordance with the attached plan The area was previously contracted for \$12.5 million This equates to a price of \$34,723.18 per Ha exclusive of GST

I propose to initially purchase the following lots listed below The total area of the said lots derived on the attached plan as listed below equates to a total of 35.59ha

602 , 604 ,605 , 606 , 607 , 608 , 609 , 611 , 612 and also 1001

Using the above total area calculation this would be as follows

Price per Ha is \$34,723.18 exclusive of GST (using original purchase price)

Proposed renegotiated smaller purchase area equals 35.59 ha Total purchase price for the area as listed above using the original purchase price is \$1,238,516.14 plus GST I propose July 1st 2016 as the settlement date This allows me time to complete my engineering and construction of the Main Sewage lines which is required to undertake any development

As per my previous correspondence

Council release the previous deposit and interest withheld (\$250,000 plus interest) Council retains \$20,000 deposit non refundable for the new contract price above . Council retains any rates outstanding from the with held deposit Council retains previous contract negotiation amount outstanding approx \$16,000 Balance released to Bowhill Property Group Pty Ltd (Same entity for new contract) which will assist on going works in the estate

I trust this gives more clarity and is in line with your request

I have spent millions of dollars on this estate and wish to continue investing more on my Port Augusta West Estate .

