

CONFIDENTIAL



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| REPORT FOR: | Council | | |
| MEETING DATE: | 27 February 2017 | | |
| REPORT FROM: | Director – City & Cultural Services | | |
| REPORT TITLE: | Old Netball Courts, Railway Parade, Port Augusta – Consideration of 2 offers | | |
| FILE NAME: | F15/321 | RECORD NO: | AR17/8220 |

COMMUNITY VISION & STRATEGIC PLAN OUTCOMES

1 We Thrive

- 1.2 Continue to promote Port Augusta as a great location to live, learn, work and visit.
- 1.3 Develop partnerships to attract investors in business proposals and new developments that contribute to a diversified and robust economy.

6 We Achieve

- 6.5 We use and manage our financial resources in the best interests of our community, and to ensure financial sustainability and organisational efficiency now and into the future.

PURPOSE

The purpose of this report is to provide Elected Members with an update on a further offer from the Seventh Day Adventist Church (Offer #1) and a new offer from Mr Neil Pahuja (Offer #2) for the old Netball Courts land on Railway Parade.

RECOMMENDATION

Council:

1. Resolves to accept the offer of \$400,000 (plus GST) for the purchase of:
 - 1.1 Allotment 20 D16104 CT5700/862
 - 1.2 Allotment 105 F17809 CT5467/396
 - 1.3 Allotments 91-102 and 106-108 F17809 CT5823/693.
2. Notes that the profits from the sale will be used to retire debt applicable to Debenture 235.
3. Approves CEO, Mr John Banks further negotiating to ascertain if a higher sale price can be achieved, however if not accepts the \$400,000 offer as submitted by Mr Neil Pahuja.

BACKGROUND

The Seventh Day Adventist Church made an offer to Council in July 2016 to purchase the 17 allotments within Certificates of Title 5700/862, 5823/693 and 5467/396 of \$585,000. Having considered the offer, Council resolved to authorise the Chief Executive Officer to negotiate with the Seventh Day Adventist Church in relation to their proposed land usage, area required and revised offer.

Following negotiation, a revised offer of \$250,000 for a smaller portion of land was made to Council in August 2016 by the Seventh Day Adventist Church.

Council at its meeting held on 22 August 2016 resolved to accept the original offer submitted by the Seventh Day Adventist Church to purchase the entire area of the Old Netball Courts, Railway Parade, Port Augusta for a price of \$585,000 plus GST.

DISCUSSION

Offer #1 – Seventh Day Adventist Church

The offer to purchase the entire site for \$585,000 as per the churches original offer was put back to the Church in August 2016, however Council was advised through its contracted agent, that a representative from the Church had contacted him to advise that they would regrettably not be continuing with the purchase of the Netball land because they could not secure a financial commitment from their higher Church Committee.

It is understood that the local Church submitted an appeal in relation to this decision and following a recent inspection by Church Representatives of the site, the Seventh Day Adventist Church made a further revised offer of \$325,000 for Allotments 91, 92, 93, 94, 95, 96, 97, 98, 107 and 108 within CT5823/693. The CEO requested that Council agent, negotiate a higher price if possible, and a final offer of \$375,000 plus GST was made by the Seventh Day Adventist Church on 7 December 2016 with the following conditions:

- 1) As this complex will be used as a place of worship where worship and church activities will be carried out, they seek Council approval for the property to be exempt from Council rates pursuant to Section 162 of the *Local Government Act 1999*.
- 2) The vendor erect a boundary fence at their cost on the eastern side of the property.

The Seventh Day Adventist Church have advised that they propose to merge all of these allotments into one allotment and relocating to this site will enable the Church the opportunity to grow over time, which is not achievable in its present location.

The area identified is to be used for a new Church complex (current Hall) and to provide additional carparking for the local and visiting Church parishioners. The local Church has advised that they cannot afford to purchase the additional allotments in this area as these allotments attract rates. The balance of the land being Allotments 99, 100, 101, 102 and 106 within CT 5823/693 will be created within separate Title, at Settlement, with the Registered Proprietor in Fee Simple being the Corporation of the City of Port Augusta.

In response to condition #1 - if the Hall is to be used as 'a place of worship' and the balance of the land is being used as a car-parking area so that it is part of the curtilage of the place of worship, then it would be applicable to provide the 100 per cent rate rebate. If however in the future the land is redeveloped for any other purpose then rates would be applicable to this area of the land.

In relation to condition #2 – the estimated cost to fence the eastern boundary along Allotments 98 and 107, being approximately 93m in length, would be in the vicinity of \$8,700 using a post, rail and coloured iron construction method, including erection.

It is recommended that Council accepts the offer of \$375,000 for the purchase of Allots 91, 92, 93, 94, 95, 96, 97, 98, 107 and 108 and arranges the fencing of Allotments 98 and 107, with the profits of the sale (excluding costs associated with the sale process and fencing) to be used to retire debt (refer to the Finance/Budget area within the report).

Offer # 2 – Neil Pahuja

Just prior to Report AR16/47483 being considered by Elected Members at the Operations Committee on 16 January 2017, Council received advice from its agent, Jones Lang LaSalles that another party was showing interest in the Old Netball Land. It was requested that Elected Members defer making a decision on this report to provide the second party an opportunity to inspect the site and to provide an offer to Council if they wish to proceed with their development proposal. The Report was subsequently withdrawn from the agenda.

Jed Harley from Jones Lang LaSalles has subsequently been contacted by Mr Neil Pahuja advising that he wishes to make an offer to Council of \$400,000 for the entire site and that he is proposing to develop a Cabin Park on the site.

Mr Pahuja has been an operator of Aged Care Facilities for 30 years, under the name All Care Aged Care and Tickled Pink Aged Care. He has advised that he will be the purchaser of the property under a new entity, however it would be funded by Mr Pahuja with no finance.

It is ascertained that Council could further negotiate to see if he would be willing to increase his offer, and it is recommended that if Council resolve to accept this offer, that the Chief Executive Officer be delegated the authority to have these negotiations on behalf of Council, and that if he is not willing to increase the offer, that the offer of \$400,000 would be accepted.

Summary

Offer #1 – Seventh Day Adventist Church provides a capital amount of \$375,000 for the purchase of a portion of the land only, and have requested that Council construct a fence between properties they purchase and those retained by Council. The \$375,000 would be used, as previously approved by Council, for debt reduction purposes. It should be noted however that the Seventh Day Adventist receive a 100% rate rebate on the property that they purchase. The balance of the land, being 7 allotments, would then need to be re-advertised for sale.

Offer #2 – Mr Neil Pahuja provides a capital amount of \$400,000 for the purchase of the entire site and proposes to construct a Cabin Park on the site. This entire site would attract rates of \$21,842.80 based on the current site value of \$550,000.

For the ongoing benefit of the community, in relation to the sale of this community asset, it is considered that achieving a capital income of \$400,000 and the ability to raise rates into the future from the entire site, as calculated above, provides the community with a far great financial outcome.

It is recommended that Council accept the offer from Mr Neil Pahuja and delegates the Chief Executive Officer to have further negotiations to ascertain if an increase in the offer is possible, however it not agrees to accept the offer made.

CONFIDENTIALITY PROVISIONS

The Council is satisfied that, pursuant to Section 90(3)(b) of the Act, the information to be received, discussed and considered in relation to this Agenda item is information the disclosure of which could reasonably be expected to confer a commercial advantage of a person with whom the Council is proposing to conduct business, and the information would prejudice the commercial position of the Council, in that the Council is currently engaged in a land sale process with a party and is in the process of negotiating an offer on a parcel of Council land.

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. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information.

The 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 Council's position in relation to the offer may severely prejudice Council's ability to be able to negotiate an acceptable offer for this parcel of land.

Pursuant to Section 91(7)

That having considered Agenda Item (Offer to purchase Council Land) in confidence under Section 90(2) and 90(3)(b) of the *Local Government Act 1999*, the Council pursuant to Section 91(7) of that Act orders that the details of the offer and related Council reports and all minutes be retained in confidence until negotiations have been completed.

RISK MANAGEMENT

1: Financial/Budget

The balance owing to Jones Lang LaSalle upon successful sale of the Netball Land is \$27,500.

The estimated cost for fencing of Allotments 98 and 107 is \$8,700.

It is also estimated that conveyancing costs associated with finalising the sale process is \$2,500.

Offer # 1

Based on a final offer of \$375,000, less the above outstanding amounts of \$38,700, the estimated profit from the sale, which can be used to retire debt, is likely to be \$336,300.

Council resolved on 15/12/2014 to borrow \$850,000 by way of a cash advance debenture (Debenture No 235) for the purpose of providing funds for the Central Oval Redevelopment – Stage 2 Netball Courts.

Offer #2

Based on an offer of \$400,000, less the above outstanding amounts of \$38,700, the estimated profit from the sale, which can be used to retire debt, is likely to be \$361,300.

As at 4 January 2017, the balance of CAD 235 is \$801,197 with approximately \$32,050 interest payable per annum (at 4% pa interest rate) with a repayment date of 15 January 2025.

The following outcome would be achieved in relation to Debenture 235 if a profit of each offer was paid off the current debt:

Offer #1

| | |
|------------------------------|--------------|
| Profit from Sale (estimated) | \$336,300.00 |
| CAD Balance would then be: | \$464,897.00 |
| Annual Interest Repayments | \$ 17,433.64 |
| Reduction in Interest | \$ 12,611.25 |

Offer #2

| | |
|------------------------------|--------------|
| Profit from Sale (estimated) | \$361,300.00 |
| CAD Balance would then be: | \$439,897.00 |
| Annual Interest Repayments | \$ 16,496.14 |
| Reduction in Interest | \$ 13,548.75 |

2: Legal/Policy

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

3: Environment/Planning

Not applicable.

4: Community4.1 General

Not applicable.

4.2 Aboriginal Community Consultation

Not applicable.

Lee Heron
23/2/2017

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Land Services Group 12-10-2007 09:30 PAGE 1/2 RightFAX



Title Register Search LANDS TITLES OFFICE, ADELAIDE

For a Certificate of Title issued pursuant to the Real Property Act 1886

REGISTER SEARCH OF CERTIFICATE OF TITLE * VOLUME 5823 FOLIO 693 *

| | |
|--|-----------------------------|
| COST : \$16.80 (GST exempt) | PARENT TITLE : CT 4263/698 |
| REGION : FAX 0886410357 | AUTHORITY : CONVERTED TITLE |
| AGENT : LGD7P BOX NO : 000 | DATE OF ISSUE : 14/11/2000 |
| SEARCHED ON : 12/10/2007 AT : 09:28:19 | EDITION : 1 |
| CLIENT REF PHYLLIS ROBINSON | |

REGISTERED PROPRIETOR IN FEE SIMPLE

THE CORPORATION OF THE CITY OF PORT AUGUSTA OF PO BOX 1704 PORT AUGUSTA SA
5700

DESCRIPTION OF LAND

ALLOTMENTS 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 106. 107 AND
108 FILED PLAN 17809
IN THE AREA NAMED PORT AUGUSTA
HUNDRED OF DAVENPORT

EASEMENTS

SUBJECT TO THE EASEMENT OVER THE LAND MARKED A TO THE COUNCIL FOR THE AREA
(T 5109358)

SCHEDULE OF ENDORSEMENTS

NIL

NOTATIONS

DOCUMENTS AFFECTING THIS TITLE

NIL

REGISTRAR-GENERAL'S NOTES

CONVERTED TITLE-WITH NEXT DEALING LODGE CT 4263/698

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The Registrar-General certifies that this Title Register Search displays the records
maintained in the Register Book and other notations at the time of searching.

END OF TEXT.

Registrar-General 

LANDS TITLES OFFICE ADELAIDE SOUTH AUSTRALIA
 DIAGRAM FOR CERTIFICATE OF TITLE VOLUME 5823 FOLIO 693
 SEARCH DATE : 12/10/2007 TIME: 09:28:19

