

CONFIDENTIAL REPORT

Filename: REPA4573

FILE REF: 2691

DATE: 19 March 2008

TO: Fellow Members

FROM: Mayor

SUBJECT: Proposed Residential Development – Port Augusta West, Adjacent Aerodrome (JLKT Pty Ltd)

I wish to thank Council for allowing me to speak at the Corporate Services & Infrastructure meeting (17/03/08) on the above subject.

In order to refresh your memory I am having a second bite at this.

I cannot impress upon Council too strongly that we are only going to get one shot at successfully driving the economic development of this City.

We need to be singing from the same hymn sheet, but I have felt at times that this is not the case.

We also need to be in control of this exercise and leading the Government – hence the establishment of the Mayor's Taskforce.

In regard to this proposed Developer Initiated Proposal, it would appear that "gossip" (perpetrated by persons unknown) about the Developer as to his trustworthiness, ability to deliver, association with his female colleague, and "tall poppy syndrome" is clouding this issue.

We have dealt with similar stupidity before concerning John Culshaw, which resulted in him taking action against an Elected Member in the last Council, as well as losing interest in investing in the City.

I am quite sure that if Pat Cheetham got wind of this mischief he would take similar action, but I doubt that it would dampen his enthusiasm and vision for the development of this City. There are certain people outside Council, who consider themselves in influential positions, need to be careful of whom they are backing, and the mischief they are spreading in the meantime, as they could end up in litigation.

I ask you to re-read the City Manager's Report (copy attached) on this proposal, particularly 2.9 in relation to the sale of the land which would require a watertight agreement, similar to the townhouse developments over the Westside, where Council will retain full control over the process and only when there is clear evidence of the Developers fulfilling their obligations, will the land be transferred. Also the agreement would include a "fail safe" clause which will ensure that if for any reason the proposal fails, the land reverts back to the control of Council. Such an agreement will be vetted by Council's solicitors to ensure all due diligence has been carried out in the interests of Council and the community.

Cheetham has promised that Council can place a caveat over the land.

He has also negotiated with other Developers to build quality homes for public inspection and setting up his own sales office as occurred with the "Lincoln Marina Estate".

I cannot believe the comment that "we are not in competition with Whyalla".

We are out for everything we can get on our terms to advance this City – so as far as I am concerned we are in competition with everyone and that includes the Developers, who like Coles and Woolworths landbank in order to stop their competitors.

If we are going to attract young families to this City we have to provide recreational facilities – sporting and community Arts. At the present time we are pushing a barrow uphill trying to maintain parks and gardens, footpaths and roads, not to mention employment of additional staff inside and outside.

This City will be transformed over the next five years despite the negativity from some quarters within Council, and outside who are looking after their own selfish little plot. Well we will deal with the latter at Budget time.

I am suggesting to Staff and Councillors alike that if you do not want to be part of the action, bail out now and let us get on with the job. We live in the most exciting time in our history, and I will be damned if I know why anyone would not want to be part of it.

On another subject that I raised on Monday - I understand that there are strict guidelines relating to Agents who have a "Conflict of Interest" and I intend to pursue this matter in relation to John Rejack. We also need to be mindful of his position on Council's Development Assessment Panel.

I have raised the above issue with you, because I only received one question in relation to it, - and given past practice, questions are raised in my absence where I am unable either to answer or defend myself, which brings me to the issues listed in my general monthly report.

JOY BALUCH

CONFIDENTIAL REPORT

Filename: REPA4564

FILE REF: 2691

DATE: 7th March 2008

TO: Chairperson & Members City Management Committee

FROM: City Manager

SUBJECT: Proposed Residential Development – Port Augusta West/ Adjacent Aerodrome (JLKT Pty Ltd)

COPY

SUB GOAL 3.1 ECONOMIC GROWTH FOR LONG – TERM BENEFIT

1.0 BACKGROUND

- 1.1 On the 25th February 2008, Mr. Pat Cheetham (Director of JLKT Pty Ltd) and his Assistant, Mrs Carmel Surace provided members with a preliminary presentation of a proposed residential development adjacent the Port Augusta Airport. The development could potentially provide over 3000 allotments which (if it proceeds) would be the largest residential development in South Australia.
- 1.2 Mr. Cheetham is seeking support from Council to progress the proposal as a “Developer Initiated proposal”, the policy and guidelines for which are attached.
- 1.3 Mr. Cheetham, following discussions with the City Manager, has recognised the need for a major residential opportunity that will satisfy current and future demand, due to the mining boom.
- 1.4 Council’s Development Plan Review is already strongly pointing towards the need for new residential zoning; and the area in question has received strong support from the “professional planners” as an ideal location for future growth.
- 1.5 There is of course the need for certain studies and investigations to occur before any such development could be contemplated (as you would expect with any development of such a large scale) but nevertheless, the proposal represents a great opportunity for Council to facilitate and encourage “controlled” development on land which fortuitously is owned by Council. This means that Council can not only address effectively the pressures of growth but at the same, create a significant “capital fund” that can be used for financing its strategic direction in terms of encouraging new young families into Port Augusta as well as the necessary infrastructure that comes with growth i.e. Central Oval Precinct, etc.

2.0 DISCUSSION

- 2.1 Mr. Cheetham who intends to set up a permanent office in Port Augusta, is well know to many Councils in South Australia, particularly Whyalla where major residential and industrial development is occurring due to his initiative. A project of this scale is expected to take several years to become fully realised. It will need to be “staged”; and consequently the developers will need to be on-site for the duration.

- 2.2 Council already has in place a documented process for the various steps that should be undertaken to achieve a "Developer Initiated Proposal". It is important as always, to be totally transparent and for the community to be adequately consulted. As this proposal cannot be achieved without rezoning the location for the purpose, further significant community consultation and assessment will be required before Council's Development Plan is formally amended which is likely to be in the later part of this current calendar year.
- 2.3 In the meantime however, Council is in a position (in accordance with its Developer Initiated Policy) to consider the general merit of the development and agree to at least allow further work and investigations by the developer who will need to "work-up" a detailed Development Proposal for Council's consideration and also for display purposes to fully inform the community.
- 2.4 A proposal of this scale will also require significant consultation with Planning SA and other Government Agencies to ensure that all aspects of the development in terms of: Traffic Control, Environmental Issues, appropriate Buffer for the Airport, other Infrastructure like a School and so on, are all well documented and well thought out.
- 2.5 There are other matters which also have come to my attention that need further investigation; and this work will need to be undertaken as soon as possible to ensure that there are no impediments for this development to occur (assuming of course that Council believes the proposal has merit and supports the Developer Initiated Proposal process).
- 2.6 One matter to which I refer relates to a Deed Agreement between Council and the Commonwealth Government going back to 1991. The Deed refers to when the Aerodrome land was originally transferred to Council from the Commonwealth. There are restrictions and conditions in terms of the operation of the Aerodrome, including no sale of land without permission and residential development that may be adversely affected by aircraft noise. Preliminary discussions with Commonwealth officers indicate that the restrictions within the Deed only relate to the Aerodrome itself and not the surrounding broad-acre area. This of course will need to be further checked out with written confirmation from the Commonwealth that the land in question is free and unrestricted. I should mention that the free-hold title is in Council's ownership, and there are no encumbrances or registered agreements of any kind that appear on the title.
- 2.7 The other matter involves the possible proposal by BHP Billiton (as part of the proposal for an unloading facility in the Gulf) to construct a 50m-wide Haul Road from Port Augusta to Olympic Dam. This road may interfere with the residential proposal and needs to be fully investigated with BHP Billiton as a matter of priority. I understand that there may be other options for the Haul Road so it is important that if Council is keen to see residential growth on the proposed land, then everything needs to be done to ensure that BHP Billiton and Council are not on a collision course regarding this matter.

- 2.8 With reference to the attached Developer Initiated Proposal policy, the next step is to undertake Community Consultation if Council considers the proposal has merit. The subsequent steps as documented, will follow i.e. advertising of the proposal, an Independent Valuation and finally the Development Application itself which must be considered by the Development Assessment Commission (DAC), as the land is owned by Council.
- 2.9 The actual sale of the land to the developer will require a “watertight” agreement (similar to the townhouse developments over the Westside), i.e. Council will retain full control over the process and only when there is clear evidence of the Developers fulfilling their obligations, will the land be transferred. The agreement will also include a “fail-safe” clause which will ensure that if for any reason the proposal fails, the land reverts back to the control of Council. Such an agreement will be vetted by Council’s solicitors to ensure all due diligence has been carried out in the interests of Council and the community.
- 2.10 The subject land is not Community Land and therefore no process for “revocation” is necessary.

3.0 BUDGET IMPLICATIONS

It is not possible at this early stage to determine what cost to Council may be involved but I am very confident in saying that the income potential for Council in terms of proceeds of sale of the subject land and the expected additional annual rate income, will be very substantial. As soon as an independent valuation is obtained, we will be in a better position to determine the net benefit.

4.0 RESPONSIBLE OFFICER/S

John Stephens, City Manager.

(If Council supports this project I would take a direct interest in such a huge project to ensure it is heading in the right direction. This project is of “major project status” in anyone’s language and will need a considerable effort by myself and other staff to assist the developer in the myriad of things that need to be done to get such a project off and running).

5.0 RECOMMENDATION

City Management Committee recommends Council:

1. Receives and notes the report (REPA4564) dated 7 March 2008, submitted by the City Manager, concerning “**Proposed Residential Development – Port Augusta West/Adjacent Aerodrome (JLKT Pty Ltd)**”.
2. In accordance with Council’s Developer Initiated Proposal policy, declares that the proposal from JLKT Pty Ltd has merit; and that an initial public consultation process be instigated to determine any valid objections and to receive any representations from interested parties.

JOHN STEPHENS



PORT AUGUSTA CITY COUNCIL

Administrative steps to be undertaken for a development proposal where **Council Land** is involved (Developer Initiated Proposal/Registrations of Interest).

Step 1 Request Developer to submit a preliminary development proposal to the City Manager, including: land identification, description of the proposal, timing issues, zoning, land division (if required). The developer should also notify Council at this time of any assistance being sought from Council i.e. rate rebate, in-kind support, or other incentives.

Administrative procedure:

- Determine ownership of land.
- Whether a Reservation, Dedication or Trust exists over the parcel of land.
- Zoning

Forward a letter to the developer advising him/her of the above information and that a report on the proposal has been referred to Council.

Step 2 A report to be submitted to Council advising of the developer initiated proposal which will involve the sale of Council Land. **If Council does not support sale of the land, the process will not progress beyond this step, and the Developer will be advised accordingly.**

If Council consider the proposal has merit and would like to further investigate the proposal a public consultation process will be initiated.

Step 3 An advertisement will be placed in the Transcontinental 2 weeks running to allow Council to receive any objections or representations from interested parties regarding the proposal being considered. Submissions will be received for a period of 28 days in line with the Public Consultation Policy.

If, following the public consultation process, Council resolves to proceed with the Developer Initiated Proposal and declares the land surplus to requirements, the following steps will be undertaken:

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| Step 4 | An independent market valuation will also be sought to enable Council to determine and appropriate sale price for the land and the developer advised of the valuation. |
| Step 5 | Pursuant to Section 194 of the Local Government Act 1999, undertake a revocation of the status of Community Land process if required . Council will address any submissions made during the public consultation process prior to seeking the Minister's approval. |
| Step 6 | If approval is granted by the Minister for the revocation of the status of Community Land, the Development Application will then be lodged with DAC by the Developer. |
| Step 7 | If a Community Land Revocation Proposal is not required (i.e. the land does not have a Community Land status) then the Developer will be encouraged to lodge a Development Application. |
| Step 8 | The Development Assessment Commission will then process the Development Application (which may or may not involve a further public consultation process depending of the category of the development e.g. Category 1 development applications do not require further public consultation, however Category 2 & 3 do). DAC will give Council the opportunity to comment on the Development Application and Council should take into account submissions received during Steps 3 & 5 prior to responding to DAC. |
| Step 9 | Approval/Refusal of the Development Application will then be made by DAC. If the Development application is not approved, the developer is to be given the opportunity to submit a new application. |
| Step 10 | Surveying & legal costs, land division (if required), sale & transfer settlement to be contingent on substantial commencement of the development. |