

CONFIDENTIAL REPORT

Filename: REPA4606

FILE REF: 2691

DATE: 13 May 2008

TO: Her Worship the Mayor & Councillors

FROM: City Manager

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

SUB GOAL 3.1 ECONOMIC GROWTH FOR LONG-TERM BENEFIT

1.0 BACKGROUND

- 1.1 The attached earlier report (REPA4564 dated 7 March 2008) from the City Manager, including the attached adopted Council policy relating to a "Developer Initiated Proposal", provides considerable background to this matter.
- 1.2 In addition to the previous report, there is further information that should be highlighted for Council's consideration.
- 1.3 At the meeting of Council on the 25 March 2008 when the above report (of the 7 March 2008) was considered, the following Council decision was made:

Crs Johnson/Pycroft that **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. Thanks JLKT Pty Ltd (Pat Cheetham) for his presentation provided to Council on 18 February 2008.
3. Authorises the City Manager to undertake further investigations in regard to the land being available for future residential development.
4. Indicates its initial preference in regard to a 'Council Initiated Proposal' as opposed to a 'Developer Initiated Proposal'.
5. Be provided with a further report in due course.

CARRIED

- 1.4 Though Council's **initial preference** was for a "**Council** Initiated Proposal", my recommendation contained in my report of 7th March, 2008 still stands.

- 1.5 I have undertaken further investigations; and those details and additional comments are provided (in the "discussion" of this report, as follows), with the view of encouraging Council to review its initial preference in now supporting the proposal from JLKT Pty Ltd, as a "**Developer** Initiated Proposal".

2.0 DISCUSSION

- 2.1 I have previously drawn to Council's attention the following matters (which essentially are the principal conditions that underpin the recommendation for a Developer Initiated Proposal) :
- The need for the land to be rezoned to "residential".
 - The resolution of the proposed "haul road" along Kittle Road, by BHP Billiton relating to the proposed Unloading Facility down the Gulf.
 - Clarification of the old agreement between the Commonwealth and Council when the Aerodrome land was originally transferred to Council. The Agreement relates to not selling land and only leasing.
- 2.2 I am advised (subject to written confirmation), that the Commonwealth Agreement relates only to the "Aerodrome proper" and does not encumber the total land area in question. That is, Council has an unencumbered free-hold title to the land which is also free from the community land provisions.
- 2.3 The rezoning of the land is supported by both Planning SA (in their work to date on the State Government Master Plan) as well as the Mayor's Taskforce. The Taskforce has recently received a presentation from Connell-Wagner (a reputable independent consultant to the State Government) stressing the need for Council and the Region to be prepared for inevitable population growth. This message was also highlighted by senior Government Officers. In fact Connell-Wagner has indicated a degree of urgency for Governments (and others) to understand what the resources boom will mean to the overall State which is likely to experience a total population increase of 500,000. Connell-Wagner has in the past 12 months reviewed its population predictions which have been increased each time. A 50% population growth in Port Augusta has been predicted.
- 2.4 Regarding the "haul road", this obviously will be determined should the unloading facility proceed. In any event this should not prevent residential rezoning of the area adjacent the Aerodrome but quite clearly, (as supported by Planning SA); it would not be sound urban design to have a haul road traversing Council's future residential growth area. For this reason, Council should join with Planning SA to ensure that the Master Plan and its own Development Plan keeps the haul road well clear of residential areas, now and in the future.
- 2.5 During the recent presentation to the Taskforce, Mr. Rod Hook who is a senior public servant, spoke of infrastructure needs with strong emphasis on Adelaide only. It is important for Council to demonstrate its proactive approach in positioning itself for the resources boom in setting in place firm proposal/s that future residential development will actually occur. This will inturn allow Council to make strong representations to the Government to ensure that targeted infrastructure such as: the Bridge and Yorkey's Crossing are indeed given high priority.

- 2.6 I remind Council that only a few months ago when David Shetliffe asked the question: Where was Council going to put 3 to 4,000 homes to cope with the inevitable growth? There was considerable concern, given the current restricted residential opportunities in Port Augusta. The proposal by JLKT Pty Ltd is timely and fortuitous on the basis that Council owns and indeed can fully control the process. Not to mention of course that the proceeds from the sale of the land will create a significant fund for special community projects, such as the Central Oval Precinct.
- 2.7 From the recent Port Hedland and Chile trips I have highlighted the real dangers of “fly-in, fly-out”. Council is well placed to attract new young families into Port Augusta but a large new residential estate is required now. Both Whyalla and Port Pirie have already taken steps to achieve a similar objective. I believe Port Augusta will lose residential and business opportunities if an announcement is not made soon about how we intend to cater for the growth that needs to be facilitated and encouraged. The Taskforce has highlighted the fact that we are in a competitive market in promoting growth. Even other regions throughout the State are promoting “fly-in, fly-out” – **this means that Port Augusta will be seeing regular jet flights overhead instead of young families basing themselves and taking full advantage of Port August’s great lifestyle.**
- 2.8 To suggest that JLKT Pty Ltd who has taken the initiative and that their idea and vision should now be opened to other developers (who up to now have shown little interest), is unfair to say the least. This scenario was recently raised with the Developers who are interested in the proposed new “Marina” that has received wide support, including the support of the Marine Advisory Committee and NRDB. The Marina Developers were quick to highlight to the Mayor and I in recent discussions that they would not be interested in promoting a project under such unfair circumstances; and indeed would contemplate even legal action should their “intellectual property and concept” be picked up and used by other developers. Council’s reputation in dealing with developers would suffer badly in these circumstances. No developer would be prepared to take any initiative in the future if there was a risk that Council would open up “their idea” to an open tender system.
- 2.9 I have indicated that Planning SA supports (in its work to date), the proposed residential rezoning. What has also been conveyed is that if there is no proposal (on the table) for the land adjacent the Aerodrome, there is a real risk that the Minister may not agree to the rezoning. This means of course that Council will either have to find another location for residential growth or reapply at a later date for a further amendment to its Development Plan. Council is only too familiar as to the time it takes to achieve a change to its plan. By the time a future amendment was proposed and authorised, I suspect the opportunity would be seriously affected, if not lost.
- 2.10 To rely on other smaller residential opportunities such as Camel Flat and the rural living area on the Westside, means that rapid growth would not occur. These areas are likely to have a very slow “take-up” and would not fulfil Council’s timely objective in promoting growth.
- 2.11 I believe it is important to emphasise what a “Developer Initiated Proposal” actually means. But before I do that, let me briefly say what it doesn’t mean:
- It is not a blanket approval to proceed.
 - It is not an opportunity for a cheap purchase.

- It does not exonerate the developer from undertaking all due care in preparing a full and extensive Development Application, including: traffic study, social and environmental study, airport buffer, etc.
- It does not mean that the community will not have a say.
- It does not mean a flooding of the market.
- It does not mean land speculation.

What it does mean, is that Council remains in full control during the whole process. The recommendation of this report is simply to indicate that the proposal has merit and that Council then encourages the developer to follow its policy relating to a "Developer Initiated Proposal". The policy is attached. Briefly the process involves:

- Community consultation seeking representations from the community regarding the proposed sale of land.
- An independent Valuation of the land is sought.
- The Developer simultaneously (during the above stages), proceeds to formulate their detailed Development Application which of course must get through the stringent DAC process which involves reference to numerous Government Agencies. DAC is the Planning Authority and will undertake the usual public and Council consultation in determining the merits of the application; and impose the necessary conditions, should it be approved.
- The actual sale of the land from Council to the Developer, only takes place following:
 - The Development Approval.
 - A land Management Agreement being in place to control the staging and timely controlled release of land, quality and design of homes, fencing, landscaping, etc.
 - The Developer meeting all legal and land-division costs.
 - Substantial commencement of the development e.g. the Developer must clearly show that the proposed development is going to proceed as per the development approval. (As I indicated in my previous report of the 7th March 2008, *"The actual sale of the land to the developer will require a "watertight" agreement. Council will retain full control over the process and only when there is clear evidence of the Developer's 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 project fails, the land reverts back to Council. Such agreement will be vetted by Council's solicitors).*

3.0 BUDGET IMPLICATIONS

Council's income budget will benefit substantially from the sale of the land which will be determined by an independent valuation. Rate revenue from the development will also be substantial, as various stages are released, sold and built upon.

4.0 RESPONSIBLE OFFICER/S

City Manager, John Stephens

5.0 RECOMMENDATION

Council

1. Receives and notes the report (REPA4606) dated 13 May 2008, submitted by the City Manager, concerning **“Proposed Residential Development – Port Augusta West Adjacent Aerodrome (JLKT Pty Ltd)”**.
2. In accordance with the “Developer Initiated Proposal” process, Council declares that the proposal by JLKT Pty Ltd has merit; and that the proposal be advertised for community consultation purposes as per “Step 3” of the process. (Following this step, having received no substantial and valid objections, an independent valuation will be undertaken. In the interim, the Developers are encouraged to proceed to formulate their detailed Development Application for subsequent referral to the Development Assessment Commission (DAC), as per Steps 7 and 8 of the process).

JOHN STEPHENS

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)**

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SUB GOAL 3.1 ECONOMIC GROWTH FOR LONG – TERM BENEFIT
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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 <u>if required</u> . 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. |