

CONFIDENTIAL DECISION REPORT

Report Title: Proposed Development – Port Germein Land
Item No: 8.1
Date of Meeting: 19 January 2021
Author: Sam Johnson, Chief Executive Officer
Attachments: 1. Map of the Land (Section 484)

Confidentiality Clause

That:

1. Pursuant to section 90(2) of the Local Government Act 1999 the Council orders that all members of the public, except Chief Executive Officer Sam Johnson, Manager Community & Economic Development Ebony Rodda, Manager Infrastructure & Regulatory Services Brenton Daw, Manager Corporate Services Craig Mudge and Manager Administrative Services Jacqui Kelleher, be excluded from attendance at the meeting for Agenda Item 8.1 Proposed Development – Port Germein Land
2. The Council is satisfied that, pursuant to section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which would involve 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, or to confer a commercial advantage on a third party, and, on balance be contrary to the public interest..
3. 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 of commercial in confidence.

1. EXECUTIVE SUMMARY

The purpose of this report is to provide elected members with an awareness of a proposed commercial development on a parcel of land in Port Germein in which Council holds a current care and control agreement with the South Australian Government.

2. RECOMMENDATION

That Council:

1. receives and notes the report;
2. authorises the Chief Executive Officer to continue discussions with the South Australia Government for a potential purchase of 5 Mozart Street, Port Germein 5494 (CT 5755/801); and
3. requests a further report be provided to a future meeting of Council outlining potential purchase options and appropriate development details (including any appropriate commercial lease arrangements) in relation to 5 Mozart Street Port Germein 5494 (CT 5755/801).

Confidentiality Clause

That, having considered Agenda Item 8.1 Proposed Development – Port Germein Land; Section 484 in confidence under Sections 90(2) and 90(3) (d) of the Local Government Act 1999, the Council, pursuant to Section 91(7) (b) of the Act orders that all the discussion, report and minutes be retained in confidence until the next annual review of the confidential minutes register pursuant to section 91 (9) (a) of the Local Government Act 1999, or the settlement of the land being 5 Mozart Street Port Germein 5494; whichever occurs first.

3. RELEVANT CORE STRATEGIES/POLICIES

3. Growing Prosperity (Economic and Tourism Development)
 - 3.1. Facilitate population and jobs growth
 - 3.2. Facilitate community leadership and involvement in economic and tourism development
 - 3.3. Support industry diversification and development

4. BACKGROUND

Nyrstar approached Council late in 2020 with a desire to relocate their previously used accommodation camp from the Port Pirie central business district (CBD), to Port Germein. Nyrstar have a genuine interest and desire to build an appropriate accommodation camp in which can be used long term by Nyrstar, as well as being potentially available for other users be it of a commercial or educational nature.

5. DISCUSSION

Nyrstar previously occupied a large portion of land within the Port Pirie CBD area. The purpose of the location was to house the accommodation camp in which Nyrstar have operated for some time. The accommodation camp assists Nyrstar in its operations, particularly with larger scheduled operations such a maintenance shut downs. In doing so, this does require Nyrstar to often seek additional skilled labour to assist in their business operations. This labour has been traditionally accommodated at such a purpose built accommodation setup.

Nyrstar has advised that their terms for operation of the previously used accommodation camp at its prior location is no longer tenable. There has been a growing appetite for Nyrstar to seek and use local existing accommodation providers opposed to purpose built accommodation. This has posed significant risk to Nyrstar and its business operations, and also faces a potential for economic unviability to do so as advised by Nyrstar.

Nyrstar seeks to establish its previously used accommodation camp for a long term period. In doing so, an analysis of appropriately available land found a parcel of land at Port Germein (5 Mozart Street).

The purpose of this report is to advise members of the potential proposal as presented by Nyrstar, and seek Councils approval to allow the CEO to continue discussions with Nyrstar and appropriate key stakeholders. This report does not seek a resolution in

relation to purchasing the land in question, nor does it seek a resolution of Council to enter any formal arrangements with Nyrstar particularly those of a commercial nature. Any decision required relating to a commercial nature, including potential land purchases, would be presented to Council in a further detailed report outlining the rationale and associated financial benefits and or risks to Council.

Nukunu – Native Title

The land in question presently does hold native title. A discussion has been held at the request of Nyrstar with the current chair of Nukunu, Mr Kym Thomas. Mr Thomas has an overview understanding of what is being proposed on the site, and subsequently has requested that the proposal progress to the next stage in which Nukunu legal representation will become involved with the establishment of an indigenous land use agreement (ILUA).

Crown Lands

In order for the proposal to progress, a valuation of the land is required. This process is undertaken by the appropriate government department (Office of the Valuer-General – ‘OVG’).

Upon completion of the appropriate request form, the OVG will undertake a valuation of the land as is. This will then be provided back to Council in which will need to be presented in a future report for consideration.

6. ANALYSIS OF OPTIONS

Option 1:

That Council:

1. receives and notes the report;
2. authorises the Chief Executive Officer to continue discussions with the South Australia Government for a potential purchase of 5 Mozart Street, Port Germein 5494 (CT 5755/801); and
3. requests a further report be provided to a future meeting of Council outlining potential purchase options and appropriate development details (including any appropriate commercial lease arrangements) in relation to 5 Mozart Street Port Germein 5494 (CT 5755/801).

This option allows Council to progress in obtaining further information, as well as continuing the advancement of the proposal with Nyrstar.

Option 2:

That Council:

1. receives and notes the report;
2. does not proceed further with any negotiations with Nyrstar; and
3. does not seek an interest in the potential purchase and or lease in relation to 5 Mozart Street Port Germein 5495 (CT5755/801)

If Council considers that there is an element of risk associated with such negotiations, and or with potential commercial arrangements with a third party such as Nyrstar, it would be advisable for Council to cease current discussions and proceed no further.

7. RECOMMENDED OPTION

Option 1 is the recommended option.

8. POLICY IMPLICATIONS

8.1 Financial/Budget

Council has no financial outlay at this time.

Members must be made aware, that should this proposal advance to a position whereby the land in questions is to be purchased to allow Nyrstar to occupy the site on a commercial lease, this will require a financial commitment from Council for the purchase of the land. This would be proposed to be offset however by an appropriate commercial lease with the third party.

8.2 Legislative/Risk Management

Section 194 Local Government Act 1999 (Revocation of classification of land as community land).

8.3 Staffing/Work Plans

Nil.

8.4 Environmental/Social/Economic

Nil.

8.5 Stakeholder Engagement

Should the proposal proceed to an advanced level, there is an element of the land purchase (revocation of community land status) that will require Council to undertake an appropriate community consultation process. It would be considered to undertake this process once a known outcome could be agreed upon with both the South Australian Government (land purchase), the Nukunu people to achieve an appropriate native title agreement, and also Nyrstar to ensure the terms if offered are commercial viable.

9. REPORT CONSULTATION

Discussions were held with the Leadership Team and Mayor.

10. REPORT AUTHORISERS

Sam Johnson	Chief Executive Officer
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