

REPORTS OF OFFICERS

Report Title: Asset Disposal - expression of Interest to buy vacant Council owned land – offer received from Beach Drilling Pty Ltd

Item No: 8.1

Date of Meeting: 18 April 2023

Author: Sam Johnson, Chief Executive Officer

Attachments: 1. Valuation received from Inval Property Valuations dated 23 March 2023

Officer Direct or Indirect Conflict of Interest:
In accordance with Section 120 of the Local Government Act

Yes No

Status:
Information classified confidential under Section 90(2) of the Local Government Act

Yes No

Confidentiality Clause:

That Pursuant to Section 90(2) and (3)(b) of the *Local Government Act 1999*, the Council orders that all persons present, with the exception of Sam Johnson (Chief Executive Officer), Brenton Daw (Director Infrastructure and Regulatory) and Jacqui Kelleher (Director Community & Corporate) be excluded from the meeting as Council considers that the requirement for the meeting to be conducted in a place open to the public has been outweighed in circumstances where the Council will receive and consider a report containing information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is conducting, or proposing to conduct, business or to prejudice the commercial position of the Council (namely, information regarding an expression of interest received *from Beach Drilling in relation to 5-13 South Terrace Wirrabara*, which if made public could negatively impact the expression of interest process) and would, on balance be contrary to the public interest.

(for resolution after consideration of the matter)

1. In accordance with Section 91(7) and (9) of the *Local Government Act 1999*, Council orders that this report item 8.1 – **Asset disposal - expression of Interest to buy vacant Council owned land – offer received from Beach Drilling**, the attachments to this report, discussion at the meeting and resolution pertaining to this item having been considered in confidence under Section 90(2) and (3)(b) of the Act be kept confidential and not available for public inspection on the basis that it contains information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the Council (namely an unsolicited expression of interest from Beach Drilling offering to purchase 5-13 South Terrace Wirrabara, which if made public could negatively impact on the consideration of the expression of interest received and would, on balance, be contrary to the public interest. This order is to remain in force until further order of the Council, noting that it will be reviewed at least annually in accordance with the *Local Government Act 1999*.

2. Pursuant to Section 91(9)(c) of *the Local Government Act 1999*, the Council delegates to the Chief Executive Officer the power to revoke this order and any other orders made by the Council under Section 91(7) in relation to the expression of interest received from Beach Drilling offering to buy 5-13 South Terrace Wirrabara, South Australia 5481. This delegation may be exercised by the Chief Executive Officer for any purpose including, but not limited to, the of publishing information as part of the public consultation processes approved by Council at this meeting.

1. EXECUTIVE SUMMARY

This report seeks to provide an update and direction from Council with consideration to an unsolicited proposal received from Beach Drilling Pty Ltd to buy a Council owned vacant land located in Wirrabara. The offer, received by email on 22 November 2022 was provided to Council previously at the February 2023 meeting.

Following the report presented to Council in February 2023, Council sought to have an independent valuation undertaken of the property in question, to remain consistent with Council policy. The valuation has now been received and is provided to Council for further consideration of the matter.

2. RECOMMENDATION

That Council:

1. Receives and notes the report;
2. Authorises the Chief Executive Officer to approve and proceed with the sale and disposal of Allotments 162, 163, 164, 165 & 166, 5-13 South Terrace Wirrabara South Australia 5481, to Beach Drilling Pty Ltd on the following conditions;
 - a) the sale price is to reflect no less than the independent valuation as received by Inval Property Valuations dated 23 March 2023, for consideration of \$100,000 plus GST (all five allotments noting \$20,000 plus GST per allotment);
 - b) Beach Drilling Pty Ltd are to provide the Chief Executive Officer with an independent environmental assessment confirming that no contamination exists on the allotments proposed for sale, prior to the signing of any sale agreements; and
 - c) Beach Drilling Pty Ltd are to meet all associated sale costs, including conveyancing costs.
3. Approves the Chief Executive Officer and the Mayor to sign and apply Council's Common Seal to sale agreements consistent with the conditions as listed within recommendation 2 above, and delegates authority to the Chief Executive Officer to propose and apply any required amendments to the sale agreements consistent with intent of Council's decision; and
4. Approves the sale process in accordance with Section 6.5.5 of Council's Asset Disposal Policy.

3. RELEVANT CORE STRATEGIES/POLICIES

Community Plan 2021/2031

3.2 Foster Economic Development

3.3 Support Local Business & Industry

6.4 Provide Financial Sustainability

Community

Consultation

Policy

https://www.mtr.sa.gov.au/data/assets/pdf_file/0032/174686/04.21-Public-Consultation-Policy.pdf

Assets Disposal Policy

https://www.mtr.sa.gov.au/data/assets/pdf_file/0024/175560/04.58-Disposal-of-Land-and-Other-Assets-Policy.pdf

4. BACKGROUND

An unsolicited expression of interest received on 22 November 2022 from Beach Drilling Pty Ltd outlines an offer to buy Council owned vacant land located in Wirrabara.

The land is Council owned (title CT) and not care, control and management.

Council's Disposal of Land and Other Assets Policy stipulates the methods in which Council will, where appropriate, dispose of land and/or buildings. These include:

- Open Tender – openly seeking bids through tenders, including public auction;
- Open Market Sale – advertisement for disposal of the land through the local paper and where appropriate, a paper circulating in the State, or by procuring the services of a licensed real estate agent and/or auctioneer (following compliance with the Council's Procurement Policy);
- Expressions of Interest – seeking expressions of interest for the land;
- Select Tender – seeking tenders from a selected group of persons or companies; and
- By Negotiation – with owners of land adjoining the land or others with a pre-existing interest in the land, or where the land is to be used by a purchaser whose purpose for the land is consistent with the Council's strategic objectives for the land.

Noting the above, Council's Disposal of Land and Other Assets Policy also provides where land and/or buildings are sold by any method other than open tender, an independent valuation of the land prior to sale is required and should be recorded along with the reasons for using a method other than open tendering.

It is on this basis, that if Council is to consider progressing the offer as presented by Beach Drilling Pty Ltd, that Council obtain an independent valuation of the land, of which will form the basis of the requested purchase price.

Council records indicate that no other offers have been presented to Council for the proposed allotments, but this does not mean that there is no other interest.

In considering the sale of the land consistent with Section 6.5.5 of the Disposal of Land & Other Assets Policy, Council should contemplate the rationale as to why it seeks to not place the properties on the open market, and for open tender.

This considerations may include;

- The offer has been received as an unsolicited purchase offer to Council;
- The offer could be considered consistent with Council's strategic documents, mainly the Community Plan 2021/2031 and the Long Term Financial Plan;
- The Council has no plans for utilisation of the sites longer term;
- The previous activities undertaken on the sites are mainly Council storage, and this activity will occur at the Wirrabara CWMS facility moving forward;
- The sale could encourage economic development;
- The sale could be considered to support a local business establish and grow within the Council area; and
- The sale would provide capital funds as a one off (sale proceeds), and ongoing revenue not currently received by way of annual Council rates from the property, should it sell.

Considerations

In considering this matter, Council should have regard to its Community Lands Management Plans and also weigh up any likely future propositions to use the land for Council operations or potential capital gains in future years should the tourism proposition in the district generate significant increases in real estate prices.

Under a sale scenario the purchaser would be required to pay **all** costs associated with purchase, this includes but is not limited to:

- Conveyancing fees
- Transfer fees
- Search fees
- Purchase price

The purchase price should be the best price possible to ensure that Council (and ultimately its community) does not suffer any losses in the immediate future or long term future. An independent valuation will confirm a basis for any proposed purchase price.

Particulars that relate to the property in questions are as follows;

- Assessment Number A21925,
- Lots 162/166,
- 5-13 South Terrace, Wirrabara,
- Description - Vacant Land and Works Depot
- Land use – Vacant Land
- Capital Value \$57,000, Site Value \$57,000
- CT 5434/308, CT 5434/311 and CT 5434/310
- Residential subdivision from Parklands
- *Property file shows contaminated land, advice lots 164, 165 and 166 were the site of an old rubbish dump. **Note** states that land should be considered contaminated - until such time as an environmental audit/study which includes bore logs, soil sampling and analysis, disclose that the land is suitable for residential use. The land should not be sold, but be retained in Council ownership. The land is also the site of a depot as such it could be considered contaminated depending on what has been stored there/spilt there etc.

*This advice is a system file note, of which no other records can indicate any evidence. This should be taken in to consideration, and should Council choose to proceed with

any sale of the allotments, that this be made known to any potential purchaser. Council does not have any site audits, nor does it have any plans to have any audits undertaken. The Environmental Protection Agency (EPA) has no records indicating any known environmental issues, or concerns for them with respect to the property.

Below is a SAPPA map showing the allotments referred to above in blue.



5. DISCUSSION

The property presently serves minimal purpose to Council. The property was previously a waste disposal site, but has not been operated as such for a number of years. The property after remedial efforts was converted to a satellite works depot, which is fenced and houses a shipping container.

The site has from time to time been used to store Council plant & equipment, and emergency supplies within the shipping container (items such as signs for callouts).

Since the closure of the Wirrabara Waste Transfer Station (WWTs), which is co-located with Council's Community Waste Water Management System (CWMS) in Wirrabara, the site in question has had limited use as a satellite depot as Council has begun using the former WWTs site as a satellite depot.

Should the property progress to sale, the existing shipping container would need to be re-located to the former WWTs site for Council use, or, another Council site as required.

Council will need to give consideration to current policy, namely the Assets Disposal Policy and what Council seeks to achieve via way of asset disposal.

Council through the current Community Plan 2021-2031 has a clear intent to help support, grow and drive the local economy. The proposal as presented might help Council to achieve some of its desired strategic objectives.

The report refers earlier to a system file note advising of potential land contamination, given the former use. Members should consider, that should any such proposal move forward, that Council request the proponent (Beach Drilling Pty Ltd) to undertake an independent land contamination report (site audit) from a suitably qualified person/s.

Council may seek to obtain for itself, however noting the proposed sale is at the request of a third party, it could be reasonable to seek such including costs from the proponent to limit costs payable to Council, and ultimately community.

Presently the land derives no income for Council. In the event of the sale to a third party (subject to any potential rate rebates under the Local Government Act 1999), the land would be subject to Council's rating methodology. This will apply to all allotments.

Should the proposal proceed, Council would be supporting the development and growth of an additional local business. This would support economic growth and development. The proponents have advised that they have a preference based on personal history and connection to establish in Wirrabara. The site they have chosen has been so based on their requested business needs (frontage, allotment size, and zoning).

The proponents have expressed, that outside of the site requested, that there are limited to no other additional available sites. This may result on the proponents establishing in another area, of which could include a neighbouring Council area.

At the February 2023 Council meeting, Council was presented with a report and the following recommendations were adopted;

That Council:

1. *receives and notes the report;*
2. *authorises the Chief Executive Officer to obtain an independent valuation of Allotments 162, 163, 164, 165 & 166, 5-13 South Terrace Wirrabara South Australia 5481;*
3. *The valuation report be presented to Council for further consideration and any further action;*
4. *Acknowledges the Council Disposal of Land and Other Assets Policy, and provides authorisation for the Chief Executive Officer to continue the process based on further information being prepared; and*
5. *Acknowledges the offer as received, and advises Beach Drilling Pty Ltd that Council will be obtaining further information to best consider their offer.*

This option as outlined within the body of the report, allows the proposal to progress further for investigative purposes. It does not formally bind or commit Council to a sale, but to seek information for Council to be informed and consistent with its appropriate policies.

Following the above, Council engaged Inval Property Valuations to complete a valuation of the property being considered for disposal. The valuation report has been received, and is attached to this report is a copy.

The report indicates an independent valuation for the properties as described within this report as being \$100,000 plus GST combined (five allotments), or \$20,000 plus GST per individual allotment. This should form the minimum sale amount, should Council proceed with the sale of the allotments to Beach Drilling Pty Ltd at this time.

6. ANALYSIS OF OPTIONS

Option 1:

That Council:

1. receives and notes the report;
2. Authorises the Chief Executive Officer to approve and proceed with the sale and disposal of Allotments 162, 163, 164, 165 & 166, 5-13 South Terrace Wirrabara South Australia 5481, to Beach Drilling Pty Ltd on the following conditions;
 - a) the sale price is to reflect no less than the independent valuation as received by Inval Property Valuations dated 23 March 2023, for consideration of \$100,000 plus GST (all five allotments noting \$20,000 plus GST per allotment);
 - b) Beach Drilling Pty Ltd are to provide the Chief Executive Officer with an independent environmental assessment confirming that no contamination exists on the allotments proposed for sale, prior to the signing of any sale agreements; and
 - c) Beach Drilling Pty Ltd are to meet all associated sale costs, including conveyancing costs.
3. Approves the Chief Executive Officer and the Mayor to sign and apply Council's Common Seal to sale agreements consistent with the conditions as listed within recommendation 2 above, and delegates authority to the Chief Executive Officer to propose and apply any required amendments to the sale agreements consistent with intent of Council's decision; and
4. Approves the sale process in accordance with Section 6.5.5 of Council's Asset Disposal Policy.

This option acknowledges the offer expressed to purchase, and proceeds with the disposal of the land consistent with Council Policy, confirming that the disposal is to occur in line with the value of the independent valuation as received by Inval Property Valuations dated 23 March 2023, and the conditions as outlined within the recommendations.

Option 2:

That Council:

1. receives and notes the report; and
2. advises Beach Drilling Pty Ltd that Council wishes not to proceed with the offer as presented.

This option provides formal acknowledgement to Beach Drilling Pty Ltd that Council does not wish to proceed with the offer as presented at this time.

7. RECOMMENDED OPTION

Option 1 is the recommended option.

8. POLICY IMPLICATIONS

8.1 Financial/Budget

Conveyancing/legal costs in vicinity of \$2,500 (estimate only), but as outlined with the above recommendations, these are proposed to be absorbed by the purchaser.

In addition, should the assets be disposed of for consideration consistent with the independent valuation, Council will be the beneficiary of \$100,000 (ex GST).

These funds are proposed to be transferred to existing Council cash accounts for future consideration.

8.2 Legislative/Risk Management

Primary Risk Type	Financial		
Inherent Risk	Likelihood	Consequence	Rating
	Low	Low	Low
Controls	Sale price and costs to external party		
Residual Risk	Low	Low	Low

8.3 Staffing/Work Plans

This activity can be accommodated within existing work plan of the Director Community & Corporate with assistance from the Chief Executive Officer.

8.4 Environmental/Social/Economic

Positive economic impacts to the broader district and the community are anticipated through the sale of Council owned land, whereby rates will be able to be raised on the property which are currently not able to be raised due to it being Council owned land.

In addition a new business will be operating within the township of Wirrabara, servicing the District and neighbouring Council areas.

8.5 Stakeholder Engagement

Not applicable – noting confidentiality provisions.

9. REPORT CONSULTATION

This matter has been discussed with the Chief Executive Officer and Director Infrastructure & Regulatory.

10. REPORT AUTHORISERS

Sam Johnson	Chief Executive Officer
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