

CONFIDENTIAL ITEMS 2003 – 16 SEPTEMBER 2014

#	Date	Item Title	Confidential Order Details	Item being kept confidential - Agenda/ Attachment/ Minutes	Reason regarding retention or recommend-action to release	Resolution Regarding Action	Last Review Date	Next Review Date	Date Released
91	18 Aug 2014	Land Acquisition Opportunity	<p>1. Pursuant to Section 90(3)(b) Pursuant to Section 90(2) of the Local Government Act 1999 the Council orders that all members of the public except the Chief Executive Officer, the four General Managers and the Minute Secretary be excluded from attendance at the meeting for Agenda Item 17.1 Strategic Land Acquisition Opportunity. The Council is satisfied that pursuant to Section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this agenda item is information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is:</p> <ul style="list-style-type: none"> - conducting business; - proposing to conduct business; and - would prejudice the commercial position of the Council <p>In addition the disclosure of this information would, on balance, be contrary to the public interest. The</p>	<p>Report inclusive of all attachments, related documents and minutes</p>	<p>The disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is:</p> <ul style="list-style-type: none"> - conducting business; - proposing to conduct business; and - would prejudice the commercial position of the Council <p>in that the information to be considered includes information, the disclosure of which could prejudice the Council's commercial</p>	<p>Be retained in confidence until:</p> <ul style="list-style-type: none"> • a contract has been executed by the parties for the sale and purchase of the land that is the subject of this report; • or 26 February 2015 whichever is the sooner. 	1 Sept 14	7 Sept 15	

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			<p>public interest in public access to the meeting has been balanced against the public interest in continued non-disclosure of this 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 commercial position may severely prejudice Council's ability to be able to negotiate a cost-effective proposal for the benefit of the Council and the community in this matter and in relation to other contract negotiations.</p> <p>5.Pursuant to Section 90 (3) (b) & (d.) That having considered Agenda Item 17.1 Land Acquisition Opportunity in confidence under 90(2) and (3)(b) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the council report inclusive of all attachments, related documents and all minutes be retained in confidence until:</p> <ul style="list-style-type: none"> • a contract has been executed by the parties for the sale and purchase of the 		<p>position during negotiations. In addition the disclosure of this information would, on balance,</p>				

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			land that is the subject of this report; • or 26 February 2015 whichever is the sooner.						

17. CONFIDENTIAL REPORTS

17.1 REPORT TITLE: CONFIDENTIAL ITEM: LAND ACQUISITION OPPORTUNITY
DATE OF MEETING: 18 AUGUST 2014
FILE NUMBER: 64/005/306

Moved Councillor Heath that Council:

Section 90 (3) (b) Order

1. Pursuant to Section 90(3)(b)

Pursuant to Section 90(2) of the Local Government Act 1999 the Council orders that all members of the public except the Chief Executive Officer, the four General Managers and the Minute Secretary be excluded from attendance at the meeting for Agenda Item 17.1 Strategic Land Acquisition Opportunity.

The Council is satisfied that pursuant to Section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this agenda item is information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is:

- conducting business;
- proposing to conduct business; and
- would prejudice the commercial position of the Council

in that the information to be considered includes information, the disclosure of which could prejudice the Council's commercial position during negotiations.

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 continued non-disclosure of this 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 commercial position may severely prejudice Council's ability to be able to negotiate a cost-effective proposal for the benefit of the Council and the community in this matter and in relation to other contract negotiations.

Seconded Councillor Irvine

CARRIED
OM20140818.15

Moved Councillor Westwood

2. Receive a verbal update from officers at the Council meeting on the status of discussions with representatives of the Adelaide Polo Club.

Seconded Councillor Campbell

CARRIED
OM20140818.16

Chief Executive Officer Mr Andrew Stuart provided a verbal update to Council on the status of discussions with representatives of the Adelaide Polo Club.

Moved Councillor Stokes

3. Authorise the Mayor and Chief Executive Officer to:
 - a. seek an on-site inspection of the polo fields site by the Deputy Premier John Rau MP; and
 - b. discuss with him the Council's objective to ensure that the State Government grant of \$1 million (received by Council in late 2013 but legally tied to the Polo Club land by Deed) is able to be retained by Council (in the event that a purchase of portion of the Polo Club land is not completed by Council by 31 December 2014) and applied by Council for the objective of securing land in Mount Barker for community open space.
4. Note the update report on progress to purchase an area of land of approximately 8 hectares from the Adelaide Polo Club for community open space.

Seconded Councillor Bailey

CARRIED
OM20140818.17

Moved Councillor Westwood that Council:

5. Pursuant to Section 90 (3) (b) & (d.)
That having considered Agenda Item 17.1 Land Acquisition Opportunity in confidence under 90(2) and (3)(b) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the council report inclusive of all attachments, related documents and all minutes be retained in confidence until:
 - a. a contract has been executed by the Council and the Adelaide Polo Club for the sale and purchase of approximately 8 hectares of the Adelaide Polo Club land on Fidler Lane/Barker Road to include the existing clubrooms building; or
 - b. 26 February 2015 whichever is the sooner.

Seconded Councillor Campbell

CARRIED
OM20140818.18

MEETING DECLARED CLOSED AT 9.47PM

17. CONFIDENTIAL REPORTS

17.1 REPORT TITLE: CONFIDENTIAL ITEM: LAND ACQUISITION OPPORTUNITY

DATE OF MEETING: 18 AUGUST 2014

FILE NUMBER: 64/005/306

Strategic Plan 2012-2017 Ref:

Urban Growth and Social Infrastructure

Outcome 9 Sport and recreation facilities to meet community need

Purpose:

To provide an update on the status of the Council offer submitted to the Adelaide Polo Club (APC) to purchase an area of land of approximately 8 hectares for community open space.

Summary – Key Issues:

- The Council offer of \$3.0 million for approximately 8 hectares including the clubrooms has not been accepted or rejected by the APC; and
- The APC representatives have indicated that the Council offer is being considered and they will be communicating with prospective developers regarding possible arrangements for the balance of the APC land.
- A further agenda item will be prepared once the position and intention of the APC in response to the Council offer is known.

Recommendation:

That Council:

Section 90 (3) (b) Order

1. Pursuant to Section 90(3)(b)

Pursuant to Section 90(2) of the Local Government Act 1999 the Council orders that all members of the public except the Chief Executive Officer, the four General Managers and the Minute Secretary be excluded from attendance at the meeting for Agenda Item 17.1 Strategic Land Acquisition Opportunity.

The Council is satisfied that pursuant to Section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this agenda item is information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is:

- conducting business;
- proposing to conduct business; and
- would prejudice the commercial position of the Council

in that the information to be considered includes information, the disclosure of which could prejudice the Council's commercial position during negotiations.

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 continued non-disclosure of this 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 commercial position may severely prejudice Council's ability to be able to negotiate a cost-effective proposal for the benefit of the Council and the community in this matter and in relation to other contract negotiations.

2. Receive a verbal update from officers at the Council meeting on the status of discussions with representatives of the Adelaide Polo Club.
3. Authorise the Mayor and Chief Executive Officer to:
 - a. seek an on-site inspection of the polo fields site by the Deputy Premier John Rau MP; and
 - b. discuss with him the Council's objective to ensure that the State Government grant of \$1 million (received by Council in late 2013 but legally tied to the Polo Club land by Deed) is able to be retained by Council (in the event that a purchase of portion of the Polo Club land is not completed by Council by 31 December 2014) and applied by Council for the objective of securing land in Mount Barker for community open space.
4. Note the update report on progress to purchase an area of land of approximately 8 hectares from the Adelaide Polo Club for community open space.
5. Pursuant to Section 90 (3) (b) & (d.)
That having considered Agenda Item 17.1 Land Acquisition Opportunity in confidence under 90(2) and (3)(b) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the council report inclusive of all attachments, related documents and all minutes be retained in confidence until:
 - a contract has been executed by the Council and the Adelaide Polo Club for the sale and purchase of approximately 8 hectares

of the Adelaide Polo Club land on Fidler Lane/Barker Road to include the existing clubrooms building;

- or 26 February 2015 whichever is the sooner.

Background:

1. As per the Council Master Plan for the Ministerial DPA growth area, there are three locations planned for new sports and recreation facilities being:
 - Council owned land on Springs Road – a regional level facility (ex Stephenson family land);
 - The existing polo fields on Fidler Lane; and
 - Land owned by the Herbig family on Bollen Road.
2. For the Council owned land on Springs Road, concept design work is now being undertaken, assisted by a State Government grant.
3. For the Herbig family land on Bollen Road, this is expected to be the subject of a Council meeting agenda item in the coming months.
4. Council Members have inspected all three sites.
5. Acquisition of land from the APC for this purpose has been the subject of numerous previous Council meeting agenda items, the most recent of these was a confidential item considered at the Council meeting held on 23 June 2014 which included a resolution that a further report be provided by no later than 25 August 2014.
6. To convey the outcomes of the Council meeting on 23 June 2014 a Council letter to the Adelaide Polo Club (APC) was provided at a meeting with APC representatives on 26 June 2014.

Discussion:

7. The APC representatives indicated at the meeting that the contract executed by Council to purchase approximately 8 hectares of the APC land for the amount of \$2.5 million with a lease back to the APC and a commitment by Council to spend a minimum of \$0.5 million to upgrade the land to be purchased for active recreation and sport use (within 12 months of the APC providing vacant possession) would not be executed by the APC.
8. The APC representatives did express interest in Council purchasing the approximately 8 hectares for \$3.0 million which is within the parameters of the resolutions of the Council meeting on 23 June 2014.

9. Additional work was subsequently undertaken by Council officers on issues raised by the APC representatives at the meeting. This included matters like the actual footprint of the approximately 8 hectares (the existing clubrooms is included), electrical and wastewater services, the process for creation of a new allotment to create an 8 hectare parcel etc.
10. The additional information was forwarded to the APC in a draft Council letter dated 2 July 2014.
11. A further meeting was held with representatives of the APC on 17 July 2014.
12. The meeting was constructive with recognition from the APC representatives that prospective developers for the balance of the APC site (if 8 hectares was sold to Council) would be seeking information from the APC and Council.
13. Understandably the APC representatives are seeking to establish what arrangement could be secured from prospective developers for the balance of the APC land.
14. The APC representatives verbally indicated that they would endeavour to provide clear direction to Council on the status of the Council offer (\$3.0 million) by the end of the first week in September 2014.
15. There has not been any communication with Council officers by the APC representatives since the 17 July 2014 meeting.
16. As previously the APC representatives did make known that there would again be periods of time when they would be remote from Adelaide.
17. Council officers are aware that recent contact has been made by representatives of the APC with some prospective developers.
18. An email communication was sent by Council to the APC representatives on 7 August 2014 seeking a brief update on the status of this matter on a confidential basis.
19. At the time of preparing this agenda item a response was yet to be received. Hence the recommendation for a verbal update to be provided by officers at the Council meeting.
20. The Council caretaker period timing and implications have been made known and reaffirmed with the APC representatives.

21. An example of a matter requiring a resolution of the Council is the variation to the previous lease back area and potentially the timing of same.
22. The \$1 million State Government grant that Council received in December 2013 is the subject of a Deed.
23. The Deed restricts the use of the grant funds to contribute to the purchase of land from the APC and requires that the purchase be completed by 31 December 2014 "or such other date as is mutually agreed in writing by the parties."
24. Council is seeking to arrange for the Deputy Premier John Rau MP to undertake a site inspection of the APC land next month and to brief him on the 'state of play' with the objective being to seek to ensure that the grant funds are not forfeited.
25. A further agenda item will be prepared once the position and intention of the APC in response to the Council offer to purchase approximately 8 hectares of the APC land for the amount of \$3 million (with a lease back to the APC of portion of the site) is known.

Community Engagement:

Informing only	Not applicable
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Policy:

Not applicable.

Budget:

The 2014/15 budget has provision for this purchase.

Statutory/Legal:

If the Council offer of \$3.0 million is successful, settlement would not be possible until a legal parcel is created via a development application for the creation of a new allotment.

Staff Resource Requirements:

The recommendations can be implemented within existing staff resources.

Specialist external advice is procured as required e.g. legal for the preparation of a contract for the sale and purchase of land and if the Council offer is successful conveyancing services to enable transfer of the land.

Environmental:

It is intended that irrigation of the proposed recreation and sport playing fields would be achieved via the use of Council's recycled water supply.

Social:

The proposal to acquire the approximately 8 hectares of land for community open space will assist in meeting the identified social needs (for recreation, sport and community facilities) of the future population in Mount Barker, Littlehampton and Nairne, and the broader District.

Risk Assessment:

Refer above regarding the State Government grant of \$1 million.

Council still awaits formal advice from SAPN regarding a decision on the location for the 66Kv route. Latest advice from SAPN is that further progress has been made internally. It remains Council's expectation that option 3 (no direct impact on the polo grounds) will be the SAPN decision.

Asset Management:

Council would assume responsibility for the management of any land purchased except where there is a lease back to the APC or other arrangement entered into e.g. shared maintenance of facilities with a school.

Conclusion:

The APC is considering the Council offer to purchase approximately 8 hectares (including the clubrooms) for \$3 million and a response is expected from the APC by early September as to their intentions.

Key Contact

Brian Clancey, General Manager Infrastructure & Projects

Sponsor of Project

Andrew Stuart, Chief Executive Officer

Attachments

Nil