

CONFIDENTIAL ITEMS 2003 – OCTOBER 2020

#	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
151	7 September 2020	Disposal of 64 Alexandrina Road Mount Barker	<p>Section 90 (3) (b) Order</p> <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, Deputy Chief Executive Officer / General Manager Governance, Strategic Projects and Wastewater/Recycled Water, General Manager Planning and Development, Chief Financial Officer, General Manager Community Services, Strategic Property and Projects Manager and Minute Secretary, be excluded from attendance at the meeting for Agenda Item 18.1 (Disposal of 64 Alexandrina Road, Mt Barker).</p> <p>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 prejudice the commercial position of the Council.</p> <p>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</p>	Council report, related documents and all minutes	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.	Retained in confidence until the sale of the property has settled or such lesser period as may be determined by the Chief Executive Officer and that this order be reviewed every 12 months.		Within 12 months	<i>Report and Minutes released on website 25 November 2020</i>

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			<p>Council and the community in this matter and in relation to other contract negotiations.</p> <p><u>Section 91(7) Order</u></p> <p><u>Pursuant to Section 90 (3) (b)</u></p> <p>2. That having considered Agenda Item 18.2 (Update on the sale of 64 Alexandrina Road, Mt Barker), 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, related documents and all minutes be retained in confidence until the sale of the property has settled or such lesser period as may be determined by the Chief Executive Officer and that this order be reviewed every 12 months.</p>						
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18. CONFIDENTIAL REPORTS

18.1 REPORT TITLE: CONFIDENTIAL ITEM: DISPOSAL OF 64 ALEXANDRINA ROAD MT BARKER

DATE OF MEETING: 7 SEPTEMBER 2020

FILE NUMBER: DOC/20/118072

ATTACHMENTS: NIL

Key Contact David Morton, Strategic Property and Projects
Manager, Corporate Services

Manager/Sponsor Alex Oulianoff, Chief Financial Officer, Corporate Services

Mount Barker 2035 – District Strategic Plan:

GL 4.1 Manage assets and liabilities through a planned, long term approach.

Annual Business Plan:

The sale of the property is part of the funding package for the Environmental Services Centre which is completed.

Purpose:

To seek Council approval to accept an offer for 64 Alexandrina Road.

Summary – Key Issues:

Key Points (Limit to one sentence).

1. The EOI which closed in June 2019 did not result in any acceptable offers for the property.
2. Further environmental testing was undertaken on the property.
3. A cash offer of \$520,000 has now been received for the property and is recommended for acceptance.

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, Deputy Chief Executive Officer / General Manager Governance, Strategic Projects and Wastewater/Recycled Water, General Manager Planning and Development, Chief Financial Officer, General Manager Council Services, Strategic Property and Projects Manager and Minute Secretary, be excluded from attendance at the meeting for Agenda Item 18.1 (Disposal of 64 Alexandrina Road, Mt Barker).

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 prejudice the commercial position of the Council.

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. Approves the sale of the property to Niatron Pty Ltd or nominee for \$520,000 (exclusive of GST).
3. Gives delegation to the Mayor and Chief Executive Officer to execute all documents required to finalise the sale.

Section 91(7) Order**Pursuant to Section 90 (3) (b)**

4. That having considered Agenda Item 18.2 (Update on the sale of 64 Alexandrina Road, Mt Barker), 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, related documents and all minutes be retained in confidence until the sale of the property has settled or such lesser period as may be determined by the Chief Executive Officer and that this order be reviewed every 12 months.

Background:

1. The property is zoned residential but also has existing use rights as a Public Service Depot which are limited to a government or utility depot.
2. Council's Planning Team has advised that the existing use rights would not allow other industrial related uses such as storage by community organisations or the private sector.
3. An Independent Environmental Auditor's sign off would be required by the Environmental Protection Authority before residential development could occur and would entail demolishing the existing buildings followed by further environmental testing.
4. At its meeting on 1 April 2019 Council approved the commencement of an Expressions of Interest (EOI) for the sale of the property and resolved to: *Approve the commencement of an Expressions of Interest (EOI) for the sale of the property, 64 Alexandrina Road, Mt Barker; and*
Note that following completion of the EOI a further report will be provided on the results and the recommended strategy to finalise a sale with any acceptable offers.
5. The EOI closed on 16 June 2019 and two offers were submitted:
 - A cash offer of \$800,00 subject to soil sampling. Following a belated review of the environmental report this was reduced to \$280,000 and was rejected by Council. The offer was later increased to \$300,000 and also rejected.
 - A joint venture proposal with a profit share (after costs) of 30% to the Joint Venturer and 70% to Council. No price was nominated.
6. Council's valuation of the land, updated on 3 September 2020, is \$360,000 (allowing for the cost of further environmental testing and demolition).
7. In January 2020 Council undertook further environmental testing to improve certainty for purchasers, the results were provided to Council in an information report on 2 March 2020. The report confirmed that only minor further contamination was found.
8. Based on the further testing results the cost of getting an Independent Environmental Auditor sign off is estimated to be \$240,000 including demolition, testing and contingency.

9. There has been no interest in the property's existing use as a Public Service Depot.
10. The joint venture proposal was not pursued because the cash offer was considered to be more attractive, the company that made that proposal has advised that it has no further interest.
11. Following completion of the new environmental report the agent undertook further marketing. This resulted in two offers from new interest in the property:
 - A cash offer from Niatron Pty Ltd of \$500,000 which when not accepted by Council was increased to \$520,000.
 - An offer from DBE Developments of \$800,000 subject to the following conditions:
 - Council to remediate the land and obtain an auditor sign off for residential development.
 - Subject to the purchaser obtaining Development Approval for an application which is not detailed.

Discussion:

12. The DBE Investments conditions would involve considerable effort and risk for Council. There is no certainty with the Independent Auditor process and the amount of testing needed is entirely at the discretion of the Auditor, costs often substantially increase above the estimated budget.
13. There is also a the risk that the purchaser would not obtain the required Development Approval and terminate the contract resulting in substantial further expenditure for Council without any return.
14. Allowing for the estimated costs to Council of \$240,000 and the cost of interest until settlement (likely to take at least a year) the DBE offer would provide a net return of approximately \$540,000.
15. The \$520,000 offer from Niatron is unconditional with prompt settlement. It is understood that this represents Niatron's highest and best offer. The offer is considerably higher than the current valuation of \$170,000 (to be updated).
16. Niatron has provided examples of other projects which demonstrate its capability to undertake a quality of development appropriate to the site.
17. In developing the property Niatron will be required to undertake full remediation to the EPA mandated residential standard at no cost to Council.
18. The Niatron offer is therefore recommended for acceptance.
19. The net proceeds from the sale have been allocated by Council to retire debt from the construction of the Environmental Services Centre.

Community Engagement:

Informing only	Not applicable.
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Policy:

Disposal of Council Land and Other Assets

Long Term Financial Plan:

The sale of the former Field Services Centre/Depot site was included in a previously adopted LTFP as a deferred funding source for the new Environmental Service Centre.

Budget:

Minor costs for an updated valuation and contract/conveyancing will be funded from the proceeds of the sale. If the sale is approved proceeds will be received in the 20/21 financial year.

Statutory/Legal:

The land was excluded from Community Use Classification by Council resolution in December 2002.

Staff Resource Requirements:

The sale is being undertaken with existing staff resources and the appointed real estate agent.

Environmental:

If residential use is proposed a Site Audit Report would be required with sign off by an Independent Environmental Auditor. If a change of use to residential is proposed it is expected that current buildings on the site will need to be demolished before the Environmental Audit can be completed.

Social:

Adjoining owners, especially those to the east will have an interest in the end use of the site when sold. This will be dealt with through the planning assessment process.

Risk Assessment:

A risk assessment has been prepared for the sale process and will be regularly updated.

Asset Management:

The sale of the depot will reduce Council's ongoing maintenance and operating expenditure.

Conclusion:

The EOI did not result in any acceptable offers for the property, following further environmental testing the cash offer from Niatron of \$520,000 is recommended for acceptance.

Previous Decisions By/Information Reports to Council

Meeting Date	1 April 2019	HPRM Reference	DOC/19/030391
Title	Proposed Disposal of 64 Alexandrina Rd Mt Barker.		
Purpose	To seek Council approval to proceed with the sale of 64 Alexandrina Road subject to vacant possession.		

Meeting Date	2 March 2020	HPRM Reference	DOC/20/17068
Title	64 Alexandrina Rd Soil and Groundwater Testing Results		
Purpose	To Advise Council of the results of Environmental Groundwater and Soil Testing for the former Field Services Site on Alexandrina Road property.		

RELEASED

17. QUESTIONS ARISING FROM THE COUNCIL MEETING

NIL

18. CONFIDENTIAL REPORTS

18.1	REPORT TITLE:	CONFIDENTIAL ITEM:	DISPOSAL OF 64 ALEXANDRINA ROAD MT BARKER
	DATE OF MEETING:	7 SEPTEMBER 2020	
	FILE NUMBER:	DOC/20/118072	
	ATTACHMENTS:	NIL	

Moved Councillor Morrison 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, Deputy Chief Executive Officer / General Manager Governance, Strategic Projects and Wastewater/Recycled Water, General Manager Planning and Development, Chief Financial Officer, General Manager Community Services, Strategic Property and Projects Manager and Minute Secretary, be excluded from attendance at the meeting for Agenda Item 18.1 (Disposal of 64 Alexandrina Road, Mt Barker).

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Seconded Councillor Bailey

CARRIED
OM20200907.26

Moved Councillor Morrison that Council:

2. Approves the sale of the property to Niatron Pty Ltd or nominee for \$520,000 (exclusive of GST).
3. Gives delegation to the Mayor and Chief Executive Officer to execute all documents required to finalise the sale.

Seconded Councillor Bailey

CARRIED
OM20200907.27

Moved Councillor Westwood that Council:

Section 91(7) Order

Pursuant to Section 90 (3) (b)

4. That having considered Agenda Item 18.2 (Update on the sale of 64 Alexandrina Road, Mt Barker), 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, related documents and all minutes be retained in confidence until the sale of the property has settled or such lesser period as may be determined by the Chief Executive Officer and that this order be reviewed every 12 months.

Seconded Councillor Seager

CARRIED
OM20200907.28

MEETING DECLARED CLOSED AT 9.28PM

MAYOR

DATE