

15.1 Offer to Purchase - Lot 638 CT 5716 Folio 797, Mount Compass (Confidential)

ACM15376 Moved Cr Stewart seconded Cr Gartrell:

That pursuant to Sections 90 (2) and (3) (b) (i) of the Local Government Act 1999, the Council orders that the public be excluded from the meeting with the exception of the Chief Executive, Minute Taker, General Managers, Executive Assistant, Acting General Manager Organisation & Culture and the officer responsible for the report, on the basis that the Council considers it necessary and appropriate to act in a manner closed to the public in order to receive, discuss and consider information by way of a report and associated documents in relation to agenda item 15.1 Offer to Purchase – Lot 638 CT 5716 Folio 797, Mount Compass and the Council is satisfied that the meeting should be conducted in a place open to the public is outweighed in relation to the matter because receiving, considering and discussing the report and associated documentation contains/involves:

- (b) information in the disclosure of which –
 - (i) 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

Substantiation:

To allow confidential evaluation and decision on an offer to purchase operational land in Mount Compass.

CARRIED UNANIMOUSLY

ACM15377 Moved Cr Gartrell seconded Cr Lume:

The Council resolves:

1. To note the unsolicited offer received by Brujoh Pty Ltd (Brujoh) for the development of Lot 637 in Filed Plan 164460 (Lot 637), Lot 638 in Filed Plan 164461 (Lot 638) and Lot 639 in Filed Plan 164462 (Lot 639) as outlined in Confidential Attachment 15.1[a] to this report, and including the proposed plans of development that formed Confidential Attachment 15.1[b] to this report (Offer).
2. That following consideration of its 'Disposal of Council Land and Other Assets Policy' (Policy):
 - 2.1 Council notes its consideration of the matters to be considered in determining whether to dispose of Council land, and specifically in section 4 of the Policy;
 - 2.2 Council notes that the Policy permits it to dispose of Council land by direct negotiation 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;

- 2.3 Council notes its existing strategic objective for Lot 637, Lot 638 and Lot 639 to be developed to provide a new supermarket and other facilities for the community as part of the Mount Compass Commercial Precinct and Master Plan, which drove it to enter into existing arrangements with Jed Hicks, Bruce Hicks and Melita Hicks;
 - 2.4 Council notes its consideration of the matters listed on page 4 of the Policy which are to be considered in determining the most suitable method of disposing of Council land; and
 - 2.5 Council determines that it is appropriate to negotiate the disposal of Lot 638 and its interest in Lot 637 to Brujoh for the purpose of facilitating the development outlined in the Offer and the community benefits that it will deliver in line with the Mount Compass Commercial Precinct and Master Plan.
3. That the Council authorises the Chief Executive Officer to negotiate with Brujoh, Jed Hicks, Bruce Hicks and Melita Hicks suitable agreements for Brujoh to:
- 3.1 acquire Lot 638 from the Council; and
 - 3.2 acquire the Council's interest as purchaser or some other suitable interest in Lot 637; or the purpose of facilitating a development on Lot 637, Lot 638 and Lot 639 by Brujoh substantially on the basis set out in the Offer, and on the following key terms:
 - 3.3 that the purchase price for Lot 638 is at or above the current market value, which is to be determined by the average of two independent valuations to be obtained by the Chief Executive Officer;
 - 3.4 that the consideration for the acquisition of the Council's interest as purchaser of Lot 637, or the Council's surrender of its rights over Lot 637, represents good value for the Council;
 - 3.5 that commitments are given by Brujoh to the Council as to the commencement and completion of the development outlined in its Offer;
 - 3.6 that disposal of Lot 638 and Council's interest in Lot 637 be subject to Brujoh Pty Ltd becoming the legal owner of Lot 639, and in any other respect subject to such other terms as the Chief Executive Officer determines to be appropriate and in the Council's interests.

4. Prior to the execution of the agreement, the Chief Executive Officer provide Council with a report on the discussions between Brujoh Pty Ltd and the occupiers of the Mount Compass pharmacy, medical centre and post office.
5. That the Council authorises the Chief Executive Officer to execute all agreements negotiated for the purposes of paragraph 3 and all other documents required to give effect to those agreements.
6. That pursuant to Sections 91(7) and (9) of the Local Government Act 1999 (SA) (Act), the Council orders that the report, minutes, attachments and associated documents of the Council meeting held on 21 September 2015 in relation to confidential item number 15.1 and titled Offer to Purchase – Lot 638 CT 5716 Folio 797, Mount Compass having been considered and dealt with by the Council on a confidential basis under Part 3 of the Act, are to be kept confidential and not available to the public for a period of twelve months from the date of this confidentiality order, or unless revoked earlier by the Chief Executive Officer in accordance with paragraph 6 of this resolution, on the basis that they contain the following information or matter:
 - 6.1 Information the disclosure of which –
 - (i) 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; and
 - (ii) would, on balance, be contrary to the public interest;

as these documents contain information relating to:

 - (i) the Council's consideration of its commercial position on, and response to, the Offer which remains subject to commercial negotiation; and

That pursuant to section 91(9)(c) of the Act the Council delegates to the Chief Executive Officer the power to revoke the order made in paragraph 5 of this resolution at any time.

CARRIED