

10.1 Proposed Open Space Acquisition - Sturt River Linear Park

This report seeks approval from Council to purchase land at 384 Main Road, Coromandel Valley to form part of the Sturt River Linear Park.

This is a new proposal, concept or issue.

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Contact Number: 8384 0642
Attachments: 1. Aerial View of site (1 page)
2. Valuation from Southwick Goodyear Pty Ltd (18 pages)

1 Executive Summary

1.1 Topic

This report seeks approval from Council to purchase land at 384 Main Road, Coromandel Valley to form part of the Sturt River Linear Park.

1.2 Context

This report has been prepared to detail information for Council to make a determination on the proposed acquisition of land to form part of the Sturt River Linear Park. A separate report is contained within the non-confidential section of this Agenda to provide relevant background information.

The property is located at 384 Main Road, Coromandel Valley and is one of the properties identified as a priority one acquisition. Council approached the owner in October 2005 where negotiations took place but terms of a suitable acquisition were not met at that time. Council were invited by the owner to renegotiate a possible acquisition of the subject property recently in 2008.

1.3 Suggested Outcome

Acquisition of the property located at 384 Main Road, Coromandel Valley for consolidation into the Sturt River Linear Park.

It is suggested that Council consider this report in confidence.

If the information is not considered in confidence it could reasonably be expected to confer a commercial advantage on a person with whom the Council is proposing to conduct business, or to prejudice the commercial position of the Council. It is considered appropriate to invoke Section 90 (3)(b)(i)(ii) for

Council to consider this matter. It is considered that the commercial nature of this transaction coupled with the potential risk to Council, should Council offer to the vendor be disclosed in the wider public, is justified for the use of the confidentiality provisions.

2 Recommendation(s)

- 1 (a) That under the provisions of Section 90(2) of the Local Government Act 1999 an order be made that the public be excluded from attendance at the meeting in order to consider in confidence this item.**
 - (b) That the Council is satisfied that it is necessary that the public be excluded to enable the Council to consider the report at the meeting on the following grounds:**
 - Section 90(3)(b)(i)(ii) 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.**
 - (c) That accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or discussion confidential.**
- 1. That Council receive this report.**
 - 2. For the property at 384 Main Road, Coromandel Valley being Allotment 97 in Filed Plan 149182 Certificate of Title Volume 5353 Folio 115:**
 - (a) That Council approve the acquisition for inclusion into the Sturt River Linear Park in accord with the land acquisition priorities identified within the Sturt River Linear Park Strategy.**
 - (b) That Council authorise the Chief Executive Officer to negotiate purchase of the land for no more than \$385,000 (excluding GST) plus fees charges and associated costs.**
 - (c) That Council fund the purchase through a transfer from the Sturt River Linear Park Trust Fund.**
 - (d) That Council seek reimbursement from Planning SA for up to 50% of the purchase price.**

3. That Council authorise the Mayor and the Chief Executive Officer to complete any documentation necessary to purchase the land.
4. That Council authorise the Mayor and the Chief Executive Officer to complete any necessary documentation for a leaseback of the property to the current owner or a rental agreement to a suitable tenant until the site is required as public reserve.
5. That an order be made under the provisions of Section 91(7) and (9) of the Local Government Act 1999 that this document (or part of such document) including the minutes and the report of the Council relating to discussion of the subject matter of that document, having been dealt with on a confidential basis under Section 90 of the Act, should be kept confidential on the grounds of information contained in 90(3)(b)(i)(ii) until settlement has been completed.

Key Factors

3 Resource Implications

3.1 Financial

3.1.1 Current

An independent valuation of the subject property undertaken by Southwick Goodyear Pty Ltd recommends a market value of \$350,000.

In cases such as these where the property has a strategic value to Council it may be considered reasonable to pay up to 10% above market value to secure the property. The figure of 10% is generally accepted by the Valuer General as a reasonable premium to pay to secure a property with strategic value.

We have been approached by the owner of a property which is identified as a priority purchase in the Sturt River Linear Park. As a consequence of this, we now need to determine, given that Council does not wish to undertake compulsory acquisition of these land parcels, whether an above market purchase price is appropriate. In February 2007 Council acquired a property at 74 Winns Road, Coromandel Valley for inclusion into the Sturt River Linear Park, which also represented an above valuation purchase price of the assessed value plus 10%.

In line with the above it is proposed that Council offer \$385,000 being the valuer's assessed value plus 10%, in order to secure acquisition of the property (Attachment 2).

Under guidelines prepared by Planning SA they can provide up to 50% of the purchase price subject to that price not being in excess of 10% above the market valuation. Council's contribution will be funded from the Sturt Linear

Land Purchase Reserve. This reserve currently holds approximately \$626,000 and will be reviewed in the annual 2009/2010 budget.

Discussions with Planning SA have confirmed funding is still available. An initial application has been forwarded with a full application to follow should Council consent to this arrangement.

3.1.2 Future

Potential net annual rental income of around \$10,000 could be achieved until the site is required, allowing for maintenance, outgoings and agency fees of approximately \$3,500.

A separate budget bid will be presented to Council for any proposed development of the park as part of the Sturt River Linear Project.

4 Discussion

The site for the proposed acquisition is shown as Allotment 97 in Filed Plan 149182 in Certificate of Title Volume 5353 Folio 115. The property contains an area of approximately 1620 square metres and includes a detached Symmetrical Cottage style single storey dwelling of approximately 109 square metres.

The property is contained within the Residential zone, Policy Area 43, Coromandel Valley Policy.

The Sturt River Linear Park Strategy identifies this site as a level one acquisition and it is shown as priority number 5 out of 18 within the Strategy. Since the Strategy was last reported to Council, the property shown as priority number ten (ie 74 Winns Road) has been acquired and discussions also held with most of the other land holders identified in the priority list.

The whole of the land parcel is required for consolidation into the linear trail and any existing structures on the site would eventually need to be removed. There is a proposed four year implementation plan subject to the outcomes of the detailed designs.

On purchase the site would become classified as Community Land.

The property is currently occupied by the owner and it is preferred that the building remain occupied until required for use as part of the linear park. The current owner may consider a leaseback of the property until they purchase an alternative dwelling. Failing this Council could rent the property to a suitable tenant to maintain a presence in the building.

10.2 Development Assessment Panel - Appointment of Public Officer

Pursuant to Section 56A(22) of the Development Act 1993 Council must appoint a Public Officer to perform certain duties related to the Council's Development Assessment Panel.

This is an update on a previously reported project, concept or issue.

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Report Author: Terry Sutcliffe, General Manager City Development
Contact Number: 8384 0748
File Reference: -
Attachments:

1 Executive Summary

1.1 Topic

Pursuant to Section 56A(22) of the *Development Act 1993* (the Act), Council must appoint a Public Officer to perform certain duties related to the Council's Development Assessment Panel.

1.2 Context

It was reported to Council at its meeting on 20 February 2007 that the introduction of legislation for independent Development Assessment Panels (DAP) also required the appointment of a "Public Officer" for the DAP under the Development Act.

Council appointed the Chief Executive Officer to the position of DAP Public Officer on an interim basis on 20 February 2007, pending the finalisation of arrangements to appoint an external person to the position.

It was originally intended that the appointment would be considered in conjunction with the appointment by Council of an external person to the position of "honest broker" with a role in the review of Council and administrative decisions, given the synergies between the two roles. However the timing of the introduction of legislative amendments introducing the position of Public Officer required the interim arrangements to be put in place. Issues regarding appointment of external persons to these roles, particularly matters such as indemnity and insurances, have now been resolved, and a suitable candidate identified.

1.3 Suggested Outcome

That Council make an offer of appointment to the position of Public Officer.

It is suggested that this report is considered by Council in confidence. Section 90 (2)(a) (personal affairs) is recommended as the most appropriate section of the Local Government Act 1999 to use for this purpose. If the report is not considered in confidence, the personal affairs of an individual could become publicly available.

2 Recommendation(s)

1. That

under the provisions of Section 90(2) of the Local Government Act 1999 an order be made that the public be excluded from attendance at the meeting in order to consider in confidence this item.

the Council is satisfied that it is necessary that the public be excluded to enable the Council to consider information at the meeting on the following grounds:

- (a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);**

That accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or discussion confidential.

- 2. That Council make an offer of appointment to Mr Robert (Bob) John Fuss as Public Officer pursuant to Section 56A(22) of the *Development Act 1993*, in accordance with the general terms and conditions incorporated into the agenda report, for a period of three years.**
- 3. That the Chief Executive Officer be delegated authority to negotiate and finalise the appointment on behalf of Council within the general intent and parameters of Council's decision.**
- 4. That an order be made under the provisions of Section 91(7) and (9) of the Local Government Act 1999 that the report of the Council relating to discussion of the subject matter of that document, having been dealt with on a confidential basis under Section 90 of the Act, should be kept confidential on the grounds of information contained in 90(3)(a) and that the need or otherwise for continued confidentiality be reviewed no later than 12 months from the date of decision.**
- 5. That the Chief Executive Officer be delegated authority to announce the appointment of the Public Officer as soon as it has been finalised, and provide notice of the appointment pursuant to Section 56A(23) of the *Development Act 1993*.**

Key Factors

3 Discussion

The appointment of a Public Officer to the Council's Panel is a requirement under the DAP arrangements introduced by the Government in 2006.

The functions of the Public Officer are set out under section 56A(24) of the Act as follows:

"...include ensuring the proper investigation of complaints about the conduct of a member of the relevant Panel..."

The only criterion in the Act guiding the appointment of the Public Officer is that the Officer must not be a member of the Panel.

In considering the options of an "in-house" Public officer versus an external appointment, given the role of the Public Officer defined under the Act, an external appointment of an independent person is recommended. This ensures an appropriate level of transparency, impartiality and objectivity in the handling of any complaints. In addition it is possible a complaint could generate a lengthy and comprehensive investigatory process, and an independent, external, appointment allows the process to proceed with limited impact upon administrative or Elected Member resources.

Given the specialist nature of the position, Mr. Bob Fuss has been identified as a particularly well-qualified and appropriate person to hold the position. Mr. Fuss' qualifications and experience include:

- 20 years experience to 2007 in the SA Ombudsman's office as Deputy South Australian Ombudsman, responsible for management of up to 20 staff of the Ombudsman's office and a budget of \$1.5 million; overseeing investigations by staff of complaints made to the Ombudsman and personally conducting investigations and seeking to resolve complaints where major issues were involved.
- 12 years experience prior to this in a personnel role in State Government.
- A Bachelor of Science (Hons).

Following an initial approach to Mr Fuss to determine his interest in accepting the position, Mr Fuss has confirmed his interest. The general terms of the appointment are proposed to be:

- Appointment for a three year period (to take the appointment to early in the new Council term post-election in 2010).
- Remuneration to be on a "fee for service" basis on an hourly rate of \$125.00/hour and \$62.50/hour for travelling, periodically reviewed.

- The Public Officer to report to Council on the first anniversary of appointment and annually thereafter on the matters considered in the preceding twelve months.

11. Closure

Declarations of Interest

Council Meeting Date:		Councillor:
Item No. (e.g. 3.1)	Declaration of Interest <i>(where a member has an interest that does not lead to a conflict)</i>	Declaration of Conflict of Interest <i>(where a member has an interest that leads to a conflict)</i>

**# IF YOU REQUIRE ANY ASSISTANCE WITH THIS FORM OR WITH THIS PART OF THE ACT,
PLEASE PHONE PENNY MOORE ON 8384 0566.**
