NOTICE OF SPECIAL COUNCIL MEETING

Notice is hereby given that a Special Meeting of Council will be held on Tuesday 18 September 2018, in the Council Chambers, 43 – 51 Tanunda Road, Nuriootpa, commencing at 9.05am.

Martin McCarthy
CHIEF EXECUTIVE OFFICER
THE BAROSSA COUNCIL

A G E N D A

1. THE BAROSSA COUNCIL
   1.1 Welcome by Mayor Sloane - meeting declared open
   1.2 Present
   1.3 Leave of Absence
       Cr Scotty Milne
   1.4 Apologies for Absence
   1.5 Notice of Motion
       Nil

2. DEBATE AGENDA
   Nil

3. CONFIDENTIAL AGENDA
   3.1 CHIEF EXECUTIVE OFFICER
       3.1.1 Strategic Land Purchase 2 - Update

4. NEXT MEETING
   4.1 Tuesday 16 October 2018 at 9.00am

5. CLOSURE
3.1 CHIEF EXECUTIVE OFFICER - CONFIDENTIAL

3.1.1 STRATEGIC LAND PURCHASE 2 - UPDATE

The matter of the agenda item being the update on negotiations to undertake a strategic land purchase from a landowner could reasonably be expected to commercially disadvantage negotiations should it be made public and put at risk the ability to conclude a successful commercial and community outcome by Council. Therefore pursuant to Section 90(3)(b) of the Local Government Act 1999 (“the Act”) being information that 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.

There is strong public interest in enabling members of the public to observe Council’s transparent and informed decision-making. This helps to ensure accountability, maintain transparency of public expenditure, facilitate public participation, assist public awareness and allow for the scrutiny of information. Attendance at a Council meeting is one means of satisfying this interest. The public will only be excluded from a Council meeting when the need for confidentiality pursuant to Section 90(2) of the Act outweighs the public interest of open decision-making.

In this matter, the reasons that receipt, consideration or discussion of the information or matter in a meeting open to the public would be contrary to the public interest are that it would disclose the commercial pricing and offer position of Council and this would give an unfair advantage to a person with whom the Council proposes to
do business or third parties also making offers to purchase the subject land in Nuriootpa.

On balance, the above reasons which support the need for confidentiality pursuant to Section 90(2) of the Act outweighs the factors in favour of the public interest of open decision-making.

**RECOMMENDATION**

That Council:

1. Under the provisions of Section 90(2) of the Local Government Act 1999, make an order that the public be excluded from the meeting with the exception of the Chief Executive Officer, Director Corporate and Community Services, Director Development and Environmental Services, Director Works and Engineering, and the Minute Secretary, in order to consider in confidence a report relating to Section 90(3)(b) of the Local Government Act 1999, relating to agenda item 3.1.1 Strategic Land Purchase 2 - Update being information that must be considered in confidence in order to ensure that the Council does not disclose information that 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; and

2. Accordingly, on this basis, Council is satisfied that public interest in conducting meetings in a place open to the public has been outweighed by the need to keep the information and discussion confidential to ensure that disclosure of commercial pricing and the offer position of Council would not give rise to an unfair advantage to a person with whom Council proposes to do business.
3.1 CONFIDENTIAL AGENDA – CHIEF EXECUTIVE OFFICER

3.1.1 STRATEGIC LAND PURCHASE PROPOSAL 2 - UPDATE
B7321

PURPOSE
To seek further consideration by Council on making a final offer to purchase strategic land to support The Big Project implementation for the Nuriootpa Centennial Park (the Park) for land adjacent to the northern boundary of the Park.

RECOMMENDATIONS
That Council, having noted the negotiations to date and the resolution of 11 September 2018, resolve to:

1. Authorise the Chief Executive Officer to make a final offer of $675,000 to purchase 20 Prider Street, Nuriootpa being allotment 130 in the deposited plan 43207 in the Hundred of Moorooroo, certification of title volume 5307 folio 771.

2. Authorise a further budget adjustment of $30,000 to the 2018-19 budget for the purposes of purchasing the land and costs associated with settlement.

3. Having considered this matter in confidence under Section 90(2) of the Local Government Act 1999 in accordance with Section 90(3)(b)(i) and (ii) of the Act, makes an order pursuant to Section 91(7) of the Act, that the report, attachments, analysis and minutes other than the minutes relating to this confidentiality order of the Confidential Council Meeting held on 18 September 2018 in relation to item 3.1.1 Strategic Land Purchase Proposal 2 - Update be kept confidential and not available for public inspection (noting the Chief Executive Officer will release information on a confidential basis to relevant parties including the landowner, or his representative and legal and other support as necessary) until the recommendations contained herein are resolved and any resulting transactions are fully concluded and authorises the Chief Executive Officer to review and revoke the order subject to ensuring compliance with Section 91(8)(c) of the Local Government Act.

REPORT
Background
The prior report and background are provided at the Attachment.
Discussion
In accordance with Council’s instructions of 11 September 2018 an offer was put to the land owner via Elders Real Estate on 12 September 2018, this was rejected and countered at $823,000 plus two years of free rental.

After consulting with the Mayor it was determined to offer the land owner the maximum amount identified by Council of $650,000 with rent payable with the market which is estimated at $350 per week. This offer was made on Thursday 13 September.

On Sunday 16 September Elders informed me the land owner had accepted the rental position but countered further at $700,000. At this time I informed the representative I could not enter into that contract as it was above the authorisation.

During the morning of 17 September various conversations were had with the agent and members responding to my communication. I am encouraged that an offer of $675,000 would be successful, to the extent the agent can assure such an outcome. Equally we could re-counter at $650,000.

So as to ensure finality of this matter before caretaker period in conversation with the Mayor I determined it warranted a further conversation with Council.

Summary and Conclusion
In summary there is a unique opportunity for Council to obtain strategically important land which has the correct zoning and can achieve improved outcomes for the ark development.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES
Attachment Report of 11 September 2018

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community and Culture
Health and Wellbeing
Infrastructure
Business and Employment

Community Plan
2.7 Embrace place-making principles when developing community infrastructure and regulate planning and development in public spaces.
2.9 Create places where people want to live and plan for the future in a coordinated, appropriate and proactive manner.
3.1 Develop and implement sound asset management which delivers sustainable services.
4.2 Create opportunities for people of all ages and abilities to participate in the community.
4.4 Support sporting, recreational and community clubs and organisations to grow and be sustainable.
4.6 Ensure that community members can participate in cultural, recreational, sporting and learning opportunities.
5.3 Help build the capacity of the tourism sector and encourage the development of tourist services, including eco and recreational tourism infrastructure.

5.13 Support economic development through events.

Legislative Requirements
Local Government Act 1999
Risk Management Policy
Budget and Business Plan Policy

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS
Key financial and risk management considerations outlined in the body of the attachment and the prior report of 11 September 2018.

Internal resources will be utilised to undertake negotiations with legal support provided by Norman Waterhouse.

COMMUNITY CONSULTATION
Extensive planning, consultation and engagement with the community has been undertaken in relation to the Nuriootpa Centennial Park development, there is a level of confidence that the stakeholders support the proposal.
Special Council Meeting

3.1 CHIEF EXECUTIVE OFFICER - CONFIDENTIAL

3.1.1 STRATEGIC LAND PURCHASE 2

The matter of the agenda item being the update on negotiations to undertake a strategic land purchase from a landowner could reasonably be expected to commercially disadvantage negotiations should it be made public and put at risk the ability to conclude a successful commercial and community outcome by Council. Therefore pursuant to Section 90(3)(b) of the Local Government Act 1999 (“the Act”) being information that 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.

There is strong public interest in enabling members of the public to observe Council’s transparent and informed decision-making. This helps to ensure accountability, maintain transparency of public expenditure, facilitate public participation, assist public awareness and allow for the scrutiny of information. Attendance at a Council meeting is one means of satisfying this interest. The public will only be excluded from a Council meeting when the need for confidentiality pursuant to Section 90(2) of the Act outweighs the public interest of open decision-making.

In this matter, the reasons that receipt, consideration or discussion of the information or matter in a meeting open to the public would be contrary to the public interest are that it would disclose the commercial pricing and offer position of Council and this would give an unfair advantage to a person with whom the Council proposes to
do business or third parties also making offers to purchase the subject land in Nuriootpa.

On balance, the above reasons which support the need for confidentiality pursuant to Section 90(2) of the Act outweighs the factors in favour of the public interest of open decision-making.

**RECOMMENDATION**

That Council:

1. Under the provisions of Section 90(2) of the Local Government Act 1999, make an order that the public be excluded from the meeting with the exception of the Chief Executive Officer, Director Corporate and Community Services, Director Development and Environmental Services, Director Works and Engineering, and the Minute Secretary, in order to consider in confidence a report relating to Section 90(3)(b) of the Local Government Act 1999, relating to agenda item 3.1.1 Strategic Land Purchase 2 being information that must be considered in confidence in order to ensure that the Council does not disclose information that 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; and

2. Accordingly, on this basis, Council is satisfied that public interest in conducting meetings in a place open to the public has been outweighed by the need to keep the information and discussion confidential to ensure that disclosure of commercial pricing and the offer position of Council would not give rise to an unfair advantage to a person with whom Council proposes to do business.
3.1 CONFIDENTIAL AGENDA – CHIEF EXECUTIVE OFFICER

3.1.1 STRATEGIC LAND PURCHASE PROPOSAL 2
B7321

PURPOSE
To seek Council decision on making an offer (or offers) to purchase strategic land to support The Big Project implementation for the Nuriootpa Centennial Park (the Park) for land adjacent to the northern boundary of the Park.

RECOMMENDATIONS

That Council, having reviewed the valuation analysis, budget assessment tool score, masterplan and options for the said land, and whole of life costing estimates, resolve to:

1. Proceed to offer to the proprietor of 20 Prider Street, Nuriootpa being allotment 130 in the deposited plan 43207 in the Hundred of Moorooroo, certificate of title volume 5307 folio 771 $561,000 (excluding costs) to purchase the property in all things other than personal goods and possessions.

2. Authorise the Chief Executive Officer should the initial offer be unsuccessful to continue to make offers to purchase the property up to an amount of $605,000 (excluding costs) as per the valuation analysis provided at the attachments 1 and 2 ensuring the Chief Executive Officer consults with the Mayor each and every time a revised offer is made.

3. Authorise the Chief Executive Officer to act in all things in this matter including settlement timeframes and any other negotiation matters.

4. Authorise, if negotiations are successful, the Chief Executive Officer to enter into a sales agreement consistent with negotiated terms, or if required, authorise the Mayor and Chief Executive Officer to enter into a sales agreement under the seal of The Barossa Council consistent with negotiated terms.

5. Pursuant to Section 193 (4) of the Local Government Act exclude the land described in 1 above from Community Land status, should the land be successfully purchased, until further planning determines the final outcome/s of long term development of the site for economic, community, sporting and/or recreational purposes.
OUT OF CONFIDENCE

6. Authorise a budget adjustment of $635,000 to the 2018-19 budget for the purposes of purchasing the land and costs associated with settlement.

7. Authorise the Chief Executive Officer to seek an exemption from the Minister for Local Government pursuant to Section 91A of the Local Government (Elections) Act and clause 4.3.1 of Council’s Caretaker Policy on the grounds of the strategic and long term importance of entering into a contract for the purchase of the land to achieve the community outcomes identified within The Big Project as it relates to the future implementation of the Nuriootpa Centennial Park initiative.

8. Authorises the Director, Corporate and Community Services to continue to progress the architectural detailed design of the facility to include consideration of the options for the additional allotment but to maintain that information in accordance with the confidentiality requirements of this resolution.

9. Having considered this matter in confidence under Section 90(2) of the Local Government Act 1999 in accordance with Section 90(3)(b)(i) and (ii) of the Act, makes an order pursuant to Section 91(7) of the Act, that the report, attachments, analysis and minutes other than the minutes relating to this confidentiality order of the Confidential Council Meeting held on 11 September 2018 in relation to item 3.1.1 Strategic Land Purchase Proposal 2 be kept confidential and not available for public inspection (noting the Chief Executive Officer will release information on a confidential basis to relevant parties including the landowner, or his representative and legal and other support as necessary) until the recommendations contained herein are resolved and any resulting transactions are fully concluded and authorises the Chief Executive Officer to review and revoke the order subject to ensuring compliance with Section 91(8)(c) of the Local Government Act.

REPORT

Background
During the development of the Park master plan and subsequent development of detailed plans for the purposes of development application and the Commonwealth Regional Growth Fund application discussion around the expansion of all sports but especially soccer and the ability of the location to cater for the next 30 years have been presented.

Introduction
Recently adjacent land, as outlined in the adopted master plan (item reference no 10) and attachment 4 has come onto the market. After discussions with the vendor and responding to claims of land being rezoned without his knowledge, the vendor has now approached Council to consider making an offer to purchase the land.

After discussion with the proprietors of the land at 20 Prider Street agent, it is clear that he has a sound understanding of its possible market value. It is clear this market value revision by the owner is now within a reasonable range for Council to consider.

Discussion

The Proposal
The proposal is relatively simple; namely to purchase the totality of the land and assets. Officers have been informed the owner has an offer on the table and is considering
it. The land would provide an opportunity to address current and long term growth in utilisation of the Park.

Further growth is anticipated for the foreseeable future due to the ongoing expansion of the Barossa and especially Nuriootpa. Population growth in the statistical area of Nuriootpa (which includes Stockwell) last Consensus period (2016) was in 9.19% with a population of 6,669 at 2016. On that trend the area in the 35 year horizon of The Big Project will be in the order of 10,351 people or an increase of 105 people every year.

Presently the clubs at the Park are turning those wanting to play netball, football and especially soccer away as there is insufficient infrastructure. An interim measure to access the school facilities is underway, however, is and always will be a short term solution as it is dependent on the school’s policy and management position on sharing and its own future expansion and infrastructure pressures. Further recent announcements and funding in the 2018/19 State budget identify year 7 students in South Australia will be moving to high school to align South Australia to other Australian state education system, this will result in expansion pressures on Nuriootpa High School.

The property has a four bedroom house and associated infrastructure located on it. In consulting with the land agent, there is a shortage of rental accommodation in Nuriootpa and the owner would rent the property back. Therefore if Council was successful it can be rented immediately and revenues will cover cash costs of maintenance whilst Council redesigns the master plan and determines a final outcome. Noting this purchase and subsequent development are unfunded and further analysis, prioritisation and funding will be undertaken at a later date and embedded into the long term financial plan.

Land Use, Zoning
The land is zoned recreational consistent with the Park. The current land use is residential and any recreational development is consistent with the current zoning.

Risk Exposure
As outlined in the proposal above the purchase is low risk in that the only asset on the land can be rented out and the management of the land is entirely consistent with Councils current risk profile and service provision.

Valuation and Financial Analysis
The valuation and financial analysis is attached at Attachments 1 and 2.

In summary the valuation analysis:

1. Has been undertaken by assessing sales and capital valuation data for property within the vicinity of the property and assessing the average and median valuations and difference between the market outcome (sale price) and capital valuation. Then a standard deviation has been applied. Finally utilising the outcomes of the analysis and applying it to the current Valuer General capital value of the land.
2. Utilising this analysis the valuation assigned is $550,000, as a starting point.
3. Three premiums have been applied to this value to ensure Council is competitive and factoring in the strategic importance of the land and extensive beneficial outcomes for the community being 2%, 5% and 10%.
4. The analysis therefore provides a range of market values derived from recent market data with the premium outlined at 3 of $561,000 to $605,000.
This type of land transaction is relatively low risk and clearly within the bounds of our ability to assess its value. It is subject to market forces, as the property is on the general market, which are at arm’s length to Council and therefore, an independent valuation is not considered necessary.

The financial analysis provided indicates:

1. At a purchase price of $577,500 plus fees and stamp duty the settlement would be in the order of $607,100.
2. The rental income will cover cash outlays.
3. Depreciation will increase.

At present there are anticipated to be more than sufficient cash savings arising from the strong budget performance of the organisation in 2017/18 to fund the purchase from uncommitted cash.

The Business Assessment Tool score used to qualitatively test proposal has been determined to be 56. As required by Council Budget and Business Plan Policy the score in comparison with Councils determinations when setting the budget would see this project score highly in comparison with the range of scoring for projects that were funded being 46-61. The cost of the purchase and management over the site equates to 0.17% of the rate base over the investment period of 10 years.

**Prudential Management Requirements of the Local Government Act**

There are some key legislative provisions that Council needs to consider.

1. Community land status of the land should the purchase be successful pursuant to Section 193 of the Local Government Act (the Act).
2. Prudential management requirements pursuant to Section 48 of the Act.

**Community Land**

All land that Council acquires must be classified prior to the settlement into Council ownership, if this is not done then the land automatically becomes encumbered by the provisions of the Act. In this case if Council is successful in purchasing the land it must make a resolution to exclude it from Community Land status pursuant to Section 193(4) of the Act. An appropriate future report will be brought to Council to manage this matter should Council proceed with negotiations and that they be successful.

**Prudential Management Requirements**

Section 48 requires Council to consider if an independent prudential management report is necessary based on a few key factors. If Council does elect to put an offer forward, the land and proposed future development would be captured by The Big Project work and a Prudential Management Report is already in progress will be done for that purpose. However, the purchase of the land in its own right in officer’s views does not trigger the need for a report as:

1. This strategy of itself does not propose to incur operating expenses over a five year period exceeding 20% of the Councils average annual operating expenses over the previous 5 years, which would be in the order of $6M;
2. The expected capital expenditure over the next five years in relation to this component will not exceed $4,000,000.

The last factor for consideration is whether Council considers it necessary or appropriate, which is a matter for Council.
Summary and Conclusion
In summary there is a unique opportunity for Council to obtain strategically important land which has the correct zoning and can achieve improved outcomes for the ark development.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES
Attachment 1  Financial Analysis Due Diligence Report Level 2 and BAT Score
Attachment 2  Sale and Valuation Analysis
Attachment 3  Title
Attachment 4  Current Park Design
Attachment 5  NCPA Letter
Attachment 6  Land Purchase Aerial

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

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Health and Wellbeing
Infrastructure
Business and Employment

Community Plan
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Legislative Requirements
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FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS
Key financial and risk management considerations outlined in the body of the report and attachments.

Internal resources will be utilised to undertake negotiations with legal support provided by Norman Waterhouse.
COMMUNITY CONSULTATION

Extensive planning, consultation and engagement with the community has been undertaken in relation to the Nuriootpa Centennial Park development, there is a level of confidence that the stakeholders support the proposal as evidenced by the correspondence at Attachment 5.