

CITY OF PALMERSTON

**Notice of Special Council Meeting
to be held in Council Chambers, Civic Plaza, Palmerston
on Wednesday, 17 February 2016 at 5:00pm**

AGENDA

Audio Disclaimer

An audio recording of this meeting will be made for minute taking purposes as authorised by City of Palmerston Policy MEE3 Recording of Meetings, available on Council's Website.

1. PRESENT

2. APOLOGIES

3. DEPUTATIONS / PRESENTATIONS

4. OFFICER REPORTS

4.1 Sale of Land - Lot 10029 and Part Lot 9608

8/0824

5. CONFIDENTIAL REPORTS

Nil

6. CLOSURE

Ricki Bruhn

**Ricki Bruhn
Chief Executive Officer**

Any member of Council who may have a conflict of interest, or a possible conflict of interest in regard to any item of business to be discussed at a Council meeting or a Committee meeting should declare that conflict of interest to enable Council to manage the conflict and resolve it in accordance with its obligations under the Local Government Act and its policies regarding the same.

ITEM NO. 4.1 **Sale of Land - Lot 10029 and Part Lot 9608**

FROM: Chief Executive Officer

REPORT NUMBER: 8/0824

MEETING DATE: 17 February 2016

Municipal Plan:

2. Economic Development

2.3 City Planning

We are committed to effective and responsible city planning which balances and meets both residential and commercial needs in our community

Summary:

This report outlines progress to date regarding the possible sale of all or a portion of Lot 10029 (14 The Boulevard) and part Lot 9608 immediately adjacent, provides an overview of legislation associated with the sale of land owned by Council, and makes the recommendation as to the method by which the land may be sold.

Background:

Council Decision 8/0899 of 14 Jan 2014 directed that an Expression of Interest (EOI) be prepared for the development of Lot 10024 and part Lot 9609 (being the grass area and car park north of the Recreation Centre), with the purpose being for the provision of public car parking combined with a mixed use development comprising of retail, commercial or residential. It had been previously determined on 11 December 2012 that this portion of land was surplus to Council requirements for land in the CBD.

A workshop held with developers in May 2014 indicated strong support for the development of 14 The Boulevard but suggested that development of Lot 10024 and part Lot 9609 as a multi-level car park was not appropriate.

Council Decision 8/1322 of 18 Nov 2014 approved releasing an EOI for the sale of Lot 10029 and Part Lot 9608 prior to 25 December 14. Following Council approval to release for consultation the supporting revised Master Plan, Public Realm Strategy and Parking Strategy, the EOI was released on 11 December 2014 and closed on 27 February 2015. The intent was to seek a partner for a joint venture development. This amount of time provided a substantial opportunity for the preparation of responses by interested parties.

Although the EOI documentation was downloaded by 15 parties, only one nonconforming, alternative proposal was received for the EOI, being from an organisation expressing an interest to participate as Council's construction contractor. This was viewed by Council as unsatisfactory, and on 12 March 2015 Council decided to defer the development.

An indicative possibility for the development initially anticipated is provided in the image below:



Following consideration by the Economic Development and Infrastructure Committee, On 17 November 2015, Council decision 8/1758 unanimously determined that Lot 10029 and part Lot 9608 be sold with the caveat that the lots be developed within a suitable time period in accordance with the Palmerston City Centre Master Plan .

General:

Section 182 of the Local Government Act gives Council the power and authority to deal with and dispose of land.

- 182 *Power to deal with and dispose of property*
 (1) *Subject to the Minister's guidelines, a council may deal with or dispose of property of which council is the owner.*

The Minister has provided **Ministerial Guideline 7: Disposal of Property** as guidance for the disposal of property, which provides Council with options for how it approaches land sales, as well as considerations it should make when considering a sale (See Attachment A).

Under *Section 1 Objectives*, the guidelines identify the overarching principle by which land sales are to be made:

1. *Objectives*
The process for the sale and disposal of land and other assets should be considered, fair and transparent to ensure council obtains the best outcomes and price.

Under Section 3 General, the guidelines provide guidance as to confidentiality and documentation of the method of sale:

- (2) *Commercial confidentiality should apply to negotiations for sale and disposal of land and other asset transactions unless council decides otherwise.*
- (3) *In circumstances where there is a sale or disposal other than by tender process, as may be considered and determined by council on individual case merits, the reasons for entering such contracts should be documented.*

As such, while discussions and negotiations with potential buyers are required to be confidential in the absence of any Council decision to the contrary, the reasons for entering into a contract of sale where a tender process is not used needs to be appropriately documented.

Under *Section 5 Method to be Used* guidance is given regarding the methods Council has available to sell land:

5. *Method to be Used*

Generally, council will sell or dispose of land and other assets through adoption of the following practices:

- (1) ***direct sale – advertisement for sale and the nature of the advertisement i.e. public notice, local paper etc;***
- (2) *quotation – seeking quotations for the sale of land and other assets;*
- (3) *selected tender – seeking tenders from a selected group of persons, companies, organisations, or other interested parties;*
- (4) *open tender – openly seeking, through advertisement, tenders, or buyers for Council, land and other assets; or*
- (5) *other means as deemed appropriate by council or the CEO (provided disposal has been authorised by council).*

As such, Council has a broad scope for determining how it disposes of land. Under *Section 6 Considerations*, the Minister outlines the considerations to be made by Council prior to determining the method of sale:

6. *Considerations*

- (1) *In considering the method of disposal of an asset, council should consider a number of issues, for example:*
 - (i) *The potential for the council to obtain the best price.*
 - (ii) *The number of known potential purchasers of the land or assets.*
 - (iii) *The current and possible preferred future use of the land or assets.*
 - (iv) *The existence of local purchasers of the land or asset.*
 - (v) *The opportunity to promote local economic growth and development.*
 - (vi) *The total estimated value of the sale.*

Officers provide the following comments regarding the potential sale of Lot 10029 and part Lot 9608:

1. There are limited options for receiving the best possible price. Commercial developments have slowed in the Top End, and the economic climate has deteriorated since the first EOI was released in late 2014.
2. Following an extensive EOI process began in late 2014, no buyer was found. More recently, Council has been approached by a single interested party, but has yet to determine the interested party's intent beyond this initial interest. Officers recommend that in the current economic climate, and considering that an extensive process to attract a buyer has already occurred, any interested buyer seeking to develop in accordance with the Palmerston City Centre Master Plan ought to be eligible for consideration. Council delegated authority on 2 February 2016 to the CEO to negotiate with this buyer but has not yet determined the method of sale, which would be a key component to any ensuing negotiation.
3. The development of this lot as a multi-story mixed use development is consistent with its future use in the Palmerston City Centre Master Plan.
4. There is only one known interested party, being a local developer. Whereas Council could return to market with a second EOI process, or engage a real estate agent to market the property, it is the recommendation of officers that a direct sale would be a more cost effective method and that the allotment immediately be advertised in the local paper to ensure as many potential buyers as possible are attracted.
5. The valuation of the unencumbered portion of land has been received, and indicates a market value of \$1,200/m² for the 1400m² of unencumbered land in the allotment is a reasonable expectation. This would indicate a sale price of \$1.7M.
6. Legal opinion has been received by officers outlining potential methods for establishing purchase conditions should Council determine it desires to do so.
7. Following the advertising of the allotment, the direct sale of Lot 10029 and part Lot 9608 to a buyer willing to meet the strategies set forth in the Palmerston City Centre Master Plan without a tendering process is compliant with the Ministerial Guidelines where it is appropriately documented, which this report serves to provide.

Considering these points, and bearing in mind the unsatisfactory result of the EOI process carried out in late 2014 / early 2015 for the sale of the land, officers recommend that the most appropriate method for the sale of this land would be to advertise the sale of the allotment in local newspapers followed by the direct negotiation and sale to a buyer, where Council determines the ensuing development meets the strategies set out in Council's Palmerston City Centre Master Plan.

Financial Implications:

A direct sale of Lot 10029 and part Lot 9608 is anticipated to save Council any agent fees and/or tendering costs. Advertising costs are expected to be under \$5,000. Considering that the previous EOI for this property cost Council around \$25,000, this could be significant. Council will incur the legal fees associated with preparing a contract of sale.

Policy / Legislation:

Local Government Act
Ministerial Guideline 7 – Disposal of Property

RECOMMENDATION

1. THAT Council receives Report Number 8/0824.
2. THAT Council set the method of sale for Lot 10029 and part Lot 9608 as a direct sale to any interested buyer following the advertising of the property, based on the considerations documented in Report 8/0824.
3. THAT the Chief Executive Officer bring any offer of purchase for Lot 10029 and part Lot 9608 to Council for its consideration.

Recommending Officer: Ricki Bruhn, Chief Executive Officer

Any queries on this report may be directed to Ricki Bruhn, Chief Executive Officer on telephone (08) 8935 9902 or email ricki.bruhn@palmerston.nt.gov.au.

Schedule of Attachments:

Attachment: Ministerial Guideline 7 – Disposal of Property

7. Disposal of Property

1. Objectives

The process for the sale and disposal of land and other assets should be considered, fair and transparent to ensure council obtains the best outcomes and price.

2. Background

Section 182(1) of the *Local Government Act 2008* provides that, "*Subject to the Minister's guidelines, a council may deal with or dispose of property of which the council is the owner.*"

3. General

- (1) Sale and disposal of land and other assets should be consistent with the council's economic, social and/or environmental objectives.
- (1) When considering options for the sale and disposal of land and other assets, council should look for opportunities to advance the objectives of the council's strategic plan.
- (2) Commercial confidentiality should apply to negotiations for sale and disposal of land and other asset transactions unless council decides otherwise.
- (3) In circumstances where there is a sale or disposal other than by tender process, as may be considered and determined by council on individual case merits, the reasons for entering into such contracts should be documented.

4. Authority to Dispose of Property

- (1) Property which has been purchased, or the purchase of which has been contributed to, by a funding source, may not be disposed of unless the terms of the funding agreement have been met. This includes any requirement to gain approval from the funding body to dispose of property.
- (2) Decisions for sale or disposal of real property must be made by council resolution unless council has delegated this authority.
- (3) Council may delegate authority under s32 of *the Local Government Act 2008*. For example, the CEO may be given a delegation to approve the sale or disposal of certain property.
- (4) Where council delegates such authority the delegation should be limited. For example, the CEO may have a delegation to dispose of property that fits certain criteria.

5. Method to be Used

Generally, council will sell or dispose of land and other assets through adoption of the following practices:

- (1) direct sale – advertisement for sale and the nature of the advertisement i.e. public notice, local paper etc;
- (2) quotation – seeking quotations for the sale of land and other assets;
- (3) selected tender – seeking tenders from a selected group of persons, companies, organisations, or other interested parties;
- (4) open tender – openly seeking, through advertisement, tenders, or buyers for Council, land and other assets; or
- (5) other means as deemed appropriate by council or the CEO (provided disposal has been authorised by council).

6. Considerations

- (1) In considering the method of disposal of an asset, council should consider a number of issues, for example:
 - (i) The potential for the council to obtain the best price.
 - (ii) The number of known potential purchasers of the land or assets.
 - (iii) The current and possible preferred future use of the land or assets.
 - (iv) The existence of local purchasers of the land or asset.
 - (v) The opportunity to promote local economic growth and development.
 - (vi) The total estimated value of the sale.
 - (vii) Delegation limits taking into consideration accountability, responsibility, operational efficiency and urgency of the sale.
 - (viii) Compliance with statutory and other obligations
- (2) Council or its officers with delegated authority shall, when making decisions, act in accordance with the council's budget, relevant policies, plans, resolutions, and all relevant statutory or common law requirements.

7. Proceeds from Sale of Assets

Proceeds from the sale of assets (capital revenue) should be applied to purposes approved under council policy, for example the policy could include that proceeds are applied:

- (1) to the reduction of any debt associated with the asset acquisition or upgrade since the original purchase or construction; or
- (2) to offset the cost of replacement assets required for operations arising from identified asset sale; or
- (3) to a specific Reserve Fund if appropriate or to the asset replacement reserve.