

**CITY OF MARION
GENERAL COUNCIL MEETING
24 MARCH 2015**

CONFIDENTIAL REPORT

Originating Officer: John Valentine, Manager Strategic Projects
Corporate Manager: John Valentine, Manager Strategic Projects
Director: Heather Montgomerie
Subject: Surplus land associated with City Services Redevelopment
Reference No: GC240315F02

If the Council so determines, this matter may be considered in confidence under Section 90(3)(b)(i)(ii) and (d)(i)(ii) of the *Local Government Act 1999* on the grounds that the report contains information that could (b)(i) 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 commercial information of a confidential nature (not being a trade secret) the disclosure of which, (d)(i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and (b) and (d)(ii) would, on balance, be contrary to the public interest.



Mark Searle
Chief Executive Officer

RECOMMENDATION:

That pursuant to Section 90(2) and (3)(b) and (d) (i)(ii) of the *Local Government Act 1999*, the Council orders that all persons present, with the exception of the following persons: Mark Searle, Kathy Jarrett, Vincent Mifsud, John Valentine, Kate MacKenzie, Jaimie Thwaites, Craig Clarke and Victoria Moritz be excluded from the meeting as the Council receives and considers information relating to potential disposal of Council land, upon the basis that the Council is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep consideration of the matter confidential given the information relates to 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 commercial information of a confidential nature (not being a trade secret) the disclosure of which, (d)(i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and (b) and (d)(ii) would, on balance, be contrary to the public interest.

REPORT OBJECTIVES:

To advise Council of an approach by Cantor Property Pty Ltd seeking to potentially purchase the surplus land associated with the City Services redevelopment and to advise Council of legal advice received from Mellor Olsson Lawyers in relation to the merits of either dealing directly with one party or an open market process.

Further, for Council to consider authorising investigations, with associated costs, into the potential disposal of the surplus land by an open market process.

EXECUTIVE SUMMARY:

The redevelopment of the City Services site has been designed so that 7000 square metres of land (surplus to redevelopment needs) will be created.

The City Services project is programmed to be completed by the end of 2015 at which time the 7000 square metres will become surplus to the needs of operating the site.

The adjacent land owner, Cantor Property Pty Ltd, which owns land immediately to the north of the surplus land has written to Council seeking to secure an option to purchase the surplus land and integrate the surplus land into an overall redevelopment at 919 Marion Rd (the former Boart Longyear site).

The option proposed by Cantor, via a first or last right of refusal, would need to be subject to an agreed price and terms and conditions that would need to be negotiated.

The potential sale of the surplus land could also be managed via an open market approach. This report is for Council's consideration of both methods, and the legal advice received, and seeks Council's authorisation to conduct investigations into the value of the surplus land and the process of marketing the land through an open market approach.

RECOMMENDATIONS: (4)

DUE DATES

That Council:

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| 1. Consider this report GC240215F01 and determine whether investigations should be carried out into determining the value of the surplus land associated with the City Services redevelopment and a strategy to potentially sell the land via an open market process. | February 2015 |
| 2. Note that the investigations will be brought to Council for consideration and the determination of any next steps. | March / April 2015 |
| 3. That subject to Council approving recommendation 1 that the cost of investigations into the legal, valuation and property process, in the order of \$30,000, be funded from once off savings identified following the independent audit of the 30 June 2014 financial statements. | February 2015 |
| 4. In accordance with Section 91(7) and (9) of the Local Government Act 1999 the Council orders that this report, Surplus land associated with City Services redevelopment, and the minutes arising from this report having been considered in confidence under Section 90(2) and (3)(b) and (d) (i)(ii) of the Act be kept confidential and not available for | December 2015 |

public inspection for a period of 12 months from the date of this meeting. This confidentiality order will be reviewed at the General Council Meeting in December 2015

BACKGROUND

The City Services redevelopment commenced in September 2014 and is scheduled to be completed at the end of 2015. The redevelopment will create a new operating facility that will support the provision of services to the community for the next 40 years.

As part of the approved redevelopment an area of land of some 7000 square metres will be created at the northern end of the existing City Services site. The City Services site abuts two properties to the north being a property containing a tyre outlet and furniture retail store and the former Boart Longyear site, refer to site map in Appendix 3.

The owners of the former Boart Longyear site (Cantor Property Pty Ltd) have written to Council (refer Appendix 1) and are seeking to gain an option to purchase the surplus land via a first / last right of refusal process.

Previous Council and Audit Committee resolutions in relation to this matter include:

Audit Committee AC140313F01

General Council GC260313F01
GC020413F03

ANALYSIS:

Legal advice has been received from Mellor Olsson Lawyers (refer Appendix 2) in relation to the process of engaging directly with one party or using an open market approach for the potential sale of the surplus land.

Cantor Pty Ltd have been actively watching the City Services redevelopment and over a period of time and have expressed their interest to secure the surplus land. There has also been general inquiries made by property developers in recent years about whether Council owns land in commercial areas that may be disposed. There have also been specific inquiries about the City Services site as a potential redevelopment site by the commercial sector and specific inquiries about the surplus land, with there being two inquiries of this nature in 2015.

Financial Implications

As part of any disposal process (direct negotiation or open market) an independent valuation would need to be gained to ascertain the current market value. There is not a current valuation for the 7,000 square metres of surplus land and, subject to Council's approval, an appropriate valuation will be developed and brought back to Council for consideration.

The potential sale of the surplus land would also require strategic property advice as to various methods to the market the land to ensure that the best value could be achieved. Legal, valuation and property advice could involve costs in the order of \$30,000. This sum would not include any commission or statutory fees, land division or stamp duty associated

with a potential sale. The cost of the investigations / advice could be from once off savings identified following the independent audit of the 30 June 2014 financial statements.

As described in Cantor's letter they are offering to reimburse Council the leasing fees that are currently paid to Cantor to use the former Boart Longyear site for the parking of Council's fleet vehicles. The lease fee being paid is \$6,000 per month and it is anticipated that the total leasing fee paid by the end of the project will be in the order of \$96,000 to \$108,000.

Mellor Olsson make specific reference to this aspect of Cantor's interest and conclude that the benefit of such an arrangement could be outweighed by the benefits of an open market approach and further notes that Cantor would not be precluded from an open market method of disposal.

CONCLUSION:

A direct approach has been received seeking to purchase the surplus land associated with the City Services redevelopment. Council can deal directly with Cantor Pty Ltd or consider using an open market approach.

Legal advice has been gained that acknowledges that Council can deal directly with one party, however the benefits of an open market approach has been recommended. If Council so determines a valuation will be undertaken and marketing advice will be gained in relation to the an open market approach for the potential disposal of the surplus land.