

18.2 Proposed Land Purchase and License Agreement (Report No: 96/21)

Motion – Exclusion of the Public – Section 90(3)(b) Order

C230321/2251

1. That pursuant to Section 90(2) of the *Local Government Act 1999* Council hereby orders that the public be excluded from attendance at this meeting with the exception of the Chief Executive Officer and Staff in attendance at the meeting in order to consider Report No: 96/21 Proposed Land Purchase and Licence Agreement in confidence.
2. That in accordance with Section 90(3) of the *Local Government Act 1999* Council is satisfied that it is necessary that the public be excluded to consider the information contained in Report No: 96/21 Proposed Land Purchase and License Agreement on the following grounds:
 - b. pursuant to Section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council would prejudice the commercial position of the Council. The information would prejudice the commercial position of the Council regarding land it is seeking to purchase, the purchase price and the terms of the negotiation.

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information.
3. The Council is satisfied, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.

Moved Councillor Miller, Seconded Councillor Lonie

Carried Unanimously

In December 2019, Council approved the detailed design of the first stage of the Jetty Road Glenelg Masterplan, which included the creation of Chapel Plaza and works in Hindmarsh Lane. The scope for Chapel Plaza included utilising private property owned by St Andrews by the Sea for the installation of garden beds, paving, trees and seating as part of the project. A licence agreement was to be negotiated with the property to lawfully allow Council to build and maintain the infrastructure on the property.

However, even with a licence in place, Council's assets could still be vulnerable in future, due to the ability for either party to terminate the license or for the license to become invalid if the property was to be sold. To better assure the security of Council's assets, enquiries were undertaken into purchasing the land, and subsequently a confidential property evaluation was received for two portions of the land.

Following discussions by Council at the workshop on 23 February 2021, the possibility of Council purchasing the land was raised with representatives of St Andrews by the Sea. Early indications are that the Church is willing to consider an offer.

Due to the pending construction timeframes, a licence agreement is still required, however this can be settled concurrently with purchase negotiations.

Valuation of the land in question ranges between \$90,000 and \$155,000. This report sought approval to negotiate up to the highest estimate for each parcel but the preference was to settle at a lesser amount due to the mutually beneficial outcomes that can be achieved for both Council and the Church.

Motion

C230321/2252

That Council:

1. recommends the license agreement include an option to purchase the land which will require the parties to negotiate in good faith;
2. approves the execution of a license agreement including affixing the Seal concurrently with purchasing negotiations to ensure Council can lawfully build infrastructure as part of the Chapel Plaza and Hindmarsh Lane Project;
3. approves Administration to enter into negotiations with St Andrews by Sea Uniting Church to purchase Portion A (as indicated in this report) for an amount not exceeding \$155,000 (ex GST) noting the recommended valuation is *up to* this amount;
4. approves Administration to enter in negotiations to purchase Portion B (as indicated in this report) for an amount not exceeding \$135,000,(ex GST) noting the recommended valuation is *up to* this amount, if agreement cannot be reached in relation to Portion A;
5. notes that that any final purchase agreement be brought back to Council to be approved and executed; and

RETAIN IN CONFIDENCE - Section 91(7) Order

6. That having considered Agenda Item 18.2 Proposed Land Purchase and License Agreement (Report No: 96/21) in confidence under Section 90(2)



and (3)(b) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the report, attachments and minutes be retained in confidence for a period of five years and the Chief Executive Officer is authorised to release the documents when disclosure will no longer impact Council's negotiating position and that this order be reviewed every 12 months.

Moved Councillor Bouchee, Seconded Councillor Abley

Carried Unanimously

CONFIDENTIAL

