



REPORT FOR

**CONFIDENTIAL MEETING OF COUNCIL**

MEETING DATE

**26 SEPTEMBER 2023**

RECORD NO:

**D22/59539**

REPORT OF:

**STRATEGY & FINANCE**

TITLE:

**UNSOLICITED PROPOSAL - COMMON EQUITY HOUSING SA LTD - ADDITIONAL HOUSING - 500 WRIGHT ROAD, MODBURY**

1. *That pursuant to Section 90(2) of the Local Government Act 1999, the Council orders that the public (except staff on duty) be excluded from the meeting to enable discussion on the Unsolicited Proposal - Common Equity Housing SA Ltd - Additional Housing - 500 Wright Road, Modbury.*
2. *That the Council is satisfied that pursuant to section 90(3) b (i) and b (ii) of the Local Government Act 1999, the information be received, discussed or considered in relation to this item is:*
  - *information the disclosure of which 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 information the disclosure of which would, on balance, be contrary to the public interest.*
    - *on the basis that the public release of this information would have the potential to impact the capacity to compromise Council achieving the best outcome for Council and the Community.*
3. *In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in the 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. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances on the basis that early release of this information could compromise Council achieving the best outcome for Council and the Community.*

## **PURPOSE**

To consider an Unsolicited Proposal from Common Equity Housing SA Ltd for the development of further housing on Council's property at 500 Wright Road, Modbury.

## **RECOMMENDATION**

That having considered the Report titled "Unsolicited Proposal – Common Equity Housing SA Ltd – Additional Housing – 500 Wright Road, Modbury" and dated 26 September 2023, Council:

1. Provides in-principle support for housing development on Council land at 500 Wright Road, Modbury, described in Certificate of Title Volume 5284 Folio 319 as set out in the Unsolicited Proposal referred to as Attachment 1 and the equity partnership scenario detailed in this Report.
2. Resolves that in accordance with the Funding Deed between Council and the State Government, the CEO be authorised to seek the consent of the Minister for Council to enter into negotiations with Common Equity Housing to develop the land for additional housing as a co-operative housing project.
3. Subject to receiving the Minister's approval in principle, authorises the CEO to negotiate a Deed Agreement for Council's consideration based on the equity partnership scenario detailed in this Report, to include the following:
  - a. Council's contribution to the project is the land, and input and sign off to the overall design of the development;
  - b. The construction of the dwellings and all associated costs to be the responsibility of Common Equity Housing;
  - c. The project is to maximise availability of affordable and targeted housing within the City utilising the co-operative housing model to the satisfaction of the Council;
  - d. The development is to be oriented towards the adjacent Council Reserve (Dry Creek Corridor) and the design to optimise views of the creek, incorporate water sensitive urban design principles, and have regard to Council's Modbury Precinct Activation Policy;
  - e. The number of dwellings (including land) to be transferred to Council at the completion of the project to be equal to the value of the land at the time of completion or transfer and may be supplemented with a financial contribution where the value does not equal a whole dwelling. The value of the land to be determined by an independent Practising Certified Valuer.
  - f. Any other matter that the CEO considers should be included in the Deed Agreement.

## **RETENTION OF CONFIDENTIAL DOCUMENTS**

- 1. That having considered the agenda item titled “ Unsolicited Proposal - Common Equity Housing SA Ltd - Additional Housing - 500 Wright Road, Modbury” and dated 26 September 2023 in confidence under section 90(2) & (3)(b) and Section 91(7) of the Local Government Act 1999:**

- information the disclosure of which 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 information the disclosure of which would, on balance, be contrary to the public interest**

**the Council pursuant to section 91(7) of the Act orders that the report and attachments relevant to this item be retained in confidence (with the exception of any relevant third parties involved in progressing the matter), until a further order of the Council or until the Council resolves otherwise, whichever occurs first.**

- 2. That Council gives the power pursuant to Section 91 of the Local Government Act 1999 to the Chief Executive Officer to revoke the order made under Section 91(7) of the Local Government Act 1999 subject to the Chief Executive Officer consulting with the Mayor and reporting to the Elected Members of the revocation.**

## 1. BACKGROUND

Council has received an unsolicited proposal from Common Equity Housing SA Ltd (CEH) to develop Council land at 500 Wright Road, Modbury (subject land), to replace the existing houses with a new housing development. The proposal includes three scenarios for Council's consideration and Council's potential involvement in the development of up to 15 dwellings on the site to provide accommodation for vulnerable sections of the community.

The three scenarios in the Unsolicited Proposal document (see Attachment 1) below are discussed later in this Report:

- Scenario 1 – transfer of ownership to CEH (at appropriate time and value)
- Scenario 2 – Design Partnership, Council as Developer, Sale to CEH
- Scenario 3 – Joint Venture – CEH and Council,

Other key objectives of the proposal include:

- Increase the availability of affordable housing in the Council area
- Build high-quality affordable homes for a mixed community housing cooperative
- More efficient and effective use of the land by increasing housing yield, improving access, amenity and appearance and reorienting the housing to the adjacent reserve
- Deliver a range of benefits for the Council and community
- Establish SA's first new housing cooperative in over 10 years
- Improve streetscape in the Modbury Precinct.

On 1 August 2023, representatives of CEH presented an overview of this proposal to Elected Members at a workshop. Elected Members also heard a testimony from a resident who was part of a community co-operative similar to that proposed for this site.

### 1.1 Proponent details

CEH is a provider and developer of affordable housing in South Australia and is also the peak body and landlord for housing co-operatives providing services to 11 member organisations.

The introductory section in the proposal from CEH provides information about housing co-operatives. The governance structure (<https://cehsa.com.au/common-equity/governance/>) for CEH includes a Board, CEO (appointed by the Board) and various Committees consisting of Board members and independent consultants.

In September 2020 CEH entered into an agreement with Council to manage the existing three units on the site. Under the terms of the agreement CEH is responsible for the management, maintenance, collection of rent from tenants and general operation of the site. The tenant target group set out in the agreement is defined as

*“Young people on low incomes who are able to demonstrate a need for affordable and secure housing and who are also able to demonstrate a need to live the City of Tea Tree Gully area in order to maintain networks”.* The term of the agreement is for ten (10) years with a right of renewal every five years.

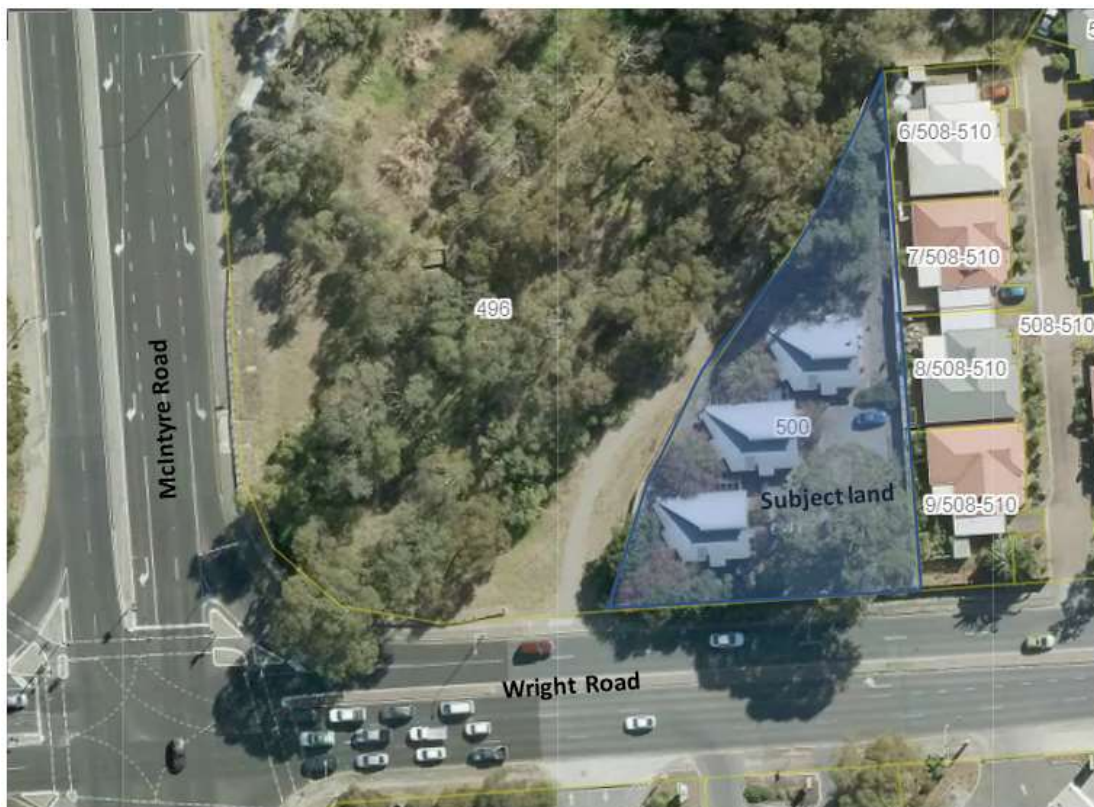
## **1.2 Subject land**

The site is located at 500 Wright Road, Modbury, described in Certificate of Title Volume 5284, Folio 319, as Allotment 51 in DP42413. The registered proprietor in fee simple is the City of Tea Tree Gully.

Council purchased the site from the Commissioner of Highways in 1993 to develop a Community Housing Project. Council subsequently entered into a funding agreement with the State Government to develop the land for community housing and for the ongoing management of tenancies and property maintenance. The Funding Deed sets out Council’s responsibility with respect to sale or disposal of the land including a requirement to seek the Minister’s prior approval and providing the Minister with an option to purchase at market value. The Funding Deed is Attachment 2.

The site has a total area of 1794sqm and is located within the Urban Activity Centre Zone on the eastern boundary of the Dry Creek corridor. It is relatively flat and there is no service infrastructure on the property.

A Red River Gum defined as a significant tree in the Planning, Development and Infrastructure (General) Regulations 2017 is located at the front of the property



## **2. DISCUSSION**

The scenarios presented by the proponent in the Unsolicited Proposal are discussed below:

### **2.1 Scenario 1 – transfer of ownership to CEH (at appropriate time and value)**

In this scenario, Council transfers the land to CEH at appropriate value and suitable stage of the project. CEH is the developer and finances the project. Council's contribution as a partner is the "land".

*Comment:* Council's Disposal of Land and Assets and Acquisition of Land Policy states that if disposal of land is not via the open market, the disposal should be at or above market value as assessed by an independent and accredited valuer, unless there are reasons for the Council to accept a lesser return. These reasons are to be consistent with Council's overall strategic direction and documented in writing.

This scenario may be interpreted as Council contributing the land at less than the market value which is inconsistent with Council's policy. The proponent has included reasons that may justify a lesser return – e.g. community need, benefit, contribution to Council objectives and public health focus.

### **2.2 Scenario 2 – Design Partnership, Council as Developer, Sale to CEH**

In this scenario, Council is the developer in partnership with CEH. Council finances the project and sells to CEH at practical completion.

*Comment:* This approach would provide Council with a higher degree of influence over the project but would expose Council to the majority of risk associated with a development of this scale. CEH would need to be in a financial position to purchase all of the dwellings at the end of the project. Council would require a level of guarantee that CEH would be in a position to do so.

### **2.3 Scenario 3 – Joint Venture - CEH and Council**

This scenario proposes a joint venture development between CEH and Council with shared design and build costs (to be confirmed) and ownership of the finished project.

*Comment:* Council and the proponent would share the risks and financial responsibility with Council being a joint owner of all of the dwellings upon completion of the build. In this scenario, Council might continue to be sole owner of the land or CEH might share land ownership. Arrangements regarding distribution of revenue from the tenancies and management of the tenancies requires clarification should this be the preferred scenario. Investigation and analysis regarding Council's return on investment is also required.

In determining whether an unsolicited proposal displays sufficient merit, Council must have regard to the Principles of Consideration in Council's [Disposal of Land and Assets and Acquisition of Land Policy](#) and its [Unsolicited Proposals Policy](#).

#### **2.4 Evaluation Disposal of Land and Assets and Acquisition of Land Policy**

The principles and other matters within this [policy](#) have been considered by staff and key points are summarised below:

- There is potential for further development of the site for additional houses and the proponent's proposal addresses this matter. The land is in the Urban Activity Centre Zone which envisages a variety of uses, including dwellings developed in conjunction with non-residential uses to support business etc.
- The value of the property assessed by a Certified Practising Valuer is \$1,390,000.
- The total estimated value of disposal will depend on the scenario supported by the Council. If sale of the land occurs Council may need to repay the State Government grant of \$63,000 or funds arising from a gain in the value of the property calculated using a formula in the Funding Deed.
- Restrictions on potential disposal of the property include the condition in the Funding Deed between Council and the State Government that Council is to gain approval from the State Government prior to disposal and provide first option to purchase.
- CEH is responsible for maintenance as detailed in the Management Agreement with the Council. Disposal of the property would result in no effect on the maintenance cost.
- There may be a negative impact on neighbouring properties due to increased traffic and vehicle access to the site as a result of the development. This would be addressed at the design stage and during the development approval process.

#### **2.5 Unsolicited Proposal Policy**

Staff evaluated the proposal against the criteria in Council's [Unsolicited Proposal Policy](#) and a summary is provided below:

- The proposal is consistent with Council's Strategic Plan objectives 4.5 (well designed and affordable housing) and 5.1 (leadership and advocacy focused on the long-term interests of the community). The proposal also aligns with objectives in Council's [Modbury Precinct Activation Policy](#).
- Housing choice is listed in one of the City's Wellbeing Pillars in Council's Strategic Plan 2025

*A liveable city is one where places and spaces are desirable and accessible, offering housing choices, quality recreation facilities, diverse employment opportunities and transport options for people at all stages of life.*

- The proposal is for targeted housing for vulnerable community members and will benefit the target group which could include seniors, older single women, trainees and apprentices, people living with a disability, people on low incomes and those experiencing homelessness.
- A shift from the existing low-density environment to higher density living would result in a change in amenity and may impact on neighbouring properties.
- There is opportunity for future housing to have frontage to the reserve improving amenity for residents of the new dwellings.
- The current development is inward facing with no passive surveillance due to single story design and a 2m high fence. The proposed development could provide increased passive surveillance to the corridor increasing safety for users along this section of Dry Creek.
- The scenarios presented by the proponent have merit and are worthy of consideration given the social and environmental benefits.

## **2.6 Alternative Scenario – Equity Partnership**

Notwithstanding that the proposal suggests 3 potential scenarios, staff have identified a fourth scenario that aligns with Council's [Disposal of Land and Assets and Acquisition of Land Policy](#) and reduces the risk for the Council whilst achieving the objectives of the proposal. This scenario is set out below for Council's consideration:

- Subject to the Minister's in principle support Council contributes the land which remains in Council ownership whilst CEH has responsibility for construction of the dwellings including funding. Council would sign off on the design prior to a development application being lodged. Upon completion of construction, CEH would transfer to Council the ownership of dwellings equivalent to the value of the land.
- A development deed would be required to clarify and document the arrangement outlined above including Council's input into and approval of the design. The development deed would also include a clause setting out responsibility for funding and management of the project during construction.
- Options for determining the manner by which to define the portion of land and/or constructed dwellings that will remain under Council's ownership at the end of the project are:
  - Inclusion of net present value of the land in the development deed; or



- Current value of the land plus CPI increases; or
- Using the market value of the land when the dwellings are transferred to Council.
- A cash contribution may be required to offset any shortfall where the number of dwellings is not exactly equal to the value of the land as determined at the time of transfer.
- The management of the dwellings in Council's ownership could be undertaken by CEH as is currently the case.
- The key objectives of this scenario include:
  - Maximising opportunities for affordable and targeted housing within the City
  - Opportunity to incorporate water sensitive urban design and sustainability principles to maximise conservation and encourage water reuse
  - Providing financial support for the project utilising existing equity in the land with minimal effect on Council budgets
  - Optimise use of Council's reserve (Dry Creek corridor) and incorporate views of the creek line into the design.

### **3. FINANCIAL**

There is no financial return to Council arising from the current arrangement whereby CEH is the manager of the property and the tenancies.

#### **3.1 Scenario 1 – Transfer of ownership to CEH (at appropriate time and value)**

An outright sale of the property would generate a one-off input into Council's budget equivalent to the market value of the land. The terms of the Funding Deed with the State Government require Council to repay the State Government Grant of \$63,000 or the difference in value from the time of development proportional to the value of the grant, as per the formula in the Funding Deed.

#### **3.2 Scenario 2 - Design Partnership - Council as Developer, Sale to CEH**

The design cost of \$60,000 as indicated in the proponent's submission would be shared with CEH. Council would be responsible for all other costs associated with the development, estimated in the proponent's submission to be around \$4,345,000. These costs and the land value would be recovered from CEH at the time of sale. Implications of this scenario would be opportunity cost from using Council funds for the development which could otherwise be used on other projects

### **3.3 Scenario 3 – Joint Venture – share design and build costs and shared ownership of finished project**

There would be the shared cost of design, detailed design and documentation and construction as well as fees associated with gaining approvals and legal fees. The proponent's submission includes an indicative figure of \$4,420,000 for 15 dwellings.

A shared cost (50%) arrangement for design, construction and associated costs would result in an outlay for Council of \$2,210,000 (indicative) plus the value of the land. There would be an opportunity cost for use of Council funds for the development which could otherwise be used on other projects.

Part ownership of the buildings would realise revenue and incur management, maintenance costs etc.

### **3.4 Alternative Scenario – Equity Partnership**

Council would contribute to the cost of the design and review of the detailed design and documentation prior to lodgement of the development application. Legal fees to establish formal arrangements may be shared with CEH. There would be no cost to Council for construction. Other costs may include transfer fees and associated legal costs. Council would realise a financial return upon the finalisation of the project.

### **3.5 Funding Opportunities**

There are funding opportunities from the Federal and the State Government.

The State Government plans to increase social and affordable housing through partnerships with the Commonwealth Government and other key stakeholders as part of key initiatives such as the Social Housing Accelerator Payment (Accelerator) - \$135.8M has been allocated to SA - and the National Housing Accord.

In July 2023, the SA Housing Authority (SAHA) sought information from the Community Housing sector (Tier 1 and 2 Providers only) on potential projects that could receive support under Commonwealth Government housing initiatives. Common Equity Housing SA included the proposed redevelopment of 500 Wright Road, Modbury in the list of potential projects submitted to SAHA.

The proponent advises that SAHA will shortly commence a formal EOI procurement process for Community Housing Providers (CHPs) with the aim of having project funding agreements in place by 31 December 2023. The more "ready" projects will have the best chance of being selected. Hence, it is timely for consideration of potential projects and for planning to commence.

It is expected that the eligibility criteria will include:

- Shovel ready – construction must commence in the 2023/24 financial year (or near to).

- Funding is for social housing only.

As part of its 2022-23 Budget release, the Federal Government announced a new Housing Accord. The Housing Accord brings together all levels of government, investors, and the residential development, building and construction sector to unlock quality, affordable housing supply over the medium term.

The Federal Government's Budget announcement also included the expansion of the Housing Australia Future Fund (HAFF) and the repurposing of the National Housing Infrastructure Facility (NHIF) to facilitate the additional housing supply required by the Housing Accord.

On 14 September 2023 the Federal Government announced that the Housing Australia Future Fund legislation had been passed by the Parliament. It is expected that the specifics of both programs will be finalised within the coming months and CHPs are expected to play a vital role as the primary delivery agents, collaborating with industry stakeholders and investors to achieve the desired housing outcomes.

Project eligibility under the Accord will be determined by the National Housing Finance and Investment Corporation in consultation with SAHA for projects in South Australia. It is expected this funding will be targeted to affordable housing outcomes.

#### 4. STRATEGIC OBJECTIVES

##### Strategic Plan

The following strategic objectives in Council's Strategic Plan 2025 are the most relevant to this Report:

Objective	Comments
<b>Community</b>	
<i>People feel a sense of belonging, inclusion and connection with the City and the community</i>	Consultation with existing tenants will be included in the process of developing the site.
<b>Environment</b>	
<i>Environmentally valuable places and sites that are flourishing and well cared for</i>	There is an opportunity to include water sensitive urban design within the design.
<b>Economy</b>	
<i>Modbury Precinct is revitalised as the city's key activity centre</i>	The site is within the Modbury Precinct and the uplift to the property would contribute to achieving the objectives of the Modbury Precinct Activation Policy.
<b>Places</b>	
<i>Neighbourhoods are easy to move around and are well connected with pedestrian</i>	The site is located adjacent the Dry Creek Corridor that offers incidental

<i>and cycle paths that offer an alternative to cars</i>	walking and cycling opportunities with connections to other services and facilities.
<i>Housing is well designed and affordable and responds to the changing needs of existing and future residents</i>	The main objective of the project is to provide affordable, high-quality and sustainable housing opportunities for vulnerable target groups.
<b>Leadership</b>	
<i>Planning considers current and future community needs</i>	Council's consideration and further involvement in the project would align with this objective.

### **Community Land Management Plans**

The site is not classified as community land as defined in the Local Government Act 1999 and there is no requirement for a Management Plan or community engagement.

### **Policies**

As the unsolicited proposal involves a potential land sale, the evaluation must consider Council's [Disposal of Land and Assets and Acquisition of Land Policy](#) and [Unsolicited Proposal Policy](#). These are discussed in Item 2 of this Report

The site is located within the Modbury Precinct. Council's [Modbury Precinct Activation Policy](#) envisages the following outcomes for development and urban form:

- a. High quality design and delivery
- b. Attraction of diverse new housing products
- c. New development that appeals to key target markets
- d. Freshen up image
- e. Support staff in working with complex applications
- f. Showcase good urban design and housing products
- g. Create urban form that preferences walking, cycling and public transport.

The project design would have regard to the above as well as all other relevant outcomes.

The City Arborist advises that there is a significant tree on the site (River Red Gum) with a tree protection zone of 15 metres. The remaining vegetation on the site is not regulated or significant and planted as amenity trees. Council's [Tree Management Policy](#) includes a provision for Council to place a monetary value on the trees to be removed where the removal is for development benefit. This valuation would need to be undertaken.

## **5. LEGAL**

Due to the unconventional approach with respect to the alternative scenario (equity partnership) legal advice was sought regarding the mechanisms available to implement this scenario if Council were to support it in-principle. This is discussed in Item 2 of this Report.

The development would require development approval irrespective of the delivery scenario. The application would be referred to the Council Assessment Panel as Council is the owner of the site.

## **6. RISK – IDENTIFICATION AND MITIGATION**

Sale of the land to CEH at the outset is subject to the Minister's approval and the Minister has first option to purchase as per the Funding Deed. The development may still proceed with the Minister being the active partner. This option is considered to carry minimal risk for Council.

The Minister's approval is also required prior to entering into an agreement with the proponent for any of the scenarios proposed.

Risks for Council associated with the unsolicited proposal (other than an outright sale to CEH) to develop the property may be mitigated through a clear development deed that clarifies the arrangement for design, funding, timing, consultation and eventual transfer to Council of buildings equivalent to the value of the land.

Other risks are associated with the construction phase and include shortage of contractors and materials.

## **7. ACCESS AND INCLUSION**

The Proposal is for the provision of additional and affordable housing under the co-operative housing framework which supports the notion of inclusive and equitable access and participation in housing-related decisions.

## **8. SOCIAL AND COMMUNITY IMPACT**

The increase in density on the site would increase vehicle movements and access and result in a change in amenity for neighbouring properties.

The proposal states that the project will meet the cost of relocating existing tenants. CEH will find alternative housing for the current tenants with the option to return to live in the new development and provide input into the design.

The project is proposed to align with the co-operative housing model which provides an alternative to traditional community housing models, acknowledging importance

of connection, engagement and voice. The development as proposed will include communal spaces where neighbours can connect.

## 9. ENVIRONMENTAL

Redevelopment of the site presents environmental opportunities:

- Landscaping to incorporate biodiversity sensitive urban design principals to mitigate risks of inappropriate species in close proximity to the creek.
- Reduce urban heat in the built form and landscaping, i.e. utilising light coloured roofing, trees and soft landscaping.

## 10. ASSETS

Council's asset portfolio would reduce should Council proceed with the scenarios 1 and 2. Scenario 3 would increase Council's assets, and the alternative scenario (equity partnership) would result in a neutral effect on Council's asset portfolio.

## 11. PEOPLE AND WORK PLANS

The options proposed for Council's consideration will require staff resources to manage the project. The scenario to sell the land to CEH in the first instance will require the least resourcing.

## 12. COMMUNITY AND STAKEHOLDER ENGAGEMENT

CEH will engage with key stakeholders during the design process, in particular, Council and current residents who intend to return to the site following completion.

## 13. COMMUNICATIONS OF COUNCIL DECISION

The proponent will be advised of Council's decision.

## 14. INTERNAL REPORT CONSULTATION

The following staff have been included in the consultation process in the preparation of this Report.

<b>Name</b>	<b>Position</b>	<b>Consulted about</b>
Ingrid Wilkshire	Manager City Strategy	Evaluation Panel Member
Victoria Masterman	Lead – Precincts and Placemaking	Evaluation Panel Member and Dry Creek Corridor
Stuart Simpson	Team Leader, Financial Accounting	Evaluation Panel Member
Tony Hall	City Arborist	Tree Assessment
Jessica Lewig	Strategic Urban Planner	Planning and Design Code zoning

## **Attachments**

1. Unsolicited Proposal - Common Equity Housing
2. Funding Deed - Council and State Government 500 Wright Road Modbury

## **Report Authorisers**

Rosa Gagetti Property & Projects Facilitator	8397 7279
Ingrid Wilkshire Manager City Strategy	8397 7292
Justin Robbins General Manager Strategy & Finance	8397 7444