Confidential Item

CAMPBELLTOWN CITY COUNCIL

Confidential Item

For Council meeting to be held on

Tuesday 5 April 2022 at 7.00 pm

Refer Item 11.9

Confidential Item

11.9 Section 184 Process – Sale by Private Treaty

Manager Finance, Simon Zbierski's Report

Purpose of Report

To consider an offer received for the sale of Unit 3/85 Reid Avenue, Hectorville that will assist in recovering rates that have been in arrears for more than three years.

Strategic Plan Link

Focus Area 5.3.5 Provide a fair and equitable rating system

Previous Council/Committee Resolution

At its meeting on 4 May 2021, Council resolved:

'That:

1. Council authorise Staff to appoint Oakbridge Lawyers to continue the Section 184 process for the following properties should payment in full not be received or an acceptable payment arrangement not be agreed to in accordance with the timeframe to be set by the lawyers:

    - Property 3, Athelstone
    - Property 4, Campbelltown
    - Property 5, Hectorville
    - Property 6, Newton
    - Property 7, Tranmere
    - Property 8, Tranmere
    - Property 9, Tranmere
    - Property 10, Tranmere
    - Property 11, Tranmere
    - Property 12, Tranmere

2. Staff prepare a further report for Council's consideration should it need to commence the sale process by public auction.'

At its meeting on 20 July 2021, Council resolved:

'That, in accordance with Section 184 of the Local Government Act 1999:

1. Council authorise the appointment of Brenton Ward Real Estate to proceed to sale for the following properties:

    - Property 3, Athelstone
    - Property 4, Campbelltown
    - Property 6, Newton

2. Staff prepare a further report to Council should it need to commence the sale process by public auction for Property 5, Hectorville.'

At its meeting on 16 November 2021, Council resolved:

> 'That, in accordance with Section 184 of the Local Government Act 1999 Council authorise the appointment of Brenton Ward Real Estate to proceed to sale for Property 5, Hectorville.'

Background

In accordance with Section 184 of the Act (Local Government Act 1999) and Council's Rating Policy, Council engaged a real estate agent to proceed to sell Property 5, Hectorville.

Prior to auction, Staff were able to obtain a phone number for the ratepayer. Despite numerous attempts to make contact with the ratepayer, the real estate agent was unable to receive a response and therefore action proceeded.

With no payments received or payment arrangements in place, an online auction was held on 9 February 2022, with five bidders registered. To protect the interests of the ratepayer, Staff considered the current capital value of the property and also sought independent advice and set a reserve price of $200,000 for the sale.

While there was a number of bids for the property, the auction failed to meet the reserve price and was passed in. A short negotiation was held with the highest bidder with an offer received of $165,000. This was not accepted.

In accordance with Section 7.3.3 of the Rating Policy:

> 'Should Council proceed to auction, but it does not result in a sale, Council is able to sell the property by private contract for the best price it can reasonably obtain. Following the sale it may be necessary, in exceptional circumstances, for Council to apply to the court for vacant possession.'

Staff can confirm that there is no one currently living at the property. As the real estate agent was unable to obtain access to the inside of the property, it has been impossible for prospective buyers to see the condition of the inside of the unit as part of their decision making process.

This has been reflected in the offers received to date being below the reserve set.

Discussion

As the sale moved to the private contract stage, the Chief Executive Officer approved a price range of $190,000 to $210,000.

Despite the auction occurring over six weeks ago, there is still some interest being received for the property. Staff have now been presented with a contract with an offer of $180,000.

As the decision to sell by private contract has not been delegated in line with the Rating Policy, Staff believe it is appropriate for this offer to be considered by Council.

To streamline this process in the future, Staff propose including a delegation to proceed to sale by private contract within future resolutions where a Section 184 property is not sold through the auction process.

The full year balance outstanding at the time of this report is $14,251.73. More costs are likely to be added to the property if it proceeds to sale, notably any final real estate agent, conveyancing and legal costs, along with costs associated with obtaining vacant possession.

Social Implications

Council is committed to working with ratepayers to meet their financial commitments to Council and to support them remaining in their houses. Council has developed consistent and effective processes to support people experiencing financial difficulties and actively encourages people to talk to Council if they require a suitably negotiated payment plan.

There are a number of agencies and organisations who can also provide financial support and advice to people who require it. The earlier people seek support from Council or other organisations the better the outcome is likely to be.

Environmental / Climate Change Implications

There are no environmental / climate change implications in relation to this report.

Asset Management Implications

There are no asset management implications in relation to this report.

Governance / Risk Management

To be able to sell a property to recover rates, Council must adhere to the requirements of Section 184 of the Local Government Act 1999.

Council has undertaken all steps necessary leading up to this stage, with Council now considering whether to accept the offer received, in accordance with the Rating Policy. Should the ratepayer decide not to repay the outstanding amount by the time the property sells, there may be some negative feedback regarding Council following through with the sale process.

This power is not delegated to any member of Staff, therefore any decision to sell the property by private contract is required to be approved by Council.

Community Engagement

There is no requirement to consult with the Community except for the ratepayer/s, mortgagee and caveat holder (where applicable) involved with the property. Documentation seeking payment has been developed in accordance with the requirements of the Act, with no payments received by the stated deadline.

Regional Implications

There are no regional implications in relation to this report.

Economic Development Implications

There are no economic development implications in relation to this report.

Financial Implications

Taking action to recover these outstanding rates is one of the last courses of action available to Council and sends a strong message that non-payment of rates will not be tolerated.

Following this process ensures that the whole Community is being treated fairly and equitably. Council is able to recover costs associated with any rates in arrears (eg including fines, interest, debt collection fees and the non-GST component of any real estate agent fees).

Should the property sell, Council is the first creditor to receive payment to clear any debts owed to it. Should the owner not be found subsequent to sale, any surplus funds will be dealt with as unclaimed money under the Unclaimed Moneys Act 1891.

Recovery of these amounts will improve Council's cash flow and reduce the level of outstanding amounts owing for rates.

Recommendation

That Council authorise the Chief Executive Officer to accept the offer of $180,000 for the sale of Unit 3/85 Reid Avenue, Hectorville to recover rates that have been in arrears for greater than three years.