
Present
Cr A Speedie (Mayor)
Cr B Mitchell (Deputy Mayor)
Cr K Bennett
Cr L Hall
Cr D Lowe
Cr R Mildren
Cr J Watson

In attendance
Mr M Dixon Chief Executive Officer
Ms D Mudra Deputy Chief Executive Officer
Ms N Klein Director Finance and Systems
Ms S Hogg Acting Director Community Development
Mr L Schultz Director Planning and Infrastructure
1. **Calling to order**

   The meeting was called to order at 9am by the Mayor.

   The Mayor noted that this virtual council meeting was being conducted in accordance with Council’s Guidelines for Virtual Council Meetings.

2. **Statement of acknowledgement**

   The Mayor read the following:

   *We acknowledge the traditional owners of this land on which we are meeting and pay our respects to their Elders past, present and emerging, and to those from other communities who are here with us today, for they hold the memories, the tradition and the culture of all Aboriginal and Torres Strait Islander People.*

3. **Apologies and requests for leave of absence**

   There were no apologies or requests for leave of absence.

4. **Declaration under Acts, Regulations, Codes or Local Laws**

   There were none.

5. **Declaration by councillors of any conflict of interest**

   Cr Mildren disclosed a conflict of interest, being being an indirect interest because of conflicting duty (section 78B of the *Local Government Act, 1989*), for item 6.1 Proposed sale of Lot 2 PS533379, Whytes Road, Bandiana. The nature of the interest is that Cr Mildren’s business has previously undertaken work for one of the parties making a submission to the EOI.

6. **Reports for determination**

   6.1 Proposed sale of Lot 2 PS533379, Whytes Road, Bandiana.

7. **Urgent business**

8. **Confidential urgent business**

9. **Close of meeting**
<table>
<thead>
<tr>
<th>Environment</th>
<th>Minor (4)</th>
<th>Moderate (3)</th>
<th>Major (2)</th>
<th>Catastrophic (1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financial</td>
<td>Little to no impact on revenue or expenditure</td>
<td>Moderate impact on revenue or expenditure</td>
<td>Major impact on revenue or expenditure that will result in a council budget revision</td>
<td>Total impact on revenue or expenditure that may lead to the organisation being placed into administration</td>
</tr>
<tr>
<td>Service Delivery</td>
<td>Disruption to program, project or service with no downtime. May be dealt with by routine operations or management action and have limited impact on objectives</td>
<td>Require management initiated review and have some impact on the business unit's program, project or service, or on its strategic objectives. Temporary loss of key data.</td>
<td>Would threaten the continuation of a business unit's program, project or a critical service. Impact adversely on the Business Unit's strategic objectives. Unrecoverable loss of key data.</td>
<td>Would threaten the organisation's viability or would not allow the organisation to achieve its objectives</td>
</tr>
<tr>
<td>Reputation</td>
<td>Limited political/community sensitivity. No reputational damage. Resolved in normal operational management.</td>
<td>Some political/community sensitivity and local media scrutiny and/or requires external audit.</td>
<td>Results in significant political community sensitivity and media scrutiny and/or parliamentary questions.</td>
<td>Results in extreme political/community sensitivity and media scrutiny or may result in a commission of inquiry or request for information.</td>
</tr>
<tr>
<td>Safety</td>
<td>May result in minor injury or temporary health damage which may be dealt with through primary First Aid.</td>
<td>Result in injury or health impacts that are reversible, but may require medical attention but limited ongoing treatment.</td>
<td>Results in life threatening or serious injury which is irreversible requiring medical attention and ongoing treatment.</td>
<td>Results in death or permanent disability of one or more people.</td>
</tr>
<tr>
<td>Legislative Compliance</td>
<td>Minor technical non-compliance or breach of regulations or law with potential for minor damages or monetary penalty.</td>
<td>Minor technical non-compliances and breaches of regulations or law with potential for minor damages or monetary penalty.</td>
<td>Major compliance breach with potential exposure to large damages or awards.</td>
<td>Sancus compliance breach with potential prosecution with maximum penalty imposed.</td>
</tr>
</tbody>
</table>

### Consequence

<table>
<thead>
<tr>
<th>Likelihood</th>
<th>Almost Certain (A)</th>
<th>Likely (B)</th>
<th>Possible (C)</th>
<th>Unlikely (D)</th>
<th>Rare (E)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Probability</td>
<td>Can be expected to occur in most circumstances (i.e. weekly)</td>
<td>Will probably occur in most circumstances in the future (i.e. monthly)</td>
<td>May occur in some circumstances in the future (i.e. yearly)</td>
<td>Could occur at some time in the future, but doubtful (i.e. every 2-10 years)</td>
<td>Expected to occur in exceptional circumstances (i.e. 10 years)</td>
</tr>
<tr>
<td>Risk Score</td>
<td>Significant</td>
<td>Medium</td>
<td>Medium</td>
<td>Low</td>
<td>Low</td>
</tr>
<tr>
<td>Likelihood</td>
<td>High</td>
<td>Significant</td>
<td>High</td>
<td>Low</td>
<td>Low</td>
</tr>
<tr>
<td>Risk Score</td>
<td>Extreme</td>
<td>High</td>
<td>High</td>
<td>Medium</td>
<td>Medium</td>
</tr>
<tr>
<td>Likelihood</td>
<td>Extreme</td>
<td>Extreme</td>
<td>Extreme</td>
<td>Extreme</td>
<td>Extreme</td>
</tr>
</tbody>
</table>

### Response based on risk score

- **Extreme:** Council/CEO’s attention immediately required. Possibly avoid undertaking the activity OR implement new controls.
- **High:** Director’s attention required. Consider suspending or ending activity OR implement additional controls.
- **Significant:** Manager’s attention required. Ensure that controls are in place and operating and management responsibility is agreed.
- **Medium:** Manage through usual procedures and accountabilities.
- **Low:** Add treatments where appropriate.
6.1 - Proposed sale of Lot 2 PS533379, Whytes Road, Bandiana.

Purpose of report

The purpose of this report is for council to give public notice in accordance with sections 189 and 223 of the Local Government Act 1989 (‘the Act’) of its intention to sell Lot 2 PS533379X (“Lot 2”), Whytes Road Bandiana to Repus Funds Pty Ltd.

The report also seeks a resolution of the Council to authorise the Chief Executive Officer to execute all necessary documentation pertaining to the sale of the land, on terms and conditions agreed between the council and the Purchaser, without further resolution of the Council.

Background

The council owns 36.8 ha of Industrial 1 zoned land to the south west of the former saleyards site, separated by the old railway line corridor owned by VicTrack (Attachment A). The land has direct road access from the Kiewa Valley Highway and neighbours Rocla concrete pipe manufacturer to the north east of the site. There is a nature reserve running along the south east boundary.

Lot 2 is in close proximity to the expanding Riverside residential estate, Department of Defence – Wadsworth Barracks and Middle Creek native reserve which is part of the WREN network. It is also adjacent Wodonga’s Leneva Baranduda growth corridor, an area identified for residential, commercial and community development.

At the June 29, 2020 Ordinary council meeting it was resolved that:

1. An Expression of Interest process for the sale of Lot 2 PS533379X be commenced immediately; and
2. Should the Expression of Interest process not successfully secure a sale, Lot 2 PS533379X be listed for sale on the open market.

Following this resolution, during July 2020, the Council initiated the expression of interest (EOI) process for the sale of Lot 2, vacant land located on the corner of Kiewa Valley Highway and McGeochs Road, Bandiana.

The EOI process allowed council to consider the timely development of the site, the financial return to council and the proponent’s financial capacity to purchase and develop the site. The EOI was advertised in the Border Mail, the Wodonga Council website and on the Council’s social media platforms on Wednesday 1 July, 2020 and closed at 3pm on Tuesday, 21 July 2020.

Seven parties registered interest and a total of four (4) submissions were received (a summary of the submissions has been supplied to councillors to support the recommendation including council’s valuation, and the summary sheet is also included with this agenda as confidential Document A). The submissions are considered commercial in confidence as they contain confidential information.
Evaluation Panel Members
The evaluation panel, consisting of Leon Schultz, Director Planning & Infrastructure, John Sidgwick, Manager Planning & Building and Adam Wiseman, Manager Investment Attraction & Economic Development evaluated and scored the submissions independently at council offices on Wednesday, 22 July 2020.

Evaluation
The evaluation panel unanimously scored Repus Funds Pty Ltd as the best option under the evaluation criteria. A comment from the evaluation panel referring to the submission, 'A well-articulated submission with a realistic project plan. Submission indicates commitment to a high amenity precinct and developer has a proven track record working with Vaughan Construction in industrial development in Melbourne.'

The following selection criteria was used as advertised in the EOI document:

<table>
<thead>
<tr>
<th>Evaluation criteria</th>
<th>Weighting</th>
</tr>
</thead>
<tbody>
<tr>
<td>Timely development of the site</td>
<td>50%</td>
</tr>
<tr>
<td>Maximise financial return to Council and an acceptable contractual risk profile for Council.</td>
<td>30%</td>
</tr>
<tr>
<td>Ensure the Proponent has the financial capacity to purchase the site, and the financial capacity, experience and skills to carry out the development.</td>
<td>20%</td>
</tr>
</tbody>
</table>

Scoring
The following point scoring was applied to the criteria:

<table>
<thead>
<tr>
<th>Score</th>
<th>Title</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>Non-compliant</td>
<td>Fails to satisfy specified requirements</td>
</tr>
<tr>
<td>1</td>
<td>Below expectations</td>
<td>Does not meet the requirement to a major degree</td>
</tr>
<tr>
<td>2</td>
<td>Marginally</td>
<td>Does not meet the requirement but may be adaptable or made acceptable</td>
</tr>
<tr>
<td>3</td>
<td>Acceptable</td>
<td>Meets the requirement except in minor aspects Successful completion likely</td>
</tr>
<tr>
<td>4</td>
<td>Very good</td>
<td>Meets the requirement but may be marginal in minor aspects</td>
</tr>
<tr>
<td>5</td>
<td>Superior</td>
<td>Meets or exceeds the requirement in all respects</td>
</tr>
</tbody>
</table>
6.1 - Proposed sale of Lot 2 PS533379, Whytes Road, Bandiana.
(cont’d)

Council Plan

<table>
<thead>
<tr>
<th>Strategic objective</th>
<th>Strategy areas</th>
<th>Actions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advance our position as a leading regional city, fostering opportunities for development and jobs, and building a destination that offers a variety of experiences, recognising our rich and diverse history and culture.</td>
<td>Business and investment</td>
<td>Continue to attract new and diverse business to Wodonga.</td>
</tr>
</tbody>
</table>

Council policy / strategy implications

The Property Divestment policy outlines the objectives and approach that the council will adopt in the process of identifying, assessing and deciding to retain or divest property assets (land and buildings) for the benefits of the community. This proposal addresses all considerations outlined in the Property Divestment Policy.

The Sale, Exchange and Transfer of Council owned land policy outlines the principles and approach council will take for the sale, exchange and transfer of council owned land to ensure it is subject to a fair and transparent process in accordance with relevant legislation.

Risk management implications

<table>
<thead>
<tr>
<th>Risk description</th>
<th>C’quence</th>
<th>L’hood</th>
<th>Rating</th>
<th>Controls &amp; treatments</th>
</tr>
</thead>
<tbody>
<tr>
<td>If the offers are not accepted, the site could remain vacant and remain undeveloped for some time.</td>
<td>S</td>
<td>C</td>
<td>3</td>
<td>Accept one of the offers and encourage the appropriate development of the site.</td>
</tr>
<tr>
<td>The site is sold but remains undeveloped.</td>
<td>H</td>
<td>C</td>
<td>2</td>
<td>Ensure that the Contract of Sale, or subsequent planning permit places achievable development expectations upon the developer.</td>
</tr>
<tr>
<td>The proposed development application is unacceptable.</td>
<td>S</td>
<td>C</td>
<td>3</td>
<td>Ensure that the expected outcomes contemplated within the Wodonga Planning Scheme are achieved.</td>
</tr>
<tr>
<td>Purchaser ‘land banks’ or is unable to progress the proposed development.</td>
<td>H</td>
<td>C</td>
<td>2</td>
<td>Add terms or conditions to the offers to purchase before signing to place development timeframes upon the purchaser.</td>
</tr>
</tbody>
</table>
Financial implications

Should the Council support the sale of the land, the financial implications would be that council’s revenue increases by the sale price of $1.6 million. Some legal and other minor fees are applicable and will be covered by the sale proceeds.

Environmental implications

There are no environmental implications associated with this report. Environmental considerations may be a requirement of the planning permit application.

Sustainability implications

There are no sustainability implications associated with this report, however, it could be a requirement of the planning permit application.

Social / cultural implications

There are no social / cultural implications associated with the section 189 and 223 process.

Legislative implications

This special meeting to consider this report was called by the Mayor in accordance with clause 10.1 of the Meeting Procedure Local Law.

The adoption of the recommendation will commence the public notice process required under section 189, and conducted in accordance with section 223 of the Act.

Community engagement and internal consultation

The adoption of the recommendation will commence the public notice process required under section 189, and conducted in accordance with section 223 of the Act.

Options for consideration

Option 1. Do nothing.

Acceptable offers for the site have been received which are close to market valuation. All offers are worthy of consideration and responses.

Doing nothing is not supported.

Option 2. Accept Repus Funds Pty Ltd offer
6 - Reports for determination

6.1 - Proposed sale of Lot 2 PS533379, Whytes Road, Bandiana.
(cont’d)

Agree to sell the land to Repus Funds Pty Ltd for $1,600,000 subject to the outcomes of the section 189 and 223 process and the Chief Executive Officer be authorised to execute all necessary documentation pertaining to the sale of the land, on terms and conditions agreed between the council and the Purchaser.

This is the preferred option.

Conclusion

The council owns 36.8 ha of Industrial 1 zoned land to the south west of the former saleyards site. Council resolved to undertake an expression of interest for the site. This commenced on July 1, 2020 and concluded 3pm July 21, 2020.

Throughout the expression of interest process, four (4) submissions were received for the sale and development of Lot 2.

It is proposed that the offer received from Repus Funds Pty Ltd at the sum of $1,600,000 be accepted subject to the outcomes of the legislative processes and that the Chief Executive Officer be authorised to commence the processes under section 189 and 223 of the Local Government Act 1989.

It is also proposed that the Chief Executive Officer advise the unsuccessful parties of the Council’s intention not to accept their offers.

Attachments

The following documents are attached to this report:

- Attachment A: Public notice

Tabled papers

The following documents will be tabled at the meeting:

- Document A: Summary of EOI submissions (Confidential)

Declaration of conflict of interests

Under section 80C of the Local Government Act 1989 officers providing advice to the council must disclose any interests, including the type of interest.

Deputy Chief Executive Officer - Debra Mudra
In providing this advice, I have no interests to disclose in this report.

Manager Investment Attraction and Economic Development - Adam Wiseman
In providing this advice, I have no interests to disclose in this report.

Property Officer - April Lampe
In providing this advice as the report author, I have no interests to disclose in this report.
6.1 - Proposed sale of Lot 2 PS533379, Whytes Road, Bandiana.  
(cont’d)

**Recommendation**

1. That Council authorises the Chief Executive Officer to give public notice under sections 189 and 223 of the Local Government Act 1989 of Council's intention to:
   - sell the following land:
     - the whole of the land contained in certificate of title volume 11053 folio 624 and known as Lot 2 PS533379X, 96 Whytes Road, Bandiana, Victoria 3690 (Lot 2)
   in accordance with the terms of the public notice, included as attachment A.

2. That the public notice stipulate that persons may make a submission in respect of the proposal in accordance with Section 223 of the Local Government Act 1989 and that written submissions must be received by no later than 5pm on August 24, 2020.

3. That the Chief Executive Officer be authorised to undertake the administrative procedures necessary to enable Council to carry out its functions under section 223 of the Act in relation to this matter.

4. That Council hold a Special Meeting of Council to hear from any persons who ask to be heard in support of their written submission at a meeting to be held at 9am on Friday, August 28, 2020 in Council's offices, 104 Hovell Street, Wodonga in relation to the proposed sale of the Sale Land.

5. Council further resolves that should no submissions be received and having followed all required statutory procedures pursuant to section 189 and section 223 of the Act, to sell the land to Repus Funds Pty Ltd in the sum of $1,600,000.

6. The Chief Executive Officer be authorised to execute all necessary documentation pertaining to the sale of the land, on terms and conditions agreed between the council and the Purchaser, without further resolution of the Council.

**Conflict of interest disclosure**

*Prior to the commencement of item 6.1 Cr Mildren disclosed a conflict of interest in that item, the details of which are recorded in these minutes at item 5.*

*Cr Mildren left the meeting at 9.05am and, due to an error with the virtual council meeting process, he was not returned to the meeting.*
Correction to agenda papers

Prior to the consideration of this item the CEO provided the following advice:

1. The officer report in the first paragraph of the Background section, referenced an attachment A, being a map of the 36.8 ha of Industrial 1 zoned land owned by the council. However, this map was not included as a part of attachment A.

2. Attachment A was also referenced in the officer recommendation, being a copy of the proposed public notice, but with the map omitted.

3. A revised attachment A is tabled, being an updated version of the proposed public notice, and which incorporates a map of the land that is the subject of the report and is referenced in paragraph one of the Background section.

NB: the revised attachment A is included with these minutes.

Closure of meeting to the public

Motion

Crs Brian Mitchell / Kat Bennett

That:

1. The meeting be closed to the public to consider tabled document A “Summary of EOI submissions” under item 6.1, in accordance with section 66(2)(a) of the Local Government Act 2020, as this is “confidential information”, which as provided under section 3 of the Act is Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released and is private commercial information, being information provided by a business, that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.

2. In accordance with section 66(5)(b) of the Local Government Act 2020 the minutes record that the explanation for this item being considered confidential is that it reveals commercial information that was provided to council on the basis of a confidential business proposal, and that council is involved in negotiations with one or more of the businesses and those negotiations would be compromised by the release of the information.

Carried unanimously
6.1 - Proposed sale of Lot 2 PS533379, Whytes Road, Bandiana. (cont’d)

Return to open council

**Motion**

Crs Kat Bennett / John Watson

That the ordinary meeting of the council be resumed.  

*Carried unanimously*

**Adopt the in-camera recommendations**

**Motion**

Crs Brian Mitchell / Kat Bennett

That council:

1. Adopts the recommendations of the closed meeting of the council;

2. Resolves, pursuant to section 125(2) of the *Local Government Act 2020*, that the confidential information should be publicly available for the limited purpose of communicating the effect of these resolutions to the extent necessary to give effect to them; and

3. Authorises the Chief Executive Officer to communicate the effect of these resolutions to the effect necessary to give effect to them.  

*Carried unanimously*
Motion

Crs Brian Mitchell / Kat Bennett

1. That subject to an in principle agreement between Council and Repus Funds Pty Ltd, based upon the confidential resolution of the Council on 27 July 2020, Council authorises the Chief Executive Officer to give public notice under sections 189 and 223 of the Local Government Act 1989 of Council's intention to:
   - sell the following land:
     - the whole of the land contained in certificate of title volume 11053 folio 624 and known as Lot 2 PS533379X, 96 Whytes Road, Bandiana, Victoria 3690 (Lot 2)

   in accordance with the terms of the public notice, included as attachment A.

2. That the public notice stipulate that persons may make a submission in respect of the proposal in accordance with Section 223 of the Local Government Act 1989 and that written submissions must be received by no later than 28 days after the date of the publication of the notice.

3. That the Chief Executive Officer be authorised to undertake the administrative procedures necessary to enable Council to carry out its functions under section 223 of the Act in relation to this matter.

4. That Council hold a Meeting of Council to hear from any persons who ask to be heard in support of their written submission in relation to the proposed sale of the land, the meeting to be held at a time and date to be determined, and advised to submitters.

5. That a report on the section 223 process, including any hearings, be submitted to a future Meeting of Council.

Carried unanimously
Attachment A

NOTICE OF INTENTION TO SELL LAND

Wodonga City Council (Council) gives notice under Section 189 of the Local Government Act 1989 (Act) that it intends to sell the ‘Land’ described below (Proposal).

The land which is the subject of the Proposal is the land shown as Lot 2 on the plan below, being the land contained in certificate of title volume 11053 folio 624, known as corner Kiewa Valley Highway and Mcgeochs Road, Bandiana, Victoria 3691 (Land).

The Proposal is that the Land be sold by private treaty to Repus Funds Pty Ltd (Purchaser). The contract of sale for the Land will provide as follows:

1. a purchase price of (the actual amount will be inserted as specified by Council or subject to negotiations between the CEO and the Purchaser if Council so resolves);
2. payment of a deposit equal to 10% of the price;
3. the sale will be conditional on:
   a. the Purchaser procuring a Planning Permit Approval within 18 months after the day of sale;
4. settlement will be due 30 days after the issue of the Planning approval; and,
a. as a condition of sale, the purchaser must enter into an agreement pursuant
to section 173 of the Planning and Environment Act 1987 which requires the
Purchaser to substantially commence and practically complete the
development of the Land, within specified timeframes.

A person may make a submission on the Proposal. Any person proposing to
make a submission under section 223 of the Act must do so by no later than 28
days after publication of this notice. All submissions will be considered in
accordance with section 223 of the Act.

Submissions should be addressed to the Chief Executive Officer, and can be
hand delivered to Council’s Office at 104 Hovell St, Wodonga or posted to the
following address:
Chief Executive Officer
Wodonga City Council
PO Box 923
WODONGA VIC 3689

Any person requesting to be heard in support of his or her submission is entitled
to be heard before Council (or a Committee established by Council for this
purpose) or be represented by a person acting on his or her behalf. If required a
Meeting of Council will be held for this purpose and the time and date of the
meeting will be advised to submitters.

Mark Dixon
Chief Executive Officer
Wodonga City Council
Clause 24 of the Council's *Meeting Procedure Local Law* (no. 1 of 2019) states:

If the agenda for an Ordinary meeting makes provision for urgent business, business cannot be admitted as urgent business other than by resolution of Council and only then if it:

a) relates to or arises out of a matter which has arisen since distribution of the agenda; or

b) cannot safely or conveniently be deferred until the next Ordinary meeting or involves a matter of urgent community concern.

There was no urgent business.
Clause 24 of the Council's *Meeting Procedure Local Law* (no. 1 of 2019) states:

If the agenda for an Ordinary meeting makes provision for urgent business, business cannot be admitted as urgent business other than by resolution of Council and only then if it:

a) relates to or arises out of a matter which has arisen since distribution of the agenda; or

b) cannot safely or conveniently be deferred until the next Ordinary meeting or involves a matter of urgent community concern.

A confidential urgent business item also needs to stipulate the reason for the matter being considered as confidential in accordance with section 89 (2) and section 89 (3) of the *Local Government Act 1989*.

There was no confidential urgent business.
• Chairperson to close the meeting.

There being no further business the meeting closed at 9.50am

Minutes confirmed this ..................... day of ............................... 2020.

..................................................
Chairperson