



AGENDA

Special Meeting of Warrnambool City Council

5.45pm Monday 26 May 2014

VENUE:

**Reception Room
Civic Centre
25 Liebig Street
Warrnambool**

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can be obtained online at www.warrnambool.vic.gov.au

COUNCILLORS

Cr. Michael Neoh (Mayor)
Cr. Rob Askew
Cr. Jacinta Ermacora
Cr. Kylie Gaston
Cr. Peter Hulin
Cr. Brian Kelson
Cr. Peter Sycopoulis

**Bruce Anson
CHIEF EXECUTIVE**

ORDER OF BUSINESS

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1. OPENING PRAYER

Almighty God
Grant to this Council
Wisdom, understanding and Sincerity of purpose
For the Good Governance of this City
Amen.

ORIGINAL CUSTODIANS STATEMENT

I wish to acknowledge the traditional owners of the land on which we stand and pay my respects to their Elders past and present.

2. APOLOGIES

3. DECLARATION BY COUNCILLORS & OFFICERS OF ANY CONFLICT OF INTEREST IN ANY ITEM ON THE AGENDA

4. REPORTS

4.1 CROWN LAND TRANSFER – 10 SCOTT STREET, WARRNAMBOOL

PURPOSE

This report informs Council that all approvals and processes have been completed in readiness to finalise the proposed Crown land transfer at 10 Scott Street, Warrnambool.

1. BACKGROUND

For over a decade the Midfield Group (“Midfield”) has held discussions with Council and State Government regarding expansion plans at the southern end of Scott Street. As far back as 2003, Council received approval in principle from the State Government to sell a parcel of Crown Reserve Land at 10 Scott Street to enable the expansion of the adjoining Midfield operations. The Midfield expansion plans did not proceed at the time due to the projects not being investment ready.

In 2013 Midfield advised Council and State Government that they were investment ready to proceed with a number of expansion projects, some of which were limited by the area of land that Midfield occupies. Council has been requested by Midfield and the State Government to assist with the facilitation of the Midfield expansion. During 2014 a number of reports related to this item have been put to Council, including Committee of the Whole Council reports on 10th February and 11th March, and the most recent report to open Council on 28th April.

On 28th April 2014, Council recommended that:

- 1. Council note the one written submission received in response to the Public notice of Council’s intention to sell the Subject land to Midfield;*
- 2. Council proceed to work towards finalising the proposal to sell the land to Midfield subject to satisfactory completion of the purchase of land from the State Government;*

The purpose of this report is to finalise the proposal to purchase from State Government a parcel of Crown Reserve Land located at 10 Scott Street and on-sell to Midfield to facilitate the associated investment and employment growth of this company in Warrnambool.

The Title Plan of the Subject Land (1.097 hectares in area) to be sold to Midfield (“the subject land”) is shown at **Appendix A**.

2. PROCESS TO ACQUIRE THE LAND AND ON-SELL TO MIDFIELD

The processes required to effect the transfer of Crown Reserve Land has been complex and involved multiple stakeholders. Council has engaged with the following State Government departments to detail the sequence of events to facilitate the land transfer:

- Department of Treasury and Finance (DTF);
- Department of State Development, Business and Innovation (DSDBI);
- Department of Environment and Primary Industries (DEPI); and
- Department of Transport, Planning and Local Infrastructure (DTPLI).

The sequence of key events and approvals to effect the purchase of Crown Reserve Land from the State Government has included:

- Assistant Treasurer Approval to purchase the subject land from the State Government for its market value which required the following:
 - A Valuer-General's valuation of the market value of the subject land;
 - Preparation of the Title Plan prepared by the Surveyor General;
 - Approval by a Government Land Monitor for the proposed sale; and
 - Department of Treasury & Finance letter of offer to sell the subject land.
- Revocation of the existing reservation over the subject land in accordance with the requirements of the Crown Land (Reserves) Act 1978 ('1978 Act').
- Revocation of Council's appointment as committee of management in respect of the subject land by Order of the Governor in Council in accordance with section 14 of the 1978 Act.
- Council to accept the Department of Treasury & Finance offer to acquire the subject land for \$1.41 million (excluding GST)

The above items have been satisfactorily completed and Council is now in a position to execute the Crown Grant contract of sale between Council and the State Government.

The sequence of key events and approvals to effect the sale of the subject land by Council to Midfield have included:

- Council enters into a Heads of Agreement (HoA) with Midfield. The purpose of the HoA was to record each party's respective intentions and expectations in regard to the transfer of the Subject Land to Midfield and to outline the process and documentation required to facilitate such a transfer.
- Compliance with statutory processes. Council cannot enter into a contract of sale with Midfield without first complying with sections 189 and 223 of the Local Government Act (1989 Act) including doing the following:
 - Giving public notice of Council's intention to sell the subject land to Midfield at least 4 weeks prior to selling; and
 - Giving persons the right to make submissions in respect of the sale proposal in accordance with section 223 of the 1989 Act. One written submission was received in response to the public notice of Council's intention to sell the subject land to Midfield (and included in full in a previous report to Council on April 28).

An assessment of the submission and the sale proposal is set out in the previous report to Council dated 28 April 2014.

3. FINANCING

a) Subject Land

It is a requirement by DTF that a current market valuation of the subject land be undertaken by the Valuer General. The current market value of the subject land as determined by the Valuer General was \$1.41 million. DTF have confirmed that Council's purchase price for the subject land will be \$1.41 million (plus GST). Midfield have agreed to pay \$1.7 million (plus GST) to Council for the subject land.

4. CONTRACTS OF SALE - TERMS

Two separate contracts of sale will be entered into to effect the land transfer from State Government to Midfield:

- Crown Grant Contract of Sale for Council to purchase the subject land from the State Government; and
- Contract of Sale for Council to sell the subject land to Midfield.

Each of the two contracts of sale will be on the terms of 10% payable on signing of the contract with the balance payable on the later of :

- 60 days from the day of sale ; and
- 7 days after notification by the State Government of revocation of the existing temporary reservation of the Subject Land for municipal store yard purposes.

If the Crown Grant Contract is terminated for any reason, the Contract of Sale to Midfield is automatically terminated.

RECOMMENDATIONS

That Council;

- 1. Resolves to purchase the Subject Land from the State Government for \$1.41 million (excluding GST);**
- 2. Resolves, having followed all the required statutory procedures pursuant to Sections 189 and 223 of the *Local Government Act 1989 (Act)*, to sell the Subject Land to Midfield Meat Processing Pty Ltd CAN 006 971 508 and/or nominee (Midfield) for \$1.7 million (excluding GST); and**
- 3. Authorises the Chief Executive Officer to do the following:**
 - a. Sign the Crown Grant Contract of Sale to purchase the Subject Land and any other documents required to be signed in connection with the purchase of the Subject Land; and**
 - b. Sign the Contract of Sale to sell the Subject Land to Midfield, the Transfer of Land and any other documents required to be signed in connection with the sale and transfer of the Subject Land.**

TITLE PLAN		TP 812349Q
RESERVATIONS EXCEPTIONS CONDITIONS AND POWERS		
<p>The reservation to the Crown of:</p> <ul style="list-style-type: none">- any minerals as defined in the <i>Mineral Resources (Sustainable Development) Act 1990</i> and petroleum as defined in the <i>Petroleum Act 1998</i> (the "reserved minerals");- rights of access to any part of the land to search and obtain the reserved minerals; and- rights of access to any part of the land for pipe-lines, works and other purposes necessary to obtain and convey the reserved minerals on and from the land; <p>The right to resume the said land for mining purposes under Section 205 of the <i>Land Act 1958</i>; and</p> <p>The right of a licensee under the <i>Mineral Resources (Sustainable Development) Act 1990</i> or any corresponding previous enactment, to enter land and do work, within the meaning of that Act, and to erect and occupy mining plant or machinery on the land, in the same manner and under the same conditions and provisions as such licensee currently has on Crown land, provided compensation is paid under Part 8 of that Act for surface damage to the lands.</p> <p>The full and free right and liberty of any authority or authorities of Our said State empowered or authorised to make manage or maintain any sewer or sewers and its or their agents officers workmen servants and contractors at all times hereafter to make cut construct use maintain and repair as such authority or authorities may deem necessary or desirable all drains sewers and other like works upon over along or under that portion of the land hereby granted shown marked E-1 in the said plan.</p>		
File Ref: 2003-01071	ORIGINAL SHEET SIZE A3	SHEET 2 OF 2 SHEETS