

**ITEM ECDEV - CLOSED REPORT - CONFIDENTIAL - 25/09/17 -
PROPOSED SALE OF COUNCIL LAND**

REPORT BY: DIRECTOR ECONOMIC DEVELOPMENT AND ENVIRONMENT

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A (2) (c) and (d) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following:

- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.
- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it

SUMMARY

The purpose of this report is to inform Council of an offer to purchase Council land identified as Part Lot 20 DP 1217065, Barton Ave Wallerawang and to make a recommendation that Council proceed with direct negotiation and due diligence to dispose of the subject land parcel via a conditional contract of sale.

COMMENTARY

Background

Council received an unsolicited approach from representatives of Timberfix Pty Ltd in May of this year regarding whether Council was in a position to consider the sale of part or all of Council land identified as Part Lot 20 DP 1217065, Barton Ave Wallerawang. The interested parties were seeking a site to develop a new private school and associated infrastructure.

In June/July, permission was granted for the proponents to access the site to carry out due diligence and preliminary survey analysis work to further inform and refine their proposal.

The proponents met further with Council officers in early August 2017 and identified two potential parcels of the site that they were interested in purchasing from Council. These parcels are identified as Potential Development Site 1 and 2 on the attached drawings. At this meeting the proponents were advised that in order for the proposal to be given further consideration by Council that a written offer for one or both parcels of land would be required along with details of the proposed development concept.

In the meantime Council officers engaged Ralph Toyer and Associates (Valuers and Property Consultants) to provide Council with a Valuation Report to identify fair market value

On 24 August 2017 Council received a written offer from Timberfix Pty Ltd for two parcels of land (with no preferred option) and brief details of the proposed development concept as follows:

Proponents: Timberfix Pty Ltd

Development Concept: Development of a private school, housing development lots and supporting infrastructure. The proponents supported their offer with the following statement: “ *This type of integrated development would greatly improve and open up the township, attract younger families to the area, increase*

employment opportunities both during civil and construction phases as well as long term jobs, provide educational facilities and benefit to Council with a larger rate base”.

Offer Site 1	16.8ha	\$1,000,000
Offer Site 2	10.8ha	\$400,000

A land subdivision would be required to excise either parcel from the englobo site. The future land uses proposed are consistent with the current land zoning under Lithgow Local Environmental Plan 2014 and State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.

ENGLOBO SITE DETAILS

DETAIL	DESCRIPTION
Site History and Use	A larger land parcel was transferred to Council from <u>Elcom</u> for residential and other development purposes in 1991. Since then further subdivision occurred for the Wallerawang Public School Site and the Wallerawang Indoor Sports Centre.
Site Description	Lot 20 DP 1217065
Land Area	61.57ha
Land Zone	R5 Large Lot Residential (LLEP2014)
Minimum Lot Size	800m ²
Structures	Vacant
Easements/Other Dealings	<p>The site is encumbered by a series (6 in total) of significant easements for transmission lines and a water pipeline. These do impact the site and affect overall development potential and amenity.</p> <p>Site licence (20 years) with Minister for Education covering 5,113m² adjoining the Wallerawang School Site to the North to be used as sports field.</p> <p>Council has recently approved transfer of a small portion of land towards the northern boundary to enable vehicular access to an existing garage adjoining the land.</p>
Site Characteristics	<p>The northern section of the site has some high level easterly views to Wallerawang Lake.</p> <p>The site has varying topography and some areas of land > 25% slope that are unsuitable for standard residential development off Lyon Parade.</p> <p>Land to the south of the site is affected by local drainage lines.</p>
Site Context	<p>The site is located 1.5km south of the Wallerawang CBD and is adjacent to Wallerawang Lake on the southern edge of the Wallerawang township.</p> <p>The site is an irregular shaped parcel and is bordered by Barton Ave on its eastern boundary and wraps around the Wallerawang Public School and Wallerawang Indoor Sports Centre sites.</p> <p>The site is bordered partially by residential development and Lyon Parade on its western boundary and Forest Ridge Drive to the south.</p> <p>An access strip to Lyon Parade forms part of the site to enable vehicular access.</p>
Essential Services	No services are currently connected to the site, however are available within the area. Some augmentation may be necessary to service the site.

PUBLIC LAND CLASSIFICATION

The land is classified as Operational for the purposes of the Local Government Act 1993 and therefore there are no restrictions in relation to Councils dealings on the sale of the land.

VALUATION REPORT SUMMARY

The valuation of the englobo site has been assessed as \$1,080,000 as at 1/7/2016.

The valuation report dated 18 August 2017 has identified the following market value for each development site as follows:

Site ID	Land Area	Market Value (ex GST)	Market Value (Incl GST)
Option 1	Approx. 16.8ha	\$950,000	\$1,045,000
Option 2	Approx. 10.8ha	\$535,000	\$588,500

STRATEGIC OBJECTIVE AND BENEFIT

The englobo site has been held by Council since 1991 for future investment purposes. The land is zoned R5 Large Lot Residential and is capable of development as a residential estate or other compatible land use. However, Council has not identified the future development of the site as a short or long term priority within its Community Strategic Plan and has not to date identified an interest in becoming involved in the land development market.

The proponent's proposal is only for part of the site and still allows Council to retain a significant portion (approx. 44ha) of the site for future development if market trends, demand and Council's position changes.

The proponent's integrated development concept has the potential to anchor the site with a land use compatible with future residential development and has the potential to provide impetus for additional economic spin offs and benefits within the locality and the wider local government area.

The proceeds from this sale have a strategic benefit for Council and the community to enable further investment in economic development initiatives and should be held as a restricted asset for this purpose in accordance with Council Policy 1.3.

PREFERRED OPTION FOR DISPOSAL

Out of the two options proposed by the proponent it is considered that Option 1 provides Council with the best outcome for the following reasons:

- It is a logical extension of the urban town centre
- It is the best use of available infrastructure
- The proposed development concept enables the site constraints and encumbrances to be more readily integrated using site responsive design minimising the potential for tracts of underdeveloped land and poor design outcomes.
- The proposed residue to the south of the site provides Council with a significant land bank (44ha) for future development and continues to provide Council ownership around the current Wallerawang Indoor Sports Centre.

METHOD OF SALE

The proposed method of sale is by direct negotiation. The term "direct negotiations" refers to exclusive negotiations between an agency (Council) and a proponent without first undergoing a genuine competitive process. The Independent Commission Against Corruption (ICAC) suggest that as a general rule it should be avoided. However, the ICAC "*Guidelines for managing risks of direct negotiation*" do identify that this method of disposal of assets is justified in certain circumstances and that the risks involved can be mitigated by following the following principles:

- The proposal should be consistent with Council's overall strategic directions
- Ensuring that the reason to enter into direct negotiations is made at a senior level
- Ensuring that there are no financial or personal associations between staff and the proponent that could influence decisions (signing of a declaration of interests by all parties)
- Keeping an auditable trail of documentation and records

- Ensuring that the price paid by the proponent is consistent with market values (obtaining an independent market valuation)
- Segregating the duties of the different components of the process to different staff members

The process to date has been consistent with these principles

POLICY IMPLICATIONS

Policy 1.3 Asset Disposal

This Policy applies which does indicate that assets of significant apparent value should be disposed of by auction or tender. However, in a situation where it can be determined fair market value has been achieved by other means (e.g. direct negotiation) and a process has been followed as outlined by Council's Solicitor and consistent with the ICAC guidelines, Council should feel comfortable with a variation to the policy in this instance.

FINANCIAL IMPLICATIONS

- Budget approved – N/A
- Cost centre – N/A
- Expended to date – N/A
- Future potential impact – Revenue will be held as restricted asset to fund future strategic asset acquisition.

LEGAL IMPLICATIONS

Council will need to enter into a contract of sale with Timberfix Pty Ltd if it proceeds with the sale of the property.

ATTACHMENTS

1. Survey Drawing 4_5088 OPT 1b CEH dated 14/7/17
2. Survey Drawing 4_5088 OPT 2b CEH dated 14/7/17

RECOMMENDATION

THAT:

1. Council agree to enter into direct negotiation with Timberfix Pty Ltd for the disposal of Part Lot 20 DP 1217065 as identified in Survey Drawing 4_5088 OPT 1b CEH dated 14/7/17 for the purchase price of \$1,045,000 (incl GST).
2. Council enter into a conditional contract of sale with Timberfix Pty Ltd pending the registration of the necessary plan of subdivision.
3. Timberfix Pty Ltd to meet all associated subdivision and legal costs.
4. Timberfix Pty Ltd be advised that the sale of the land in no way relieves the proponent of its obligations to obtain development consent for both the subdivision of the land and future development thereon.
5. All proceeds from the sale of the land be held as a restricted asset for future strategic asset acquisition.