



LATROBE CITY COUNCIL

**SUPPLEMENTARY AGENDA FOR THE
ORDINARY COUNCIL MEETING**

**TO BE HELD IN NAMBUR WARIGA MEETING ROOM
CORPORATE HEADQUARTERS, MORWELL
AT 6.00 PM ON
27 MARCH 2017**

CM498

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URGENT BUSINESS

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General Manager

Corporate Services

For Decision

Business may be admitted to the meeting as urgent business in accordance with clause 26 of the Meeting Procedure Local Law by resolution of the Council, if it relates to a matter which has arisen since distribution of the agenda and:

- 1. cannot safely or conveniently be deferred until the next Ordinary meeting; or*
- 2. involves a matter of urgent community concern.*

RECOMMENDATION

That Council admits, in accordance with clause 26 of the Meeting Procedure Local Law, the following item:

- 1. Surplus State Government Land Available for Purchase for Community Purposes**

As it relates to a matter which cannot safely or conveniently be deferred until the next Ordinary meeting due to the response deadline imposed by the State Government.

EXECUTIVE SUMMARY

Council along with other government agencies, has received a first right of refusal notification from the Department of Treasury and Finance (DTF) to purchase sites located at:

- 2A Crinigan Road Morwell (Crinigan Road site);
- 2 – 14 Tobruk Street Morwell (Tobruk Street site).

Both sites were former primary schools, having buildings that are in an inhabitable condition and have been assessed as requiring demolition. A stay has been placed on the demolition works at Council officer's request. These sites have been declared surplus by DTF and are currently being prepared for sale. A location plan of each site is provided see Attachments 1 and 2.

Both sites are substantial in size (2.2 and 2.0 hectares respectively) and given their location in Morwell (refer Attachment 3) Council may wish to consider whether to express an interest in the potential purchase of the sites.

With respect to the Crinigan Road site, Officers have not identified a Council service and are unaware of any community service that requires the use of this site. Therefore, expressing an interest to acquire this site is not recommended.

Berry Street School, Morwell (Berry Street) has expressed a strong interest in moving its school for disadvantaged youth from Driffield Road to the Tobruk Street site with the intention to construct a purpose built facility. Officers are aware that Berry Street has had discussions with both DTF and the regional office of the Department of Education and Early Training in an attempt to acquire the site.

Council has previously acknowledged the inadequate facilities that Berry Street is currently occupying at Driffield Road and, at its meeting held on 5 December 2016, resolved in part, *“Requests the Mayor write to the Victorian Minister for Education, the Hon James Merlino, seeking discussions around the possibility of transferring the Berry Street operations to one of the three Morwell State Primary School sites that will be become vacant this month”*.

Berry Street has also approached Officers to encourage the purchase of the Tobruk Street site and to then grant tenure to Berry Street to occupy the property. With the exception of Berry Street’s interest in the Tobruk Street site, Officers have not identified a Council service or are aware of any community service that requires the use of the Tobruk Street site to deliver a service.

Council is facing considerable financial challenges into the future due to rate capping and the increasing renewal ratio gap. Council must ensure its own financial sustainability to be able to continue to deliver on its committed service provisions and to be able to maintain the assets that Council currently owns and is building in the near future. Council’s ability to meet the operation costs of new assets will be impacted on by the reduced revenue from electricity generators.

The state government has provided a forecast estimated sale price for each site, details of which are included in Confidential Attachment 4. As these estimated sale figures are significant amounts and have not been identified in the current or draft 2017/18 budget, it would be necessary for Council to redirect funds from existing committed expenditure programs.

The Tobruk Street site has no identified purpose in terms of Council service delivery and accordingly its acquisition is not recommended. However Council can continue to advocate on Berry Street’s behalf for the state government to grant tenure of this site to Berry Street to house its school.

RECOMMENDATION

- 1. That Council writes to the Department of Treasury and Finance to:**
 - (a) Decline submitting an expression an interest to purchase the former primary school site located at Crinigan Road Morwell and Tobruk Street Morwell for community and/or educational purposes; and**
 - (b) Advocates to the state government to retain the Tobruk Street Morwell site and grant Berry Street School, Morwell tenure for the purpose of housing its school for disadvantaged youth.**

DECLARATION OF INTERESTS

Officers preparing this report have declared they do not have a conflict of interest in this matter under the provisions of the *Local Government Act 1989*.

DISCUSSION

Background

Council has received a first right of refusal notification from the DTF to acquire sites located at 2A Crinigan Road and 2 – 14 Tobruk Street, Morwell. Both sites are former primary schools currently vacant and have buildings assessed for demolition as they are now in an inhabitable condition. These sites have been declared surplus by the state government and are currently being prepared for sale.

Pursuant to the *State Government's Landholding Policy*, upon declaring land surplus to agency requirements, Victorian Government Agencies must:

- i. provide 60 days notice of the agency's intention to sell any land during which period other State, Commonwealth or local government agencies may express interest in purchasing the land;
- ii. if another government agency expresses interest in purchasing the land, negotiate in good faith to agree on the terms of sale within 30 days after the close of the notice period; and
- iii. if the terms of sale are agreed, transact the sale of the land at a price equal to the current market value of the land as determined by the Valuer-General Victoria.

The above means that the state government is expecting to sell either site at current market value which is significant given the land size and location as detailed in Confidential Attachment 4.

The former school sites are currently zoned:

- 2A Crinigan Road – Public Use Zone 2
- 2 – 14 Tobruk Street – General Residential Zone 1

The closing date should Council wish to express an interest to purchase either of the Tobruk Street or Crinigan Road sites was initially 26 February 2017 however, the following was requested:

- An extension to enable Council to consider the potential purchase until 31 March 2017.
- A stay on demolition of existing school buildings pending Council considering the potential purchase until 31 March 2017.

Both the extension of time and stay on demolition were approved.

Officers have not identified a service for either site. Officers are also unaware of any community service that requires the use of the Crinigan Road site therefore it is recommended that Council decline to submit an expression of interest to acquire this site.

In the last ten years, Council has resolved to purchase the following properties for a public or community purpose:

Property	Strategic justification for purchase	Date of purchase
Lot 432 Lawless Road, Churchill	Private treaty purchase. Site assembly for Churchill Community Hub	2005
Lot 6 Stamford Street, Moe	Private treaty. Consolidation of Ollerton Avenue Bushland Reserve Newborough	April 2006
1 – 29 George Street, Moe	Compulsory acquisition. Site assembly for Moe Service Centre \ Library (private properties)	December 2009
Lot 90 George Street, Moe	Private treaty purchase site assembly for Moe Service Centre \ Library (VicTrack land)	April 2015

It should be noted that there is no precedent for purchase of land by Council for the delivery of an education service provided by a charitable / not for profit community group.

Berry Street School Morwell (Berry Street)

Berry Street has expressed a strong interest to Officers that the Tobruk Street site is its preferred site to move its school. However as Berry Street is a “not for profit” organisation, is not a government agency and is a private entity providing a community service, it is ineligible to submit an expression of interest in its own right.

Berry Street operate a school for disadvantaged youth from Driffield Road Morwell and is housed in a factory building that falls well short of best practice standards. Berry Street provides a safety net for students not suited to mainstream education and wishes to move its school to a more suitable alternate site. Berry Street has:

- Indicated that its preference is for a cleared vacant site and expressed an intention to construct a purpose built facility at the Tobruk Street site.
- Undertaken discussions with the Melbourne and regional offices of the Department of Education and Training concerning the Tobruk Street site.
- Attracted support from Council (by means of a letter of support in accordance with Council resolution below) for its relocation and strong interest from the media.

Council has previously considered Berry Street’s situation and, at the Ordinary Council meeting held 5 December 2016, it was resolved:

“That Council:

1. *Acknowledges the work being done by the Victorian State Government and Agencies to address poor school retention rates in Latrobe City; and*
2. *Notes that the Berry Street School, Morwell who operate in this field, are housed in a factory building that falls well short of best practice standards; and*
3. *Requests the Mayor write to the Victorian Minister for Education, the Hon James Merlino, seeking discussions around the possibility of transferring the*

Berry Street School, Morwell operations to one of the three Morwell State Primary School sites that will be become vacant this month; and

4. *Forwards a copy of this correspondence for the information of all State Ministers associated with the new Latrobe Valley Authority.”*

Options for Council

Subject to the DTF's approval, Council has the following options:

1. That Council not submit an expression an interest to purchase the Tobruk Street site and advocate that the state government enter into discussions with Berry Street regarding options to retain the site and grant Berry Street tenure for the purpose of housing its school for disadvantaged youth.

This means the land will remain in state government ownership and Berry Street would negotiate a lease or other form of tenure for use of the land to develop its school.

OR

2. Submit an expression of interest to acquire the Tobruk Street site at a nominal purchase price and to commence good faith negotiations on behalf of Council relating to the terms and conditions of sale with the DTF in accordance with *State Government's Landholding Policy*.

However the “nominal purchase price” is not the current DTF form of offer and is an unlikely outcome based upon DTF's correspondence which stipulates that any sale would be based on Valuer General Victoria's valuation.

OR

3. Submit an expression of interest to acquire the Tobruk Street site and commence good faith negotiations with DTF in accordance with *State Government's Landholding Policy*.

This means the purchase price will be based on Valuer General Victoria's valuation subject to the outcome of negotiations with DTF. In the event that Council acquires the land, it provides a means for Council to grant tenure to Berry Street for the purpose of constructing its school.

In the event that Council was successful in acquiring the land as outlined in options 2 or 3 above, Council would need to determine the basis of tenure with Berry Street to occupy the land and whether Berry Street becomes responsible for all outgoings and the subsequent purchase of the land from Council.

Implications for Council

Council should be cautious in committing financially towards the provision of assets for Berry Street due to the financial challenges Council is facing now and into the future. It is imperative that Council focuses on its own financial sustainability to ensure that Council has the ability to deliver on its committed service provisions and to be able to maintain the assets that Council currently owns and is building in the near future.

The provision of education services, beyond preschools, is one of the core functions of the state government and has not been identified in the current budget or draft Council Plan as a priority.

If Council expresses an interest to purchase the Tobruk Street site and ultimately acquires the land, this site would be included on Council's balance sheet. This additional Council asset will require an ongoing financial commitment to maintain whilst it is owned by Council.

Next steps for state government

In the event that no government agency, including Council, submits an expression of interest and does not successfully negotiate the acquisition of the Crinigan Road and Tobruk Street sites, it is expected that the next step for the state government will be to place the properties on the open market for disposal. Accordingly, either site could be acquired by private individuals, private enterprise or community enterprise for future development and use.

STAKEHOLDER CONSULTATION

Consultation has been undertaken with Council's Recreation team who advised Council has no assets or improvements at either of these sites.

Council is aware if Berry Street has expressed a strong interest in moving its school and has recently held discussions with officers in respect to the Tobruk Street site.

There has not been any consultation with the surrounding residents of the Tobruk Street site to canvas the community's expectations for future use of the site.

FINANCIAL AND RESOURCES IMPLICATIONS

The state government has provided an estimated sale price for each site. As this information was provided on a confidential basis to assist Council with making an informed decision the details are provided to Councillors in a confidential attachment Confidential Attachment 4. First right of refusal notification from the DTF to purchase sites, refer page 3 of Confidential Attachment 4.

Berry Street's financial resources

Officers are not aware that Berry Street has secured a funding source to purchase or possibly lease the Tobruk Street site from Council and/or to construct a purpose built educational facility on the site.

Council's financial resources

If Council expresses an interest to purchase the Tobruk Street site and ultimately acquires the land, there is no allocation in the 2016/17 budget or proposed for the 2017/18 budget.

Sound financial decision making requires Council give consideration to the requirements of the *Local Government Act (Vic) 1989*, in particular Part 1A – Local Government Charter Section 3 C – Objectives of Council which mandates:

- (1) The primary objective of a Council is to endeavour to achieve the best outcomes for the local community having regard to the long term and cumulative effects of decisions.
- (2) In seeking to achieve its primary objective, a Council must have regard to the following facilitating objectives—

- (a) to promote the social, economic and environmental viability and sustainability of the municipal district;
- (b) to ensure that resources are used efficiently and effectively and services are provided in accordance with the Best Value Principles to best meet the needs of the local community;
- (c) to improve the overall quality of life of people in the local community;
- (d) to promote appropriate business and employment opportunities;
- (e) to ensure that services and facilities provided by the Council are accessible and equitable;
- (f) to ensure the equitable imposition of rates and charges;
- (g) to ensure transparency and accountability in Council decision making.

"local community" includes—

- (a) people who live in the municipal district; and
- (b) people and bodies who are ratepayers; and
- (c) people and bodies who conduct activities in the municipal district.

Financial Sustainability

In making decisions that have an impact on Council's financial sustainability, Council should consider the following principles:

1. Align with the objectives and strategies set within the Council Plan;
2. Operate in the most efficient manner possible;
3. Manage Council's budget within the established rate cap;
4. Consider available data and evidence to demonstrate an understanding and consideration of the long term and cumulative effects of decisions on the Latrobe community.

When putting forward decisions affecting financial sustainability, Council must have a significant level of understanding of the utilisation and capacity of its assets and services across the municipality to ensure that it has taken into consideration the long term and cumulative impacts of its decisions.

Council should also assess and prioritise decisions based on the level of certainty of the financial impacts of what is being proposed. The lower the certainty of scope and/or cost, the lower the priority.

Furthermore Council should identify and track the impact of cost shifting on its financial sustainability. Any costs that are shifted to local government from other levels of government will be identified and tracked to be able to demonstrate the impact cost shifting is having on Council's financial sustainability.

RISK IMPLICATIONS

If Council expresses an interest to purchase, and ultimately acquires, the Tobruk Street site:

- There is considered to be a financial risk associated with the purchase and ongoing maintenance of the Tobruk Street site as at present there is no secured funding source identified.
- There is a risk that Berry Street will be unable to secure funding to assist with the construction of the purpose built educational facility. Should this occur there is a risk that the site will remain vacant or underutilised unless Council can identify an alternate Council or community use for the site.
- It has the potential to create an expectation amongst other “not for profit” or community organisations that Council will provide similar support.

CONCLUSION

As Council has not identified the need to purchase either or both of these sites and there is no allocation in the 2016/17 budget or proposed for the 2017/18 budget, Officers recommend that Council should advise the state government that Council does not wish to express an interest in purchasing the sites for public or community purposes and advocate support for the state government to retain ownership of the Tobruk Street site and grant Berry Street tenure to house its school.

SUPPORTING DOCUMENTS

Nil

Attachments

1. [Aerial image Crinigan Road Morwell](#)
2. [Aerial image Tobruk Street Morwell](#)
3. [Locality map](#)
4. Department of Treasury and Finance First right of refusal notification and estimated sale price (Published Separately) (Confidential)

17.4

Surplus State Government Land Available for Purchase for Community Purposes

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