

ORDINARY MEETING

15. CONFIDENTIAL REPORTS

Meeting Date: 13 August 2024

15.3. CORPORATE SERVICES

Attachment 2 to Item 10.4.2. - Proposed Sale of 295 Sackville Road, Wilberforce

REASON FOR CONFIDENTIALITY

*This report is **CONFIDENTIAL** in accordance with the provisions of Part 1 of Chapter 4 of the Local Government Act 1993 and the matters dealt with in this report are to be considered while the meeting is closed to the press and the public.*

Specifically, the matter is to be dealt with pursuant to Section 10A(2)(c) of the Act as it relates to details concerning the leasing of a Council property and it is considered that the release of the information would, if disclosed, confer a commercial advantage on a person or organisation with whom the Council is conducting (or proposes to conduct) business and, therefore, if considered in an open meeting would, on balance, be contrary to the public interest.

In accordance with the provisions of Section 11(2) & (3) of the Local Government Act 1993, the reports, correspondence and other relevant documentation relating to this matter are to be withheld from the press and public.

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Attachment 2 - Proposed Sale of 295 Sackville Road, Wilberforce

1. Purpose of the Report

The purpose of this report is seek Council's endorsement to sell Council owned land at 295 Sackville Road, Wilberforce to Hypro Investments Pty Ltd ATF Hypro Investment Trust in accordance with the terms set out in this Report.

2. Executive Summary

Council owns land at 295 Sackville Road, Wilberforce, which is partly leased to Woodlands Park Pony Club. The site had previously been considered for the Emergency Services Precinct, however biodiversity issues meant the project could not proceed. Council received an unsolicited offer to purchase the land from an adjoining land owner. Council staff undertook the necessary due diligence in respect to the offer, including valuations and biodiversity reports. The terms of the proposed sale were negotiated, ensuring the current tenant could remain in their location for three years on an annual rental in accordance with Council's Property Management Policy. The sale price was negotiated at an amount of [REDACTED] plus GST, if applicable.

This Report seeks Council's endorsement to proceed with the proposed sale.

3. Background

Council owns land known at 295 Sackville Road, Wilberforce (Lot 252 in Deposited Plan 1004592). The land was purchased in 1980 and was the former site of Hawkesbury High School. The land is zoned RU1 – Primary Production, is classified as 'Operational Land' under the Local Government Act, 1993 and comprises an area of 7.685 hectares. A location plan is attached as Attachment 1 to this attachment.

Currently, five hectares of the site is leased to Woodlands Park Pony Club. The location plan attached as AT - 1 shows the leased area. The lease expired on 31 October 2023, however, the Club have remained in occupation on a month to month basis, under holdover provisions in the Lease. The current annual rental is \$656.24. Recently, the Club wrote to Council seeking to renew the lease and negotiations are in the early stages.

The property was previously considered to be a suitable location for the new Emergency Services Precinct, however the property was not suitable due to biodiversity issues.

In February 2024, Council received an unsolicited offer to purchase the property from an adjoining owner of the property, Hypro Investments Pty Ltd ATF Hypro Investment Trust (hereinafter 'Hypro') in the amount of [REDACTED] with the existing lease to the Woodlands Park Pony Club being retained for a period of the three years. Hypro have been advised of the biodiversity issues and the associated restrictions applying to the land.

Council obtained a valuation report from Civicland Property, based on the current zoning and use of the land. The valuation report recommended a market sale price of [REDACTED] exclusive of GST.

In April 2024, Council obtained a further valuation report from Opteon based on the potential highest and best use of the land as the adjoining land is zoned as E4 – General Industrial. The valuation report recommended a market sale price of [REDACTED] exclusive of GST.

In May 2024, Council considered as part of an Expression of Interest, whether the land could be used as a Biodiversity Stewardship Site. However, the NSW Government determined the property was in a low to moderate condition and therefore the demand credits that could be generated were insufficient to proceed.

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Council has undertaken the necessary due diligence to determine that the land is surplus to Council's needs due to the associated development restrictions and inability to generate biodiversity credits and could be considered for sale.

On 23 July 2024, Council made a counter offer to Hypro based on the following terms:

Term	Condition
Sale Price	Sale price of [REDACTED] plus GST, if applicable.
Existing Lease	The current tenant of part of the property, Woodlands Park Pony Club are to retain occupation of their leased area for three years. This will require a new lease to be entered into prior to settlement, for minimal rental, in accordance with Council's Property Management Policy.
Settlement Period	Settlement period of 42 days.
Deposit	10% deposit payable on exchange.
Other	Any other conditions considered necessary by Council's Solicitors.

This offer was accepted by Hypro, in writing on 1 August 2024.

Sale of 295 Sackville Road, Wilberforce would result in Council owned land at 12a Ti-Tree Place, Wilberforce becoming land locked. Hypro have agreed to an easement being created, prior to settlement, for access that would connect Council owned land between 10a and 12a Ti-Tree Place, Wilberforce. The approximated area of the easement is 50m². It has been agreed to reduce the sale price of [REDACTED] on a pro rata basis of the easement area. The calculation of the new sale price is provided below:

Sale price of [REDACTED] plus GST, if applicable.
Less cost of land for easement (50m²), pro rate land rate of [REDACTED]
Amended sale price of [REDACTED] rounded to [REDACTED]

Amended terms of the sale are provided below, which have been accepted by Hypro:

Term	Condition
Sale Price	Sale price of [REDACTED] plus GST, if applicable.
Existing Lease	The current tenant of part of the property, Woodlands Park Pony Club are to retain occupation of their leased area for three years. This will require a new lease to be entered into prior to settlement, for minimal rental, in accordance with Council's Property Management Policy.
Settlement Period	Settlement period of 42 days.
Deposit	10% deposit payable on exchange.

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Easement	Registration of proposed easement for access to enable Council to access its land at 10a and 12a Ti-Tree Place, Wilberforce. The easement would have an approximate area of 50m ² .
Other	Any other conditions considered necessary by Council's Solicitors.

The sale proceeds of 295 Sackville Road, Wilberforce could be used to fund the acquisition of 6 McKinnons Road, Wilberforce, the site for the Emergency Services Precinct Project. The table below compares the two sites:

Issue	295 Sackville Road, Wilberforce	6 McKinnons Road, Wilberforce
Value	Agreed sale price - [REDACTED]	Agreed purchase price - \$3,500,000
Land Size	7.685 hectares	10.14 hectares
Land Affectations (approximately)	Biodiversity - 5.89 hectares 1:100 Flooding - 0.87 hectares	Biodiversity - 3 hectares
Potential Uses (approximately)	Leased open space (5 hectares) Public open space (2.685 hectares)	Emergency Services Precinct (3.22 hectares) Open space (6.92 hectares)

The above table shows the Council would be selling a smaller parcel of land that has a greater area of affectation for more money than Council are purchasing the site at 6 McKinnons Road, Wilberforce.

4. Discussion

Part 9 of Council's Property Management Policy relates to the disposal of Council Owned Land. Part 9.1 states:

"9.1 Method of Disposal

It is the preferred position of this Council that the manner of sale of any land deemed by Council as surplus to requirements shall be by public auction wherever possible.

Any recommendation to Council to sell unnecessary land shall include either a proposal for public auction or specific reasons for deviating from this preferred position by proposing a sale in any other manner."

The land has been considered as surplus to Council's needs and appropriate for disposal. Council has previously resolved to sell land through negotiated sale, rather than public auction where an adjoining owner is involved. For example, the road reserve adjoining 24 Toll House Way, Windsor. Additionally, the sale of part of 7 Fernadell Drive, Pitt Town was sold through negotiations after the land failed to sell at auction. In these examples, Council obtained valuation reports to determine an appropriate sale price, to achieve the best outcome for the public financially.

Whilst the valuation for the property with its current zoning and uses was [REDACTED] and the best and highest use valuation was [REDACTED] there is a risk to the purchaser that they may not get approval

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from a Planning Proposal to rezone the property. Hypro have undertaken their own due diligence and agreed to proceed on the terms set out in this Report.

It is recommended that as the property at 295 Sackville Road, Wilberforce is considered as surplus to Council's needs and appropriate for disposal, that Council not sell the property by public auction in accordance with Part 9 of the Property Management Policy. The specific reasons for deviating from the preferred method to sell by public auction are:

- The proposed sale of land to an adjoining owner – Proposed purchaser owns properties that either adjoin or are in close proximity to 295 Sackville Road, Wilberforce.
- The proposed sale price is above current market rate – Property valued at [REDACTED] and proposed sale price of [REDACTED] being [REDACTED] above current market rate.
- Going to public auction would unlikely achieve a higher sale price than the offer made.

Given the large discrepancy of [REDACTED] between the current market rate and the proposed sale price, selling the property at public auction is considered not necessary.

5. Community Engagement

The issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy.

6. Conformance to the Hawkesbury Community Strategic Plan 2022-2042

The proposal is consistent with the following Long-Term Community Objectives set out within the CSP.

Reliable Council

- 4.3 Build strong financial sustainability for now and future generations.

7. Financial Impact

The proposed sale of 295 Sackville Road, Wilberforce will have direct financial implications. The income of [REDACTED] and associated valuation costs has not been incorporated into the Adopted 2024/2025 Operational Plan. Adjustments will be made as part of a future Quarterly Budget Review.

It is recommended that the net proceeds of the sale are allocated to the following:

- Purchase and associated costs of 6 McKinnons Road, Wilberforce, being the site of the Emergency Services Precinct.
- The balance to be allocated to the Land Acquisition and Capital Contingency Reserve.

Council resolved at the Meeting held 11 June 2024 that the purchase of 6 McKinnon's Road, Wilberforce would be funded using borrowings from internally restricted reserves (\$1.1M from the Property Development Reserve, \$1M from the Multi-Year Reserve and \$1.1M from the Land Acquisition and Capital Contingency Reserves). It is to be noted that a shortfall of \$0.3M was also outlined. The borrowings were identified to be repaid through the sale of remnant property. The sale of 295 Sackville Road, Wilberforce represents the sale of remnant property and therefore should be used to fund the purchase of 295 Sackville Road, Wilberforce, thereby negating the need to use internal borrowings.

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It is noted that there are current grant opportunities available that require Council co-funding to apply for. Alternatively, it is anticipated that additional funding will be required for the delivery of the full scope of some of the Western Sydney Infrastructure Grants Program (WASIG) funded works. The recommended final allocation will depend upon the outcome of grant applications and continued investigations being undertaken on WASIG projects, in consultation with Councillors. Adjustments will be recommended as part of a future Quarterly Budget Review.

8. Recommendation

That:

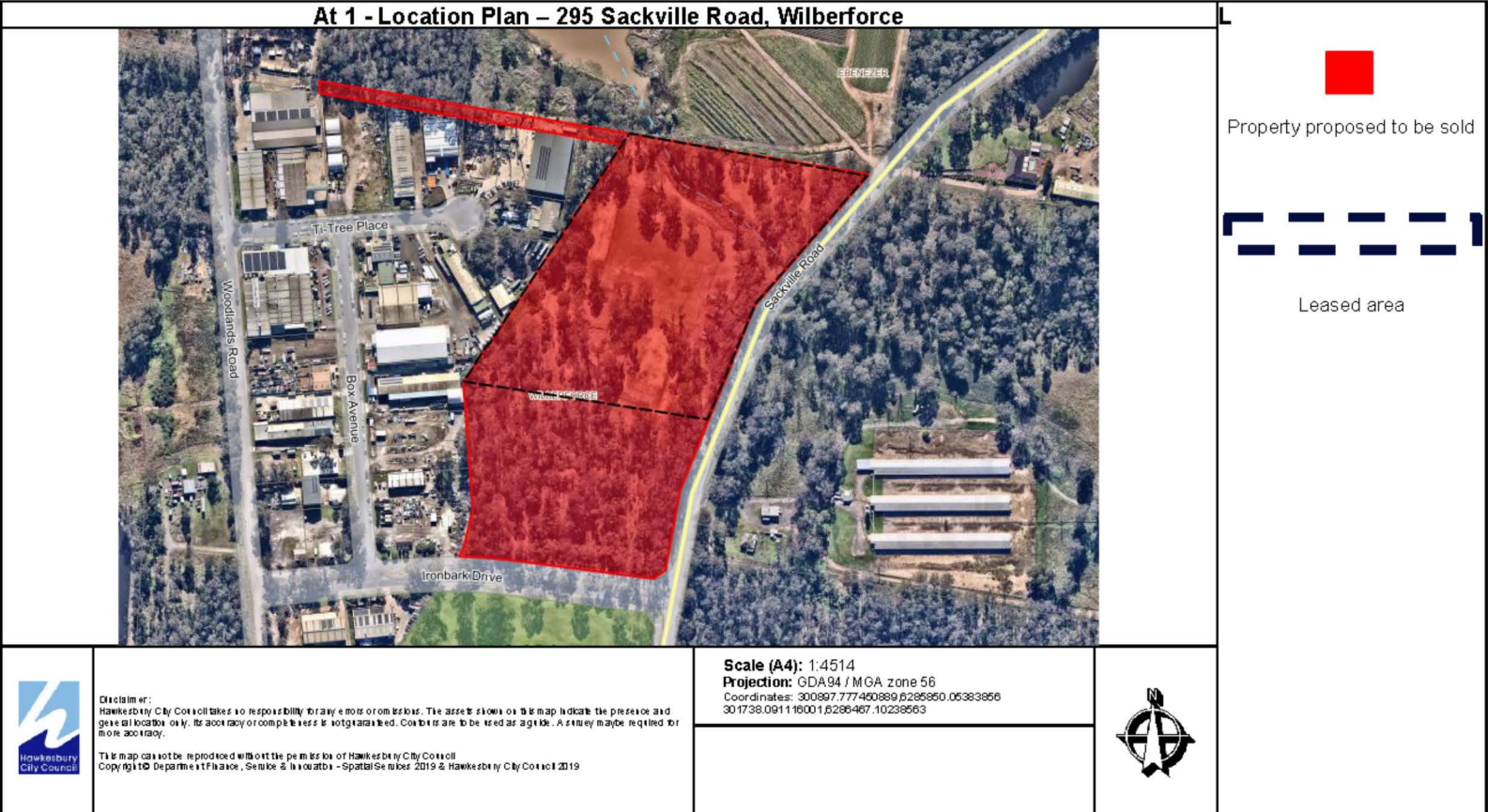
1. Council sell the property known as 295 Sackville Road, Wilberforce (Lot 252 in Deposited Plan 1004592) to Hypro Investments Pty Ltd ATF Hypro Investment Trust for [REDACTED] plus GST, if applicable, on the following terms:
 - a) The current tenant of part of the property, Woodlands Park Pony Club are to retain occupation of their leased area for three years. This will require a new lease to be entered into prior to settlement, for minimal rental, in accordance with Council's Property Management Policy.
 - b) Settlement period of 42 days.
 - c) 10% deposit payable on exchange.
 - d) Registration of proposed easement for access to enable Council to access its land at 10a and 12a Ti-Tree Place, Wilberforce. The easement would have an approximate area of 50m².
 - e) Any other conditions considered necessary by Council's Solicitors.
2. Authority be given for any documentation in association with this matter to be executed under the Seal of council.
3. Council's General Manager be granted delegated authority to execute any documentation in association with this matter, which do not require the Seal of Council.
4. Details of the resolution be conveyed to the prospective purchaser of the property and tenant of parts of the property with the advice that Council is not, and will not, be bound by the terms of the resolution until such time as appropriate documentation to put such a resolution into effect has been agreed to and executed by all parties.

9. Attachments

AT - 1 Location Plan – 295 Sackville Road, Wilberforce

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At 1 - Location Plan - 295 Sackville Road, Wilberforce





Disclaimer:
 Howkesbury City Council takes no responsibility for any errors or omissions. The assets shown on this map indicate the presence and general location only. The accuracy or completeness is not guaranteed. Coordinates are to be used as a guide. A survey may be required for more accuracy.

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Scale (A4): 1:4514
Projection: GDA94 / MGA zone 56
 Coordinates: 300897.777460889,6285850.05383856
 301738.091116001,6286467.10238563




 Property proposed to be sold


 Leased area

oooO END OF ATTACHMENT Oooo

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