

Submission Objecting to the Proposed Sale by the Town of Victoria Park of 355-357 Shepperton Road, East Victoria Park

██████████ resident and ratepayer of Town of Victoria Park

Email: ██████████

26 September, 2019

With endorsement by the Council on 20 of August 2019, the Town of Victoria Park commenced a formal public submission period for the proposed sale of 355-357 Shepperton Road, East Victoria Park. See location plan below.



According to the Town the proposed land sale is part of the Land Asset Optimisation Strategy (LAOS). LAOS is a priority project for the Town of Victoria Park that will aim to deliver revenue diversification and generation. It will also enable redevelopment proposals and act as a catalyst for regeneration or redevelopment of the Town's land assets.

I object to the proposed sale of 355-357 Shepperton Road, East Victoria Park by the Town on the following grounds:

- 1. Lack of public information and transparency in Council dealings in relation to the proposed sale of the land.**
- 2. Inadequate consultation due to lack of information provided to enable informed fully submissions to be made on the proposal.**
- 3. Lack of confidence in the Council to properly deal with this issue.**
- 4. Poor rationale and case for disposal of property.**
- 5. Commercial disadvantage of selling the land at this time.**
- 6. Lack of consideration of strategic planning issues and sustainability evaluation to support the proposal.**

1. Lack of public information and transparency in Council dealings in relation to the proposed sale of the land.

The only information available in the minutes of the Council Meeting of 20 August 2019 are included in Attachment 1 to this submission. There is no report or background to provide any basic information or rationale for the proposed sale of the land. In addition the matter was dealt with behind closed doors at the Council meeting.

The only public information available is the FAQs on the Town website which are included in Attachment 2 to this submission. I submitted two questions online to seek access to information referred to in the FAQs and the questions and answers from Council officers are included in Attachment 3. In summary none of the three critical documents that formed the basis of Council's decision are public, namely the:

- *Land Asset Optimisation Strategy (LAOS)*
- *Report on 355-357 Shepperton Road*
- *Business Case and report prepared for Council*

All these documents are claimed to be confidential on the basis that they include financially sensitive information which if made public would undermine any ability of the Town to achieve outcomes and prejudice the Council in the negotiations with the prospective purchaser.

This explanation seems implausible due to the fact that the details of the purchaser, the Town's valuation and the purchase price are public information disclosed in the FAQs.

At the very least there should have been a public report that included a sustainability assessment against council's strategic planning documents and cost/ benefit assessment, together with disclosure about how the funds from the sale of the land would be used. None of this information would have been of interest to the prospective purchaser or prejudicial to the Town's negotiations.

2. Inadequate consultation due to lack of information provided to enable informed fully submissions to be made on the proposal.

The comments outlined in point 1 above highlight the lack of information and inadequate disclosure by the Town in its' dealings with this issue. A basic requirement in any consultation process is to provide facts and relevant information to provide the community an opportunity for effective engagement or comment.

The only information that is disclosed is that an approach has been made to the Town to purchase the land at approximately \$200,000 more than the Town's valuation and there is some indication of what might be built on the land. The FAQs refer to the fact that *the contract will include special conditions to ensure the Town not only gets a good deal financially, but so that the benefits for the community are maximised.*

Again there is no detail as to what the 'community benefits' might be to enable the community to comment on whether those benefits are indeed benefits from the perspective of the community. One key question from the point of the view of the community is how will the funds from the sale of the land be used to benefit the community?

3. Lack of confidence in the Council to properly deal with this issue.

The matters set out in points 1 and 2 above cast doubt on whether the Council is any more capable now of dealing with major property transactions than it was in 2015, with the ill-conceived attempt to partner with Landcorp to develop a large part of John MacMillan Park.

The project was only abandoned as a result of a public meeting on 17 February 2015 at John MacMillan Park attended by about 400 residents/ ratepayers who overwhelmingly objected to the proposal. This proposal did significant damage to the reputation of the Council (both Elected Members and administration).

That proposal involved a poorly prepared Business Plan by the Town and a lack of proper public consultation and disclosure related to the project. It was a sobering reminder of the importance of proper public consultation and that project management in itself does not deliver a good project, if the project is inherently flawed.

4. Poor rationale and case for disposal of property.

There is no sustainability assessment against council's strategic planning documents, any cost/ benefit assessment, or disclosure about how the funds from the sale of the land would be used.

Apart from the information relating to the sale price and a claim that there will be other undisclosed community benefits from the sale, some of the other comments in the FAQs on the outcomes from the sale are considered spurious.

In particular the comments about car parking are considered misleading by statement or omission, as follows:

- a) It is claimed that the development of the land - *will maintain and increase car parking in the area; and - Additionally, the amount of parking in the area will likely be increased by the development, supporting economic activity and amenity for users of the area.*

There are about 82 car parking bays provided on the subject land, which is currently a public carpark. While development may increase the supply of bays provided, there will be a significant demand generated by the resultant development on the land, so there will be no net gain, which is what is inferred in the statements in the FAQs. The critical point unstated is that all of the car parking bays provide in redevelopment will be on private land and managed and controlled by the owner/ occupier of the land.

This 'privatisation' of what is currently public car parking is considered contrary to the strategic intent and recommendations set out in one of the Council's adopted strategic planning documents, the Integrated Movement Network Strategy - June 2013 (IMNS).

- b) Another statement made in the FAQs is - *If the Town does not sell the land then the developer (who currently owns all adjoining properties) may develop their adjacent land holdings but to a smaller scale, with the Town's land remaining as a car park.*

This ignores the fact that the IMNS included recommended actions/projects (refer Attachment 4 to this submission) which to paraphrase included:

- Reduce parking requirements within the TPS that reflect public transport accessibility, access to public parking and provide end of trip facilities
- Establishing parking caps in activity centres
- Adopt maximum parking standards where caps have not been applied
- Actively pursue opportunities for the Town to manage parking to ensure optimised outcomes for public benefit
- Examine potential for Town to manage parking on private land in exchange for it being available for public use

It is apparent that the recommended actions and projects outlined above from the IMNS have been ignored six years after the adoption of the Strategy, when many of these actions should have now been implemented and being routinely applied in Council decision making and the consideration of new development. In particular the sale of a public car park in this context is completely contrary to good integrated transport and parking policy and practice.

5. Commercial disadvantage of selling the land at this time.

While the sale price being negotiated for the land is stated as being some \$200,000 in excess of the valuation obtained by the Town, the more obvious question is whether if the land is to be sold, is now a good time to sell?

There is much evidence that the WA State economy is poor and that the commercial and residential property markets are at a low point in the market cycle. This would beg the question, why would one choose to sell now if there is a choice to wait until the market improves?

Indeed there is probably a more compelling case for the Town to be acquiring land in the current market for strategically valuable purposes such as public open space and public car parking.

6. Lack of consideration of strategic planning issues and sustainability evaluation to support the proposal.

There is no evidence to suggest that the Town has considered strategic planning issues and a sustainability evaluation to support the proposal to sell the subject land. There should be a publicly disclosed analysis of the proposal having regard to governance, economic, environmental and social criteria and also an assessment of risk management and financial implications.

The Town's Land Asset Optimisation Strategy – 2013 (LAOS) is cited as a source to support the sale of the land, although this is a confidential document. The LAOS and the Town's Integrated Movement Network Strategy - June 2013 (IMNS) were adopted in the same year. It is unlikely that the LAOS fully assessed and considered the recommendation of the IMNS, particularly in relation to the Town's role as an owner and manager of public car parking.

In any event it is incumbent on the Town to consider the IMNS and any other relevant strategic planning documents in the consideration of the sale of the subject land, rather than simply rely on the LAOS.

As set out in point 4 above, it seems apparent that the recommended actions and projects outlined in the IMNS have been ignored six years after the adoption of that Strategy, when many of these actions should have now been implemented. Some of the key relevant actions and projects are set out in Attachment 4 to this submission.

Any reasonable assessment of the current proposal against the IMNS and the contemporary approach to integrated transport and parking policy and practice would lead to the conclusion that the proposed sale of this land currently used as a public car park, is fatally flawed.

CONCLUSION

The current process related to the proposed sale of the subject land should cease, based on the lack of public information and transparency by Council and the inadequate consultation due to lack of information provided. The proposal lacks rationale and appears misguided in the context of selling land assets in a poor property market. The Council should be more circumspect in dealing with major property transactions based on the ill-conceived attempt to partner with Landcorp in 2015 to develop a large part of John MacMillan Park.

The matter should be reconsidered in an open and transparent way having regard to proper consideration of strategic planning issues and a sustainability evaluation. Failure to do this would provide reasonable basis for a formal complaint to be made to the Minister for Local Government.

ATTACHMENT 1 – EXTRACT OF COUNCIL MEETING MINUTES OF 20 AUGUST 2019

21.2 Public reading of resolutions which may be made public

21.1.1 Land Asset Optimisation Strategy, unsolicited bid to acquire property owned by the Town of Victoria Park

COUNCIL RESOLUTION (166/2019):

Moved: Cr Vicki Potter

Seconded: Cr Claire Anderson

That Council:

- 1) Endorses the recommended Option 4 to accept the unsolicited bid for \$3,821,000 excluding GST and undertakes the disposition process under section 3.58 of the *Local Government Act 1995*.
- 2) Authorises the giving of local public notice in relation to the disposition of property outlined in point 1.
- 3) Requests that the Chief Executive Officer presents a further report back to Council by November 2019 to consider any submissions received in response to the local public notice outline in point 2.
- 3) Delegates authority to the Chief Executive Officer to negotiate the contract of sale, and requests that negotiations consider special conditions, as part of the sales contract including, but not limited to;
 - (a) potential for rooftop greening
 - (b) rooftop photovoltaic cells
 - (c) rooftop utilisation and amenity, entry statement considerations on the corner of Albany Highway and Shepperton Road
 - (d) consideration of more iconic design principles
 - (e) public access to parking
 - (f) appropriate consideration to the Town for proposed tree loss.

CARRIED (8 - 0)

For: Cr Karen Vernon, Cr Ronhhda Potter, Cr Bronwyn Ife, Cr Vicki Potter, Cr Claire Anderson, Cr Jennifer Ammons Noble, Mayor Trevor Vaughan, Cr Brian Oliver

Against: nil

ATTACHMENT 2 - FAQs EXTRACT FROM TVP WEBSITE

What land are we talking about?

The site is the Shepperton Road carpark located at 355-357 Shepperton Road, East Victoria Park. The property comprises a triangular 2,089 square metre site located near the intersection of Albany Highway and Shepperton Road.

Has the Town sold the land already?

No, the Council has requested that the CEO negotiate the contract of sale and conditions with the purchaser and bring it to Council for approval.

Why is the Town proposing to sell the land?

The Town received an unsolicited bid (an offer for Town-owned land that wasn't on the market) for the land with a consideration of \$3,821,000 exclusive of GST. The land is an existing carpark owned by the Town. We consider that the sale of the land, with the right conditions attached, will achieve a great outcome for the community; will maintain and increase car parking in the area; will generate revenue for the Town to invest in strategic land purchases; will ultimately deliver additional rates income to the Town and will lead to investment in the site that will drive a good economic outcome and job creation for the community.

Who is the Town proposing to sell the land to?

The land is proposed to be sold to Fabcot Pty Ltd. From its commencement in 1993, Fabcot Pty Ltd has worked closely with both the public and private sectors and has to date successfully completed over 100 retail-based developments supporting Woolworths and its partners. These developments are mainly based on simple and effective community-orientated retail centres.

How does the Town know it is getting a good deal?

Due diligence was undertaken on the offer by Town staff and included independent consultants and certified valuers. A business case was then presented to Council for consideration who made a determination for the Town's CEO to establish a contract of sale with the purchaser. The contract will include special conditions to ensure the Town not only gets a good deal financially, but so that the benefits for the community are maximised. The normal process of sale (disposition) still occurs following the Local Government Act (Section 3.58/3.59 of the *Local Government Act 1995*).

Will the Town receive fair market value for the land?

The due diligence undertaken by the Town using independent market valuations for the land indicated that the offer presented good value to the Town if the offer were accepted. The independent licenced valuers provided an assessment of market value of \$3,610,000 excluding GST, whereas the offer is \$3,821,000 excluding GST.

What happens if the Town doesn't sell the land?

If the Town does not sell the land then the developer (who currently owns all adjoining properties) may develop their adjacent land holdings but to a smaller scale, with the Town's land remaining as a car park. The inclusion of the Town's land in the overall redevelopment allows for a better design of the ultimate precinct and a better economic outcome for the locality with more retail and commercial development. Additionally, the amount of parking in the area will likely be increased by the development, supporting economic activity and amenity for users of the area. It is also possible that without the Town land being sold to the proponent that they may not develop their existing land holdings and focus on investing elsewhere.

What is proposed to be built on the land?

Although the design is not finalised, at this stage a small neighbourhood shopping centre inclusive of a supermarket and associated speciality retail along with commercial/office space on level one has been proposed. The

development will include undercover parking in excess of what the Town offers currently. The proponent will, like any developer in the Town, also have to undertake the standard statutory development approval process following the purchase of the site and work with the Town's planners and independent Design Review Panel to achieve a development outcome suitable to the Town.

Do I get a say on the proposed sale?

Yes! If you support the proposed sale or have any concerns or comments then you can submit your comments in two ways:

1. In writing by sending a letter marked "Proposed Sale of 355-357 Shepperton Road" and addressed to the Chief Executive Officer, Town of Victoria Park, Locked Bag No. 437, Victoria Park 6979
2. Online by filling out the [submission form](#).

ATTACHMENT 3 – ONLINE QUESTIONS AND ANSWERS

QUESTION - Is the Land Asset Optimisation Strategy (LAOS) a public document as it does not seem to be on the Council website? Is there any publicly available information on the report or information presented to Council on this proposed land sale as there is nothing in the agenda or minutes of the Council Meeting on 20 August as it was dealt with as a confidential item? Why was this item dealt with by Council behind closed doors, when there appears to be no commercially confidential issues and the details of the purchaser and the purchase price are public information??

ANSWER - Thanks for your question. The Land Asset Optimisation Strategy (LAOS) is not available to the public as the report contains financially sensitive information and strategies of the Town, which if made public would undermine any ability of the Town to achieve these outcomes.

The report on 355-357 Shepperton Road was confidential as it contained specific commercial considerations and workings for negotiations with the purchaser, the Town is still undertaking those negotiations.

QUESTION - Is the report demonstrating due diligence undertaken on the offer by Town staff and including independent consultants and certified valuers publicly available information? Is the business case that was presented to Council publicly available information?

ANSWER - [REDACTED] The Business Case and report prepared for Council is confidential. Making the Business Case publicly available at this stage of the process would place the Town in a commercially negative position and undermine the Town's negotiation abilities.

ATTACHMENT 4 – EXTRACTS FROM TOWN OF VICTORIA PARK - INTEGRATED MOVEMENT NETWORK STRATEGY - JUNE 2013

STRATEGIES PGS. 41& 42

Strategy Element	Policy / Position	Action / Project
P4	Development of Parking Limits	Support more stringent parking restrictions for new developments to encourage use of more sustainable modes.
		Adopt reduced parking requirements within the TPS that reflect public transport accessibility, availability of public parking and requirements for EoT facilities.
		Amend TPS cash-in-lieu provisions to allow funds to be used for public parking and / or alternative transport modes for developments where mandatory reduced parking requirements do not apply.
P5	Town as Parking Manager	Develop and adopt maximum parking standards where parking caps have not been applied.
		Actively pursue opportunities for the Town to manage parking to ensure optimised outcomes for public benefit.
		Examine potential for Town to take over the management of car parking on private land in exchange for it being available for public use.

Strategy Element	Policy / Position	Action / Project
P6	New Locations for Parking	Ensure decisions about future off-street public parking supply are informed by data, and support alternative modes as a priority.
		Undertake monitoring of parking demand through the PMP.
		Provide additional parking supply in identified locations if need is justified (based on the public parking supply monitoring process).
		Investigate options for the provision of Park & Ride facilities associated with the LRT at the southern end of the alignment around Curtin, in partnership with stakeholders.

IMPLEMENTATION PG. 65

Category	Action / Project	Short Term	Medium Term	Longer Term
Further Specific Studies / Projects	Work with the DoP in establishing off-street parking caps for developments in Regional and Local Activity Centres, based on WAPC Guidelines, MAX LRT master planning and structure planning.	0	0	
	Examine potential for caps to be utilised for development in lower order centres through structure planning.	0		
	Develop and adopt maximum parking standards where parking caps have not been applied.		0	0
	Actively pursue opportunities for the Town to manage parking to ensure optimised outcomes for public benefit.	0	0	
	Examine potential for Town to take over the management of car parking on private land in exchange for it being available for public use.	\$\$	\$\$	\$\$
	Investigate options for the provision of Park & Ride facilities associated with the MAX LRT at the southern end of the alignment around Curtin, in partnership with stakeholders.	0	\$\$\$*	
	Agree annual funding allocation from parking revenue.	0	0	0