CAMPBELLTOWN CITY COUNCIL

Confidential Item

For Council meeting to be held on

Tuesday 19 March 2024 at 7.00 pm

Refer Item 11.8

Confidential Item

11.8 Property Lease

Property Officer, Chantelle Cavuoto's Report

Purpose of Report

To consider property lease conditions for a matter under negotiation.

Strategic Plan Link

Focus Area 5.1.2 Support Elected Members and Committee Members to undertake their legislative functions

Focus Area 5.2.1 Strong and respectful relationships with other Councils, Government, businesses and organisations

Previous Council/Committee Resolution

At Its meeting on 7 November 2023, Council resolved:

'That Council rejects the current offer from SADB to purchase the property for $5.5 million and retains the property subject to the following:

1. Lease to remain as a 3 year lease with a 2 year extension commencing 1 July 2024, with the inclusion of an additional clause that from 1 July 2025, SADB can provide Council with 6 months notice to terminate the lease with no penalty to SADB.

2. Lease be varied to continue status quo whereby SADB are not required to pay Council rates.

3. Lease be varied to include a clause that should Council at anytime decide to Auction the site for sale then SADB would forgo their 1st Right of Refusal to purchase with no penalty to Council.

4. Council undertake the following maintenance/compliance issues as (required) at Council's expense:

    - Upgrade of electrical switchboards as they are not compliant
    - Repairs to roof as there are significant leaks - main office, lunchroom, and mechanic workshop, which has caused significant damage to office space ceilings - WHS Risk
    - All perimeter fences need urgent repair and replacement
    - Replacement of all gates
    - Major repairs required throughout the office to ceiling due to movement and water damage
    - All floor tiles need replacing as they are loose and broken Floor tiles and are a WHS risk
    - Current kitchen facilities in a state of disrepair and require upgrading
    - External painting is required.

5. SADB undertake the following maintenance/compliance issues (as required) at their expense:

    - Replacement of all gutters
    - Lighting upgrade (outside)
    - Retaining walls surrounding the property require urgent attention - deemed a WHS risk
    - Air conditioning - needs upgrading - currently not working in upper floor level
    - Overhead crane in main workshop - 10 year inspection required
    - Current toilets need upgrading - including the installation of a disability toilet
    - Shower facilities required
    - Further hard stand required - near depot bins and Staff carpark (Graves Street) over 400 sqm required to avoid drag out from vehicles
    - Wurley birds in workshop need replacing.

6. Council when replacing the perimeter fencing set the fence back from Graves Street to enable the area to be planted to significantly improve the aesthetic appeal for Graves Street residents and the general Community.

7. Rent reviews be undertaken at the commencement of the new lease and the commencement of the optional extension with annual March CPI increases throughout the lease

8. The Chief Executive Officer is authorised to approve any further minor administrative amendments required to finalise the lease extension.'

9. Council consider the long term strategy for this land holding over the next 3 years.'

At its meeting on 5 September 2022, Council resolved:

'That Council confirm the amendments to the proposed lease extension to 23 Meredith Street, Newton to SADB Directional Drilling, being:

1. the proposed lease term is a three year plus two year extension

2. that rent reviews be undertaken at the commencement of the new lease and the commencement of the optional extension with annual March CPI increases throughout the lease

3. that the Chief Executive Officer is authorised to approve any further minor administrative amendments required to finalise the lease extension.'

At its meeting on 3 May 2022, Council resolved:

> 'That Council grant a five (5) extension to SADB Directional Drilling to lease the property at 23 Meredith Street, Newton commencing 1 July 2024 and expiring 30 June 2029, subject to:
>
> 1. a full rental review at the expiration of the current lease and then annual rent increases in accordance with the March LGPI each July of the new lease period
> 2. removal of the condition in the existing lease such that the lessee is required to pay Council rates from the commencement of the new lease in July 2024
>
> and that Staff work with SADB to identify any possible options for tree plantings within the site.'

Background

The SADB lease for 23 Meredith Street, Newton expires on 30 June 2024.

At its meeting on 5 September 2022 Council resolved to enter into a new 5 year lease (3 years with a 2 year extension) on the same terms and conditions of the previous lease (including the 1st Right of Refusal to purchase the site should Council wish to sell).

Council considered a further report at its meeting on 7 November 2023 (copy of report attached) rejecting an offer from SADB to purchase the property they lease and updating the lease timeframe and conditions.

The Chief Executive Officer has been negotiating the finer details of the lease with SADB.

Discussion

There have been ongoing negotiations with SADB in respect to the terms of their lease renewal since November 2023.

SADB have now requested a change in the lease terms to be a 3 year lease with the option of 3 renewal periods of 2 years each (a further 6 years in total). No further changes to the previous resolution have been requested at this time.

Social Implications

There are no social implications in relation to this report.

Environmental / Climate Change Implications

There are no environmental/climate change implications with regards to this report.

Asset Management Implications

All costs associated with maintaining the site are currently borne by the lessee. The land and buildings are recorded in Council's asset register at the fair value with each component of the buildings depreciated in accordance with their remaining useful life.

Due to the age of the facility, although not at the end of its useful life, there are a number of compliance/maintenance improvements that have been identified that will require attention during the lease period, and that have been discussed and agreed as part of the lease negotiations.

Governance / Risk Management

The clarification and/or agreement on the terms of the lease support an improved relationship with the lessee for the coming lease period.

Community Engagement

There are no Community engagement implications in relation to this report.

Regional Implications

There are no regional implications in relation to this report.

Economic Development Implications

There are no economic development implications in relation to this report.

Financial Implications

Council currently receives $348,897.24 (ex GST) per annum by leasing the premises to SADB. In addition, over recent years SADB have undertaken several improvements to the Meredith Street site at their expense.

Recommendation

That Council reaffirms its decision in respect to the property at 23 Meredith Street, Newton of 7 November 2023 with the following change:

> **'That SADB be offered a 3 year lease commencing 1 July 2024, with the option of 3 renewal periods of two years each (a further 6 years)'**

all other conditions from the decision made on 7 November 2023 are to remain as previously determined.

Confidential Item

CAMPBELLTOWN CITY COUNCIL

Confidential Item

For Council meeting to be held on

Tuesday 7 November 2023 at 7.00 pm

Refer Item 11.10

Confidential Item

11.10 Property at 23 Meredith Street, Newton

Chief Executive Officer, Paul Di Iulio's Report

Purpose of Report

To consider the correspondence from SADB regarding the property they lease from Council at 23 Meredith Street, Newton.

Strategic Plan Link

Focus Area 5.1.2 Support Elected Members and Committee Members to undertake their legislative functions

Focus Area 5.2.1 Strong and respectful relationships with other Councils, Government, businesses and organisations

Previous Council/Committee Resolution

At its meeting on 5 September 2022, Council resolved:

> That Council confirm the amendments to the proposed lease extension to 23 Meredith Street, Newton to SADB Directional Drilling, being:
>
> 1. the proposed lease term is a three year plus two year extension
>
> 2. that rent reviews be undertaken at the commencement of the new lease and the commencement of the optional extension with annual March CPI increases throughout the lease
>
> 3. that the Chief Executive Officer is authorised to approve any further minor administrative amendments required to finalise the lease extension.'

At its meeting on 3 May 2022, Council resolved:

> 'That Council grant a five (5) extension to SADB Directional Drilling to lease the property at 23 Meredith Street, Newton commencing 1 July 2024 and expiring 30 June 2029, subject to:
>
> 1. a full rental review at the expiration of the current lease and then annual rent increases in accordance with the March LGPI each July of the new lease period
>
> 2. removal of the condition in the existing lease such that the lessee is required to pay Council rates from the commencement of the new lease in July 2024
>
> and that Staff work with SADB to identify any possible options for tree plantings within the site.'

Background

SADB submitted a Formal Offer to Council to purchase the property at 23 Meredith Street, Newton. The offer made by SADB was based upon a commissioned market valuation of $5 million and they were prepared to pay a figure of 10% higher, that being $5.5 million (see attached)

Council initially purchased this property in September 2006 at a cost of $6.365 million from Bianco Structural Steel with an upfront lease payment, paid back at settlement of $1.3 million. Council at the time believed this site could potentially make a suitable Depot site for Council's operations, which would in turn provide Council with an opportunity to realise the 'highest and best use' for the existing Depot site at 6 Newton Road.

Council then resolved not to relocate its Depot to Meredith Street and sought to lease the property in its existing condition to prospective companies, once Bianco Structural Steel vacated the property in 2007.

The property then remained vacant for approximately 18 months, until SADB entered into a lease arrangement with Council at an initial rate of $220,000/annum with CPI increases. SADB have remained at the site ever since and over that period the annual lease fee has increased to approximately $350,000/annum. During this period, SADB have undertaken a number of improvements to the site at their expense.

Their current lease expires on 30 June 2024, however Council has agreed to enter into a new 5 year lease (3 years with a 2 year extension) on the same terms and conditions of the existing lease (including the 1st Right of Refusal to purchase the site should Council wish to sell) and an additional clause that SADB must now pay Council rates. However at this stage SADB are yet to sign the new lease agreement, one of the major issues of contention is the introduction of paying Council rates. Up until now the leases have excluded the need for SADB to pay Council rates. It is estimated that this year the Council Rates for 23 Meredith Street would have been approximately $17,500, with the Regional Landscape Levy being an additional $500.

Discussion

SADB are a local business who employ a large number of people. After leasing the site for almost 14 years the Directors of the Company have made a strategic decision that they should purchase their own facility, rather than continuing to pay rent indefinitely. SADB's first preference is to purchase the property at Meredith Street as they are well established at this site and it would suit their needs in the long term.

In their offer to purchase the site, SADB have also identified a number of maintenance/compliance improvements that would be required to be undertaken should Council not wish to sell the property and continue with a lease arrangement. Staff have undertaken a high level assessment of the items and believe to complete all the items that have been detailed, would cost in the order of $1 million.

Therefore to fully assess the merits of the SADB offer and determine whether Council should commit to sell the property and if so, under what terms and conditions, a significant due diligence process was undertaken.

Firstly, Staff reviewed the planning requirements for the site which can be summarised as follows:

- Located within the Employment Zone
- Graves Street frontage interfaces with General Neighbourhood Zone.
- Existing site enjoys 'existing use rights'
- Employment Zone within Design Code list following developments as appropriate:

  - Consulting Room
  - Demolition
  - Land Division
  - Light Industry
  - Office
  - Retaining Wall
  - Service Trade Premise
  - Shop
  - Store
  - Telecommunications Facility
  - Warehouse

- 'Restricted' Forms of Development

  - Shops with a gross leasable area > 1,000 m^2
  - Shop other than 'bulky goods' outlet or Special Industry

- Contamination issues may be a concern depending on future use.

The Staff sought a second independent valuation and also reviewed the VG (Valuer General) Valuation for the site. The initial valuation was obtained from Acumentis who valued the site at $5.2 million based on 'as is and subject to the existing lease'. The second valuation prepared by McGees valued the property at $8.1 million based on 'highest and best use'. Interestingly the VGs valuation also increased over the same period that the independent valuations were obtained from $5.775 million to $7.05 million. Furthermore, McGees also provided the following advice in their valuation which Staff believe should seriously be taken into account when considering this matter:

- Believe current use is highest and best use
- If property offered on open market for sale they anticipate there would be strong level of interest
- To maximise return to Council, extinguish Lessee's first right of refusal to buy
- Negotiate this extinguishment through request to insert 6 month termination clause
- Existing tenants generally pay a premium when compared to the broader market in order to secure their tenure.

To enable the discussion to proceed Staff also sought legal advice as to whether Council could deal directly with SADB taking into consideration Council's Procurement Policy and the clause contained within the lease regarding the 1st Right of Refusal to purchase the site. Norman Waterhouse's advice can be summarised as follows:

- This process would comply with Procurement Policy if Council wished to sell.
- Seek 2 independent valuations.
- Negotiate an outcome consistent with the requirements of the Policy.
- If no agreement reached then Council can undertake alternate procurement methods.

Staff then sought advice from BRM Advisory to determine whether it would be financially beneficial for Council to sell this property in today's market or continue to retain the site and generate income through leasing arrangements. The advise from BRM Advisory can be summarised as follows:

- Decision to retain or sell is dependent upon a magnitude of factors namely sale price, remaining life and discount rate applied to determine future cash flows.
- Current gross rental is below market rate.
- Building improvements provide relatively low site coverage for an industrial asset, so there is scope for further development.
- Newton Light Industrial Area generally tightly held, so if offered for sale on open market strong interest is anticipated.
- Based on McGees Valuation, Council would be financially better off to dispose of property rather than retain it.

In addition to the independent valuations and the financial advice, Staff also sought property advice from the Alinea Gorup. The Alinea Group are very experienced in this area, are highly recommended and have been engaged to assist with progressing the Community Hub/Performing Arts concept at 172 Montacute Road, Rostrevor. Their advice can be summarised as follows:

- Market analysis suggests property could achieve between $7.2 million - $9.3 million
- Informal discussions with Leedwell suggest property could achieve $10 million if brought to market
- Considered subdividing vs selling as a whole; although it may yield a higher return, considered it may command a premium being sold as one property.
- Reject the current offer as below market value.
- Consider strategic holding value to Council, potentially for a Council Depot as current site not 'highest and best use'.
- Property is highly desirable and there is likely to be significant interest in the site if offered to market for lease, leading to increased rental figure (subject to improvements).

Therefore, in light of the offer from SADB, the valuations received and the independent advice from a number of organisations, Staff recommend that Council should consider:

- Rejecting the current offer and retain the property.
- Re-negotiating the new 3 years + 2 year lease commencing 1 July 2024, subject to following inclusions:
  - Extinguish First Right of Refusal Clause
  - Full market review at 1 July 2027
  - 6 month notice termination clause to be included in the lease

- the long term strategy for this land holding over the next 2 years.

As a result of the discussions at the recent Briefing Session, the Chief Executive Officer has met with one of the Directors of SADB to pass on what Staff's recommendation will be. It was made clear that the decision will be Council's however Staff would be recommending to Council to reject the offer and continue to retain the site as a strategic land holding.

In that discussion, the two parties explored the best way forward assuming Council supported the Staff's recommendation. The key feature for Council was to extinguish the 1st Right of Refusal clause as if Council ever wanted to explore selling the property, the removal of this clause would ensure Council achieved the best return and to minimise the amount of maintenance/compliance items that Council had to fund, assuming SADB remained at the site.

Although the discussions were robust as they are a significant local employer and good local business, a win/win outcome for all parties was hopeful and desired outcome. These discussions are all predicated on Council adopting Staff's recommendation to reject the offer from SADB and retaining the site. Therefore, following the discussions, both parties reached a mutual agreement worthy of consideration, namely:

1. Lease to remain as 3 year lease with a 2 year extension commencing 1 July 2024, with the inclusion of an additional clause that from 1 July 2025, SADB can provide Council with 6 months notice to terminate the lease with no penalty to SADB

2. Lease be varied to continue status quo whereby SADB are not required to pay Council rates

3. Lease be varied to include a clause that should Council at anytime decide to Auction the site for sale then SADB would forgo their 1st Right of Refusal to purchase with no penalty to Council

4. Council undertake the following maintenance/compliance issues as (required) at Council's expense:

    - Upgrade of electrical switchboards as they are not compliant
    - Repairs to roof as there are significant leaks - main office, lunchroom, and mechanic workshop which has caused significant damage to office space ceilings - WHS Risk
    - All perimeter fences need urgent repair and replacement
    - Replacement of all Gates
    - Major repairs required throughout the office to ceiling due to movement and water damage
    - All floor tiles need replacing as they are loose and broken Floor tiles and are a WHS risk
    - Current kitchen facilities in a state of disrepair and require upgrading
    - External painting is required.

5. SADB undertake the following maintenance/compliance issues (as required) at their expense:

    - Replacement of all gutters
    - Lighting upgrade (outside)
    - Retaining walls surrounding the property require urgent attention - deemed a WHS risk
    - Air conditioning - needs upgrading - currently not working in upper floor level
    - Overhead crane in main workshop - 10 year inspection required
    - Current toilets need upgrading - including the installation of a disability toilet
    - Shower facilities required
    - Further hard stand required - near depot bins and Staff carpark (Graves Street) over 400sqm required to avoid drag out from vehicles
    - Wurley birds in workshop need replacing.

6. Council when replacing the perimeter fencing set the fence back from Graves Street to enable the area to be planted to significantly improve the aesthetic appeal for Graves Street residents and the general Community.

In working through these issues, Staff believe continuing the status quo of not charging SADB Council rates is reasonable on the basis that it is what has occurred for the past 14 years and that they are willing to contribute towards funding the required maintenance/compliance improvements as required over the term of their lease.

Social Implications

There are no social implications in relation to this report.

Environmental / Climate Change Implications

There are no environmental/climate change implications with regards to this report as SADB Directional Drilling are a compliant tenant always striving for environmental excellence in their operations.

Asset Management Implications

All costs associated with maintaining the site are currently borne by the existing lessee. The land and buildings are recorded in Council's asset register at the fair value with each component of the buildings depreciated in accordance with their remaining useful life.

Due to the age of the facility, although not at the end of its useful life, there are a number of compliance/maintenance improvements that have been identified that will require attention, which have been discussed previously in this report.

Governance / Risk Management

The clarification and/or agreement on the terms of the lease support stronger relational governance outcomes.

Community Engagement

There are no Community engagement implications in relation to this report.

Regional Implications

There are no regional implications in relation to this report.

Economic Development Implications

There are no economic development implications in relation to this report.

Financial Implications

Council currently receives approximately $350,000 per annum by leasing the premises to SADB. With all costs relating to the facility borne by the lessee (excluding building insurance and Council rates), the current lease arrangement provides Council with income that helps support its operating result and budget. Should Council support Staff's recommendation funding will need to be considered at the time of formulating the draft 2024/2025 Annual Business Plan and Budget to address the maintenance/compliance improvements required.

Recommendation

That Council rejects the current offer from SADB to purchase the property for $5.5 million and retains the property subject to the following:

1. **Lease to remain as a 3 year lease with a 2 year extension commencing 1 July 2024, with the inclusion of an additional clause that from 1 July 2025, SADB can provide Council with 6 months notice to terminate the lease with no penalty to SADB.**

2. **Lease be varied to continue status quo whereby SADB are not required to pay Council rates.**

3. **Lease be varied to include a clause that should Council at anytime decide to Auction the site for sale then SADB would forgo their 1st Right of Refusal to purchase with no penalty to Council.**

4. **Council undertake the following maintenance/compliance issues as (required) at Council's expense:**

    - **Upgrade of electrical switchboards as they are not compliant**
    - **Repairs to roof as there are significant leaks - main office, lunchroom, and mechanic workshop, which has caused significant damage to office space ceilings - WHS Risk**
    - **All perimeter fences need urgent repair and replacement**
    - **Replacement of all gates**
    - **Major repairs required throughout the office to ceiling due to movement and water damage**

- **All floor tiles need replacing as they are loose and broken Floor tiles and are a WHS risk**
- **Current kitchen facilities in a state of disrepair and require upgrading**
- **External painting is required.**

5. SADB undertake the following maintenance/compliance issues (as required) at their expense:

- **Replacement of all gutters**
- **Lighting upgrade (outside)**
- **Retaining walls surrounding the property require urgent attention - deemed a WHS risk**
- **Air conditioning - needs upgrading - currently not working in upper floor level**
- **Overhead crane in main workshop - 10 year inspection required**
- **Current toilets need upgrading - including the installation of a disability toilet**
- **Shower facilities required**
- **Further hard stand required - near depot bins and Staff carpark (Graves Street) over 400sqm required to avoid drag out from vehicles**
- **Wurley birds in workshop need replacing.**

6. Council when replacing the perimeter fencing set the fence back from Graves Street to enable the area to be planted to significantly improve the aesthetic appeal for Graves Street residents and the general Community.

7. Rent reviews be undertaken at the commencement of the new lease and the commencement of the optional extension with annual March CPI increases throughout the lease

8. The Chief Executive Officer is authorised to approve any further minor administrative amendments required to finalise the lease extension.'

9. Council consider the long term strategy for this land holding over the next 3 years.

ABN 62 652 552 255

City of Campbelltown

172 Montacute Rd
ROSTERVOR SA 5073

Attn: Paul Di Iulio – CEO

RE: Purchase of 23 Merdith St Newton

Dear Paul,

SADB would like to submit a Formal Indicative Offer to Council to purchase 23 Meredith St, Newton. Please read this in conjunction with the attached Draft Heads of Agreement.

Regarding the proposed Purchase Price – this has been evaluated based on SADB commissioned market valuation of $5,000,000, please refer to valuation attached. Our Offer is 10% more than the current Valuation, equating to $5,000,000 + 10% = **$5,500,000**. As a condition of the purchase, SADB will commit within three months of the purchase of the property to replace the fence facing Graves St and set back to Councils satisfaction for planting trees as screening.

We would request a settlement by the end of October 23.

As previously discussed, SADB has been a reliable tenant of the property since 2009 (over 13 years) and spent more than $1,000,000 on improvements. In this time, we have never asked Council to undertake works and or improve the property. SADB has always focused on employing local council residents. Over 50% of our staff live within the Council area and neighbouring Councils.

As you are aware our Lease is up for Renewal in July 24, after discussion with our Board, Directors and Stakeholders we have decided that if Council are opposed to the sale of the property to SADB, for strategic reasons we will purchase another site to house our operation, in which we will own our property. SADB will negotiate with Council for an extension of the current lease with an additional clause of a 6-month notice termination of lease. We anticipate that it is likely that we would not renew for the second term. As the property is aging and needs urgent attention to bring it up to current commercial and compliance standards– we will request Council to attend to the following in order to reduce risk of occupation of the property – in particular in areas of current noncompliance.

1. Upgrade of electrical switchboards as they are not compliant.
2. Repairs to roof as there are significant leaks – main office, lunchroom, and mechanic w/shop. Which has caused significant damage to office space ceilings – OHS Risk
3. Replacement of All Gutters.
4. Lighting upgrade (outside).
5. All Perimeter fences need urgent repair and replacement.
6. Retaining walls surrounding the property require urgent attention – deemed an OHS risk.
7. Replacement of all Gates.
8. Air Conditioning – needs up grading – current not working in upper floor level.
9. Overhead crane in main w/shop – 10yr inspection required.
10. Major repairs required throughout the office to ceiling due to movement and water damage.
11. All floor tiles need replacing as they are loose and broken Floor tiles and are OHS risk.
12. Current Toilets need up grade. We have NO Handicap toilet – this is required – noncompliant.
13. Shower Facilities required.
14. Current Kitchen Facilities in a state of disrepair and require upgrading.
15. Further Hard stand required – near depot bins and staff carpark (Graves St) Over 400 sqm. This is required to avoid drag out from vehicles.
16. Wurley birds in workshop need replacing.
17. Externally Painting is required.

Please review the Draft Heads of Agreement attached and advise if you require further details and any additions or exclusions. We would appreciate it if you could provide your feedback within 30 days.

We look forward to further negations and a positive outcome.

Regards

Michael J De Vizio

SADB Group