

13.4 INTENTION TO SELL PARCEL "A" (39-47 CAMDEN STREET, BALACLAVA) - CONSIDERING SUBMISSIONS IN RESPONSE TO PUBLIC NOTICE

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1. PURPOSE

- 1.1 To consider submissions received in response to a notice published in accordance with section 189 of the *Local Government Act 1989* advising of City of Port Phillip's intention to sell land at 39-47 Camden Street, Balaclava, by private treaty through the exercise of a put option, after offering the property to the market through a competitive public process, and should it not sell the property as a result of that process.



Image above: Parcel "A", the subject of the Notice of Intention to Sell, and one of several parcels owned by Council in the Balaclava Retail Renewal area.

2. EXECUTIVE SUMMARY

- 2.1 On 20 November 2019 Council resolved to commence a process of negotiating and transacting properties it owns in the Balaclava Retail Renewal Precinct (the "Precinct"), to foster staged renewal of that area.
- 2.2 As noted in that Council report, the transactions of Council's property within the Precinct are together intended to facilitate redevelopment of the Carlisle Street Retail Precinct, and multiple community outcomes, including replacement public car parking, improved amenity and retail experience, and improved pedestrian access and safety.



- 2.3 The Structure Plan acknowledges that redevelopment cannot be fully realised without the Council land.
- 2.4 Flowing from that resolution, Council formally notified the public of its intention to sell Parcel “A” (being 39-47 Camden Street) by:
 - public auction or expression of interest, (the “Notice”); and alternatively
 - private treaty, exercising a put option, (the “Additional Notice”).
- 2.5 Having received, heard and considered the submission in response to the Notice, City of Port Phillip resolved on 19 May 2021 to sell parcel “A”, by auction or expression of interest, noting that it may later additionally determine to sell the land by private treaty. This would enable Council the flexibility to exercise a put option, should it not accept any market offer through the competitive public process.
- 2.6 The Additional Notice (**Attachment 1**) outlined the terms of the proposed sale and invited submissions on the proposal, highlighting the opportunity for those making submissions to be heard before Council in support of their submissions.
- 2.7 In response to the Additional Notice, one submission was received (**Attachment 2**). It was publicly reported at Council’s Ordinary Meeting of 7 July 2021.
- 2.8 That submission noted:
 - the intention of the submitter on behalf of their clients to pursue development within the Balaclava Retail Renewal Precinct, including the Coles supermarket site;
 - their interest in acquiring the subject site; and
 - their preference/desire to acquire it through direct negotiations (ahead of and rather than an open market transaction).
- 2.9 Officers have considered the submission.
- 2.10 Officers recommend that Council sell the land by exercise of a put option.
- 2.11 Following the expression of interest period under the competitive transaction process, a final decision will be made whether to accept the best market offer, or exercise the put option.

3. RECOMMENDATION

That Council:

- 3.1 Notes that it has received, heard and considered the submission in response to its Notice of Intention to Sell 39-47 Camden Street, Balaclava, being Parcel “A” in the Balaclava Retail Renewal Precinct, by private treaty through the exercise of a put option.
- 3.2 Resolves to sell 39-47 Camden Street, Balaclava, by exercise of a put option, after offering the property to the market through a competitive public process, and should it not sell the property as a result of that competitive process, that put option requiring the purchase of the property for no less than market value, and with an obligation to provide no less than 55 car bays for use by the public.
- 3.3 Advises the submitter of the decision to sell the land and the reason(s) for the decision.



4. KEY POINTS/ISSUES

Background

- 4.1 The *City of Port Phillip Carlisle Activity Centre Structure Plan* sets out Council's vision and expectations for renewal and growth of the area.
- 4.2 It was adopted twelve years ago, following extensive public consultation and the formal consideration of written submissions.
- 4.3 Its directions have subsequently been incorporated into the Port Phillip Planning Scheme, further entrenching the City's expectations for future development.
- 4.4 Council owns several discontinuous parcels of land within the precinct. One of those parcels is the subject site.
- 4.5 Redevelopment of the precinct according to the Structure Plan cannot be fully realised without the Council land.
- 4.6 At its Ordinary Meeting of 20 November 2019, Council resolved to commence the processes of negotiating and transacting the Council land to foster staged renewal of that area.
- 4.7 A hybrid transaction approach was outlined – including both direct negotiations and open market processes – to ensure that best community value and good practice for the transfer of Council land could be achieved.
- 4.8 Consistent with that approach, and its obligations under the *Local Government Act 1989*, Council formally sought and received submissions in response of its intention to sell the subject property by both:
 - competitive public process; and
 - exercising a put option.
- 4.9 On 19 May 2021 Council resolved to sell the site by competitive public process, noting that it may later, separately, determine to sell the land by private treaty, by exercising a put option.

Public notice – Intention to Sell by exercise of a put option

- 4.10 On 1 May 2021 a notice of intended sale by put option was published in *The Age* newspaper. It was also published on Council's website.
- 4.11 It noted the right of any person to make a submission and to speak to that submission before Council.

Response received

- 4.12 One submission was received, by consultancy Property Development Solutions (Aust) Pty Ltd, on behalf of a party seeking to purchase the subject site.
- 4.13 The submission noted the interest of their client in:
 - developing the land of and adjacent the Balaclava Coles supermarket;
 - expanding this development plan to include Parcel A (the subject site); and
 - purchasing Parcel A through direct negotiations prior to going to the open market.



4.14 The submission suggested Parcel A to be an important inclusion to their development plan and noted that its inclusion would allow for a more fully resolved masterplan for the Precinct.

4.15 Officers reported the submission to the Ordinary Meeting of Council of 7 July 2021.

Recommendation rationale

4.16 To sell the property by put option is consistent with the hybrid transaction approach for supporting staged renewal of the precinct outlined at the Ordinary Meeting of Council of 20 November 2019.

4.17 A public sale process is underway. Through that process any party has opportunity to purchase the property. This includes the submitter's client.

5. CONSULTATION AND STAKEHOLDERS

5.1 This public report follows those to the Ordinary Meeting of Council of:

- 20 November 2019 (seeking approval to commence the statutory process and notify the public of an intention to sell);
- 19 May 2021 (noting that Council had formally notified the public of an Intention to Sell by private treaty through the exercise of a put option); and
- 7 July 2021 (to report the submissions received in response).

5.2 The process under section 223 of the *Local Government Act 1989* provides any person who has made a written response to the Notice an opportunity to be heard.

5.3 In addition to publishing formal notice, supplementary communication was carried out, including a courtesy letterbox drop to 138 owners, residents and traders of neighbouring properties was completed on 5 May 2021.

5.4 The Request for Expressions of Interest to purchase the property notifies potential respondents "that City of Port Phillip has entered into a put option with a third party, pursuant to which the City of Port Phillip may (but is not required to) sell the subject Property to that third party. City of Port Phillip has made no decision to exercise the put option. City of Port Phillip may exercise the put option at any time and for any reason, including if [the] EOI process fails or if no EOI exceeds the put option".

6. LEGAL AND RISK IMPLICATIONS

6.1 The section 223 process of the *Local Government Act 1989* arises because a submission was received in response to the public notice Council issued under section 189 of that legislation.

7. FINANCIAL IMPACT

7.1 Proceeds from the potential sale would be reinvested to improve Council's property portfolio, through its Strategic Property Fund.

7.2 The current carpark operation generates revenue from parking infringements, totalling \$22,000 for the prior financial year.

8. ENVIRONMENTAL IMPACT

8.1 No material environmental impacts are considered to arise from the adoption of the recommendations.



9. COMMUNITY IMPACT

9.1 It is anticipated that a sale will facilitate productive redevelopment of the precinct and advance the project objectives.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

10.1 This report supports transparent governance and an actively engaged community, and thereby direction 5 “Well Governed Port Phillip”.

10.2 A transaction of Council land to facilitate redevelopment aligns with direction 2: “Liveable Port Phillip”.

11. IMPLEMENTATION STRATEGY

11.1 TIMELINE

Competitive transaction process

11.1.1 The expression of interest period is scheduled to close on 13 August 2021.

Exercise of put option

11.1.2 Should Council resolve to sell the property by exercising a put option, then once the market offers have been received through the competitive transaction process, a decision will be made whether to accept the best market offer, or exercise the put option.

11.2 COMMUNICATION

11.2.1 Officers shall notify the submitter of the decision and the reason(s) for the decision.

12. OFFICER DIRECT OR INDIRECT INTEREST

12.1 No officers involved in the preparation of this report have any material or general interest in the matter.

ATTACHMENTS

1. Notice of Intention to Sell  [↓](#)

2. Submission in response to Intention to Sell  [↓](#)