

10.10 PROPOSED SALE OF LAND AT 126 CARPENTER STREET, BRIGHTON

Corporate Services - Commercial Services
File No: PSF/21/26 – Doc No: DOC/21/214181

Executive summary

Purpose and background

This report seeks approval to commence proceedings under Section 114 of the *Local Government Act 2020* (Act) to sell the land at 126 Carpenter Street Brighton, outlined in red in Attachment 1 (Subject Land) to the adjoining owner of 124 Carpenter Street, Brighton for \$300,000 plus GST.

The subject land is identified as Lot 1 on Title Plan 837578J (refer Attachment 1) and is contained within Certificate of Title Volume 08885 Folio 771.

The subject land previously formed part of William Street and since 1971 has been utilised as a carpark/loading bay by Monkhouse and Son at the adjoining premises at 124 Carpenter Street, Brighton. The business requires the subject land to maintain the ongoing operation of its activities. The carpark was operating under a Licence Agreement with Bayside City Council and this licence expired in March 2021. 124 Carpenter Street, Brighton was later purchased by Environmental Funerals Pty Ltd who has since expressed an interest in purchasing the subject property rather than entering into a new Licence Agreement with Bayside City Council. The licence fee for the subject land is currently \$8,717 per annum.

Key issues

Use

The Subject Land adjoins 124 Carpenter Street, Brighton and has been utilised for the purpose of an access cross over to 124 Carpenter Street and as a carpark/loading bay for more than 15 years. Consequently, no adjoining owners utilise the Subject Land.

Easements

The Subject Land contains an underground easement in favour of South East Water for sewerage purposes. If the Subject Land was to be sold, easements rights will be retained on title in favour of South East Water for sewerage purposes.

If any other assets are identified in the Subject Land and are required, such easements will be retained on title in favour of the asset authority.

Summary of Sale Proposal

Proposed Purchaser:	Allison Monkhouse Pty Ltd or nominee
Agreed Price:	\$300,000 + GST
Terms:	Payable by no later than a three-year period in equal monthly instalments (\$8,333.33 per month for a total of 36 months) or earlier by mutual agreement, without penalty
Additional Costs:	Estimated \$5,000 - \$10,000 + GST
Settlement:	To be completed upon payment of the full purchase price including additional costs. Expected December 2024 or earlier by mutual agreement.

Community Engagement Plan

The Local Government Act 2020 Section 114 (2)(b) requires Council to undertake a community engagement process in accordance with its community engagement policy. This plan is set out in Attachment 2.

Conclusion

Officers consider that the Subject Land is no longer reasonably required for public use and therefore deem it appropriate to proceed with the proposal to sell the Subject Land to the adjoining owner of 124 Carpenter Street, Brighton for \$300,000 plus GST.

The owner of 124 Carpenter Street, Brighton has signed a conditional 'Cost Agreement' to purchase the Subject Land.

Recommendation

That Council:

1. commences the statutory procedures in accordance with the *Local Government Act 2020* (the Act) to sell the Subject Land at 126 Carpenter Street, Brighton, outlined in red in Attachment 1, to the adjoining owner of 124 Carpenter Street, Brighton, for \$300,000 plus GST
2. authorises the Director Corporate Services to undertake the administrative procedures necessary to enable Council to carry out its functions under section 114 of the Act in relation to the sale proposal and in accordance with Council's Community and Stakeholder Engagement Policy 2021
3. advertises the Public Notice on Council's website outlining the proposal in accordance with Section 114 of the Act.
4. commences a community engagement process in accordance with Section 114(2)(b) of the Act
5. following the consideration of any submissions, receives a further report at an Ordinary Meeting of Council.

Support Attachments

1. Title Plan ↴
2. Community Engagement Plan ↴

Considerations and implications of recommendation

Liveable community

Social

The sale of the Subject Land will reduce the need for Council to maintain land which it no longer requires for municipal purposes. It will also provide an opportunity for the business of 124 Carpenter Street to gain title to the Subject Land, which it has previously occupied under existing Licence Agreement provisions over the last 50 years.

Natural Environment

There are no impacts associated with this report.

Built Environment

The Subject Land contains an underground easement in favour of South East Water for sewerage purposes. If the Subject Land was to be sold, easements rights will be retained on title in favour of South East Water for sewerage purposes.

If any other assets are identified in the Subject Land and are required, such easements will be retained on title in favour of the asset authority.

Customer Service and Community Engagement

Both internal and external authorities have been consulted, whereby no objections to the Proposal have been received.

Council will also need to undertake procedures under Section 114 of the Local Government Act for the sale of the Subject Land. The proposed commencement of the statutory procedures under Section 114 of the Act require Council to give public notice of its intention to sell the Subject Land on Council's website and undertake a community engagement process in accordance with the Community and Stakeholder Engagement Policy 2021 pursuant to section 114(2)(b).

The following table summarises the statutory process under section 114(2)(a):

Public Notice on Council's website	Thursday 22 July 2021
Submissions close at 5:00pm	Wednesday 18 August 2021
Undertake a Community Engagement Process	See Plan (Attachment 2)
Council Consideration of Submissions	At a future Council Meeting to be determined (all submitters will be advised of the date)

Human Rights

There are no Human Rights issues or implications identified in relation to this report.

Governance

Officers involved in the preparation of this report have no conflict of interest.

Legal

Council is required to give public notice of its intention to sell the Subject Land in accordance with Section 114 of the *Local Government Act*, inviting submissions from the community.

Notification will be given on Council's website. Given that the Subject Land is currently licensed to the adjoining owner at 124 Carpenter Street, Brighton, and that the Subject Land does not adjoin any other private property, no other property owners have been directly consulted in relation to the sale of the Subject Land.

If any written submissions are received, they will be considered in a further report which will be presented to Council to enable the consideration of such submissions prior to making a decision on the Proposal.

Finance

Council's independent valuer, Matheson Stephen Valuations has valued the Subject Land at \$300,000 (exclusive of GST) on the basis of approximately 30 sq.m. of the parent parcel being encumbered by an easement. The total purchase price is outlined in the below table:

Table 1:

Lot	Property	Area	Market Value	GST
1	Land at 126 Carpenter Street, Brighton	102m ²	\$300,000	Exclusive

In accordance with Council Policy, the Subject Land outlined in red in Attachment 1 has been allocated to the adjoining property owner at 124 Carpenter Street, Brighton, who currently occupies the land via a Licence Agreement.

The owner of 124 Carpenter Street, Brighton has signed a conditional 'Cost Agreement' to purchase the Subject Land for \$300,000 plus GST, subject to Council approval.

Links to Council policy and strategy

Council's 'Discontinuance and sale of Right of Ways, Roads and Reserves Policy' provides direction on the discontinuance of roads and potential sale of land.

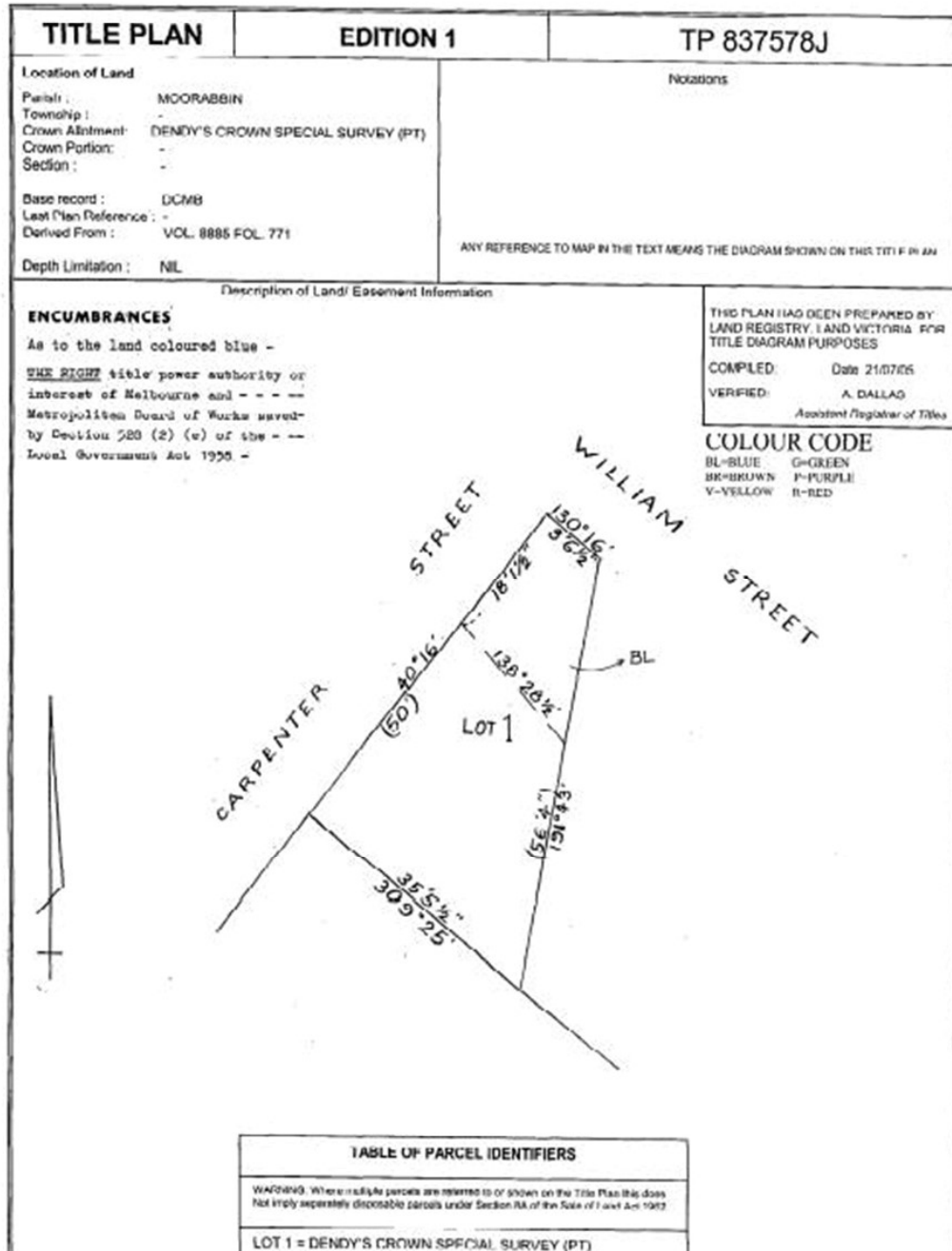
Council's Property Strategy Principle One

Seeks Council to maximise community benefit and public value from the property portfolio.

Council Plan Goal 7 – Financial Responsibility and Good Governance

7.1.1 Developing alternative income sources to take pressure off rate increases and improve long term financial viability.

Attachment 1



Community Engagement Plan

Overview of engagement/research

<p>Project working title (public view):</p> <p>Purpose of engagement or research activities:</p>	<p>Seek submissions regarding the proposed sale of land at 126 Carpenter Street, Brighton</p> <p>Seek community feedback concerning the sale of land at 126 Carpenter Street Brighton</p> <ul style="list-style-type: none"> The subject land has been licensed to the adjoining business for over 50 years and Council is considering the sale of the land to the adjoining owner. This land is essential to the ongoing operations of the business and no other party can utilise the land without significantly impacting the ongoing operation of the business. Council must undertake Community Engagement prior to a decision to sell. The decision to sell has not yet been made and the Council wishes to receive any comments for or against the proposal. All submissions should be provided in writing via Councils 'Have Your Say' page and should clearly state the opinion of the submitter and the reasons for the submission. Submissions must have been received by Council by Tuesday 17 August 2021. Community feedback on a matter will not be considered after closing date to enable reporting to be completed within this timeline 				
<p>Need for engagement or research: <i>You may select multiple responses</i></p>	<ul style="list-style-type: none"> <input type="checkbox"/> Client/customer feedback on service <input type="checkbox"/> Program/event evaluation <input type="checkbox"/> Information gathering/scoping <input checked="" type="checkbox"/> Needs assessment in accordance with Section 114 of Local Government Act 2020 (2) (b) 				
<p>Roles and responsibilities of project team:</p>	<table border="1"> <thead> <tr> <th data-bbox="1117 789 1143 1266">Person</th> <th data-bbox="1117 308 1143 789">Role</th> </tr> </thead> <tbody> <tr> <td data-bbox="1143 789 1203 1266">Newton Gatoff, Property Coordinator</td> <td data-bbox="1143 308 1203 789">To seek public submissions and provide summary to Council in a future Council report</td> </tr> </tbody> </table>	Person	Role	Newton Gatoff, Property Coordinator	To seek public submissions and provide summary to Council in a future Council report
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Project Timeline

Project	Engagement objective <i>What do you want to achieve? Gathering information? Testing ideas? Gaining support?</i>	Key engagement/research questions <i>What are the key questions you want answered?</i>	Date
Community Engagement	Present the community with the proposed sale of the subject land, the reasons for the sale and to receive submission from any individual or organisation concerning that sale.	Are there any reasons why the sale should not proceed? Are there any reasons why the sale should proceed?	21 July 2021 to 17 August 2021

Activities (eg. Listening posts, workshops, surveys, Have Your Say)

How will you engage? Consider your stakeholder analysis and your proposed approach when planning engagement activities. Refer to the Engagement and Research Toolkit for ideas. NOTE: Engagement activities should be based on the [IAP2 Public Participation Spectrum](#).

Stage 1:

Activity	Purpose	Audience	How will you know if this activity has been successful?	Person Responsible	Partner/s	Timing
Public Notice	To comply with Section 114 of Local Government Act 2020 (2) (a) (i)	Residents & local businesses	The notice will appear on Councils Website for 4 weeks	Governance Officer	Comm. Engagement Officer	21 July 2021 to 17 August 2021
Have Your say	To enable members of the public to register comments concerning the proposed sale for Councils consideration prior to a decision	Residents & local businesses	The public may or may not provide 'Have Your Say' submissions	Property Coordinator	Comm. Engagement Officer	21 July 2021 to 17 August 2021
Issue copies of the notice to adjoining residents	To ensure that all adjoining owners are aware of the proposed sale and to ensure they have an opportunity to provide comment	Adjoining residents & local businesses	Local residents may or may not provide written submissions	Property Coordinator	Comm. Engagement Officer	By 30 July 2021