

## 7.1.8 PROPOSED SALE OF CENTRAL CAR PARK, GLEN WAVERLEY

<b>Responsible Manager:</b>	Mark Gibson, Manager Property and City Design
<b>Responsible Director:</b>	Peter Panagakos, Director City Development

### RECOMMENDATION

That Council:

1. Notes that Tender 2024116 for real estate consultancy services for the sale of part of the land known as Central Car Park (being part of the land in certificate of title volume 11617 folio 563), located at 281 Springvale Road, Glen Waverley (the Land) has been awarded under Council's financial delegation to the Chief Executive Officer to Cushman & Wakefield Agency (Vic) Pty Ltd (the Agent).
2. Notes the recommendation from the Agent that, to maximise Council's financial return for the sale of the Land, Council ought to offer prospective purchasers a settlement period longer than 90 days.
3. Notes that the public notice published for the purposes of the community engagement process required by s.114 of the Local Government Act 2020 and Council's community engagement policy in respect of the proposed sale of the Land included the following:  
  
*"2. Settlement will take place on the later of 90 days after the day of sale and 14 days from registration of the Plan".*
4. Resolves that, given the recommendation from the Agent noted in Item 2 above, Council authorises the Chief Executive Officer to negotiate and agree the settlement terms with the prospective purchaser having regard to advice from the Agent, Council's property consultant and Council's lawyers, so as to maximise the financial return for Council, except that settlement must not be conditional upon planning approval.
5. Notes that:
  - a. Council has already undertaken a 'Consult' level of community engagement in respect of its proposed sale of the Land and resolved to proceed with the proposed sale after considering submissions received in respect of the proposal; and
  - b. the change to the settlement period:
    - i. is based on the expert recommendation from the Agent and advice from Council's property consultants;
    - ii. is expected to maximise Council's financial return for the sale of the Land; and
    - iii. does not substantially alter Council's proposal to sell the Land,

and therefore resolves to adopt an 'Inform' level of community engagement in respect of the change to the settlement period.

6. Directs Council's Chief Executive Officer to cause notice of the change to the settlement period to be published on Council's website and in such other manner as she considers appropriate.
7. Notes that a report will be presented to a future Council meeting so that Council may adopt the valuation, and fix the price of the Land.
8. Notes that a further report will be presented to a future Council meeting on the outcome of the Expression of Interest process and if an acceptable offer and terms are received, Council will consider whether it approves the sale of the Land, the terms of that sale and authorise the Chief Executive Officer to execute the documents necessary to affect the sale. This report will also present and discuss the final total cost of the agent as it relates to the sale price of the Land.

## INTRODUCTION

This report provides an update on Tender 2024116 – Real Estate Services – Sale of part of 281 Springvale Road, Glen Waverley VIC (the Tender), including a recommendation received through the tender process from Cushman & Wakefield Agency (Vic) Pty Ltd (the Agent) relating to Council extending the settlement period in order for Council to maximise its financial return for the sale of part of Council's land comprised in certificate of title volume 11617 folio 563 and being part of the site known as Central Car Park located at 281 Springvale Road, Glen Waverley (the Land).

## COUNCIL PLAN STRATEGIC OBJECTIVES

### **Inclusive Services**

Renew our community assets to deliver contemporary services.

### **Enhanced Places**

Improve public spaces and local employment by revitalising our employment hubs, activity centres and neighbourhood shops.

Explore and facilitate major projects to transform Monash.

### **Good Governance**

Effectively communicate and engage with the community.

Maintain the highest standards of good governance.

## BACKGROUND

Previous reports to Council have discussed this matter. In particular:

### **26 September 2023 Council Meeting**

Council considered a Notice of Motion on the Glen Waverley Civic Precinct Project, which also sought Council's decision to commence the statutory procedures for the sale of the Land through

a public process. Included in the resolutions and of particular relevance to this report were the following items:

9. Resolves to commence community engagement pursuant to section 114(2)(b) of the Local Government Act 2020 (Vic) (the Act) for the sale of Lot B, by publishing a public notice describing the proposed sale (Proposal) as follows:
  - a. The sale will be by way of a public process;
  - b. The successful purchaser will be required to enter into a contract of sale requiring:
    - i. settlement to occur within the earlier of 90 days of the date of sale or 14 days from registration of Lot B;
    - ii. the registration on the title to Lot B of an agreement pursuant to section 173 of the Planning and Environment Act 1987 (Vic) that includes the following obligations:
      1. to design, construct and maintain an active interface between any development of Lot B and the public plaza;
      2. to provide a footpath along the Railway Parade North frontage of the Land over which the purchaser can cantilever its development; and
      3. the Land must remain as a public carpark managed by Council until such time as construction of any approved development on the Land is ready to commence.
10. Invites submissions on the Proposal for a period of at least 28 days from the date of publication of the public notice on Council's website in accordance with section 114(2)(a)(i) of the Act. "

### **24 January 2024 Council Meeting**

Council received a report from the Committee appointed to hear any submissions to the public notice referred to in item 1 above and resolved, amongst other things, the following:

4. Accepts the Committee's recommendation to proceed with the sale of the Land, being part of the land in certificate of title volume 11617 folio 563, and being part of the site known as Central Car Park located at 281 Springvale Road, Glen Waverley.
6. Notes that officers will commence the procurement process for Real Estate Consultancy Services - Marketing and Selling Agent, in accordance with Council's procurement policy and that any contract will be awarded in accordance with Councils delegations.

Acting in accordance with the above Council resolutions, the Tender was released.

### **DISCUSSION**

Officers have progressed the sale of the Land and completed the Tender in accordance with Council's resolutions.

Tender 2024116 has been completed and awarded to Cushman & Wakefield Agency (Vic) Pty Ltd (the Agent) under Council's financial delegation to the Chief Executive Officer.

The Agent has advised that Council could achieve a higher sale price and a more successful sale, if the settlement period was longer. This recommendation was based on:

- the Land carries a significant market value and is a key strategic site within the Glen Waverley Activity Centre;
- a 90-day settlement period exposes a purchaser to significant risk when such a high value is to be paid; and
- to accept such a risk, a purchaser would offer Council a price reflective of this risk – i.e. a price at the lower end of the market value range for the Land.
- a longer settlement period would reduce holding costs and allow the purchaser to do their due diligence and the work required for the lodging of a Planning Permit, meaning they may pay more for the land.

This recommendation has been considered carefully by officers and Council’s property consultants and it is an important change for Council to support in order to ensure Council achieves the best sale price for the Land. The only difference for Council in a longer settlement period would be a delay in Council receiving the total funds from the land sale.

Whilst a longer settlement period is recommended, it is not proposed that a sale be subject to the issuing of a planning permit and a contract of sale would still be fully signed and exchanged this calendar year with a deposit of at least 10% paid. Full and complete payment would be required at the end of the agreed settlement period, irrespective of the status of any planning application or other matter that the land owner would be undertaking.

It should be noted that this type of contract of sale is normal practice for the sale of strategic development sites such as the Land.

The final terms of a contract of sale are not known at this stage. A further report to Council which will present the final contract of sale will discuss the terms in detail.

Council’s ability to offer a longer settlement period is however limited by the wording of the public notice, which expressly specifies the settlement period to be provided in respect of the sale of the Land. The public notice included the following:

*“2. Settlement will take place on the later of 90 days after the day of sale and 14 days from registration of the Plan”.*

Given the recommendations from the Agent and advice from Council’s property consultants, it is proposed that Council authorise the Chief Executive Officer to negotiate and agree the settlement terms with the prospective purchaser, having regard to advice from the Agent, Council’s property consultant and Council’s lawyers. As outlined above, terms would not include or allow settlement to be conditional upon planning approval.

This change constitutes a material departure from what was advertised in the public notice. Accordingly, to give effect to this recommendation and comply with Council’s obligations under s.114 of the Local Government Act 2020, Council must comply with its Community Engagement Policy when making this change.

Officers recommend that Council adopts an ‘Inform’ level of community engagement in respect of the change to the settlement period, having regard to that fact that:

- Council has already undertaken a ‘Consult’ level of community engagement in respect of its proposed sale of the Land; and
- the change to the settlement period:

- is based on the expert recommendation from real estate agents responding to the Tender and advice from Councils property consultants;
- is expected to maximise Council's return for the sale of the Land; and
- does not substantially alter Council's proposal to sell the Land.

### **Next Steps for the Sale of the Land**

The Agent has commenced preparation of marketing materials. It is estimated that active marketing will commence in April 2024.

Council will receive two further Council reports on this issue. The first will be for the setting the valuation of the land and fixing a price, and the second report will provide the outcome of the Expression of Interest process. With the outcome of the Expression of Interest process, if an acceptable offer and terms are received, Council will consider whether it approves the sale of the Land, the terms of that sale and authorise the Chief Executive Officer to execute the documents necessary to effect the sale.

### **FINANCIAL IMPLICATIONS**

As resolved previously by Council (26 September 2023), the funds from the sale of the Land are to be directed to the costs of the Glen Waverley Civic Precinct Project.

### **POLICY IMPLICATIONS**

There are many policy implications addressed by the sale of the Land as it relates to funding the Glen Waverley Civic Precinct Project.

- Council Plan – 2021-2025
- Asset Plan 2021-2031
- Council Plan 2017-2021
- Strategic Asset Management Plan
- Healthy & Resilient Monash Integrated plan
- Monash public library service strategy
- Glen Waverley Structure Plan
- Environmental Sustainability Strategy
- Monash Planning Scheme

### **CONSULTATION**

The community engagement process for Council's proposal to sell the Land has been completed in accordance with Section 114 of the Local Government Act 2020 and Council's Community Engagement Policy.



In light of the change to the advertised settlement period, a further community engagement process is required by Council. An 'Inform' level of community engagement is sufficient for this change.

### **SOCIAL IMPLICATIONS**

There are no social implications to this report.

### **HUMAN RIGHTS CONSIDERATIONS**

There are no human rights implications to this report.

### **GENDER IMPACT ASSESSMENT**

A GIA was not completed because this agenda item is not a 'policy', 'program' or 'service'.

### **CONCLUSION**

This report provides an update on the Tender, including a recommendation received through the tender process from the Agent relating to Council extending the settlement period in order for Council to maximise its financial return for the sale of the Land. Given the agents recommendation and advice received from Councils property consultants, Council undertakes and an 'Inform' level of community engagement in respect of the change to the settlement period.

### **ATTACHMENT LIST**

Nil