

7.1.5 PROPOSED SALE OF LANEWAY ADJACENT TO 1 QUEENS PARADE, ASHWOOD

Responsible Manager:	Daniel Dowling, Manager Property and City Design
Responsible Director:	Peter Panagakos, Director City Development

RECOMMENDATION

That Council

1. Resolves to commence the statutory process pursuant to Section 114 of the *Local Government Act 2020* (the Act) regarding the proposal to sell the Land through private treaty to Carron Investment Pty Ltd, being the owner of the adjoining land parcel at 1 Queens Parade, Ashwood for market value or as otherwise agreed (the Proposal) for the reasons set out in this report.
2. Gives public notice of the Proposal, in accordance with Section 114 of the Act and Council's Community Engagement Policy, on Council's website from 3 November 2025 and invites submissions on the Proposal for a period of at least 28 days from that date.
3. Authorises Council's Chief Executive Officer or her delegate to undertake the administrative procedures necessary to enable Council to fulfil the requirements of Section 114 of the Act and Council's Community Engagement Policy in respect of the Proposal.
4. Appoints a Committee of Council (Committee) comprising the Mayor, Deputy Mayor and the Gardiners Creek Ward Councillor to hear any submitters requesting to be heard and consider any submissions received at a meeting to be held on 16 December 2025 at 6:30pm at the Monash City Council Civic Centre, 293 Springvale Road, Glen Waverley, or at such a later time and date as the Chief Executive Officer may determine.
5. Directs the Committee to provide a report to Council on its considerations, including whether any submissions were received and, if so, a summary of those submissions, and make a recommendation to Council on whether to proceed with the Proposal.

INTRODUCTION

The purpose of this report is to consider a request from an adjoining owner to purchase a parcel of Council owned land adjacent to 1 Queens Parade, Ashwood Victoria 3147 known as Lot 12 on TP830371V contained in certificate of title Volume 11655 Folio 811 (**Land**). The land is a discontinued road and is occupied by the adjoining owner.

The report recommends that Council commence the statutory process to sell the Land, as the Land is surplus to Council's needs.

COUNCIL PLAN STRATEGIC OBJECTIVES

Sustainable City

Ensure an economically, socially, and environmentally sustainable municipality.

Good Governance

Ensure a financially, socially and environmentally sustainable organisation.

BACKGROUND

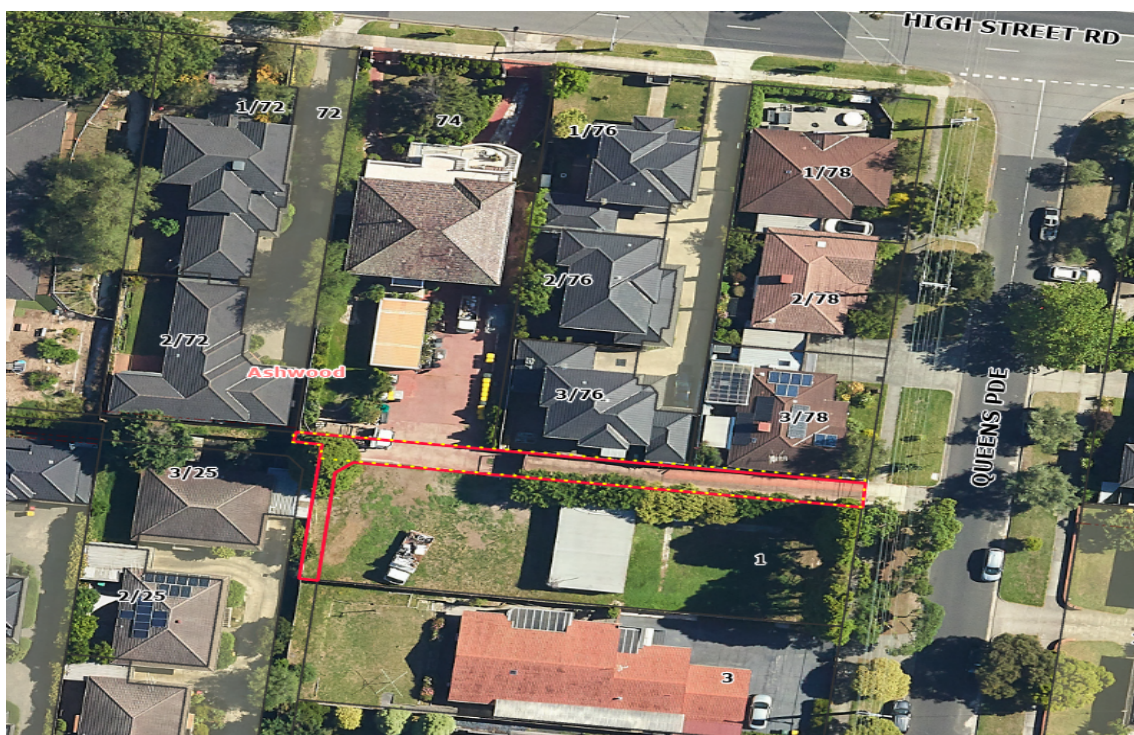
At the Council Meeting on 1 May 2001 and acting under Clause 3 of Schedule 10 of the *Local Government Act 1989*, Council formed the opinion that the road abutting 1-5 Queens Parade, Ashwood was not reasonably required as a road for public use and resolved to discontinue the road and sell the road by private treaty to abutting property owners.

The road was discontinued and the majority of it was sold to the relevant adjoining landowners in separate parcels in 2002/2003.

However, the section of road adjacent to 1 Queens Parade and 74 High Street Road, Ashwood (being the Land) was not sold and remains registered to Council.

Neither Council's lawyers nor the Owners have any further information as to why the sale did not proceed at the time.

The Land as shown bordered red on image below is approximately 183m² and is solely used by the adjoining landowners for access.



Yellow – Drainage Easement

Red – The Land

DISCUSSION

In May 2024 Carson Development Consultants Pty Ltd contacted Council on behalf of the owners of 1-5 Queens Parade, seeking Council's consent to register a Plan of Easement (Carriageway / Drainage) to formalise their long-standing usage rights over the Land.

Council declined to consent to the easement and instead invited the Owners to purchase the Land. Council is otherwise protected from adverse possession claims under the *Limitation of Actions (Adverse Possession) Act 2004*.

Following discussions with officers, the Owners indicated that they wish to purchase the Land, formalising their exclusive use of it.

The Owners have been made aware of Council's statutory requirements under the *Local Government Act 2020 (LGA2020)* relating to land sales including the required community consultation and Council obtaining a current, certified market valuation.

As the land was deemed surplus in 2001 and is occupied exclusively by the Owners, the disposal of the Land will finalise the process commenced by Council in 2001.

Given the above circumstances it is appropriate to commence the statutory processes for the proposed sale of the Land by private treaty to the Owners under s.114 of the LGA2020 (**Proposal**).

FINANCIAL IMPLICATIONS

In accordance with the Local Government Act 2020, an up to date market valuation must be obtained and the sale price will be determined based on this valuation.

If Council proceeds with a sale process, costs will include public notice fees as part of the s.114 process and legal costs for a contract of sale and associated documents. These costs can be met within existing budgets.

POLICY IMPLICATIONS

There are no policy implications to this report.

CONSULTATION

Although Council did complete the statutory processes for discontinuance and sale of the Land in 2001, as the sale did not proceed and more than 20 years has passed, a new statutory process for the proposed land sale is required to be undertaken.

As the previous road status was removed in 2001, the statutory process will simply be for a land sale.

Prior to commencing a sale process Council is required to comply with S.114 (2) of the *Local Government Act 2020 (the Act)*.

S.114 (2) of the Act requires a Council:

- (2) *Before selling or exchanging the land the Council must—*
 - (a) *at least 4 weeks prior to selling or exchanging the land, publish a notice of intention to do so—*
 - (i) *on the Council's website; and*
 - (ii) *in any other manner prescribed by the regulations for the purposes of this subsection; and*

- (b) *undertake a community engagement process in accordance with its community engagement policy; and*
- (c) *obtain from a person who holds the qualifications or experience specified under section 13DA(2) of the Valuation of Land Act 1960 a valuation of the land which is made not more than 6 months prior to the sale or exchange.*

To address the requirements of the Act and the Community Engagement policy, a public notice of the proposal to sell the Land will be published on Council's website from 3 November 2025.

The public notice will invite submissions on the Proposal and advise submitters that they may request to be heard by a Committee of Council prior to a decision being made on the Proposal.

Submissions will need to be received within 4 weeks of the date of the public notice.

At the end of the public notice period, the Committee comprising of the Mayor, Deputy Mayor and Ward Councillors will meet to hear and consider any submissions.

The Committee will then prepare a report to Council on the outcome of their proceedings and seek a decision of Council as to whether the proposal for the sale of the Land will proceed or not.

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

The land was deemed surplus to Council needs in 2001.

The Land remains occupied exclusively by the Owners and is not required by Council.

It is recommended that Council commence the statutory process for the proposed sale of the Land in accordance with Section 114 of the *Local Government Act 2020*.

ATTACHMENT LIST

Nil