

7.1.6 PROPOSED SALE OF 1A JOHNSON STREET, OAKLEIGH

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

RECOMMENDATION

That Council

1. Notes its previous resolution of 27 August 2024 regarding the proposed sale of Council land at 1A Johnson Street, Oakleigh (Council Land) to Victorian Rail Track (VicTrack) pursuant to Section 116 of the *Local Government Act 2020* to be included in a market testing process to identify a developer for redevelopment of the Council Land with the adjoining VicTrack land.
2. Notes that VicTrack has completed its market testing process, the successful tenderer's response did not include a financial offer for the Council Land, and VicTrack has since confirmed that it does not intend to elect to purchase the Council Land in accordance with the Memorandum of Understanding between Council and VicTrack. As such, the Memorandum of Understanding has come to an end.
3. Resolves (given recommendation 2 above) to commence the statutory process pursuant to Section 114 of the *Local Government Act 2020* regarding the proposal to sell the Council Land, being the land described as Lot 1 on Title Plan 967279S contained in Certificate of Title Volume 12067 Folio 776, through a public auction or private treaty (the Proposal) for the reasons set out in this report.
4. 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 2 November 2026 and invite submissions on the Proposal for a period of at least 28 days as detailed in the consultation section of this report.
5. 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.
6. Appoints a Committee of Council (Committee) comprising the Mayor, Deputy Mayor and the Ward Councillor for Warrigal to hear any submitters requesting to be heard and consider any submissions received at a meeting to be held on 19th January 2027 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.
7. 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 seek Council's approval to commence the statutory process pursuant to Section 114 of the *Local Government Act 2020* for the sale of the Council-owned land

at 1A Johnson Street, Oakleigh, being the land described as Lot 1 on Title Plan 967279S contained in Certificate of Title Volume 12067 Folio 776 (Council Land).

The report follows Council's previous decision of 27 August 2024 which supported the sale of the Council Land to VicTrack pursuant to Section 116 of the *Local Government Act 2020*, subject to the identification of a preferred developer through VicTrack's disposal process via an Expression of Interest and Tender process.

VicTrack has now completed its disposal process. Whilst the Council Land was offered as part of that process, the successful tenderer did not include 1A Johnson Street, Oakleigh in its tender submission or proposal. Accordingly, the Council Land did not form part of the successful tenderer's acquisition proposal. Subsequently, VicTrack has confirmed that it does not intend to elect to purchase the Council Land in accordance with the terms of the Memorandum of Understanding between Council and VicTrack. As a consequence, the intended sale pathway through VicTrack can no longer be achieved and Council must now consider alternative disposal options.

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

Council, at its meeting on 27 August 2024, resolved as follows:

1. *Notes the history of this matter and Council's previous decisions to remove the road status from Council land at 1A Johnson Street, Oakleigh (Council Land) in order to facilitate a sale to Victorian Rail Track (VicTrack) to be combined with the adjoining land at 1-15 Johnson Street, Oakleigh (VicTrack Land) for redevelopment.*
2. *Notes that the road status has been removed from the Council Land and VicTrack remains interested in purchasing it to combine with the VicTrack Land (Combined Site) for redevelopment as a proposed multi-level mixed use development to include affordable housing and which redevelopment responds to the State Government's Affordable Housing Statement - The Decade Ahead: 2024 – 2034 and Council's Affordable Housing Strategy (the Proposal).*
3. *Notes that the Combined Site is within a Commercial 1 Zone suitable for the Proposal and further supported for such redevelopment by the Oakleigh Major Activity Structure Plan.*
4. *Notes that VicTrack has approached Council to enter into a Memorandum of Understanding regarding the sale of the Council Land to VicTrack and which they propose to include the following process:*
 - a. *VicTrack's lawyers will prepare the Contract of Sale.*
 - b. *VicTrack to notify Council within 30 days of appointment of a Preferred Proponent (developer) for the sale and development of the Combined Site.*

- c. Council to agree to sell the Council Land to VicTrack subject to Section 116 of the Local Government Act 2020.*
- d. Sale price to be determined by joint valuation instructions to the Valuer General Victoria.*
- e. Settlement to be upon payment of the Price and 30 days after the day of sale or earlier by agreement.*
- f. Council agrees to remove a carriageway easement that encumbers the title to the VicTrack Land. VicTrack will bear all costs incurred in the removal of the carriageway easement.*
- 5. Notes that if the Combined Site is redeveloped, that VicTrack intend to relocate part of the existing car parking to another VicTrack site within the Oakleigh Station Precinct and further note that a redevelopment does not impact on the intentions of the Haughton Road Schematic Design.*
- 6. Agrees that upon VicTrack writing to Council regarding item 4(b) above, agrees to direct the Chief Executive Officer or her delegate to progress negotiations with VicTrack and to finalise a contract of sale for the sale of the Council Land to VicTrack and using Council's statutory powers provided by Section 116 of the Local Government Act 2020.*
- 7. Authorises the CEO (or her delegate) to sign and affix the common seal of Council (as required) to all documentation required to effect the sale of the Council Land to VicTrack including the Memorandum of Understanding.*
- 8. Agrees that should settlement of the sale of the Council Land occurs, that the sale of the Site to VicTrack will be made public.*

DISCUSSION

The successful tenderer was appointed by VicTrack for the redevelopment of the adjoining VicTrack land. However, the successful tenderer did not include the Council Land in its tender submission and did not seek to acquire the Council Land as part of that process.

Notwithstanding that position, the successful tenderer subsequently requested a meeting with Council officers to demonstrate how the Council Land could be used as public open space in connection with its proposed redevelopment of the adjoining VicTrack land.

Following that meeting, on 5 August 2026 the successful tenderer submitted an offer to acquire the Council Land, subject to a range of commercial conditions and the successful acquisition of the adjoining VicTrack land. The offer was substantially lower than Council's assessment of market value.

Council advised the successful tenderer that the offer was significantly below Council's valuation expectations and that Council would not be prepared to consider a sale at that level. Subsequent discussions were undertaken between Council officers and the successful tenderer in an attempt to reach agreement; however, the successful tenderer ultimately advised Council that it was unable to bridge the gap between Council's valuation expectations and its own assessment of the value of the Council Land.

As a result, the successful tenderer has indicated that it intends to proceed with redevelopment of the adjoining VicTrack land without acquiring the Council Land, and the redevelopment outcome contemplated by Council's previous resolution cannot presently be achieved. Subsequently, VicTrack confirmed that it will not be proceeding with the acquisition of the Council Land and that the Memorandum of Understanding has come to an end.

Sale of Council Land

The Council Land is bordered red on the image below. It remains surplus to Council's operational requirements.

Area	317m2	
Title	Lot 1 on TP 967279S Certificate of Title Volume 12067 Folio 776	
Restrictions on title	N/A	
Zoning and overlays	Commercial 1 Zone Environmental Audit Overlay	
Current Use	Public car parking	
Assets (as shown on Weave)	Nil	
Adjoining land	Public car parking	
Open Space Strategy	Not applicable	

While Council previously considered transfer of the Council Land to VicTrack pursuant to Section 116 of the *Local Government Act 2020*, that process was dependent upon a subsequent agreement being reached with the preferred developer regarding the acquisition of the Council Land as part of the broader redevelopment proposal.

As no agreement has been reached, officers consider the most appropriate course of action is to commence the statutory process pursuant to Section 114 of the *Local Government Act 2020* to sell the Council Land on the open market.

An open market process will enable Council to test the market and ensure transparency while providing the best opportunity to achieve fair market value for the disposal of the Council Land.

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.

Council can expect income from land sales less associated costs, which include the following:

- Consultant and legal advice fees (if applicable)
- Valuers' fees
- Statutory consultation costs (letters, signs, etc)

- Real Estate Agents Fees
- Commission
- Advertising costs
- Auction fees/EOI costs (if applicable)
- Conveyancing costs and land registry fees

POLICY IMPLICATIONS

There are no policy implications to this report.

CONSULTATION

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, Council will place a sign on site, write directly to abutting and adjacent land owners and publish a public notice of the proposal to sell the Land on Council’s website from 2 November 2026 for a minimum period of 28 days.

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 the Warrigal Ward Councillor 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

Council previously supported the sale of 1A Johnson Street, Oakleigh to VicTrack pursuant to Section 116 of the *Local Government Act 2020* to facilitate a broader redevelopment outcome incorporating adjoining VicTrack land.

Despite negotiations, the preferred developer has advised that it is unwilling to acquire the Council Land at a value acceptable to Council and intends to proceed with redevelopment of the adjoining land without the Council Land.

As the pathway contemplated by Council's previous resolution is no longer achievable, it is recommended that Council commence the statutory process pursuant to Section 114 of the *Local Government Act 2020* to sell the Council Land on the open market.

ATTACHMENT LIST

Nil