

1.4 SALE OF 14-16 ATKINSON STREET, CHADSTONE

Responsible Director: Peter Panagakos, Director City Development

RECOMMENDATION*That Council:*

1. *Notes the recent history of Council's dealings with its property at 14-16 Atkinson St, Chadstone (the Property), including Council's previous intentions to sell the Property and allocate part of the sale proceeds to the Caloola Reserve project.*
2. *Notes that that the Property is still marked in Council's records as 'to be sold' and that the sale proceeds are expected, and have been budgeted, as future income. If the Property is not sold as expected, this income gap must be filled by other means.*
3. *Notes the unsuccessful outcome of the public auction in November 2021 (and subsequent efforts post the auction) to sell the Property due to the failure to secure purchase offers at acceptable levels, primarily due to the impacts of the COVID-19 pandemic on the property market.*
4. *Notes that it has been 2 years since Council previously completed the statutory procedures pursuant to Sections 189 and 223 of the Local Government Act 1989 regarding the proposal to sell the Property (May 2021) and, given this timeframe, a sale of the Property will require Council to undertake a further community engagement process to satisfy its statutory obligations for the sale of the Property under Section 114 of the Local Government Act 2020 (the Act).*
5. *Resolves to commence the statutory procedures pursuant to Section 114 of the Act regarding the proposal to sell the Property, being the land described in the table below:*

Lot on PS8883	Certificate of Title	
124	Volume 5465	Folio 880
125	Volume 4995	Folio 905
126	Volume 6331	Folio 163
127	Volume 7508	Folio 033

("Proposal")

6. *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 03*

June 2023 and invites submissions on the Proposal for a period of at least 28 days from that date.

- 7. 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.*
- 8. Appoints a Committee of Council comprising the Mayor and Mount Waverley Ward Councillors to hear any submitters requesting to be heard in support of their submissions, and to consider any submissions received, at a meeting to be held on 15 August 2023 at 6:30pm at the Monash City Council Civic Centre, 293 Springvale Road, Glen Waverley, or at such later date and time as the Chief Executive Officer may determine.*
- 9. Following the meeting of the Committee, 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 or not to proceed with the Proposal.*
- 10. Notes the work completed by officers to locate an alternative site for a playground and that Council has entered into a licence agreement (via authorised delegation) with the Department of Transport for the construction, ongoing maintenance, and use of a playground with associated landscaping at 2A Westbrook St, Chadstone. This will ensure the ongoing provision of a playground in close proximity to the Property.*
- 11. Notes the cost of the design of the small playground to be located at 2A Westbrook St, Chadstone and agrees to fund the design stage cost of \$30,000 out of the FY 2023/24 capital budget and directs that a further report is presented to Council in due course to consider funding of the construction of the playground.*

INTRODUCTION

The purpose of this report is to provide an update on Council's property at 14 Atkinson Street, Chadstone (**Property**), including Council's previous attempt to sell the Property and its unsuccessful auction process in November 2021.

The report also requests Council approval to commence the statutory procedures for the sale of this Property and provides a status update of the alternative site for a small pocket park located at 2A Westbrook St, Chadstone within close proximity to the Property. This is intended to replace and improve the playground that is currently on the site.

BACKGROUND

The Property has been the subject of previous reports to Council which discussed commencing the statutory procedures for the sale and rezoning of the Property due it becoming vacant with the relocation of the North Oakleigh Tennis Club to Caloola Reserve. As surplus land, Council resolved at its meeting on 29 August 2017 to sell the Property.

The Caloola Project

The Caloola Project involved the relocation and merger of the North Oakleigh Tennis Club (previously located at the Property) and Oakleigh Tennis Club to Caloola Reserve and construction of new facilities adjacent to the Oakleigh Recreation Centre at the reserve for use by the merged club (now Oakleigh Tennis Club) (**Caloola Project**). Proceeds from the sale of the soon-to-be vacant Property were intended to be allocated in part to the Caloola Project.

While the Property was not sold at the time, the Caloola Project proceeded and was completed, including the merger of the Tennis Clubs. The cost of the Caloola Project was funded from other Council sources due to the sale of the Property not proceeding.

Council's Finance Department has confirmed that the Property is still marked in Council's records as 'to be sold' and that the sale proceeds are expected, and have been budgeted, as future income. If the Property is not sold as expected, this income gap must be filled by other means.

Previous Sale Attempts

After completing the statutory process for the proposed sale of the Property in 2018 (including public notification required for re-zoning the property), selling agents were appointed to commence a marketing campaign for a public auction set down for 27 March 2020. However, the auction was cancelled due to the restrictions imposed by the Victoria State Government in managing the COVID-19 pandemic and the sale of the Property was put on hold.

With the auction restrictions lifted and the property market showing signs of recovery, Council was again able to commence the marketing of the sale of the Property by public auction. However, due to the length of time that had lapsed since Council completed the statutory procedures, Council re-commenced the statutory procedures for the sale of the Property (Council report of 23/2/21).

The marketing of the Property commenced in October 2021 and an on-site public auction was held on Thursday 18 November 2021.

The Property failed to sell at auction and remained on the market for the duration of the selling agent's contract, which expired in September 2022.

While offers to purchase the Property were made during this time, none of these were deemed suitable as these offers were either below the reserve price set by Council at its meeting on 26 October 2021, or were subject to extraneous and unreasonable conditions, such as unduly lengthy settlement periods.

Market Factors

During the marketing campaign for the sale of the Property, Council's selling agent advised that a number of factors were impacting the property market which explained the unsatisfactory offers. These included:

- A downturn in the property market overall.
- The rapid rise of interest rates.
- The sudden and continued increase of construction costs in 2022.
- Continued uncertainty over COVID-19.

The selling agent's advice was that, due to these factors, developers were exercising caution with new projects and were concerned that they may not be able to meet their required profit margins on new developments.

The Property was withdrawn from the market in September 2022 and is currently not on the market.

DISCUSSION

Statutory Procedures for Sale – Community Consultation

Given the elapsed time since Council completed the statutory procedures (**Procedures**) for the sale of the Property in early 2021, and given that the Procedures for selling Council land now fall under the *Local Government Act 2020 (LGA 2020)* (the previous Procedures were undertaken pursuant to the *Local Government Act 1989*), Council must re-commence the Procedures for the sale of the Property, which includes consultation with the community in accordance with Council's Community Engagement Policy.

When selling Council land, Council must now comply with **S. 114 of the LGA 2020** rather than Sections 189 and 223 of the *Local Government Act 1989*.

At this stage of the sale process, the S. 114 (2) of the LGA 2020 is relevant, which stipulates the following:

- (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.*

Next Steps

To comply with the LGA 2020, a public notice of the proposal to sell the Property will be published on Council's website.

The public notice will invite submissions on the proposal in accordance with S. 114 of the LGA 2020 and Council's Community Engagement Policy and submitters 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, a Committee comprising of the Mayor and Mount Waverley ward Councillors will meet to hear and consider any submissions. The Committee, having done this, will then report to Council on the submissions received (if any) and make a recommendation on whether the proposal for sale should proceed or not.

Upon completion of the above statutory procedure, an Expression of Interest can be released for the sale of the Property.

Alternative Playground Site – 2A Westbrook Street Chadstone

During 2022, investigations were completed into the opportunity to create a small playground within close proximity to the Property given the loss of the small playground currently located on it. This was undertaken in response to Council's resolution at its 25 May 2021 meeting where, amongst other matters, Council resolved to:

"Direct officers to investigate the area for a suitable location to install a playground of similar size for the Chadstone community."

In accordance with item 3(2) of Council's 25 May 2021 resolution, officers investigated suitable alternative locations for the construction of a small playground to replace the one that will be lost due to the sale of the Property.

As noted by Council at its meeting on 26 October 2021, officers had identified two suitable nearby sites for the small playground and were to discuss these sites with the Department of Transport (**DoT**), being the landowner for both.

Officers engaged in ongoing discussions with the DoT and were advised that one of the proposed sites at 2A Westbrook St, Chadstone as shown bordered red in **Image 1** below was suitable for the proposed playground (**Playground Site**).

Image 1 – Playground Site



The DoT agreed to allow Council use of the Playground Site and drafted a licence agreement for a term of 10 years at a nominal cost to Council of \$250 per annum plus GST. Officers reviewed the terms of the licence and the agreement was signed by Council under delegation to secure the Playground Site.

A capital project has been created in Council's project management system for the design of the new playground. Details of the cost of this project are provided under financial implications below. The design work can be undertaken in FY23/24 and construction in FY24/25, subject to Council resolving to make the necessary budget available.

FINANCIAL IMPLICATIONS

New Small Playground

The proposed new playground fits with the description of a pocket park classification, with the addition of a drinking fountain and bicycle hoops.

The estimated costs associated with this classification of playground including the above additions for FY23/24 are:

FY23/24

Design - \$31,277

As previously mentioned, Council's Finance Department has confirmed that the Property is still marked in Council's records as 'to be sold' and that the sale proceeds are expected, and have been budgeted, as future income. If the Property is not sold as expected, this income gap must be filled by other means.

POLICY IMPLICATIONS

A sale of the Property aligns with Council's direction to foster confident and connected communities by maximising the use of Council's local facilities for a diverse range of programs, activities and opportunities.

HUMAN RIGHTS/GENDER EQUITY IMPLICATIONS

There are no human rights considerations or gender equity impacts for the proposed sale of the Property except to consider all submissions on the Proposal equally.

CONSULTATION

Statutory Procedures for the sale of Council land

The statutory procedures required to satisfy S. 114 of the LGA 2020 will include publication of a public notice on Council's website for 4 weeks from 03 June 2023, inviting submissions on the Proposal.

New Small Playground

A community consultation process will be undertaken in 2023-24 as part of the design process for the proposed playground.

CONCLUSION

This report provides an update on Council's Property which includes recent history, including Council's previous intentions to sell the Property and its unsuccessful auction process in November 2021, and requests Council approval to commence the statutory procedures for the sale of this Property.

The report also provides an update of the alternative site identified for a small pocket park located at 2A Westbrook St, Chadstone within close proximity to the Property and to commence the design of a small playground.