

13.3 INTENTION TO SELL PARCEL "A" (39-47 CAMDEN STREET BALACLAVA) - REPORTING OF SUBMISSIONS IN RESPONSE TO PUBLIC NOTICE

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1. PURPOSE

- 1.1 The purpose of this paper is to report and hear submissions from interested parties in response to a notice published in accordance with section 189 of the *Local Government Act 1989* ("Act") advising of City of Port Phillip's intention to sell land at 39-47 Camden Street, Balaclava, by exercise of a put option.



Image above: Parcel "A" above, the subject of the Notice of Intention to Sell, and one of several parcels owned by Council in the Balaclava Retail Renewal area.

2. EXECUTIVE SUMMARY

- 2.1 On 20 November 2019 Council resolved to commence a process of negotiating and transacting properties it owns in the Balaclava Retail Renewal Precinct (the "Precinct"), to foster staged renewal of that area.
- 2.2 As noted in that Council report, the transactions of Council's property within the Precinct are together intended to facilitate redevelopment of the Carlisle Street Retail Precinct, and achieve multiple community outcomes, including replacement public car parking, improved amenity and retail experience, and improved pedestrian access and safety.



- 2.3 The Structure Plan acknowledges that redevelopment cannot be fully realised without the Council land.
- 2.4 Flowing from that resolution, Council formally notified the public of its intention to sell Parcel "A" (being 39-47 Camden Street) by:
 - public auction or expression of interest, (the "Notice"); and alternatively
 - private treaty, exercising a put option, (the "Additional Notice").
- 2.5 Having received, heard and considered the submission in response to the Notice, City of Port Phillip resolved on 19 May 2021 to sell parcel "A", by auction or expression of interest, noting that it may later additionally determine to sell the land by private treaty.
- 2.6 This would enable Council the flexibility to exercise a put option, should it not accept any market offer through the competitive public process.
- 2.7 The Additional Notice (**Attachment 1**) outlines the terms of the proposed sale, inviting submissions on the proposal, and highlighting the opportunity for those making submissions to be heard before Council in support of those submissions.
- 2.8 In response to the Additional Notice, a submission (**Attachment 2**) has been received, and the submitter has asked to be heard in support of its submission.
- 2.9 The submitter is the same party that responded to the initial Notice.
- 2.10 The submission notes:
 - the intention of the submitter on behalf of their clients to pursue development within the Balaclava Retail Renewal Precinct, including the Coles supermarket site;
 - their interest in acquiring the subject site; and
 - their preference/desire to acquire it through direct negotiations (ahead of and rather than an open market transaction).
- 2.11 Officers will consider the submission and at a subsequent Ordinary Meeting of Council recommend whether to proceed with sale by the exercise of a put option.

3. RECOMMENDATION

That Council:

- 3.1 Notes that a notice has been given under section 189 of the *Local Government Act 1989* of Council's proposal to sell the land located at 39-47 Camden Street, Balaclava, by exercise of a put option.
- 3.2 Notes the written submission of response received by the end of the notice period (of 5pm on 31 May 2021).
- 3.3 Thanks the submitter for its submission.
- 3.4 Formally considers the submission received and heard in response to the notice at a subsequent meeting of Council, once Officers have had the opportunity to consider the feedback.



4. KEY POINTS/ISSUES

Background

- 4.1 Eleven years ago Council adopted the Carlisle Street Activity Centre Structure Plan ("Structure Plan"). This was subsequently incorporated into the Port Phillip Planning Scheme.
- 4.2 The Structure Plan includes a designated Retail Renewal Precinct, an area envisaged to be redeveloped with a mix of uses including full-line supermarkets, basement carparking, residential and commercial.
- 4.3 City of Port Phillip owns several discontinuous parcels of land in the Precinct, known as parcels "A", "B" and "C".
- 4.4 Redevelopment of the Precinct according to the Structure Plan cannot be fully realised without the Council land.
- 4.5 On 20 November 2019 Council resolved to commence a process of negotiating and transacting the properties, to foster staged renewal of the Precinct.

Intention to Sell Parcel A – by public auction or expression of interest

- 4.6 On 19 May 2021 City of Port Phillip resolved to sell parcel "A", being 39-47 Camden Street in Balaclava, by auction or expression of interest.
- 4.7 It did so after having publicly calling for, receiving, hearing and considering submissions on its intention to sell the land.

Intention to Sell Parcel A – by put option

- 4.8 Additionally, Council may determine to sell parcel "A" by private treaty, by exercising a put option requiring a neighbouring land stakeholder to purchase the site.
- 4.9 This was foreshadowed at the Council meeting of 20 November 2019 and noted at the Council meeting of 19 May 2021.
- 4.10 At that latter meeting, Council authorised the Chief Executive Officer (or their delegate) to enter into, but not exercise, a put option resulting from negotiations with adjoining land stakeholder(s), requiring the purchase of 39-47 Camden Street, Balaclava, for no less than market value, and with an obligation to provide no less than 55 car parking bays for use by the public.
- 4.11 A put option would only be exercised, if at all, once:
 - bids from the competitive public process had been considered; and
 - submissions as part of the statutory consultation process on Council's intention to sell by exercising a put option had been considered, and Council had subsequently resolved to sell this way.
- 4.12 Accordingly, a notice (**Attachment 1**) was published in *The Age* newspaper on 1 May 2021, informing of Council's sale proposal, noting the right of any person to make a submission and to speak to that submission before Council.
- 4.13 The notice was also published on Council's website.
- 4.14 Additionally, a courtesy letter was sent to approximately 140 neighbouring owners, traders and residents, attaching the notice.



4.15 One submission was received in response to the notice – by Property Development Solutions (Aust) Pty Ltd. The submission is included as **Attachment 2**.

4.16 The submission notes:

- the intention of the submitter on behalf of their clients to pursue development within the Balaclava Retail Renewal Precinct, including the Coles supermarket site;
- their interest in acquiring the subject site; and
- their preference/desire to acquire it through direct negotiations (ahead of and rather than an open market transaction).

4.17 Council is required to consider the submission received prior to determining whether to proceed with a sale by put option.

5. CONSULTATION AND STAKEHOLDERS

5.1 Complying with its statutory obligations, Council has invited public submissions on its intention to sell this Council property by exercising a put option.

5.2 A letterbox drop and mail-out to 138 owners, residents and traders of neighbouring properties was undertaken on 5 May 2021.

6. LEGAL AND RISK IMPLICATIONS

6.1 The section 223 of the *Local Government Act* process arises as a result of submissions received in relation to the public notice issued under section 189 of that Act.

7. FINANCIAL IMPACT

7.1 Adoption of the recommendation is not anticipated to affect budget.

7.2 One of the potential benefits of a sale of the property is that will release capital to Council, directed to Council's Strategic Property Fund for future reinvestment in Council's property portfolio.

8. ENVIRONMENTAL IMPACT

8.1 No material environmental implications arise from the recommendations of this report.

9. COMMUNITY IMPACT

9.1 As noted in the Council report of 19 November 2019, the transactions of Council's property within the Precinct are intended to facilitate redevelopment of the Carlisle Street Retail Precinct, and achieve multiple community outcomes, including replacement public car parking, improved amenity and retail experience, and improved pedestrian access and safety. The Structure Plan acknowledges that redevelopment cannot be fully realised without the Council land.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

10.1 This report supports transparent governance and an actively engaged community.

11. IMPLEMENTATION STRATEGY

11.1 TIMELINE

- 11.1.1 Officers intend to consider the submission and then report to Council, to enable Council to determine whether to proceed with the put option in addition to the public market process.



MEETING OF THE PORT PHILLIP CITY COUNCIL 7 JULY 2021

11.2 COMMUNICATION

11.2.1 Officers intend to write to the submitter advising of the meeting at which the decision on the proposal is to be considered.

12. OFFICER DIRECT OR INDIRECT INTEREST

12.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.

TRIM FILE NO: 20/01/307

ATTACHMENTS

1. Notice of Intention to Sell
2. Submission in response to Notice - redacted