

ORDINARY MEETING OF COUNCIL 15 AUGUST 2018



9.1 46-58 MARLBOROUGH STREET, BALACLAVA - INTENTION TO SELL - CONSIDERATION OF SUBMISSIONS

EXECUTIVE MEMBER: CHRIS CARROLL, GENERAL MANAGER, CUSTOMER AND CORPORATE SERVICES

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1. PURPOSE

- 1.1 To consider the submissions received in response to a notice published in accordance with section 189 of *the Local Government Act 1989* advising of City of Port Phillip's intention to sell land at 46-58 Marlborough Street, Balaclava, and to determine whether to proceed with the conditional sale of that land.

2. EXECUTIVE SUMMARY

- 2.1 In accordance with Council's resolution of 7 March 2018, a notice was published of Council's intention to sell 46-58 Marlborough Street, Balaclava.
- 2.2 The contribution of the land is intended to facilitate the provision of community housing.
- 2.3 At its meeting of 6 June 2018 Council noted the submissions, including the verbal presentations, made in response to that notice.
- 2.4 Council is now asked to consider the submissions and to determine whether it is to proceed with the conditional sale of the property.
- 2.5 Officers have reviewed and considered the submissions, noting the range of matters raised, and the different views on the proposed sale.
- 2.6 The submissions highlight that the potential sale is not without some negative local impacts. Notwithstanding this, Officers recommend that the sale proceed, as: the broad social outcomes outweigh the negative local impacts; and it is consistent with Council Plan, the Structure Plan, and Council's affordability strategy.
- 2.7 Determining to sell the land does not constitute an approval for the development. A development application and assessment process would follow.



3. RECOMMENDATION

That Council:

- 3.1 Approves and adopts the proposal to sell land at 46-58 Marlborough Street, Balaclava, excluding any part of that land to be vested in Council ("Land"), to HousingFirst (formerly Port Phillip Housing Association) in its capacity as Trustee of the Port Phillip Housing Trust ("HousingFirst"), on the following terms:
 - 3.1.1 the consideration is HousingFirst entering into the contract of sale (Contract) and the agreement pursuant to section 173 of the Planning & Environment Act 1987 (173 Agreement);
 - 3.1.2 settlement of the Contract will occur on the later of:
 - (a) 14 days of the date of practical completion of the development of the Land; and
 - (b) registration of a plan of subdivision in respect of the Land;
 - 3.1.3 the Contract is conditional upon HousingFirst;
 - (a) obtaining a planning permit for the development of the Land; and
 - (b) achieving practical completion of the development
 - 3.1.4 as a condition of the sale, HousingFirst must enter into the 173 Agreement which requires:
 - (a) the owner of the Land to be a registered housing agency; and
 - (b) the provision of affordable housing on the Land.
- 3.2 Provides direct responses to all submitters, advising of the decision to sell the land, and the reason(s) for the decision.
- 3.3 Notes the intention of HousingFirst is to use the area shown as "Commercial" in the concept plan for social enterprise for the benefit of the community.

4. KEY POINTS/ISSUES

Public Notice

- 4.1 On 7 March 2018 Council resolved to commence the statutory processes under the *Local Government Act 1989* to consider selling 46-58 Marlborough Street, Balaclava to Port Phillip Housing Association in its capacity as trustee of the Port Phillip Housing Trust.
- 4.2 The potential sale is intended to facilitate the growth of affordable housing in the City, and is part of Council's implementation of its affordable housing strategy *In Our Backyard*.



- 4.3 On 10 April 2018 a Council notice of the intended sale was published in the Leader community newspaper, and on Council's website, (Attachment 1).
- 4.4 Port Phillip Housing Association has since renamed itself HousingFirst.

Responses received and noted

- 4.5 Many members of the local neighbourhood and beyond have taken up the opportunity to participate in this process.
- 4.6 As recorded previously, approximately 180 respondents made two hundred and six submissions. The submissions, the associated petition, and the verbal presentations responding to the notice were received and noted by Council at its meeting of 6 June 2018.
- 4.7 The submissions, including the associated petition, were published with the report of that meeting, (with personal information redacted).
- 4.8 Council thanked the submitters for their submissions and presentations, and resolved to consider the submissions received.

Matters raised

- 4.9 A broad range of issues were raised in the public submissions. A detailed summary of the issues raised in the written submissions is in Attachment 2, along with Officer comments to each issue.
- 4.10 The frequency that they were raised is captured visually in the tree map of Attachment 3, where the size of the coloured block represents its relative frequency. Note that the two (similar) form letters were by far the most common submission, and the matters raised in those letters therefore dominate the tree map.
- 4.11 Nine members of the public made verbal presentations. A précis of those presentations is found in Attachment 4.

Concerns

- 4.12 Most submissions were objections to the intended sale of the site for community housing.
- 4.13 Key themes of concern were: social and property price impacts; the process and the wealth transfer; the potential physical transformation; construction impacts; traffic, access and parking.
- 4.14 For the local area the proposal represents significant change. Many submitters feel that the neighbourhood will deteriorate because of the community housing development and its residents. Many submitters feel that the development will make running a business in Carlisle Street more difficult.

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- 4.15 Not all the concerns and fears articulated in the public feedback are likely to be realised.
- 4.16 For instance, households with severe financial disadvantage and acute housing stress are already part of City of Port Phillip, part of Balaclava. The proposal is an intervention to address the social circumstance of housing inequality, but does not draw in any new community members, as the Deed of the Port Phillip Housing Trust requires HousingFirst tenants to have a significant existing connection with the City.
- 4.17 That the potential development of the site will lead to a perceived concentration of the community housing in the immediate neighbourhood is understandable, given that the “Woodstock” apartments are located on the opposite end of the block. However, this needs to be considered in the context of the substantial residential growth anticipated to occur in Balaclava in the medium term.
- 4.18 Proximity to public transport and shops is also very important for community housing, and the neighbourhood provides both – an activity centre that includes City of Port Phillip’s only railway station, as well as convenient tram services.
- 4.19 Additionally, it may yet be necessary to reduce the proportion of dwellings in the potential development that are reserved for community housing. The concept currently delivers forty-six community housing dwellings. (This yield should be considered indicative rather than final, as it may vary slightly through the potential future stages of design development and development approval). HousingFirst has an interest in maximising the proportion of community housing dwellings – as it improves the efficiency of scale of managing the property, simplifies body corporate matters, and increases the rental income stream. However, to secure development funding, it may become necessary, subject to Council approval, for a portion of these dwellings to be re-allocated to the private market rather than community housing tenants.
- 4.20 If that need was to eventuate, and Council desired to support the change, it would be appropriate for Council to limit the private proportion in the dwelling mix, to ensure that a core outcome of the potential transaction – community housing – was not unreasonably diluted, and that Council’s target under its affordable housing strategy was not compromised.
- 4.21 Note that a community housing yield of no less than thirty-four dwellings would be required from this site for it to “pull its weight” in terms of meeting *In Our Backyard* goals, relative to the property value of the potential contribution.
- 4.22 As can be seen in Attachment 3, a frequently expressed concern is that this Council initiative will cause local property prices to fall. However, there is little in the research to support the contention that the development of the site for community housing is likely to cause a significant fall in neighbourhood property prices. For instance, hedonic modelling carried out by Davison G & others for the Australian Housing and Urban Research Institute (September 2013) suggests that “affordable housing developments have no universally positive or negative impacts on local property sales values in Australian cities” (p.127).



- 4.23 Some apprehension has been expressed that the concept plan associated with the Intention to Sell includes a commercial space that could be used for retail in a way that does not complement existing trade on the retail strip. That said, the space is less than 200m² and is potentially only one of over one hundred retailing spaces in the strip, (none of which Council control), so its potential to support the strip – other than helping to activate Balaclava Walk – is marginal. Nevertheless, and as mentioned in the Officer notes of Attachment 2, HousingFirst is cognisant of the concern, and will be mindful of it in its potential planning for the future of the space, should the development progress to that stage. HousingFirst's stated intention is to use the space for social enterprise, to benefit the community.

Balancing local impacts with broader community need

- 4.24 The intention to sell contemplates a development that, should it ultimately proceed, will undoubtedly have some negative local impacts, even with mitigation measures.
- 4.25 For example, the potential construction will be noisy and result in temporary loss of parking.
- 4.26 During construction and beyond, vehicle access to the shops and residences on Dianella Lane will be less convenient. Drivers coming to and from the private properties currently use not just Dianella Lane, but also the public carpark for turning. Under the concept plan, larger vehicles will not be able to continue doing this.
- 4.27 Such impacts are significant, and will potentially be shouldered largely by the neighbours of the site.
- 4.28 Also significant however, is equitable access to housing, and its importance in maintaining a socially diverse and inclusive community, and the health and wellbeing of residents.
- 4.29 This is reflected in Council Plan, in Council's affordable housing strategy, in the relevant structure plan.
- 4.30 Each of those documents is the result of significant community consultation, and the goals and commitments they contain create community expectations and shape the future of the City.
- 4.31 Delivering on these expectations supports confidence in Council and in the City.
- 4.32 Having considered all submissions, Officers recommend that Council proceed with the conditional sale.
- 4.33 Such a decision would be consistent with the history and identity of City of Port Phillip as a social justice leader, and come at a time when the local market is critically failing to deliver affordable housing.



Conditional sale

- 4.34 Determining to proceed with the sale does not in itself mean that the envisaged development or the transfer of the property will occur. As outlined in the Notice of Intention to Sell (Attachment 1), the potential sale is conditional upon HousingFirst satisfying specific, weighty obligations, including:
- i. obtaining development approval;
 - ii. securing development funding;
 - iii. constructing of the development; and
 - iv. subdividing the development (to separate from the development the parts to be retained by Council).
- 4.35 It is therefore a few years before community housing could be delivered on the site.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 The process under s.223 of the *Local Government Act 1989* provides any person who wishes to provide comment on Council's intention to sell the subject land an opportunity to be heard.
- 5.2 In addition to publishing formal notice of the intention to sell, supplementary communication was carried out, including:
- letters to 193 owners and 367 occupiers of property near the site;
 - two information kiosk sessions held on the site;
 - an update in the City of Port Phillip project web page; and
 - individual meetings with owners and occupiers.
- 5.3 Consultation efforts were productive – a rich response was received, addressing a range of issues.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 The section 223 process of the *Local Government Act 1989* arises because submissions were received in response to the public notice Council issued under section 189 of that legislation.
- 6.2 Risk is being managed through the trust deed, sale conditions and s.173 instrument.

7. FINANCIAL IMPACT

- 7.1 It is very unlikely that the development contemplated will proceed if HousingFirst does not secure substantial development funding from State government, required to make the development viable. Should funding not be obtained, the land will not transfer.



8. ENVIRONMENTAL IMPACT

- 8.1 No material environmental impacts arise from the adoption of the recommendations.
- 8.2 The concept plan of the development incorporates principles of environmentally sensitive design.
- 8.3 Should the development progress to development application phase, it will be assessed under Council's sustainable design standards.

9. COMMUNITY IMPACT

- 9.1 Affordable housing – including community housing – is important to the health and wellbeing of Port Phillip residents. It contributes to creating a diverse, inclusive and equitable community.
- 9.2 The proposal to sell the land is intended to support the delivery of approximately forty-six dwellings.
- 9.3 This would come not without negative impacts – including dissatisfaction with Council's decision.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 This report supports transparent governance and an actively engaged community – Council commitments entrenched within its *Council Plan*.
- 10.2 Its recommendations directly align with strategic direction 1 of the *Council Plan*: “We embrace difference and people belong”. They contribute to the Plan's intended outcome of increasing affordable housing.
- 10.3 Council's affordable housing strategy is articulated in *In Our Backyard: Growing Affordable Housing in Port Phillip 2015-2025*. It prescribes the use of Council real estate for affordable housing.
- 10.4 Under *Council Plan 2017-2027* it is a near term priority to progress the site's development, and thereby facilitate the delivery of new community housing by local housing associations.
- 10.5 A key deliverable of *In Our Backyard* is “strengthened partnerships with [HousingFirst]”.
- 10.6 The site is identified in the *Carlisle Street Activity Centre Structure Plan 2009* as a key social housing opportunity.



11. IMPLEMENTATION STRATEGY

11.1 TIMELINE

11.1.1 Should Council adopt the recommendation, several significant steps must occur before community housing could become available on the site, and the transfer from City of Port Phillip to HousingFirst could occur, (with Council retaining the public parking). Subject to these steps, the community housing is anticipated to become available in 2022.

11.2 COMMUNICATION

11.2.1 Officers shall notify submitters of the decision and the reasons for the decision.

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.

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ATTACHMENTS

1. Notice - Intention to Sell
2. Summary - matters raised in written submissions
3. Chart - relative frequency of matters raised
4. Synopsis - verbal presentations of 6 June 2018