

3 Presentation of officer reports

3.1 Potential acquisition of 28 Guildford Rd, Surrey Hills

Abstract

The Canterbury Tennis Club (CTC) has requested Council consider acquiring a property situated at 28 Guildford Road, Surrey Hills for the purpose of providing an additional tennis court for the Canterbury Tennis Club and a potential expansion of the Canterbury and District Pre-School (Canterbury Kindergarten).

In providing advice regarding the potential purchase of this site for the reasons outlined above, a number of factors have been considered by officers. These factors include:

- Demand for tennis by the community and the capacity of tennis clubs in surrounding areas to accommodate additional members
- Council's strategic directions
- Site constraints of 28 Guildford Road, Surrey Hills
- Zoning
- Traffic and parking implications and;
- Cost and impact on Council's budget and priorities for the current and next financial year and Council's Long Term Financial Plan

While the proposal presents an opportunity for the Canterbury Tennis Club to increase membership, it is not recommended Council purchase the site for a number of reasons:

- Uncertainty about achieving a change of zoning to allow the site to be used for the purpose which would allow tennis, as a change of zone must be approved by the State Minister of Planning, hence no planning scheme amendment is guaranteed,
- Uncertainty about the granting of a planning permit to be obtained should the CTC request lighting be installed, due to mandatory processes local government must adhere to in granting permits,
- The tennis court itself would be slightly compromised due to the siting of the court on the land and will result in a narrow court,
- Identified capacity for other local clubs to absorb latent demand,
- No strategic support from either the Boroondara Open Space Strategy (BOSS) or Boroondara's Sport and Recreation Strategy,
- Other potential options that would come at a lower cost to rate payers should an inability to meet the municipal wide demand for tennis be an identified concern in the future,
- The likely requirement to remove a number of significant trees,
- While the Open Space Fund may be able to be used for this purchase, it may not be in line with the principles of the fund. There would also be a requirement for Council to purchase the land, which has not been budgeted for and will negatively impact on Council's established priorities, current budget, the draft 2021/22 budget and the Long Term Financial Plan (LTFP), and;
- No identified need for an expansion of the adjacent Canterbury Kindergarten.

Confidential information is contained in **Attachments 1, 2 and 3**, as circulated in the confidential section of the agenda attachments.

This information is confidential information for the purposes of section 3(1) of the *Local Government Act 2020* because it is:

- a) legal privileged information, being information to which legal professional privilege or client legal privilege applies (section 3(1)(e)).
- b) private commercial information being information provided by a business, commercial or financial undertaking that relates to trade secrets or if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage (section 3(1)(g)).

If discussion of the confidential information in the attachments to this report is required in order for Council to make a decision, this item will be deferred to the confidential section of the agenda.

Council has obtained legal advice on this matter, which has been considered as part of preparing this report. A copy of the legal advice is included at confidential Attachment 3.

Officers' recommendation

That Council resolve not to proceed with the acquisition of 28 Guildford Rd, Surrey Hills

Responsible director: Carolyn McClean, Director Community Support

1. Purpose

The purpose of this report is for Council to give consideration to the request by the Canterbury Tennis Club (CTC) to acquire the property at 28 Guildford Road, Surrey Hills for the purpose of providing an additional tennis court for the CTC and a potential expansion of the Canterbury and District Pre-School (Canterbury Kindergarten).

2. Policy implications and relevance to community plan and council plan

The Boroondara Community Plan (BCP) consultation identified what is important to the Boroondara community. The information has been analysed and collated to produce seven priority themes. "Your community services and facilities" is the theme which is most closely aligned to this report, with responses valuing sport and recreation facilities and kindergartens.

Specific strategies which are particularly relevant include:

Strategy 1.1: Plan, maintain and renew multipurpose facilities and sports precincts to meet broad, intergenerational needs of the community now and into the future.

Strategy 1.3: Deliver, facilitate and advocate for services and programs that promote health, wellbeing, safety and a sense of community.

3. Background

Council was approached recently by the CTC requesting Council purchase the property at 28 Guildford Rd, Surrey Hills. The property is currently on the market with a guide price of \$2.3 - \$2.5 million, with an auction date of **1 May 2021**. The CTC has requested the purchase to provide one additional court, thereby enhancing the club's capacity to grow their membership, and stated some of the land could be used for a potential expansion of the adjacent kindergarten. In their email to Council, the CTC stated:

'...the club is enjoying increasing levels of membership and participation. This year, we have surpassed 400 members for the first time, representing a 28% increase in membership (as at 1st March).

The number of competition teams entered by Canterbury TC exceeds the capacity of Canterbury TC - for many years now, we place some teams to play home matches at alternative venues such as: North Box Hill TC, Deepdene TC, Balwyn Park TC, and Willison Park TC. This includes both night tennis teams, and weekend teams.

*With the ever expanding population of Melbourne, we are finding that these alternative venue clubs are also experiencing membership and participation growth. This in turn is causing these clubs to **not** be able to host Canterbury TC teams at their clubs.*

As the Boroondara Tennis Centre is closing at the end of 2022, with it the loss of 23 tennis courts in the local area, we anticipate the demand for courts will only increase further.

The land at 28 Guildford Road, Surrey Hills, could be purchased with the aim of placing 1 new floodlit tennis court, and an expanded Pre-School.

One extra court might not seem like too much - a 25% increase - but it would allow Canterbury TC to host 3 teams at home instead of 2, which is a 50% increase in home team capacity.

It would also allow our coach to have up to 4 courts being used for coaching simultaneously, instead of the current 3. It would also allow us to host Sunday afternoon competition teams, as at this time, we reserve Sunday afternoons for social play - we could juggle social and competition more easily with the extra capacity.

One extra court has a bigger impact on the club's flexibility in servicing participation than perhaps would be expected.'

Figure 1. Property location



While the possible expansion of the kindergarten was mentioned by the CTC, it is not the focus of this report, given the request was made by the CTC and primarily relates to the provision of an additional tennis court. Should Council determine to attempt to purchase the property, further consideration will be required in regards to what to do with the front part of the site if not required for a tennis court or access to the tennis court.

4. Outline of key issues/options

In providing advice to Council regarding the potential purchase of this site for the reasons outlined by the CTC above, a number of factors have been considered by officers as set out below.

Demand - Tennis

The Canterbury Tennis Club (CTC) is one of the busiest in Boroondara and has one of the highest member to court ratios.

The analysis shows that in total, Boroondara has 96 tennis courts across the municipality (including three private clubs), with one tennis court for every 1,908 residents (based on ABS ERP 2019). The construction of one additional tennis court at CTC would result in the total number of municipal tennis courts increasing to a total of 97 courts and the court to resident ratio increasing to one court for every 1,889 residents (based on ABS ERP 2019).

Based on pre-covid (2018-19) tennis membership figures, leased City of Boroondara (CoB) clubs have an average of 56 members per surface (excluding private clubs and BTC).

For officers to determine if additional courts are required at the Canterbury Tennis Club, the current municipal wide average ratio of one court per 56 members will be utilised as a benchmark. While this is not a perfect science, it gives a good indication of the capacity of surrounding clubs. This ratio is based on tennis clubs which have a lease with Council.

Table 1 below identifies nearby tennis clubs' current capacity based on the court to member ratio:

1. Green - The club is operating below the average of 56 members per court
2. Orange - The club is operating slightly above the average of 56 members per court
3. Red - The club is operating significantly above the average of 56 members per court

Table 1. Officer assessment of current tennis site utilisation

Club Name	Proximity to Canterbury Tennis Club	Number of Members (18/19)	Number of Courts (number of lit courts)	Current Court : Member Ratio	Book a court
Canterbury Tennis Club	0km	360	4 (4 lit)	1:90	No
Balwyn Park Tennis Club	1.4km	117	4 (4 lit)	1:29	Installed
amberwell United Tennis Club	1.9km	250	3 (0 lit)	1:83	No
Deepdene Tennis Club	2.2km	136	4 (4 lit)	1:34	No
Willison Park Tennis Club	2.5km	360	6 (6 lit)	1:60	No
North Kew Tennis Club	2.7km	208	4 (4 lit)	1:52	No
North Balwyn Tennis Club	2.8km	369	8 (6 lit)	1:46	No
Greythorn Park Tennis Club	2.8km	358	6 (6 lit)	1:60	No
City of Camberwell Tennis Club	2.9km	129	5 (2 lit)	1:26	Installed
East Camberwell Tennis Club	2.9km	510	8 (8 lit)	1:64	Installation occurring soon
Camberwell Junction Tennis Club	3.0km	103	3 (3 lit)	1:34	Installed
Burwood Tennis Club	3.5km	213	5 (4 lit)	1:43	Installed
South Hawthorn Tennis Club	4.1km	452	6 (6 lit)	1:75	No
Victoria Park Tennis Club	4.2km	135	2 (2 lit)	1:68	No
Kew Tennis Club	4.2km	368	4 (4 lit)	1:92	Installed
South Camberwell Tennis Club	4.4km	270	4 (2 lit)	1:68	No
Hawthorn Tennis Club	4.7km	150	7 (4 lit)	1:21	No

As shown in **Table 1**, Canterbury Tennis Club is currently operating with 1 court for every 90 members which is significantly above current leased CoB member to surface average. However, an analysis of tennis club sites located in close proximity to CTC identified a number of clubs currently operating below or just above the current leased CoB member to surface average of 56 members per surface.

The construction of an additional court at CTC would decrease the club's court to member ratio to 1:72 from 1:90 resulting in the club being classified as operating above the average of 56 members per surface.

It is worth noting that the above membership data does not take into account the impacts of the COVID-19 pandemic, which anecdotally seem to be leading to increased participation across many sports. It cannot be said with any certainty that this apparent trend will continue. Demand may fluctuate for some time to come.

In summary, while the CTC attracts high levels of membership, not least due to the quality of the club and range of programs on offer, and have a reduced ability to increase memberships, the analysis indicates capacity for surrounding clubs to absorb additional demand and new members, based on an analysis of the members to court ratio.

While it is reasonable to suggest that things are likely to change once the Boroondara Tennis Centre (BTC) closes due to the construction of the North East Link, the CTC is not in the vicinity of the BTC and other options can also be considered to meet latent demand created when the BTC closes.

Demand - Kindergarten

The Canterbury Tennis Club and the property for sale are adjacent to the Canterbury & District Pre School (3 and 4-year-old kindergarten program).

The kindergarten is licensed for 28 licensed places, with a current capacity of 56 children across 3 and 4-year-old kindergarten programs.

Anticipated demand for 3 and 4-year-old kindergarten in Surrey Hills and Canterbury can be met based on analysis of available demographic data by the existing funded kindergarten programs in the area, including the Canterbury Community Precinct currently under construction. When opened in 2022, the kindergarten within the Canterbury Community Precinct will increase kindergarten capacity by an additional 25 licensed places.

As noted above, further investigation will be required regarding the kindergarten, should Council resolve to attempt to purchase the property, including cost to landscape and fence the additional outdoor licensed area to ensure meeting children's services regulations. Council will also need to consider if the land will be required to provide access to the additional court, which would preclude an expansion of the kindergarten area.

Council's Strategic Directions

Officers have considered relevant Council strategies to understand if there is strategic alignment in the CTC's request for Council to acquire the property.

Boroondara Open Space Strategy (BOSS)

The identified location falls outside of a BOSS gap area, meaning the BOSS only recommends minor upgrades to open space. This means the existing open space in this neighbourhood is able to meet future open space demand. Therefore, there is not strategic alignment with the BOSS to acquire this site for public open space.

Sport and Recreation Strategy (SRS)

In 2016, the SRS identified tennis as being the seventh most popular sport and recreation activity undertaken by all age groups with approximately 14,731 (8.7%) residents participating in the sport.

The City of Boroondara has a total of 20 tennis clubs (excluding BTC) within the municipality including 17 Council leased sites and 3 private clubs. Tennis clubs have a variety of users including member and casual use, social competitions, coaching and school programs.

The SRS does not identify capacity issues across any of the Boroondara Planning Precincts, indicating there is enough court space across Boroondara for people who want to participate in tennis.

Site Constraints

A potential location for the additional court is shown in **Figure 2**, below. Desktop analysis found the current 28 Guildford site to be approximately 16.8 metres wide, this aligns with the dimensions noted in the S32. Tennis Victoria court dimensions for club/recreation use require courts to be 17.07 metres wide to ensure desired runoff from the side of the court to fences are achieved. Given the runoff non-compliance is minimal (27cm), a court compliance signoff from Tennis Victoria may be sought if the site was acquired. While officers do not believe this is a significant barrier to purchasing the site, it is a factor that should be considered as building a technically non-compliant court is not an ideal scenario. It should also be noted that the above measurements rely on being able to build right up to the boundary.

The court would be able to be built in the preferred orientation, in line with the club's other courts.

It is highly likely that the CTC would want to include lights as part of this development. This may cause concerns for neighbouring properties, given the proximity. Council would need to undertake mandatory processes to consider a planning permit for lighting, which would need to consider the views of surrounding residents. This means if a permit was not granted for lighting, the tennis court would be underutilised as play would not be able to proceed other than in daylight hours.

The court location is also not ideal, given access would either need to be across the back of two other courts, or potentially via Guildford road. This could be managed via a pathway from Guildford Rd if this was the preferred option and while not best practice, it's not unusual for players to access courts by walking across adjoining courts.

Trees

It is apparent from the current site conditions building a tennis court will necessitate the removal of a number of trees. The trees are located in the back half of the property and the site is not wide enough to build the court next to the trees. The court would not fit on the front part of the property, so there is no option to retain the trees and build the court. Council's Tree team has provided preliminary advice as there has been a previous planning application on the site in 2018 to remove two trees. Hence, Council already has information regarding the trees on the site. There are two trees on the site that Council sought to have retained under the previous planning application due to their high retention value; a Scarlet Flowering Gum (12m high) and a River Red Gum (14m). The full report is included as confidential

Attachment 1.

Figure 2: Potential court location

Zoning

28 Guildford Road, Surrey Hills is 843 m² in area and zoned Neighbourhood Residential Zone 3, which predominately supports residential uses. It should also be noted that a planning permit was issued on the 16/12/2019 for a three unit development on the subject site, including the retention of significant trees. The permit is current and can be acted on.

As shown in **Figure 1** the site is located next to residential properties on the eastern and southern borders and Canterbury & District Pre-School and Canterbury Tennis Club on the western border. The site is not encumbered by any planning overlay and it is located outside the Boroondara Open Space Strategy (BOSS) gap area.

Given this property adjoins the Canterbury Sports Grounds (including the oval and tennis club) which is a municipal level open space with the primary function of providing for structured open space, in the event Council purchased this site for the intention of expanding both the tennis and pre-school site areas, this site should be rezoned to the Public Park and Recreation Zone through a planning scheme amendment process, consistent with the zoning of the Canterbury Sportsground. Officers have indicated that this amendment is likely to be successful, although given any rezoning is subject to the Minister for Planning's approval, no planning scheme amendment is guaranteed.

Traffic and Parking

There is a statutory parking requirement of four spaces associated with the creation of the proposed additional tennis court as per Clause 52.06 of the Boroondara Planning Scheme. It is acknowledged that the creation of one additional tennis court will not likely generate significant additional traffic or parking demands.

However, it should be noted that given the existing activity generators in this precinct, Canterbury and District Kindergarten, Canterbury Sporting Ground and CTC, significant parking demands and traffic congestion are observed when concurrent activities are operating, particularly on Saturdays, in line with many other popular sporting locations. This is particularly relevant, given the location of CTC within a predominantly residential context and the adjacent local road network.

Guildford Road currently includes '2P, 8am-6pm, Monday-Friday' parking restrictions on the northern side and currently permits unrestricted on-street parking on the south side. It is noted that the available on-street parking, particularly on the south side of Guildford Road is heavily utilised, predominantly at the western end of Guildford Road in proximity to the kindergarten and sporting field. While not significant, the proposed additional tennis court would further exacerbate these issues.

Cost

A valuation of the site is provided by Councils valuers as part of Confidential **Attachment 2** to this report and the property has been advertised with a guide price of \$2.3 - \$2.5 million.

Should Council determine to purchase the property, the CTC has committed to provide the funds to build the tennis court.

Additional funds would be required for the expansion of the kindergarten, or alternative use for the rest of the site. There is not an income source identified to undertake works on the remaining site.

Cost implications are considered further in the relevant section of this report.

Legal and Professional Advice

As part of their due diligence in considering this land purchase, officers have sought advice on the contract documentation pertaining to the sale.

Matheson Stephen Valuations advised they have not identified any significant encumbrances that would detrimentally affect the assessment of value. Their full advice is included as confidential **Attachment 2**.

Further legal advice is also included as confidential **Attachment 3**.

5. Consultation/communication

Officers have not had the opportunity to carry out significant consultation regarding this potential land purchase.

The Canterbury Tennis Club is supportive of the application given they proposed the purchase and the Canterbury Kindergarten has also provided their in-principle support.

Adjacent residents were notified of Council's intention to consider this land purchase via phone calls and a letter drop on 22 April. There has been a mixed response and some residents have expressed concern at the prospect of another court being added.

6. Financial and resource implications

As noted above, confidential **Attachment 1** provides information on the valuation of the site. The guide price is listed as \$2.3-\$2.5 million.

An option to fund the purchase of the site is to consider using the Open Space Development Fund.

Open Space Development Fund

Council's Reserve Principle included in Council's Budget predefines the purpose and availability of funds for the Open Space Development Fund as follows:

A fund for the purpose of acquiring land for use as public open space.

As strategic parcels of land may become available at short notice, Council has created an Open Space Development Fund. This fund allows for the acquisition of land within the municipality for conversion to public open space as it becomes available.

The Open Space Development Fund reserve balance for the 2020-21 financial year is projected to be \$12.45 million.

The purpose of the Open Space Development Fund is primarily to close open space gaps identified in the Boroondara Open Space Strategy. Given the subject site falls outside of an identified gap area, use of the fund to purchase this site would not be consistent with the strategy. It is not recommended Council access the Open Space Development Fund as this is not a gap area.

The other options of securing funding would be to increase borrowings or reduce unallocated funds in Council's future budgets. Neither of these two options are recommended due to the negative outcomes for Council's financial position. A purchase of this magnitude will require a significant and unplanned drawdown of cash. Given Council has not been able to consider the purchase of the land in the development of the 2020/21 budget, an unplanned purchase of this magnitude could impact negatively on Council's established priorities in Council's draft 2021/22 budget and the Long Term Financial Plan (LTFP). Whilst detailed financial modelling has not been undertaken, this purchase may have the potential to limit capacity to fund future identified projects.

It is imperative that Council focuses on financial sustainability to ensure that Council has the ability to deliver on its committed service provisions and outcomes of the Boroondara Community Plan, including the ability to maintain the assets that Council currently owns and builds in the future.

Additional funds would still be required to develop the non-tennis part of the site (given the CTC has advised it will fund the building of the tennis court, including associated infrastructure such as fencing and lights, at a cost of approximately \$280,000).

While it is difficult to provide an accurate estimate given the lack of clarity about the use of the rest of the site, it is reasonable to suggest that Council would be required to contribute up to \$1 million towards the project, particularly if an extension to the kindergarten is to be considered. This would create a further negative impact on the draft 2021/22 budget and LTFP. The nominal amount of \$1 million would be treated as a placeholder in the budget until such time there was more certainty about how the site would be used in full and the associated costs established.

Should Council decide to purchase the site it is recommended a number of conditions should be included as part of any amended resolution:

- A commitment to fund the building of the court including associated infrastructure is provided in writing by the CTC prior to Council attempting to purchase the land, without financial limitations on the cost of this additional facility,
- Further consideration is given to what to use the rest of the site for (given officers have not had the opportunity to properly consider potential uses for this component of the site)
- Council allocates funds for the purchase of the land in line with the valuer's report in confidential **Attachment 2** and up to \$1 million for any development on the land not required for the building of the tennis court.

7. Governance issues

The implications of this report have been assessed in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

The officers responsible for this report have no direct or indirect interests requiring disclosure.

All processes have been carried out in accordance with Council's Procurement Policy and Evaluation Plan for this tender process.

8. Social and environmental issues

Both the Canterbury Tennis Club and Canterbury Kindergarten provide high quality services to the Boroondra Community.

While the Canterbury Tennis Club has a strong membership base, the provision of additional courts should be focused on meeting demand across an area rather than improving one facility at the potential detriment of other facilities that have the capacity to help meet any concerns with demand.

9. Conclusion

The proposal by the CTC for Council to purchase 28 Guildford Road, Surrey Hills is not recommended for a number of reasons:

- Uncertainty about the re-zoning of the site
- The requirement for a planning permit to be obtained should lighting be installed by the CTC
- A slightly compromised end result (narrow court)
- Identified capacity for other local clubs to absorb latent demand

- No strategic support from either the BOSS or Sport and Recreation Strategy
- Other potential options that would come at a lower cost to Council, should an inability to meet the municipal wide demand for tennis be an identified concern in the future
- The likely requirement to remove two trees and protect one other neighbouring tree
- While the Open Space Fund may be able to be used for this purchase, it may not be in line with the principles of the fund. There would also be a requirement for Council to contribute significant, unplanned funds which would impact both the draft 2021/22 Budget and the LTFP.

Should Council decide the benefits of providing the additional open space outweigh the concerns outlined in this report and determine to attempt to purchase the property, it is recommended a number of conditions should be included as part of any amended resolution:

- A commitment to fund the building of the court including associated infrastructure is provided in writing by the CTC prior to Council attempting to purchase the land,
- Further consideration is given to what to use the rest of the site for (given officers have not had the opportunity to properly consider potential uses for this component of the site), and;
- Council allocates funds for the purchase of the land in line with the valuer's report in confidential **Attachment 2** and no more than \$1 million for any development on the surplus land not required for the additional tennis court.

Manager: **Andrew McHugh, Manager Health and Wellbeing Services**

Report officer: Sam Taylor, Senior Coordinator Recreation and Wellbeing