



BOROONDARA

SERVICES DELEGATED COMMITTEE

MINUTES

(Open to the public)

Monday 13 November 2023

Council Chamber, 8 Inglesby Road, Camberwell.

Commencement 6:33pm

Attendance

Councillor Di Gillies (Chairperson)
Councillor Felicity Sinfield (Mayor)
Councillor Jim Parke
Councillor Wes Gault
Councillor Lisa Hollingsworth
Councillor Jane Addis
Councillor Cynthia Watson
Councillor Garry Thompson
Councillor Nick Stavrou

Apologies

Councillor Victor Franco
Councillor Susan Biggar

Officers

Phillip Storer	Chief Executive Officer
Daniel Freer	Director Places and Spaces
Kate McCaughey	Director Community Support
Scott Walker	Director Urban Living
Mans Bassi	Director Customer and Transformation
Amy Montalti	Chief Financial Officer
Bryan Wee	Manager Governance and Legal
David Shepard	Manager Environmental Sustainability & Open Spaces
Kirstin Ritchie	Coordinator Governance
Michael Hutchison	Head of Strategic Property & Revenue
Liam Merrifield	Senior Governance Officer

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1. Adoption and confirmation of the minutes

MOTION

Moved Councillor Stavrou

Seconded Councillor Hollingsworth

That the minutes of the Services Delegated Committee meeting held on 9 October 2023 be adopted and confirmed.

CARRIED

2. Declaration of conflict of interest of any councillor or council officer

Nil.

3. Presentation of officer reports

3.1 Consideration of submissions and proposed sale of Serpells Lane car park to Swinburne University

Purpose

The purpose of this report is to:

1. Consider submissions received regarding the proposal to sell and transfer the Council-owned Serpells Lane car park located at 399 Burwood Road, Hawthorn ("the Property") to Swinburne University of Technology ("Swinburne"); and
2. Seek a resolution from the Services Delegated Committee ("SDC") to proceed with the sale of its Property to Swinburne.

Background

The Council-owned Serpells Lane car park is approximately 2,908m² and is located at 399 Burwood Road, Hawthorn ("the Property").

At its meeting held on 25 July 2022, Council resolved to initiate the Serpells Lane Strategic Property Project, which included rezoning and exploring potential sale of the Property.

Subsequently, Council was approached by Swinburne, which led to an offer being received to purchase the Property. At its meeting on 25 September 2023, Council resolved to give notice of its intention to sell the Property to Swinburne by private treaty for \$16,000,000 (plus GST) and called for submissions on the proposed sale.

Key Issues

- Council was approached by Swinburne, which has resulted in an offer to Council of \$16,000,000 (plus GST). Council has received independent valuation advice supporting this offer as being consistent with the market value of the property.
- If the Property is sold to Swinburne there is no statutory obligation for Council to consult formally under the *Local Government Act 2020* prior to making a decision about the sale. However, consistent with the Council resolution of 25 September 2023, consultation has occurred on the basis that Council intends to sell the Property to Swinburne. 109 submissions have been received, which include support and opposition to the proposal.

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- Windfall Gains Tax ("WGT") came into effect from 1 July 2023. There is no WGT obligation if a sale is made to Swinburne.
- A sale to Swinburne does not require a rezoning.
- If Council sells the Property to Swinburne, obligations relating to their proposed development, including the requirement to provide car parking, will be imposed on title through a Section 173 Agreement under the *Planning and Environment Act 1987*. This will also ensure that the development is unique as opposed to what could be achieved through a sale on the open market.
- In 1968, local traders, through a Special Charge Scheme, funded the acquisition of a small parcel of land adjacent to the Serpells Lane car park. This land forms part of a laneway providing access to the car park and is not proposed to be sold. There are no parking spaces on the land. The traders are claiming they accrue rights through their separate scheme payments which concluded in 1982. Council's legal advice confirms the traders have no proprietary interest in the land and it would be difficult for them to successfully claim such rights exist. At most, the possibility of a public purpose trust arises which means that Council has no legal liability to traders but any risk can be mitigated by providing some additional parking in the vicinity. It is considered the offer by Swinburne to make an additional 37 spaces available for community use in its car park will mitigate any risk. Delivery of this outcome is best achieved by including the offer of the additional 37 car parking spaces in the proposed Section 173 Agreement.
- Council is entitled to sell land by private treaty, rather than through a public process, where the private treaty is sufficiently unique to justify the decision. In selling Serpells Lane car park to Swinburne, Council is ensuring a price equivalent to or greater than market value, securing an additional 37 car spaces above and beyond the requirements of the planning scheme, as well as controlling the development outcome to an extent that is unlikely to be achieved by a sale through a public process.

Confidentiality

Confidential information is contained in **Attachment 4 and 5**, as circulated in the confidential section of the agenda attachments. The information in this attachment is deemed to be confidential in accordance with Section 66(2)(a) and the definition of 'confidential information' in Section 3(1) of the *Local Government Act 2020*. The information relates to Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.

If discussion of the confidential information in the attachments to this report is required for Council to make a decision, Council may resolve to discuss the matter in a confidential session or to defer the matter to the confidential section of the agenda.

Twelve speakers opposed to the officers' recommendation addressed the meeting.

One speaker in support of the officers' recommendation addressed the meeting.

One submitter in support of the officers' recommendation chose not to address the meeting.

Procedural motion - Adjournment

MOTION

Moved Councillor Watson

Seconded Councillor Hollingsworth

That the Services Delegated Committee meeting be adjourned.

CARRIED

The Services Delegated Committee meeting adjourned at 7:49pm.

Procedural motion - Resumption of meeting

MOTION

Moved Councillor Addis

Seconded Councillor Sinfield

That the Services Delegated Committee meeting be resumed.

CARRIED

The Services Delegated Committee meeting resumed at 7:51pm with all Councillors present.

MOTION

Moved Councillor Watson

Seconded Councillor Hollingsworth

That the Services Delegated Committee resolve that Council, having undertaken a community engagement process in accordance with section 114 of the *Local Government Act 2020* which involved giving notice of its intention to sell the land described in Volume 03362 Folio 247, Volume 04042 Folio 269, Volume 06261 Folio 119 and Volume 02475 Folio 947, known as (part of) Serpells Lane carpark located at 399 Burwood Road, Hawthorn ("the Property") to Swinburne University of Technology ("Swinburne") and considering submissions received in respect of such notice, resolves to:

- 1. Sell the Property to Swinburne by private treaty for \$16,000,000 (plus GST).**
- 2. Secure the Swinburne development vision by registering on the title to the Property a Section 173 Agreement under the *Planning and Environment Act 1987* and include provisions for the following;**
 - a. Details Swinburne's vision for the use of the site.**
 - b. Retention of the additional 37 community car parking spaces beyond that required under the Boroondara Planning Scheme for redevelopment of the Serpells Lane site, such spaces to be provided by Swinburne at the Serpells Lane site or at a different location as agreed by Council. Where this parking obligation is provided at another location, any existing parking available for community use at that location must not be reduced in number and the parking fee charged for use of these**

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- spaces should be within 15% of the fee adopted by Council for similar parking in the locality.
- c. Provide car parking for all new uses in accordance with the provisions of the Boroondara Planning Scheme.
 - d. Be consistent with the Glenferrie Structure Plan, Glenferrie Place Plan and any other endorsed Council Plan or Strategy which applies to the site and surrounding area.
 - e. Be generally in accordance with a concept plan submitted to Council prior to commencement of development of the land which demonstrates compliance with the requirements of the Section 173 Agreement.
3. Authorise the Chief Executive Officer, or such other person as the Chief Executive Officer authorises, to finalise negotiations and sign all necessary documentation for the sale of the Property.
4. Write to all submitters advising of Council's decision.

CARRIED

Division

Councillor Sinfield called for a division.

Affirmative

Councillor Parke
Councillor Watson
Councillor Stavrou
Councillor Addis
Councillor Hollingsworth
Councillor Gillies

Negative

Councillor Thompson
Councillor Sinfield
Councillor Gault

The Chairperson declared the motion **CARRIED**.

3.2 Climate Action Plan Implementation Plan 2023-24 - 2024-25

Purpose

To present the results of the consultation on the draft Climate Action Plan Implementation Plan 2023-24 - 2024-25 and put forward the amended plan for adoption.

Background

The Climate Action Plan is supported by a series of implementation plans. The first implementation plan was endorsed in November 2021, and has now come to an end. Officers have prepared the next Climate Action Plan Implementation Plan 2023-24 - 2024-25 and undertaken community consultation.

Key Issues

The draft Climate Action Plan Implementation Plan 2023-24 - 2024-25 includes actions which will be delivered from the Climate Action Plan specific allocation of \$1M. It also includes actions that will be delivered from currently committed or foreshadowed operating and project budgets.

We received responses from 41 community members to the community consultation. Feedback is summarised in **Attachment 3**. The most common themes raised in the feedback were:

- Desire for more detail / specific timelines in actions
- Comments on inadequate budget / more urgency required
- Desire for more reporting and interim targets or targets for individual actions
- Desire for more to be done on active transport
- Desire for more to be done in the biodiversity/tree space
- Desire for more public EV chargers

Minimal changes are proposed to the draft Climate Action Plan Implementation Plan 2023-24 - 2024-25 based on the consultation feedback. The amended draft is shown in **Attachment 2**.

Next Steps

Council to adopt the Climate Action Plan Implementation Plan 2023-24 - 2024-25 and implementation to continue across this financial year and next.

Four speakers opposed to the officers' recommendation addressed the meeting.

One speaker in support of the officers' recommendation addressed the meeting.

MOTION

Moved Councillor Gault

Seconded Councillor Hollingsworth

That the Services Delegated Committee resolve to adopt the Climate Action Plan Implementation Plan 2023-24 - 2024-25.

CARRIED

4. General business

4.1 Councillor Hollingsworth

Councillor Hollingsworth discussed the current community carparking options near Glenferrie Road, Hawthorn and enquired as to Councils ability to use wayfinding signage to encourage the use of all carparking in the area in preparation for the sale of Serpells Lane.

4.2 Councillor Sinfield

Councillor Sinfield thanked Councillor Gillies for her work as Chairperson of the Services Delegated Committee meeting, overseeing 7 meetings and 15 Agenda Items, including the Draft Economic Development and Tourism Plan, many sporting pavilions, a round of community grants, two oval reconstructions, several contracts, Serpells Lane, and the Climate Action Plan.

5. Urgent business

Nil

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6. Confidential business

Nil

The meeting concluded at 9:11pm.

Confirmed

Chairperson



Date

11/12/23 .

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