

## MINUTES OF THE ORDINARY MEETING OF COUNCIL

12 NOVEMBER 2013

**11.3 REQUEST TO PURCHASE COUNCIL LAND - PART OF ROAD RESERVE AT 102-106 HIGH STREET, MELTON****Author: Tracy Spiteri- Governance Coordinator****Presenter: Peter Bean- General Manager Corporate Services****PURPOSE OF REPORT**

To advise Council of a request from an adjoining landowner to purchase part of a road reserve, vested in Council, at 102-106 High Street, Melton for the purpose of extending their current land holding at this location.

**RECOMMENDATION:**

That:

1. Council consider the proposal to sell approximately 975 square metres of unused road reserve vested in Council, located at 102-106 High Street, Melton (hatched area as indicated in **Appendix 1**).
2. Having obtained a land valuation of \$73,500, and the adjoining property owners agreement to pay market value for the land and all reasonable legal costs and disbursements associated with a sale, that Council staff commence the statutory process to sell by private treaty in accordance with section 189 and 223 of the *Local Government Act 1989* (the Act).
3. If Council receive no objections to the proposal, delegate authority to the Chief Executive to finalise the proposed sale on the terms and conditions detailed in the report, and to sign and seal all documents relating to the sale.

Crs Ramsey/Majdlik. That the recommendation be adopted.

CARRIED

**REPORT****1. Executive Summary**

Council received a request from an adjoining landowner to purchase part of a road reserve located at 102-106 High St, Melton. The road reserve area is an unused section of open space that exists between the property boundary and service road in this area, and is used by vehicles as an alternate access way and car parking. The road reserve is vested in Council and can be sold by private treaty, subject to the provisions of the *Local Government Act 1989*.

To consider the request, market value of the land was sought based upon highest and best use. The market value of the land as at April 2013, taking into consideration the restricted market and easements was assessed at \$73,500. The property owner, has accepted the valuation and understands the requirement to pay all legal costs and disbursements associated with the statutory process and sale, which must be conducted in accordance with the *Local Government Act 1989*, should Council resolve to sell the subject land.

The current Road Reserve area is a section of unused land that is primarily used as an alternate access roadway and for private and Council car parking. Should Council undertake a process to sell the land to the adjoining landowner, the land will then form part of the greater landholding for the property owner who will then be responsible for all maintenance and management of this land.

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The process to sell Council land is governed by the *Local Government Act* 1989, and is undertaken in conjunction with the DPCD Best Practice Guidelines for the Sale, Exchange & Transfer of Land. The current Road Reserve serves no strategic purpose for Council and requires continual maintenance due to the unauthorised use of it as an alternate access road way and car parking area.

## 2. Background/Issues

Council received a request in November 2011 from the landowner at 102-106 High Street, Melton to purchase the part of the unused road reserve that exists between the front boundary of the property and the service road at this location.

The proposed area for purchase is a road reserve which is rectangular in shape and is approximately 65 metres by 15 metres, and is calculated to be approximately 975 square metres. The land adjoins the frontage of the property at 102-106 High Street on the northern boundary and fronts the service road on its southern boundary (see hatched area on **Appendix 1**).

The Road Reserve is currently zoned Public Use Zone 1 (PUZ1) which adjoins land zoned Industrial 1 (1N1Z). No planning Overlays are applicable. The subject land is currently a vacant gravel area that vehicles utilise as an alternate access roadway and for overflow car parking. The area of land is not designated for this purpose.

This is the second time the adjoining landowner has approached Council to purchase part of the road reserve land. In 2009 Council commenced the process at the request of the adjoining owner and obtained a land valuation which determined highest and best use of the land at that time. The land owner didn't respond to the offer that was made and, as such, the process subsequently lapsed. In early 2011 the adjoining landowner contacted Council with an offer that was lower than the valuation received in 2009. However, as this didn't represent market value, no further action was taken.

Any sale of the subject land, and the subsequent requirement by Council to consolidate it with the existing land parcel would sensibly realign the boundary of the property to match that of all the commercial properties on the northern side of High Street. The only property that wouldn't be aligned is that of Councils Operations Centre. The part of the road reserve directly adjoining the front boundary of the Operations Centre/Depot is currently used for overflow car parking for staff and contractors. The sale of the subject land would not affect the continued use of this land for Council.

Discussions have been ongoing with the adjoining landowner who has agreed that should Council commence a process to sell the road reserve, that all costs associated with obtaining a land valuation, survey plans (including gazettal, title and consolidation plans, lodging and registration fees) and fees to engage a Legal Services provider to prepare the contract of sale, will be wholly the responsibility of the purchaser. Council will not be liable for any costs in the sale of this land.

The adjoining landowner requested that an initial valuation of the land be obtained, at their cost, so that they can decide whether to continue with the request to purchase the land, based upon the market value.

The request for a land valuation was requested and based upon highest and best use of the land was determined to be, for practical purposes \$73,500.00. The valuation is representational of the current commercial property market value for small lots in this area.

As the process to sell a Road Reserve (vested in Council) will require the road to be discontinued under section 206(1) and schedule (10)(3a) of the Act, and registration under section 207D to create a separate lot before consideration of any sale, the valuation has assumed this action, and the restricted market, that is no other logical buyers, when assessing market value of the land for sale. These actions will be done should Council proceed with a sale of the land.

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Councils Strategic Planning team have indicated that there is currently a review underway of Public Use Zone 1 within the City, which may result in an amendment to the zone for this land. As this land is adjoining Industrial 1 land, any amendments are not expected to affect the general use of the subject land.

Furthermore, Councils Statutory Planning team have indicated that future use of the land, as with all land, will be subject to the normal planning permit application processes and provisions. The adjoining landowner has been advised of this.

### 3. Council Plan Reference and Policy Reference

The Melton City Council 2013-2017 Council Plan references:

1. Managing our Growth: A clear vision to connect and develop a sustainable City

*1.1 Strategically plan for a well designed and built City*

2. A well governed and leading organisation: Operating with innovation, transparency, accountability and sustainability

*2.1.1 Practice a strategic evidence based policy approach to guide Council's decision making*

### 4. Financial Considerations

The adjoining landowner has been advised that any costs associated with the process to sell Council land will be at their expense. Quotes for services have been obtained and provided to the landowner from a Licensed Land Valuer, Licensed Surveyor and Legal Services Provider. The landowner is aware that the quotes and estimates for services have been provided based upon information available to date, such as the previously known value of the land, and are therefore subject to variation accordingly. The variance in costs will apply to lodging, registration and stamp duty fees, and any protracted negotiation of contact of sale documents.

Council will not be liable for any costs in this sale of the Road Reserve other than staff costs involved in facilitating any enquiry and/or sale processes.

### 5. Consultation/Public Submissions

Enquiries with VicRoads have advised that any sale of this land in this area will not affect the arterial road, High Street, and therefore Vic Roads do not object to the sale of this land. Engineering Services have also confirmed that any sale of the land will not affect general traffic operational issues as there is a formed service road with designated parking bays that currently exist in this area for vehicles to access businesses and High Street.

In accordance with section 189 and 223 of the *Local Government Act 1989*, Council is required to give public notice of its intention to sell and invite submissions from affected parties should it proceed with any sale of Council land.

### 6. Risk Analysis

There is no risk to Council in seeking a valuation of the Road Reserve for highest and best use. Should Council resolve to sell the land to the adjoining landowner, the property owner would be required to consolidate the land with their existing land parcel to create one title. The sale of the land and realignment of the property boundary to match that of other commercial properties in High Street supports appropriate land usage for future business and industrial development in this area.

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**7. Options**

There are two options available to Council with regards to the request from the adjoining landowner to purchase part of the existing Road Reserve:

**Option 1.**

Council resolve to sell the road reserve land at best and highest use, for the future development of the land for business and/or industrial development. That Council staff commence the process is sell the land by private treaty to the adjoining landowner, including the discontinuance of the road reserve to create a separate lot, and the preparation of a Contract of Sale that requires the separate lot to be consolidated with the larger parcel of land on settlement. All costs and disbursements relating to the sale of the land are the responsibility of the purchaser.

**Option 2.**

Council decline the request to purchase the Road Reserve as shown in **Appendix 1**. Council continue to maintain the road reserve area in accordance with Councils Schedule of Works.

**LIST OF APPENDICES**

1. Aerial Map - Road Reserve located at 102-106 High Street, Melton

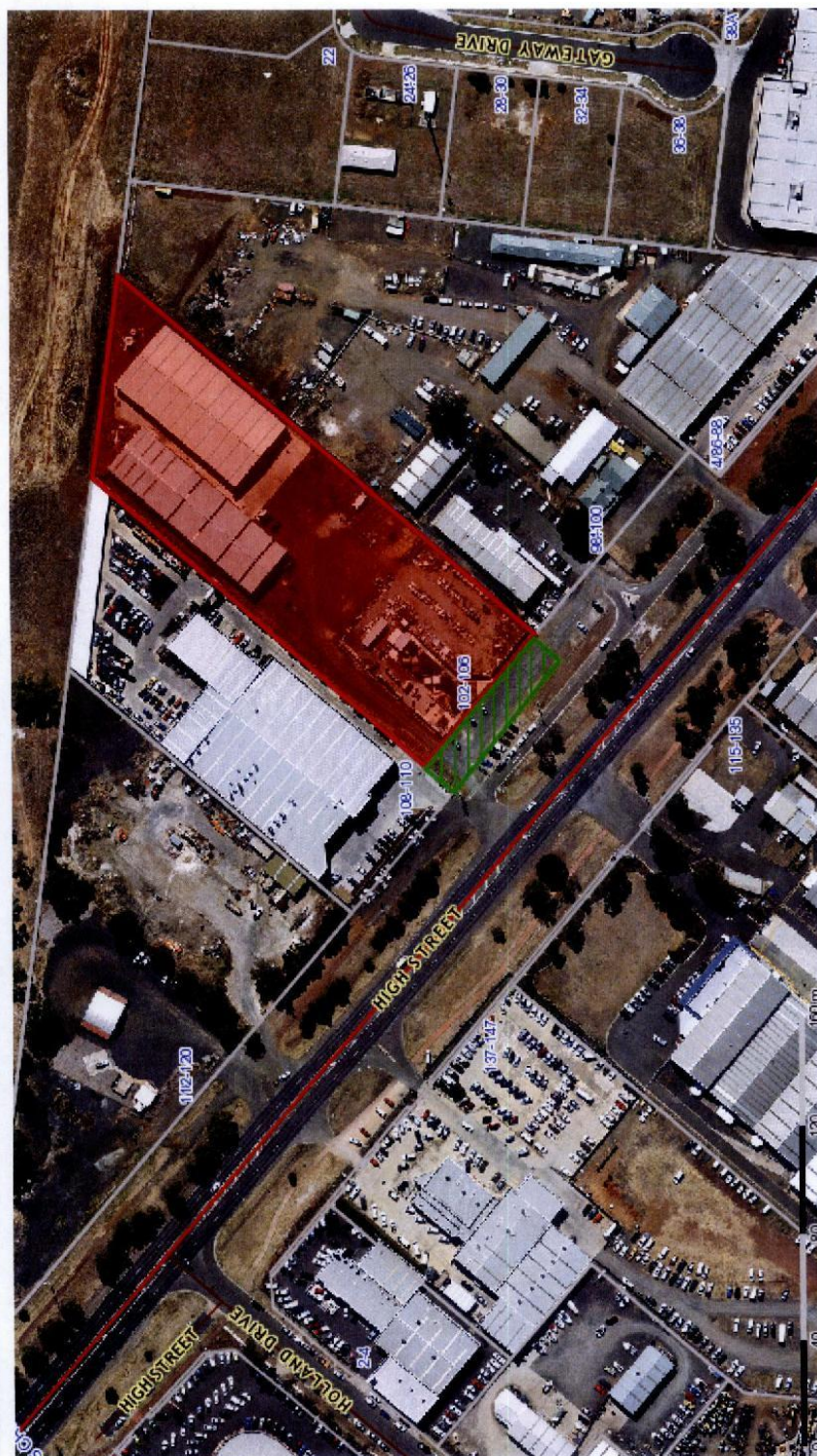



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Item 11.3 Request to Purchase Council Land - Part of Road Reserve at 102-106 High Street, Melton

Appendix 1 Aerial Map - Road Reserve located at 102-106 High Street, Melton



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