

13 Chief Operations Officer reports

13.1 47 Planet Street, Carlisle - Offer for the purchase and development of the Towns landholding

Location	Carlisle
Reporting officer	Property Development and Leasing Officer
Responsible officer	Chief Operations Officer
Voting requirement	Simple majority
Attachments	1. Aerial view and 47 Planet Street [13.1.1 - 1 page]

Recommendation

That Council:

1. Authorise the Chief Executive Officer to enter into non-binding discussions with the potential buyer regarding the unsolicited offer of sale for the property 47 Planet Street, Carlisle to explore Option 5 in paragraph 15 of the report.
2. Endorse the Chief Executive Officer to engage with the local community regarding the future of the property, including retention of the existing car park and a sale and development for the purposes of grocery retail, by inviting comment, including advertisement on the Towns website.
3. Requests the Chief Executive Officer to provide a report to a future Council meeting as to the outcome of the non-binding discussions referred to in 1 above and the community engagement outcome referred to in 2 above.
4. Notes that Recommendations 1-3 above do not preclude the Town from pursuing alternative options..

Purpose

For the Council to consider authorising the Chief Executive Officer to initiate non-binding discussions and to engage with the local community on the offer made to purchase 47 Planet Street, Carlisle for the purpose of the buyer building an IGA supermarket.

In brief

- An unsolicited bid of \$1,100,000 excl GST on freehold land owned by the Town of Victoria Park was received on 17 February 2023 for 47 Planet Street, Carlisle. The offer has been made on the basis that it is subject to the Town approving the development of an IGA supermarket on site
- The subject land is Lot 328 Plan 1740. The current use is a car park featuring 17 car bays, 1 ACROD car bay and a 30m² toilet block with bathroom facilities.
- The Town obtained internal comments from relevant teams to consider opinions relating to the offer, which are incorporated within the report.

Background

1. 47 Planet Street, Carlisle is freehold land transferred from the City of Perth to the Town of Victoria Park on 3 April 1995.
2. The site is 1052m² and is currently an unmetered car park with 17 parking spaces including 1 ACROD parking space, providing free parking to the local community and businesses.

3. The car park and toilets currently cost on average \$11,000 a year to maintain.
4. On 17 February 2023 the Town received an unsolicited offer to purchase 47 Planet Street, Carlisle for \$1.1m, which was initially subject to two conditions.
 - a. successful purchase of 88 & 90 Bishopsgate:
 - b. the Town approving the site for the supermarket (IGA).
5. The party that submitted the offer subsequently elected to remove condition a. from the terms of the offer.
6. The site features infrastructure and amenities, including the following:
 - a. Surfaced car park with 17 parking spaces and 1 ACROD parking space;
 - b. 7 Light poles;
 - c. 6 large trees;
 - d. 30m² public toilets and bathroom amenities block which is open 06:00-18:00pm each day;
 - e. Upgraded bore infrastructure;
 - f. 2 Electricity Meters;
 - g. 1 Water Meter;
 - h. Gardens beds at the base of the trees on the Northwest side of the site;
 - i. Loss of public walkway paving completed by the Town in the Archer/Mint Streetscape in November 2022.
7. The Land Asset Optimisation Strategy 2022 recommendation is that the site is retained in its current format with a view to any future opportunity for disposal or development, in accordance with the Town's adopted Integrated Transport Strategy (2022) and Parking Management Plan (2022) following adoption of the final LPS2.
8. The site is subject to the Town's Parking Management Plan (2022) and Integrated Transport Strategy (2022).
9. The planning framework for Carlisle Town Centre is being updated in the new draft Local Planning Scheme No. 2 (LPS2) which recommends a density code of RAC4 (up to 3 storeys).
10. The Town obtained a valuation from a licensed valuer. The valuer determined on 8 March 2023 that the site is worth \$1.1million.
11. Comments were obtained from various departments within the Town through an internal meeting on 6 April 2023.
12. The Town subsequently visited the site to discuss the offer and the next steps and review the site's boundaries, features and amenities.
13. A grocery retail operation on this site may improve access to food options (including fresh vegetables and fruit) for the local community. There is some evidence that improved access to food options is desired by the local community and will be beneficial. On balance, the unsolicited offer received by the Town has some merit but is not at this juncture assessed to be sufficiently attractive in terms of this benefit, weighed against existing amenities provided at the site. Further investigation is recommended to explore scope for improved terms and outcomes, including the extent to which existing amenities can be retained, replaced, mitigated and any other enhanced sustainable development outcomes.

Strategic alignment

Civic Leadership	
Community priority	Intended public value outcome or impact
CL3 - Accountability and good governance.	The Land Asset Optimisation Strategy aims to deliver well thought out projects and deliver them successfully.

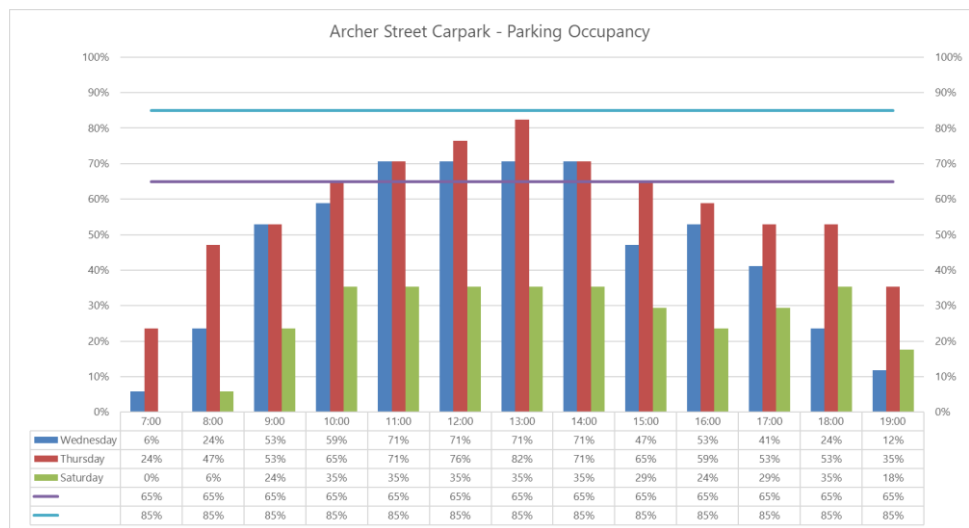
Economic	
Community priority	Intended public value outcome or impact
EC1 - Facilitating a strong local economy.	Depending on which option is chosen, the anticipated development from the sale of the Town's landholding will generate local employment opportunities or continue in its use of providing the local community with accessible and free car parking and other amenities, supporting local businesses.

Environment	
Community priority	Intended public value outcome or impact
EN1 - Protecting and enhancing the natural environment.	Ensure environmental impact assessment to evaluate the potential impact of the proposed development is conducted. Considering important factors such as loss of trees, impact on local biodiversity, changes to groundwater resources and any associated pollution or habitat fragmentation. The findings can guide decision-making and help develop mitigation measures.
EN3 - Enhancing and enabling livability through planning, urban design and development.	The inclusion of the Town's landholding will potentially achieve an overall design outcome that opens brings much needed shopping facilities to the area making the area more desirable.

Engagement

Internal engagement	
Stakeholder	Comments
Manager Strategic Waste, Environmental and Asset Management	We think this proposal has merit. There are numerous factors that need to be considered with this proposal, such as potential negative feedback if the public toilet is removed. The Town currently has a maintenance obligation for this public toilet and car park. The proposed development would need to provide adequate parking. The car park provides parking primarily for the café and surrounding businesses on Archer Street, most of which have no onsite parking for customers. Six trees of decent size would need to be removed, which would be considered as a potential loss to the Town.
Strategic Projects Manager	The existing bore is critical for the Town as it currently services newly installed planter boxes and landscape as part of the streetscape project. It will also be important as part of the next stage of the bike lane. Any impact would require a

	relocation of the bore which may or may not be achieved.
Place Leader	Some community members have expressed a need for better access to food including fresh fruit and vegetables. They shared through survey (Unwrap Archer Street event Dec 2022) and in person, that food options are hard to access (distance, crossing a busy road), and closer options are expensive. From a Place perspective, the proposal for commercial use at this site has potential to contribute towards a more activated transport-oriented development in the Carlisle Town Centre.
Manager Development Services	<p>Over a number of years, as part of the Town’s approval for the use/development of other commercial properties along Archer Street, there has been a reliance upon the public car park at No. 47 Planet Street to support the use/development and any proposed parking shortfalls. Any intent to remove/sell this public car park would remove the availability of this parking for nearby businesses and could attract concern from both business operators and their patrons.</p> <p>Should Council consider there is merit in progressing with the sale, there may be opportunity for the loss of public car parking to be addressed through a condition of any sale requiring a specified number of car bays to be provided for general public use as part of the redevelopment of the site, separate to the parking requirement for the new development. This would be similar to that which occurred as part of the sale of Town owned land at No. 355-357 Shepperton Road.</p> <p>It is noted that the offer received by the Town relates to the use of the site as a supermarket. It is important to clarify that any land sale process is separate to the statutory planning approval process. While a supermarket (“Shop’ land use) is a use of the land that is capable of approval under the Town’s Town Planning Scheme No. 1, any support from Council to progress the land sale should not be construed as the Town’s support for a development application for a supermarket, as this will be determined through a separate statutory process.</p>
Coordinator Parking and Rangers	The sale or lease of 47 Planet Street for development is not supported by Parking. Currently, the site subject to the offer is used as an off-street carpark, with occupancy shown in the table below.



The sale and development of this land will have a high impact on street parking in terms of occupancy, reduced capacity and congestion in the immediate area. A review of Local Planning Policy No.23 - Parking is scheduled for later this year which will consider the merits of reducing or removing on-site parking requirements for businesses. Given the choice, where businesses elect not to provide on-street parking, greater pressure on on-street parking will likely result. If implemented, it is anticipated the reduction in parking bay capacity may lead to a rise in complaints from the customers of local businesses.

Legal compliance

[Section 3.58 of the Local Government Act 1995](#)

[Section 3.59 of the Local Government Act 1995](#)

[Section 1.7 of the Local Government Act 1995](#)

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	The proposed sale of the land would generate income for the Town that could contribute to future projects.	Moderate	Possible	Moderate	Low	TREAT risk by ensuring Council receives legal advice and additional guidance from internal engagement and Council.
Environmental	The loss of trees and natural environment within the Town owned Car Park if the	Minor	Likely	High	Medium	TREAT risk by negotiating specific environmental conditions of

	disposal were to proceed.					contract to ensure tree replacement
Health and safety	Not applicable.					
Infrastructure/ ICT systems/ utilities	Not applicable.					
Legislative compliance	Failure to comply with <i>Local Government Act 1995</i> if the Town wishes to dispose of the land.	Minor	Unlikely	Low	Low	TREAT risk by ensuring processes is in accordance with the <i>Local Government Act 1995</i> .
Reputation	Potential reputational risk if the Town accepts or declines the offer made, including the risk that the Town is seen as unwilling to approve of a local supermarket at the proposed site.	Moderate	Possible	Moderate	Low	TREAT risk by engaging with the local community about the possibility of the disposal of the land for the development of a local shopping centre.
Service delivery	Not applicable.					

Financial implications

Current budget impact

The option chosen by Council will determine the budget requirements, as shown below:

- (a) Option 1 – The Town retains the site in its current form as public parking, toilet and other amenities and is responsible for its upkeep and asset replacement.
- (b) Option 2 – Ground lease.
- (c) Option 3 – Allow the sale of land on the offered price and terms of \$1,100,000.
- (d) Option 4 – Open Market Sale eg by public tender.
- (e) Option 5 – Non binding negotiations to seek improved terms from the Counteroffer the amount the Town is willing to sell the land for

Sufficient funds exist within the annual budget to undertake options (1), (3), (4) & (5). Option (2) may not be feasible within the annual budget for the reasons set out in paragraph 15 of the Analysis section of this report.

Future budget impact

The option chosen by Council will determine the future budget impact, as shown below:

- (a) Option 1 – The Town is still obligated to maintain and repair the property without a sale.
- (b) Option 2 – Providing the Town with a potential annual income. See also paragraph 15 of the Analysis section of this report.
- (c) Option 3 – Accepting the offered market valuation for the site.
- (d) Option 4 – Open Market Sale eg by public tender.
- (e) Option 5 – The Town may be able to negotiate a higher purchase price than the open market valuation offered.

Analysis

14. The development opportunity represents an investment in commercial and retail infrastructure with scope for jobs to be created during the construction phase and ongoing long-term employment opportunities, urban renewal, the resulting redevelopment will also deliver ongoing annual rates revenue.
15. The following options have been identified:
- j. Option 1: Reject offer. Retain existing car park and other amenities.
 - k. Option 2: Ground Lease.
 - l. Option 3: Unsolicited Bid.
 - m. Option 4: Open Market Sale.
 - n. Option 5: Counteroffer.
16. Analysis of the Options is as follows:-
- a. **Option 1:** Reject offer and do not proceed any further. The Town will continue to provide and maintain the existing car park, public toilet and other amenities. The approximate expenditure for the Town is \$11,000 per annum to continue with this option. The bore is a critical asset to the Town as it currently services newly installed planter boxes and landscape as part of the streetscape project. The relocation of the bore is an important factor.
 - b. **Option 2:** Ground Lease (e.g for grocery retail development) - This is likely to be impractical to achieve given that the lots the buyer wishes to develop in conjunction with the site are in third party ownership and would need to be amalgamated. This option would also be complex and expensive for the Council to pursue and its feasibility will require funds to be placed on the budget to finance any required acquisition of the third party property. This option is not recommended.
 - c. **Option 3:** Proceed with existing unsolicited offer. The valuation provided to the Town of Victoria commented that "there is evidence in the market where adjoining owners have demonstrated a willingness to pay over and above market values." The value of the unsolicited bid is \$1,100,000 excl GST is in line with the Towns valuation. If the offeror could already reach an agreement to purchase neighbouring lot(s), the Towns site would be more valuable to them. The Town has however had no input into the terms of the existing offer, which is unsolicited and has been set by the buyer. The existing offer does not address the existing amenities on the site and whether any of those amenities will be retained, replaced or mitigated in the proposed development. This option is not recommended.
 - d. **Option 4:** Open Market Sale by public tender - there is a risk that the most active buyer in the market – the one who approached the Town, would have little competition and be able to control the sales process, which might lead them to strategically lower their price than they had initially offered. It also could be beneficial to the Town to consider further sellers if the demand to

purchase is high. If the choice is to redevelop this site, this is a good option for the Town to consider.

- e. **Option 5:** Non binding negotiations with the proposed buyer to explore improved terms for a sale and development of the land and scope for retention, replacement or mitigation of loss of existing amenities on the site and other development outcomes eg sustainability. The proposed buyer is seeking to develop a grocery retail facility on the site and adjoining land. It is possible that such a development might be a big win for the local community. Exploration of this option would not prevent the Town from subsequently adopting another approach or option. Exploration of this option is therefore recommended at this time, in conjunction with community engagement.

17. Whilst the development of a grocery retail facility on the site might be a big win for the local community, there are a number of other considerations noted in this report that will need to be weighed up and balanced in due course, for example:-

- a. Provision of parking in the proposed development and the extent of any public access;
- b. Environmental Impact: impacts on natural environment and any mitigation that can be incorporated into the proposed development;
- c. Tree Preservation: If the sale and development would result in the removal of trees, prioritise tree preservation wherever possible. Considering alternatives such as incorporating the trees into the design or relocating them if feasible. If removal is unavoidable, compensate for the loss by planting new trees elsewhere in the local area or on-site, with a view to seeking a net gain in tree cover and biodiversity;
- d. Sustainable design within the development. This can include energy efficient building design, green infrastructure like rain watering harvesting systems, and incorporating green spaces within the site. Permeable surfaces to promote groundwater recharge and minimise stormwater runoff.
- e. If there is no scope to retain the existing public toilet facilities on the site, will the proposed development include any alternative provision.
- f. Options for retention or replacement of the existing water bore, lighting, garden beds and other infrastructure.

18. The closest supermarket to the proposed site is an IGA on Albany Hwy in East Victoria Park, which is located 1.3km Southwest of the proposed site. The locality of this IGA is some distance away for pedestrian access by the community for convenience shopping and requires pedestrians to cross busy roads.

Relevant documents

Not applicable.

Further consideration

19. At the Agenda Briefing Forum held on 6 June 2023, the following information was requested..

20. The appropriate due diligence has been undertaken by the Town in relation to the information provided within this report.

21. Provide an explanation on why there is no charge for parking when the Town pays \$11,000 to maintain the toilet and carpark.

- a. The Town does not charge for paid parking in this carpark as the occupancy threshold of 85% has not been exceeded, as per the requirement of the Parking Management Plan. Furthermore, prior to paid parking being introduced, the Parking Management Plan steps out a series of

interventions before paid parking is considered. Meaning that once occupancy exceeds 85%, the Town would look to shorter timed parking periods as a means to encourage turnover and occupancy to within the desired range. As the parking management plan sits under the ITS, the current free parking status is in alignment with the ITS.

22. Provide details on potential productive uses for the carpark given the occupancy does not warrant charging for parking.
 - a. Temporary supplementary uses such as markets, food trucks and events might add productive use(s) for the land. If there is demand for such uses or interest in conducting such activities and they are successful, such uses may activate the area, whilst allowing the land to continue to serve mostly as a carpark. The Town is not aware of any recent interest in this type of use or activity on the carpark. The proposed public consultation may be of assistance in establishing what (if any) demand there is for such uses, or interest from local people in conducting such activities. This type of use does not typically generate substantial income to the Town, although one exception is the event income that the Town raises from its riverside land at McCallum Park. It is noted that whilst occupancy is not at the 85% threshold at which the Town introduces paid parking, details of parking occupancy are provided under the internal engagement section of this report which do show occupancy fluctuations of between approximately 5-80% of the carpark.
 23. Provide information on the disadvantages of pursuing non-binding discussions with the buyer prior to knowing the outcome of community engagement.
 - a. If non-binding discussions with the buyer are pursued and finalised prior to knowing the outcome of community engagement there would be the risk that such discussions and any draft terms that are formulated will not be informed by the outcome of community engagement. The recommendation as presented in this report to the Agenda Briefing Forum and Council is sufficiently flexible to allow the Town to commence both the community engagement and non-binding discussions with the buyer, and (depending on the outcome of community engagement), to allow officers to extend the non-binding discussions with the buyer to address the outcome of community engagement.
 24. Explain why the Town is continuing negotiations with a potential buyer and community consultations when LPS2 may change the alter the use and value of this site.
 - a. As noted in Option 5 of this report, non binding negotiations would not prevent the Town from subsequently adopting another approach or option.
 - b. The proposed community consultations will include advice to the community of the possibility that LPS2 may change or alter the use of this site, for community feedback as to the future of the site.
 - c. For the avoidance of doubt, the Town is not (and has not been) continuing negotiations with the potential buyer. Options have therefore been presented to elected members in this report for consideration, together with information in paragraph 9 of this report as to the recommendation of the Council's Land Asset Optimisation Strategy 2022. Officers have also referred the potential buyer to the Land Asset Optimisation Strategy 2022, in which Council adopted officers' recommendation that the site is retained in its current format, with a view to any future opportunity for disposal or development following adoption of the final LPS2.
 25. Provide information on why the Council's first decision should be to sell before engaging with the proposed buyer on improved terms.
 - a. The officer recommendation is not to sell before engaging with the proposed buyer on improved terms. See also Option 5 of this report, which mentions that non binding negotiations would not prevent the Town from subsequently adopting another approach or option.
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26. Provide details on why the Town is negotiating with a prospective buyer and conducting community consultations ahead of the review outcome for Local Planning Policy 23 – Parking.
- The Town is not currently negotiating with the prospective buyer, whose offer is unsolicited.
 - The report provides a range of options 1-5 including for example Option 1 (rejecting the offer and not proceeding further) or Option 5 (non binding negotiations and community consultation).
 - Option 5 of this report mentions that non binding negotiations would not prevent the Town from subsequently adopting another approach and this is expressly noted in Recommendation 4.
27. Provide information on whether the potential buyer has prior experience running a supermarket.
- The covering letter to the unsolicited offer submitted to the Town by the proposed buyer includes the following statement “As owner/operators of both hospitality and supermarket businesses for 13 years.” If non binding negotiations are approved by Council, officers will be seeking verification of this and a range of other factors through due diligence.
28. Provide information on whether IGA as a group have criteria and/or approve locations for IGA branded supermarkets.
- The Town understands that Metcash is the wholesaler and distributor to IGA independent supermarkets and that Metcash approve locations for IGA independent supermarkets. It is most likely that Metcash have criteria for such approvals and that such criteria will be commercially confidential.

RECOMMENDATION

Moved: Mayor Karen Vernon

Seconded: Cr Jesse Hamer

AMENDMENT:

Moved: Mayor Karen Vernon

Seconded: Cr Vicki Potter

- Delete point 1 of the recommendation and renumber the remainder;
- Amend existing point 3 to remove the “non-binding discussions referred to in 1 above and”
- Delete existing point 4.

Carried (9 - 0)

For: Mayor Karen Vernon, Deputy Mayor Claire Anderson, Cr Luana Lisandro, Cr Peter Devereux, Cr Jesvin Karimi, Cr Jesse Hamer, Cr Vicki Potter, Cr Wilfred Hendriks and Cr Bronwyn Ife

Against: Nil

Reason: It is more appropriate to consult with the community about the future of the carpark first before entering into non-binding discussions with the potential buyer.

COUNCIL RESOLUTION (128/2023):

Moved: Mayor Karen Vernon

Seconded: Cr Jesse Hamer

That Council:

1. Endorse the Chief Executive Officer to engage with the local community regarding the future of the property, including retention of the existing car park and a sale and development for the purposes of grocery retail, by inviting comment, including advertisement on the Towns website.
2. Requests the Chief Executive Officer to provide a report to a future Council meeting as to the outcome of the community engagement referred to in 1 above.

Carried (9 - 0)

For: Mayor Karen Vernon, Deputy Mayor Claire Anderson, Cr Luana Lisandro, Cr Peter Devereux, Cr Jesvin Karimi, Cr Jesse Hamer, Cr Vicki Potter, Cr Wilfred Hendriks and Cr Bronwyn Ife

Against: Nil