

8.1 4 LANGFORD DRIVE, ELIZABETH MATTERS

Contact Person: Mr Simon Blom

Why is this matter confidential?

This matter is Confidential due to the commercial detail which would be considered to detriment Council and provide advantages to third parties should the information be made publicly available.

Subject to an order pursuant to Section 90 (3) (d) of the Local Government Act 1999, this matter is confidential because the report also refers to commercial detail which would be considered to detriment Council and provide advantages to third parties should the information be made publicly available.

A. COUNCIL/COMMITTEE TO MOVE MOTION TO GO INTO CONFIDENCE

No action – this motion passed in the open section.

B. THE BUSINESS MATTER**8.1 4 LANGFORD DRIVE, ELIZABETH MATTERS**

Responsible Executive Manager : Mr Simon Blom

Report Author : Mr Daniel Turner

Delegated Authority : Matters which cannot be delegated to a Committee or Staff.

PURPOSE

To present an overview of the agreed terms and contract conditions for the disposal of 4 Langford Drive, Elizabeth for Council consideration and if satisfied, provide delegation to the CEO and General Manager, City Assets for contract execution.

STAFF RECOMMENDATION

Council provide delegation to the CEO and General Manager City Assets to finalise and execute a contract for disposal of 4 Langford Drive, Elizabeth to Peter Page Holden as summarised in discussion point 4.8 within this report.

EXECUTIVE SUMMARY

Following recent endorsements which acknowledged 4 Langford Drive, Elizabeth being surplus to Council requirements and approval for staff to directly negotiate with Peter Page Holden for the disposal of the asset, staff have now finalised negotiations accordingly. Staff are now requesting Council to consider the terms and conditions within the report and if satisfied, provide delegation to the CEO and General Manager City Assets to execute a contract.

In summary, the contract is essentially unconditional at the previously endorsed agreed price of \$760,000 plus GST with a settlement date envisaged to occur on the 29th January 2021. Staff have included a condition however to extend settlement date to 15 days after staff confirmation that TRY have exited the premises in line with an agreed exit strategy and providing this occurs prior to 28 February 2021. This particular condition has been included to provide assurance to Council that it will not be required to settle until exit strategy requirements have been met which provides assistance to affected families as agreed to by both parties.

This exit strategy requires TRY Australia to provide a minimum \$38,000 commitment for staff training/upskilling, family transition support, employee assistance program sessions for staff and families, Goodstart consultancy to assist with alternative staff placements, payments for children bonds and contributions to gap payments and other costs as required.

To date, Council have been working closely with TRY Australia to ensure this commitment is met and have been actively working on this agreement and assisting with Council requests in a timely manner. Furthermore, recent communication with the TRY Australia consultant has revealed that Crittenden Road Early Learning & Kinder have agreed to accommodate any families that have been affected and subject to a number of families taking up the opportunity will be interviewing TRY staff for employment. Furthermore, the TRY consultant has advised that they had not received any negative feedback from the families involved however were going to keep Council staff informed as TRY Australia progress towards exiting the premises and lease termination on 31 December 2020.

1. BACKGROUND

On 22 June 2010 Council completed a service review of the Playford Community Children's Centre, investigating Council's assets and viability to continue and on 12 April 2011 Council made the resolution to cease management of the centre due to operating losses averaging \$125,065 per annum. This was attributed at the time to high staffing costs from employees on the Council EA as opposed to the childcare award.

On 22 November 2011 Council made the resolution to lease the property to TRY Australia Children's Services who since that time have indicated the service has not been profitable and have had increasingly high vacancy rates since occupying the premises. The Lessee has approached Council on a number of occasions to discuss termination of the lease with the most recent correspondence indicating annual losses have averaged in excess of \$100,000 per annum throughout the entire lease period.

More recently, a risk / outcome rating assessment process was conducted which identified 4 Langford Drive, Elizabeth as one of eight (8) priority sites to focus on as part of Council's long term financial plan initially presented at the October 2019 services committee. Since this time, a strategic land use assessment (SLUA) has been completed by internal staff for further analysis of the asset.

Upon completion of the SLUA, staff presented a report in August 2020 which detailed the options and risks associated with disposal and leasing/retention of the asset as Childcare Centre/Community asset. Endorsement of this meeting was as follows:

1. Acknowledge the asset is surplus to Council requirements.
2. Agree to the lease termination at 4 Langford Drive, Elizabeth and authorise staff to negotiate an exit strategy with the lessee.
3. Staff to engage market to consider repurposing of asset options which will include open market disposal and direct sale or long term lease opportunities. Options to be presented to Council at a later meeting for delivery/investment decision.

Following this resolution, staff engaged the market and have been liaising with TRY Australia in relation to an exit strategy and timing in line with Council endorsement. A further report was then prepared for the October 2020 ordinary Council meeting which provided options for consideration, with endorsement of the following:

1. Council agree to dispose of the property situated in Certificate of Title Volume 5549 Folio 106 and known as 4 Langford Drive, Elizabeth.
2. Pursuant to Section 49 of the Local Government Act and Council's Sale of Land and Other Assets Policy, Council resolves that the offer presented by Peter Page Holden is considered as 'being appropriate' to dispose of via direct negotiation.
3. Council to provide delegation to the CEO and General Manager City Assets to consider terms of the contract of sale to Peter Page Holden and for staff to prepare a draft contract of sale.
4. Staff to present a further report to Council at a later meeting and present final terms and contract conditions prior to contract execution.

In line with this resolution, staff have now negotiated final terms and conditions with the Purchaser to confirm they are satisfactory to Council prior to execution.

2. RELEVANCE TO STRATEGIC PLAN

4: Smart CBD Program

Outcome 4.1 Expanded range of local services

Outcome 4.5 Commercial Growth

The decision will impact the Council's Smart CBD Program as the asset is included as a strategic parcel within the current CBD Masterplan together with the whole block bounded by Elizabeth Way, Langford Drive and Goodman Road. This is an area of interest due to the proximity to the train station and Mountbatten Square. Due to the relatively small size of the allotment and limited main road exposure, the site is not considered to have strong strategic significance unless amalgamated with an adjoining allotment fronting Philip Hwy/Elizabeth Way.

The outcome from this decision is considered to positively affect growth and diversification of local jobs in the CBD as the asset is anticipated to have increased local employment opportunities and commercial growth through a change of asset class. The asset is currently underutilised with inconsistent attendance and the majority of staff are casual employees that are sourced through local employment agencies.

Should execution of a sales contract with Peter Page be endorsed, there will be an expanded range of car brands to include Hyundai as well as increased mechanical servicing opportunities which will draw locals and visitors to the area.

3. PUBLIC CONSULTATION

Council resolved to revoke the community land status of 4 Langford Drive, Elizabeth in line with the *Local Government Act 1999*. A report completed by Maloney Field Services (2005) reviewed all Council land status and confirmed the asset was listed as 'Freehold'. As such there is no requirement to further consult with the community.

4. DISCUSSION

- 4.1** As detailed in the confidential report to Services Committee 18th August 2020, the current net operating position of the asset is \$7,737 per annum however the property is in dire need of an uplift or refit, so this position is unsustainable. To uplift the property to a basic fit for purpose standard is estimated at \$312,000. To refit the asset to a modern centre or for other use a Council outlay of approximately \$825,000 (\$1,250m²) would be required.
- 4.2** The Lessee had approached the market in an attempt to assign their lease to another operation which was unsuccessful, indicating there is limited or no other market interest to lease the asset in its current condition.
- 4.3** The asset is listed in the long term financial plan to be disposed of in the 2020/2021 financial year with a net value of \$779,000. A third party market valuation has recently been completed on the property which indicates the actual estimated market value to be \$750,000 based on a leased premises. Council should also note that the current written down value of the property which takes into consideration the depreciated value of money spent on the asset is \$1,196,414.
- 4.4** On 28 October 2020 TRY Australia advised their employees and affected families that the centre will be closing. Shortly after this time an online petition was created via social media and received a number of negative comments directed at the City of Playford. This petition was created by TRY Australia employees and included misleading information that the City of Playford were closing down the centre. Discussions were held with the CEO of TRY Australia who in turn advised their employees were in breach of their code of conduct, ICT and social media policies and apologised for their actions. The petition has since been removed with no further negative publicity being revealed to date.
- 4.5** Whilst staff have received several calls from the public, they have been generally understanding upon providing the correct information in relation to the closure. It is the intention of staff to monitor the closure of the centre closely and advise Elected Members of any important information that may affect the reputation of Council should it be revealed.
- 4.6** Council staff have been working closely with TRY Australia CEO to ensure adequate support is provided to their employees and families affected by the closure. It has been agreed that TRY will commit a minimum of \$38,000 to the closure of the centre. This financial commitment will include employee training/upskilling, family transition support, employee assistance program sessions for employees and families, Goodstart consultancy to assist with alternative employee placements, payments for children bonds and contributions to gap payments and other costs as required.
- 4.7** Discussions with engaged Goodstart consultant have advised that an agreement has recently been reached with Crittenden Road Early Learning & Kinder which ensures any children that require re-location will be able to have access to this centre. Providing a number of families take up this opportunity, the centre will be providing interviews to affected TRY Australia employees with the view to provide employment upon being considered suitable for the positions.

4.8 The key contract terms of the contract are summarised in the below table:

Contract Terms	Outcome	Notes
Sale Price	\$760,000	Exclusive of GST. Sold with Vacant Possession
Deposit	\$83,600	10% purchase price Inclusive of GST
Settlement	29-Jan-21	Or 15 days upon satisfaction the Lessee has vacated the premises in line with approved exit strategy, whichever is later
Special Conditions		
Lease Surrender/Termination	31-Dec-20	Lessee due to vacate premises on 31 December 2020. This is subject to compliance with the agreed exit strategy
Final date for Lease Surrender/Termination	28-Feb-21	Should Council not be satisfied with compliance of the exit strategy by 28 February 2021, either party have the right to terminate the contract

5. OPTIONS

Recommendation

Council provide delegation to the CEO and General Manager City Assets to finalise and execute a contract for disposal of 4 Langford Drive, Elizabeth to Peter Page Holden as summarised in discussion point 4.8 within this report.

Option 2

Council do not agree to the terms and conditions of the contract to Peter Page Holden and provide direction to staff how to proceed.

6. ANALYSIS OF OPTIONS

6.1 Recommendation Analysis

6.1.1 Analysis & Implications of the Recommendation

- Contract terms and conditions are in line with those previously presented at recent Council meetings.
- The recommendation has been determined via a third party commercial specialist to provide the highest Net financial benefit to Council.
- Disposal of the asset is in line with the Long Term Financial Plan and the conditions will allow Council to achieve a result in the 2020-2021 financial year as indicated in the LTFP.

- The decision aligns with original recommendations of the Strategic Land Use Assessment.
- The recommendation will allow Peter Page Holden to expand their business to include other car brands which will create employment, attract visitors to the area, provide commercial rates and will secure the company in the Playford Council for the foreseeable future.
- Peter Page Holden have operated in Playford Council since 1971 and been an active contributor to the Playford Community such as creating employment, providing local mechanical apprenticeship opportunities and being a Playford commercial rate payer since this time. All of the above are expected to increase if the Langford Drive site is secured. Further to this, Peter Page Holden have consistently been an active contributor to the local community being a premier partner of Central Districts Football Club as well as being a sponsor for local sporting groups and charity provider to various organisations such as Playfords wheels in motion mentored driving program.
- Staff were contacted on 07/10/20 and informed that Peter Page Holden have formally been offered the Hyundai franchise subject to having a suitable site. Should they be unable to secure 4 Langford Drive, they will be required to find another location for their business. Should this occur, it will likely have a negative effect on Council rates.

6.1.2 Financial Implications

Short-term = impacts on the current year budget

Long-term = impacts extending beyond one year, primarily implications on achievement of the LTFP and associated financial sustainability ratios

Disposal to Peter Page Holden	
Ongoing Financial Position	
Annual Lease Income	-\$48,691
Rate Revenue	\$8,162
Total Revenue	-\$40,529
Expenditure	
Maintenance	-\$3,895
Insurance	-\$2,266
Depreciation	-\$37,916
Interest	-\$18,573
Total Expenditure	-\$62,650
Net Operating Position	\$22,121

- Interest savings on current debt have been assumed from a net purchase price of \$755,000 that is expected to be achieved through direct negotiation with Peter Page Holden.
- Rate revenue is based on an estimated capital value of \$760,000 being provided by the Valuer General. Should capital improvements be developed over the site, it is anticipated the value and rates will increase accordingly.
- Insurance, maintenance and depreciation savings have been estimated from current costs attributed to the property.

- An annual lease income of \$48,691 will no longer be received however the overall long term net benefit is positive due to the savings achieved from avoiding maintenance, insurance, depreciation and interest costs.

The net operational impact of positive \$22,121 per annum will need to be reviewed (once off) as part of the of next year's budget process upon completion of settlement. The WDV (written down value, being land value plus depreciated value of assets) and financial impact of potential impairment upon disposal will also need to be considered. The current WDV is \$1,196,414 meaning the financial impact of potential impairment of the asset upon disposal is estimated at \$436,414. This being said, evidence suggests that it would be reasonable to assume that any financial impact is likely to increase the longer the asset is held by Council.

6.2 Option 2 Analysis

6.2.1 Analysis & Implications of Option 2

Analysis & Implications of Option 2 will be considered and presented to Council at a later date upon consideration of staff direction.

6.2.2 Financial Implications

Staff will consider financial implications and present to Council at a later date upon receiving further direction how to proceed if Option 2 is endorsed.

C. COUNCIL/COMMITTEE TO DECIDE HOW LONG ITEM 8.1 IS TO BE KEPT IN CONFIDENCE

Purpose

To resolve how long agenda item 8.1 is to be kept confidential.

STAFF RECOMMENDATION

Pursuant to Section 91(7) of the Local Government Act 1999, the Committee orders that the following aspects of Item 8.1 be kept confidential in accordance with Committee's reasons to deal with this item in confidence pursuant to Section 90 (3) (d) of the Local Government Act 1999:

- Report for Item 8.1
- Minutes for Item 8.1

This order shall operate until the next scheduled annual review of confidential items by Council at which time this order will be reviewed and determined in accordance with Section 91(9)(a) of the Local Government Act 1999.

Pursuant to Section 91(9)(c) of the Local Government Act 1999, the Council delegates to the Chief Executive Officer the power to revoke this order at any time and the Chief Executive Officer must advise the Committee of the revocation of this order as soon as possible after such revocation has occurred.