

SUPPLEMENTARY AGENDA



Meeting of Council

To be held at the

Civic Centre

511 Burwood Highway

Wantirna South

On

Monday 27 October 2025 at 7:00 PM

This meeting will be conducted as a hybrid
meeting

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Bruce Dobson
Chief Executive Officer

9 Supplementary Items

9.1 Kingston Links / Bankside Land Sale and Section 173 Agreement

Final Report Destination:	Council
Paper Type:	For Decision
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Executive:	Acting Director City Liveability, Jonathan McNally; Chief Financial Officer, Navec Lorkin

SUMMARY

Prior to development commencing for the Kingston Links development in Rowville (now known as Bankside Estate) Council entered into a Section 173 Agreement (under the *Planning and Environment Act 1987*), establishing a number of obligations to be fulfilled by the landowner. Included within the S173 Agreement was confirmation of Council's decision to sell a parcel of its land to the developer, Pask Group, resolved on 29 January 2019.

While Council had resolved to proceed with the land sale, the transaction has not yet been completed due to a number of reasons. Due to the passage of time and the introduction of the new *Local Government Act 2020*, it is appropriate that Council update the valuation for the land, which has been undertaken in parallel with an updated proposal received from Pask Group. Council must also undertake a further consultation process under the new Act, prior to accepting the new offer from Pask Group based on the recent valuation.

A review of the Section 173 agreement relating to the Kingston Links development is also required to update or remove obsolete clauses, along with updating the land sale terms, to ensure the agreement remains current and enforceable before lodgment on title.

RECOMMENDATION

That Council resolve to:

1. Note its decision of 12 November 2018 confirming the subject land being surplus to Council requirements.
2. Commence the statutory processes required under Section 114 of the Local Government Act 2020 for the sale of the subject land of 2.495 hectares known as 14A Corporate Avenue, Rowville, being Lot A on Plan of Subdivision 830610S and contained in Certificate of Title Volume 12546 Folio 383, via private treaty to Pask Group at no less than market value including:
 - a. giving public notice of the proposed sale and
 - b. undertaking community engagement
3. Note that prior to finalising the contract of sale for 14A Corporate Avenue, Rowville as outlined in this report, a further report will be presented at a future Council meeting to enable consideration of community feedback before making a final determination on the matter.

4. Note the current status of the Section 173 Agreement for the Kingston Links/Bankside development and the need for its review, with an updated Section 173 Agreement to be presented at a future Council meeting for endorsement.
5. Authorise officers to negotiate the redirection of funds identified for a future footbridge in the Section 173 Agreement towards the delivery of active open space works.

1. DISCUSSION

Background

Amendment C142 (Kingston Links Golf Course rezoning and redevelopment) was adopted by Council on 12 June 2018 and approved and gazetted by the Minister for Planning on 11 October 2018. The amendment package included a Development Contributions Agreement with Pask Group (the developer) in the form of a Section 173 agreement that has been signed by both parties as a legal contract, but has not been registered on title.

The Agreement contains a number of payments and in kind development contributions scheduled to be received by Council over the life of the development. The Section 173 agreement included a number of other arrangements including the requirement for licenses to undertake works on Council land, timeframes for the approval of the amendment, and timeframes for the settlement of Council land with purchaser Pask Group (or nominated entity).

Land Sale

The subject land owned by Council is known as 14A Corporate Avenue, Rowville [Lot A PS830610S] (Previously 899R Wellington Road, Rowville) is 2.495 hectares in area and was previously a drainage reserve. The land was rezoned for residential development as part of Amendment C142 and following the issuing of Planning Permit P/2019/6044 for the subdivision of the overall Bankside development, the allotment was established and the reserve status was removed from the land.

Figure 1: Subject property shown in red – 14A Corporate Drive, Rowville

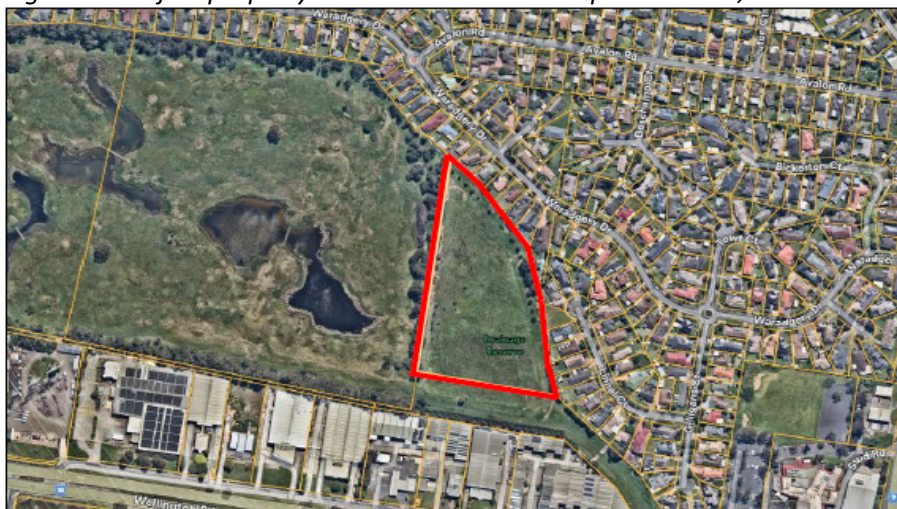
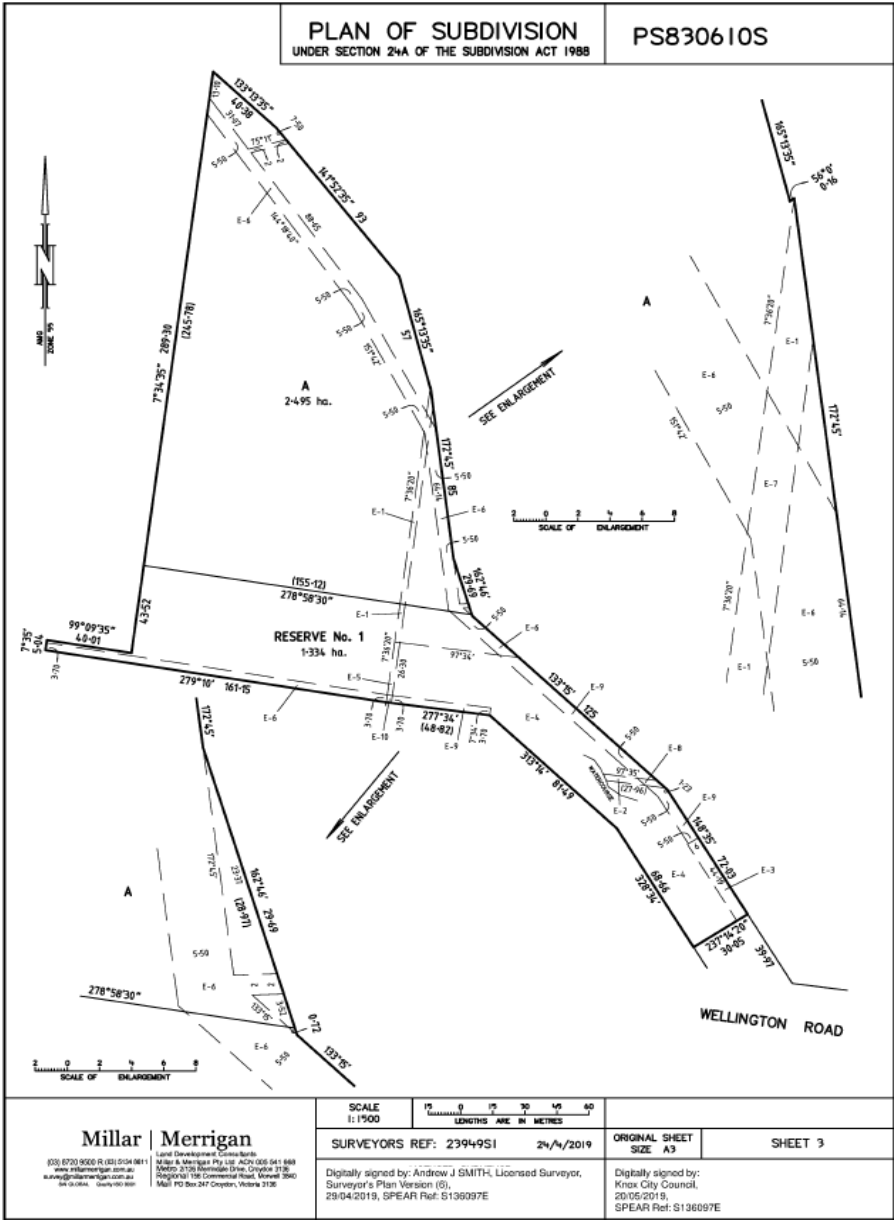


Figure 2: Plan of Subdivision for subject property, Lot A PS830610S



Council resolved to sell the land on 29 January 2019 to Pask Group (or one or more of its nominated entities) for \$7.6 million (plus GST) payable by 10% deposit and the balance at settlement. This followed a previous resolution of 12 November 2018, with consultation having been undertaken as part of each of those decision processes, with the second decision addressing a minor discrepancy in the land references that occurred the first time.

Settlement of the Council land was to be 60 days after the creation of a separate saleable lot title. This process was delayed and the title was created on 16 May 2019 with settlement set for after 15 July 2018. Settlement was not possible at that time due to delays in finalising the Contract of Sale and the passing of the Managing Director of Pask Group. The transaction and the overall development were then impacted by the COVID pandemic and project delays. The land has therefore remained in Council ownership.

During the intervening period, a new *Local Government Act 2020* was introduced by the Victorian Government, replacing the 1989 Act under which the original land sale had been established. As a result of this and the passage of time, Council’s lawyer has advised that even though Council has

made a decision to sell the land to Pask Group, a new statutory land disposal process is required to be undertaken. As part of this process, a new valuation of the land has been obtained to ensure Council is selling the land for current market value. A further consultation process is also necessary to ensure that the statutory process is followed.

As the proceeds of the land sale are required to partly fund delivery of Council's capital program for 2025/26, it is necessary for Council to reinitiate the statutory process to dispose of the land at the current time.

Proposal

Council officers have engaged with the purchaser, Pask Group, to outline the process that has needed to be followed to finalise the sale of the land and they have confirmed their ongoing interest in the land. Pask Group were approached last financial year to discuss the land value, which was considered to have increased since the original agreement. At that time, Pask Group confirmed their intention to proceed with the agreed purchase price of \$7.6 million, with settlement scheduled for June 2024. However, following further discussions and consideration of legislative changes, a revised valuation is required. Pask Group is open to a revised amount for the land, subject to a staged settlement arrangement, with half of the payment upfront, followed by the balance at an instalment and at settlement, potentially in 2027/28, when the land is required. This would help them manage costs, while assisting Council to meet its capital program objectives. As part of that process, Pask Group have had the opportunity to source their own valuation of the land. A valuer's conference has been held, providing the opportunity to test the valuation.

As part of that process, an updated valuation of the land has been obtained to ensure that Council is selling the land for an appropriate market value. A copy of the new valuation, including the updated land value, is provided at Confidential Attachment 1.

Subsequently, Pask Group has lodged an updated proposal with Council to purchase the land via a direct treaty arrangement, subject to the statutory process being completed. A copy of the proposal is provided at Confidential Attachment 2.

Sale of Land and Buildings Policy

This policy applies to any land owned and identified as surplus by Council that is being considered for sale or transfer.

While the policy usually requires an assessment to confirm land as being surplus prior to sale (Clause 8.1), Council has already made the determination that this land is surplus to Council requirements at its meeting of 12 November 2018 as part of initiating the statutory process. This requirement has therefore already been satisfied.

Clause 10.1 of the policy outlines the process for the sale of the land. Council has already previously resolved to sell the land via a direct treaty arrangement with Pask Group (or one of its nominated entities). No change is proposed to this method of sale, and it continues to be recommended for the following reasons:

- The land is currently landlocked with no direct legal or road access provided.
- The only potential current form of access is via an existing reserve at Linnel Court to the north-east, which is a cul-de-sac accessed via another cul-de-sac. Council would need to invest in removing the reserve status of the land creating delays and displace this piece of

open space. Further, it would likely create increased traffic movement implications which have not been considered or addressed.

- Pask Group entities own land to the west that is progressively being developed as part of the Bankside development, consistent with the current residential zoning of this land and the relevant Planning Permit, providing the necessary vehicular access and services needed to further develop this land.
- Holding the land for a long period of time until access and services arrive is not considered feasible as this won't occur for a number of years. The sale of the land has already experienced delays and the proceeds will need to support capital delivery.
- An expectation that the land would be sold via a direct treaty arrangement has already been established via previous consultation.

A direct treaty sale continues to be recommended due to the timing of the proceeds required by Council and the unique circumstances and position of the land. This is consistent with the *Local Government Best Practice Guidelines for the Sale, Exchange and Transfer of Land*, which provides for sale via private treaty where the nature of the land makes this appropriate so long as market value is obtained.

In response to other policy considerations:

- The land has already been subdivided and the reserve restriction removed from title
- Public consultation will occur once Council resolves to commence the statutory process
- The proposal Council has received to purchase the land is not less than the current market value as assessed by an independent valuer
- The proceeds of the sale will be directed to Council's capital program.

The proposed approach to consultation is provided at the Engagement section of this report.

Section 173 Agreement

A review of the Section 173 agreement relating to the Kingston Links/Bankside development is required to update or remove obsolete clauses and dates, along with updating the land sale terms, to ensure the agreement remains current and enforceable before lodgment on title. While not yet lodged on title, the Section 173 Agreement remains legally enforceable and has been progressively implemented by Council and Pask Group.

The current status of the key parts of the Section 173 Agreement and their implementation is provided at Confidential Attachment 3.

Minor and Inconsequential changes

There are a number of updates and administrative changes required to the agreement before it can be registered on the title. These include the new Pask Group Managing Director as a party and guarantor; references to land parcels and the ability to amend the agreement in writing if needed. Park Group will also provide an updated staging plan as part of the agreement, referring to the Mixed Use areas as their own stages.

Active Open Space and Footbridge

Pask Group is required to construct the Active Open Space works with the original concept envisaging two soccer pitches and related facilities including a pavilion, car parking, services, vehicle access, landscaping, lighting, etc. Earthworks, drainage, pitch forming, and the like are also required.

Due to the passage of time and inflation in the previous few years, it is unlikely that a second pitch and the full complement of associated facilities could be accommodated within the allocated amount in the agreement, without Council contributing additional funds, which are not allocated. A staged development of pitches therefore needs to be planned so that a fully operating Active Open Space asset can be delivered. Council can then build on the asset over time, as funding becomes available.

To support the development of the active open space, it is recommended that the funds that were to be contributed towards a future footbridge linking with Caribbean Park should be redirected to the active open space works.

Delivery of the footbridge was originally part of the agreement, but relies on consent to be built and connected with adjoining land, which has not been provided. Further, there is no legal obligation for such consent to be provided. The footbridge therefore lacks viability, and the contribution should be redirected where needed. Development approval includes a broad path network that connects to the Eastlink trail, where an alternate bridge is provided over Corhanwarrabul Creek. PASK group has given in principal support to transfer the funds towards the Active Open Space contribution.

Council's support is therefore being sought to proceed with negotiations on this basis.

Removal of due dates for development contributions

Council's Lawyers have given advice over the course of time that it would be a risk to Council to remove the additional date triggers from the agreement. Pask Group have been advised that there is limited appetite for removing the dates and has ceased pushing for such outcome. The removal of dates associated with the provision of contributions presents some risk and may impact Council's ability to enforce the agreement should this be required at a future date.

In light of the passage of time however, it is recommended that the agreement is updated with contemporary and realistic dates to better reflect the progress of the development.

2. ENGAGEMENT

Under Section 114 of the *Local Government Act 2020*, before selling or exchanging land, Council is required to undertake a community engagement process in accordance with the community engagement policy.

This report requests approval to commence this process on the basis that the consultation will be at the consult level and seeking feedback from the community if there is anything Council should be aware of in considering the continuation of the sale of this land.

The information provided to the community for the consultation on the sale is as follows:

- The sale of the Council land via private treaty to Pask Group (or one of its nominated entities) for no less than market value.
- The proceeds from the sale have already been included in the 2025/26 capital budget as anticipated income and form an essential funding component of the overall budget.
- A previous Council resolution in 2019 approved the sale of the property to PASK. However, as the process has taken longer than anticipated a new market valuation has been required.
- The previously Section 173 agreement has included a number of developer contributions, several of which have already been paid.

Consultation will be carried out through Council's Have Your Say web portal for the main method for receiving feedback.

Following consultation, the final proposed conditions for the sale will be presented to Council for consideration.

3. SOCIAL IMPLICATIONS

Not applicable.

4. CLIMATE CHANGE CONSIDERATIONS

Implementation of the recommendation is considered to have no direct implications or has no direct impacts upon Council's Net Zero 2030 target, the Community Net Zero 2040, exposure to climate risks or climate change adaptation.

5. ENVIRONMENTAL IMPLICATIONS

Not applicable.

6. FINANCIAL AND RESOURCE IMPLICATIONS

Financial and resource implications have been considered and are addressed as part of Confidential Attachment 4.

The proceeds of the land sale are budgeted in the current financial year to enable delivery of the capital program.

7. RISKS

There is a risk to Council in not being to fund its planned capital program for the current financial year if the sale does not proceed within the planned timeframe.

8. COUNCIL AND HEALTH AND WELLBEING PLAN 2025-2029

Leading, listening and governing responsibly

Strategy 4.5 - Council is financially sustainable through long-term strategic, financial and asset planning, and the responsible prioritisation, allocation and use of resources.

Planning our future city

Strategy 6.3 - Our evolving neighbourhoods are liveable and sustainable through planning and design that responds to population growth and our community's changing needs.

9. CONFLICT OF INTEREST

The officers contributing to and responsible for this report have no conflicts of interest requiring disclosure under Chapter 5 of the Governance Rules of Knox City Council.

10. STATEMENT OF COMPATIBILITY

There are no legislative obligations under the Human Rights Charter, Child Safe Standards or the Gender Equity Act that are incompatible with the recommendation in this report.

11. CONFIDENTIALITY

Attachments 1-4 are included in the confidential agenda, as they contain confidential information pursuant to Council's Governance Rules and Section 66 of the Local Government Act 2020, as it relates to:

- Council business information, that will prejudice Council's position in disclosing the sale price and conditions prior to a Council decision being made.
- Personal information, including names and addresses that reveals a person's identity that would be unreasonable to disclose in a public report.

ATTACHMENTS

Nil