

13.2 INTENTION TO LEASE: JACKSON STREET CARPARK, 30-34 JACKSON STREET, ST KILDA

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1. PURPOSE

- 1.1 To propose that 30-34 Jackson St, St Kilda, be offered for ground lease, and to seek approval to carry out statutory consultation to seek and consider public feedback on that proposal.



2. EXECUTIVE SUMMARY

- 2.1 At 30-34 Jackson Street is an at grade Council carpark of 39 spaces.
- 2.2 The carpark is generally well utilised, but the site has capacity to be further developed.
- 2.3 Development of the site has potential to support the revitalisation of the Fitzroy Street shopping strip, which is in cyclical decline.
- 2.4 Council could enable such development, by offering the site to the market as a ground lease opportunity, but with an obligation that the development include replacement parking available to the public.
- 2.5 This would build upon and boost the existing efforts of Council to revitalise the strip.
- 2.6 Before entering into a ground lease, Council is required by statute to consult the public on its intention to do so.
- 2.7 Should Council ultimately determine to ground lease the property, Officers would do this through an open market process.
- 2.8 Should the property ultimately be ground leased, the periodic rental will be allocated to the Strategic Property Fund, for reinvestment in improving Council's property portfolio.



- 2.9 The Port Phillip Planning Scheme regulates the use and development of the site. Development will require a permit under the *Planning and Environment Act 1987*. That application process – subsequent and separate to a ground lease transaction – would include public notification and an opportunity for any person to lodge submissions/objections, which must be considered before a decision is made whether to grant a permit.

3. RECOMMENDATION

That Council:

- 3.1 Resolves to commence the processes required by section 115 of the *Local Government Act 2020* (“Act”) to consider ground leasing 30-34 Jackson Street, St Kilda, by auction or expression of interest, for a periodic rent no less than market rent, and with an obligation to provide no less than 39 car parking bays for use by the public.
- 3.2 Authorises officers to carry out the community engagement processes arising from section 115 of the Act.
- 3.3 Resolves to hear and consider any submissions received in response to a public notice published as part of that community engagement.

4. KEY POINTS/ISSUES

The site

- 4.1 Council owns land at 30-34 Jackson Street, St Kilda.
- 4.2 It is shown bordered by an unbroken blue line in **Attachment 1**.
- 4.3 The property is used as a public carpark, and is not earmarked by Council for any other/additional purpose.
- 4.4 It has 39 car spaces, and these are generally in high demand.
- 4.5 It is located behind the Fitzroy Street shopping strip, and opposite the Victorian Pride Centre.
- 4.6 The constituent land parcels were purchased in 1976, 1978 and 1999, for off street carparking.
- 4.7 The parcels have a combined land area of approximately 1,040m².
- 4.8 Two, possibly three of the purchases, and the initial carpark construction, were funded by Special Rates Levy.
- 4.9 As noted in the attached arboricultural assessment report (**Attachment 2**) the site has been improved with tree planting, which fringes part of the site.
- 4.10 Test boreholes from a geotechnical and preliminary environmental assessment (**Attachment 3**) suggest a soil profile generally consistent with that expected from published geology and the nearby boreholes, and that groundwater is likely to be encountered at depth of approximately 3 metres below surface.

Current challenges

- 4.11 The Fitzroy Street shopping strip is in cyclical decline.
- 4.12 This is evident in persistently high levels of retail vacancy, subdued levels of foot traffic, and low investment in renewal and development.



- 4.13 This decline is exacerbated by the COVID-19 pandemic.
- 4.14 This negatively impacts the atmosphere, character, and image of the location, further subduing leasing/visit/investment activity.
- 4.15 This vicious cycle will be broken once the market clears.
- 4.16 In the meantime, the identity of the strip as trendy and niche is diminished, and so too is local amenity.

Intervention opportunity

- 4.17 Officers propose that the subject site be used to help stimulate renewal of Fitzroy Street.
- 4.18 Specifically, it is proposed that Council offer it for development by others under a ground lease, but with an obligation that development is to include replacement public carparking.
- 4.19 Ground leasing the property would enable it to be productively developed.
- 4.20 Development of the site could make a modest, but significant contribution to renewing the area, through physical change and boosting the patronage of local businesses.
- 4.21 Council's intervention would also send a confidence boosting signal to the market that change is encouraged, and therefore has potential to be a catalyst to further investment in the area.
- 4.22 The initiative would augment other actions of Council to address the current challenges of Fitzroy Street, such as its work with partners on the Renew Fitzroy program.

Ground lease

- 4.23 Under a ground lease Council retains ownership of the property, and possession of it returns to Council at the end of the lease.
- 4.24 This would preserve long-term optionality for the City, and the potential for long-term capital gain.
- 4.25 Council would receive periodic income from the property in the form of rent, and the lessee would have a right to develop the property and enjoy the income from that development.
- 4.26 Due to the existing demand for public carparking, an obligation to include replacement parking available to the public is considered necessary. However, it is acknowledged as a significant financial burden to potential development of the site.
- 4.27 A ground lease moderates the up front burden by requiring a periodic rental rather than up front purchase cost.
- 4.28 Section 115(1) of the *Local Government Act 2020* allows Council to lease its land for a maximum term of 50 years.

Proposed terms

- 4.29 The following key terms are proposed for a potential ground lease:-



Term	No greater than 50 years
Ground rent	No less than market rent
Car spaces	To provide no less than 39 car parking bays for use by the public

Statutory consultation

- 4.30 Prior to entering into such a lease, Council must comply with the statutory provisions of section 115 that Act, which require it to include the proposal to lease the land in its annual budget, or where it is not included in the budget, undertake community engagement on the proposal in accordance with Council's community engagement policy in respect of the proposal.
- 4.31 Officers therefore propose to initiate and undertake this process, as outlined in Section 5 below.
- 4.32 The statutory consultation is on Council's intention to ground lease the site. It is separate to a market transaction process, and to a development permit application process that can be expected to arise should the property be ground leased.

Alternative uses

- 4.33 Though a ground lease would preserve Council's long term options for the site, it would remove short and medium term opportunities.
- 4.34 Other options for the site have been considered, including: no change; development for Council service delivery; selling with a requirement to include carparking; and development as community housing.
- 4.35 The site is not currently required for Council's service delivery needs.
- 4.36 The upfront burden to provide replacement public carparking is particularly challenging to the feasibility of a hypothetical community housing development. Such housing by nature yields lower rental income, weakening the capacity to recover the additional upfront capital cost. It also typically relies on external subsidy, which tends to make it slower to realise. This will likely undermining its potential to make prompt impact to the revitalisation of the area.
- 4.37 Relative to alternatives, a ground lease is on balance considered to be the highest value opportunity for the site.

5. CONSULTATION AND STAKEHOLDERS

Consultation on an intention to lease

- 5.1 In accordance with *Council's Community Engagement Policy 2021* Officers propose to undertake consultative engagement, to seek community feedback on Council's intention to ground lease the subject site.
- 5.2 Officers intend to publish a notice advising of Council's intention to ground lease the subject property, inviting feedback on that intention, and advising that Council will consider all submissions before deciding whether to enter into a ground lease.
- 5.3 To help ensure the notice has broad reach, Officer intend to publish it both on Council's website and in *The Age* newspaper.



- 5.4 Additionally, to target those potentially most affected by a decision to lease or not lease the property, Officers intend to mail drop neighbouring properties, and write to the local traders' association.
- 5.5 Officers intend to offer submitters the opportunity to speak to their submission at a Council meeting.
- 5.6 Officers intend to report the submissions to an Ordinary Meeting of Council.
- 5.7 Officers intend to subsequently advise submitters of Council's decision and the reason(s) for that submission.

Potential subsequent consultation

- 5.8 Should Council subsequently determine to ground lease the property, and a transaction takes place, development of the site will require a planning permit. Under the *Planning and Environment Act 1987* establishes the process for the application. It includes public notification and the opportunity for community feedback to be provided and considered.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 The recommendation directly supports Council in meeting its obligation under the *Local Government Act 2020* to consult ratepayers and residents on proposals to lease Council land where the intended lease meets the prescribed requirements, being leases of ten years or more, and leases where the rent or market rent is \$100,000 or more a year in any period.

7. FINANCIAL IMPACT

- 7.1 The rent proposed is market rent (or greater).
- 7.2 Should the property be ground leased, the periodic rental will be allocated to the Strategic Property Fund, for reinvestment in improving Council's property portfolio.

8. ENVIRONMENTAL IMPACT

- 8.1 The recommendations of this report are not considered to have any significant environmental implications.

9. COMMUNITY IMPACT

- 9.1 This proposed consultation initiative promotes transparent governance and an actively engaged community.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 This report directly supports Council Plan Strategic Direction *Well Governed Port Phillip*.

11. IMPLEMENTATION STRATEGY

11.1 TIMELINE

- 11.1.1 A Notice of Intention to Lease is scheduled to be published in July 2021, subject to Council's adoption of the recommendation.
- 11.1.2 Any submission received will be reported to a future meeting of Council.

11.2 COMMUNICATION

- 11.2.1 Council actively manages its property portfolio, including leasing out property assets to support its strategy.



11.2.2 When doing it so it observes the relevant statutory obligations.

12. OFFICER DIRECT OR INDIRECT INTEREST

12.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.

ATTACHMENTS

1. 30-34 Jackson Street, St Kilda - site plan
2. 30-34 Jackson Street, St Kilda - arboricultural assessment
3. 30-34 Jackson Street, St Kilda - geotechnical & preliminary environmental investigation