
8 GOVERNANCE AND CORPORATE PERFORMANCE

8.1 CONSIDERATION OF SALE OF LAND AT 5 O'SULLIVAN ROAD SEYMOUR

Author: *Teresa Hendy - Property Officer*

File No: *100959*

Attachments:

- 1. Title Information*
- 2. Title Plan*
- 3. Locality Plan*
- 4. Unauthorised Access*

SUMMARY

This report seeks Council's consideration to sell a small parcel of vacant land at 5 O'Sullivan Road, Seymour by private treaty through an appointed agent. The land is titled as a reserve; however, it has never been developed or used by Council for public open space and is too small to meet public open space requirements.

At the Ordinary Council meeting on 20 July 2015, support was given to the sale of this reserve in O'Sullivan Road. At that time, a neighbouring property owner had expressed their interest in purchasing the land, however they subsequently changed their mind and the sale did not proceed.

At the Ordinary Council meeting on 20 March 2017, a report recommended the sale of the land by private treaty on the open market, however the meeting resolution did not support the sale at that time.

It is recommended that the property again be considered for sale as there is no requirement for current or future use by Council. The sale would reduce Council's associated risks. Proceeds of the sale could be utilised to purchase public open space land or other public open space projects within Seymour.

CONSIDERATION OF SALE OF LAND AT 5 O'SULLIVAN ROAD SEYMOUR (CONT.)

RECOMMENDATION

THAT Council:

1. Consider the sale of the land at 5 O'Sullivan Road Seymour, currently held in Reserve 1 on Plan of Subdivision 208186Q and contained in Volume 09775 Folio 389 (as per the Title in Attachment 1).
2. Authorise the giving of Public Notice under sections 189 and 223 of the *Local Government Act 1989* for the consideration of sale of the land currently held in Reserve 1 on Plan of Subdivision 208186Q and contained in Volume 09775 Folio 389 (as per the Title in Attachment 1). The Public Notice would be published in a local newspaper, state that the land would not be sold for less than an independent valuation and include the requirement for the removal of the reserve status of the land prior to sale.
3. In accordance with section 223 of the *Local Government Act 1989*, receive written submissions in response to the Public Notice for the consideration of sale of the land currently held in Reserve 1 on Plan of Subdivision 208186Q and contained in Volume 09775 Folio 389 (as per the Title in Attachment 1).
4. If needed, hear submissions at a Community Questions and Hearings Committee meeting regarding the consideration of the sale of the land currently held in Reserve 1 on Plan of Subdivision 208186Q and contained in Volume 09775 Folio 389 (as per the Title in Attachment 1).
5. At a later date, consider a Council report containing recommendations pertaining to the consideration of sale of the land currently held in Reserve 1 on Plan of Subdivision 208186Q and contained in Volume 09775 Folio 389 (as per the Title in Attachment 1).

BACKGROUND

The title for the O'Sullivan Road reserve was issued in 1987 and vested in Council in 1989 (Attachment 1). The subdivision which created the reserve also created 24 lots for residential use. The reserve is a triangular shaped parcel of land which is 634m² in size as shown on the title plan in Attachment 2.

The reserve is located on the corner of O'Sullivan Road and Delatite Road, with the southern boundary abutting the site of the now demolished Seymour Primary School. The western boundary of the reserve abuts private land. A locality map is provided (Attachment 3) which shows the reserve and surrounding neighbourhood. There is a pedestrian link which provides access for O'Sullivan Road residents and other residents in the locality to the recreation and open space facilities at Chittick Park to the west.

The land at 5 O'Sullivan Road has residential zoning, General Residential Zone 1, and there are no overlays on the land. A planning permit would not normally be required to construct one dwelling on land of this size.

The reserve is unimproved vacant land which was often used as a drop off and pick up point for children while the primary school was operating.

CONSIDERATION OF SALE OF LAND AT 5 O'SULLIVAN ROAD SEYMOUR (CONT.)

ISSUES AND DISCUSSION

Internal referrals have been made to numerous Council departments, with no issues or objections being raised regarding the disposal of the land. The reserve at 5 O'Sullivan Road has been identified as surplus to Council requirements, both for council purposes and community use.

The reserve has never been used for open space, drainage, conservation, operational or other purpose however Council must maintain the reserve and is liable for any public liability claim which may occur as a result of an incident on the reserve. Council must also clean up any waste dumped on site.

There are utilities servicing the surrounding residential area which can be connected to the land.

As shown on Attachment 4, there is evidence of unauthorised access of the land by vehicles to enter the school site and for rear access to residential land. The accessing of the land in this manner raises Council's risk profile.

CONSULTATION

In accordance with section 189 of the *Local Government Act 1989* (the Act), Council is required to give public notice in a local newspaper of any sale and/or exchange of property and receive submissions under section 223 of this Act. The notice must also be placed on Council's website. Should there be support to give Public Notice, as a courtesy, letters of advice would be sent to surrounding landowners.

A recommendation of this report is to give Public Notice as required under sections 189 and 223 of the Act, for consideration of the sale of the land held in the reserve at 5 O'Sullivan Road.

In April 2015, a Public Notice was published for the consideration of the sale of 5 O'Sullivan Road. No submissions were received in response to that public notice.

Internal consultation has taken place with no objection raised to the sale of the land. There was comment regarding the future of the land in conjunction with the neighbouring old school site, however it may be some time before the former school land is sold and/or developed and there is no guarantee that future owners would be interested in the land at 5 O'Sullivan Road.

FINANCIAL, RESOURCE AND ASSET MANAGEMENT IMPLICATIONS

A surveyor would need to be engaged to create a new title plan and a planning permit application would be needed for the removal of the reserve status. A survey of the land is unlikely to be required as the existing plan is from survey at subdivision.

The 2016 general Mitchell Shire return valuation for the reserve was \$7,000 and the 2018 return value was \$10,000. A preliminary estimate from an agent in 2017 for sale value on the open market was in the vicinity of \$65,000 to \$75,000. It was the agent's view at that time that a dwelling could be constructed on the site. Given the 2016 and

CONSIDERATION OF SALE OF LAND AT 5 O'SULLIVAN ROAD SEYMOUR (CONT.)

2018 valuations, the absence of any current or planned future use of the land by Council, and the ongoing risk associated with the vacant land, the disposal of the land is an option for Council and the Community.

Under the Act, a land valuation must be obtained by a qualified and independent valuer and the valuation must be no older than six months at the time of sale. The Act does not require a valuation figure to be placed in the Public Notice, which allows the best open market value to be obtained. The Public Notice would state that the land would not be sold for less than the valuation amount.

POLICY AND LEGISLATIVE IMPLICATIONS

Council's Property Holding Acquisition and Disposal Policy contains criteria for the disposal of property and these criteria must be addressed as part of the consideration of the sale of this land. An assessment against the criteria has been made and the sale of the land would be consistent with these criteria which are listed below.

- *The property is not linked to, or foreseeably linked to, or integral to, the implementation of an existing and documented Council strategy.*
- *The property does not support an existing or future Council service.*
- *The property is not leased or licensed to an existing community group or Committee of Management to provide a Council supported community service.*
- *The property cannot adequately meet future service demand without significant additional investment.*
- *There will be no significant social impact on the community from disposal of the property.*
- *The property will attract an acceptable financial return for Council in the current market.*

(To be confirmed, however it is expected that a reasonable return can be expected from a sale of the land).

- *There is no legal or statutory impediment stopping the disposal of the property.*
- *The property owned by Council fits into categories including disused or closed roads, rear laneways or Rights of Way, and allotments in inappropriate subdivisions, where Council has no use or need for the land.*
- *The property to be disposed of is surplus to current and future needs.*

The disposal would be consistent with the Mitchell Open Space Strategy 2013-2023 as the land does not meet the minimum size requirements for a local park. Previous Strategy plans have recommended the improvement of existing spaces in Seymour, not the establishment of new open space areas. Also, the open space and facilities at Chittick Park are a short distance away for surrounding residents.

The funds from the sale of the land would be expended in accordance with the *Subdivision Act 1988*, section 20(2).

CONSIDERATION OF SALE OF LAND AT 5 O'SULLIVAN ROAD SEYMOUR (CONT.)

SUSTAINABILITY IMPLICATIONS (SOCIAL AND ENVIRONMENTAL)

There are no foreseeable sustainability implications as a result of this report.

Vacant land can attract the dumping of waste, which Council subsequently needs to remove and dispose of. There has been a report of a truck parking on the reserve and this could result in land contamination by fuel and/or oil. Should this be the case and the build-up continue over time, Council may need to decontaminate the land prior to selling for residential or other sensitive use.

If sold, Council will no longer need to carry the risk associated with the land or maintain Public Liability insurance cover. Amenity and security/safety benefits may result through the sale of this piece of land.

RISK IMPLICATIONS

Risk Ranking is determined using [ROHS201-G1- Corporate Risk Matrix](#). Risk is identified as Low, Medium, High or Very High.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
The land is not sold - Unauthorised access may result in an accident/ incident on the land for which Council would be liable	Medium	Sell the land.	Will require the engagement of surveyor, sales agent and representation for settlement and transfer.
The land is not sold - Unauthorised access through the land to the previous school site (in the ownership of the Department of Education and Training) is facilitating unlawful access to residential properties fronting Martingale Crescent.	Medium	Sell the land.	Will require the engagement of surveyor, sales agent and representation for settlement and transfer.
The land is not sold - Dumping of waste can occur, with Council then needing to expend resources to clean up and dispose of waste.	Medium	Sell the land.	Will require the engagement of surveyor, sales agent and representation for settlement and transfer.
The land is not sold - The land has been used sporadically for truck	Low	Sell the land.	Will require the engagement of surveyor, sales

CONSIDERATION OF SALE OF LAND AT 5 O'SULLIVAN ROAD SEYMOUR (CONT.)

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
parking which raises risk issues and also possible land contamination by fuel and/or oils.			agent and representation for settlement and transfer.

CHARTER OF HUMAN RIGHTS IMPLICATIONS

The rights protected in the *Charter of Human Rights and Responsibilities Act 2006* were considered in preparing this report and it's determined that the subject matter does not raise any human rights issues.

CHILDREN AND YOUNG PEOPLE IMPLICATIONS

There are no known implications for children or young people.

OFFICER DECLARATION OF CONFLICT OF INTEREST

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

CONCLUSION

The sale of land held in the reserve at 5 O'Sullivan Road, Seymour is recommended for consideration, the disposal will not impact the community or Council. The sale would reduce Council's risk associated with the land and provide some monetary income to contribute towards land purchases or the upgrade of open space facilities in Seymour.

This report recommends that support be given to publish the Public Notice for the consideration of the sale of the land held within the reserve at 5 O'Sullivan Road. The Public Notice will provide the community with an opportunity to make submissions and have input into the decision. Should Public Notice proceed, a report would be prepared for a future Council meeting making recommendations regarding the proposal.

CONSIDERATION OF SALE OF LAND AT 5 O'SULLIVAN ROAD SEYMOUR (CONT.)

MITCHELL SHIRE COUNCIL

Council Meeting Attachment

GOVERNANCE AND CORPORATE PERFORMANCE

20 APRIL 2020

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**CONSIDERATION OF SALE OF LAND AT 5
O'SULLIVAN ROAD SEYMOUR**

Attachment No: 1

Title Information

5 O'Sullivan Road – Register Search Statement

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REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958
VOLUME 09775 FOLIO 389 Security no : 1240819306795
Produced 02/03/2020 02:01 PM

LAND DESCRIPTION

Reserve 1 on Plan of Subdivision 208186Q.
PARENT TITLE Volume 09649 Folio 977
Created by instrument LP208186Q 22/10/1987

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
MITCHELL SHIRE COUNCIL of 113 HIGH STREET BROADFORD VIC 3658
[P060124U](#) 07/03/1989

ENCUMBRANCES, CAVEATS AND NOTICES

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan or imaged folio set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE [LP208186Q](#) FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 5 OSULLIVAN ROAD SEYMOUR VIC 3660

ADMINISTRATIVE NOTICES

NIL

MITCHELL SHIRE COUNCIL

Council Meeting Attachment

GOVERNANCE AND CORPORATE PERFORMANCE

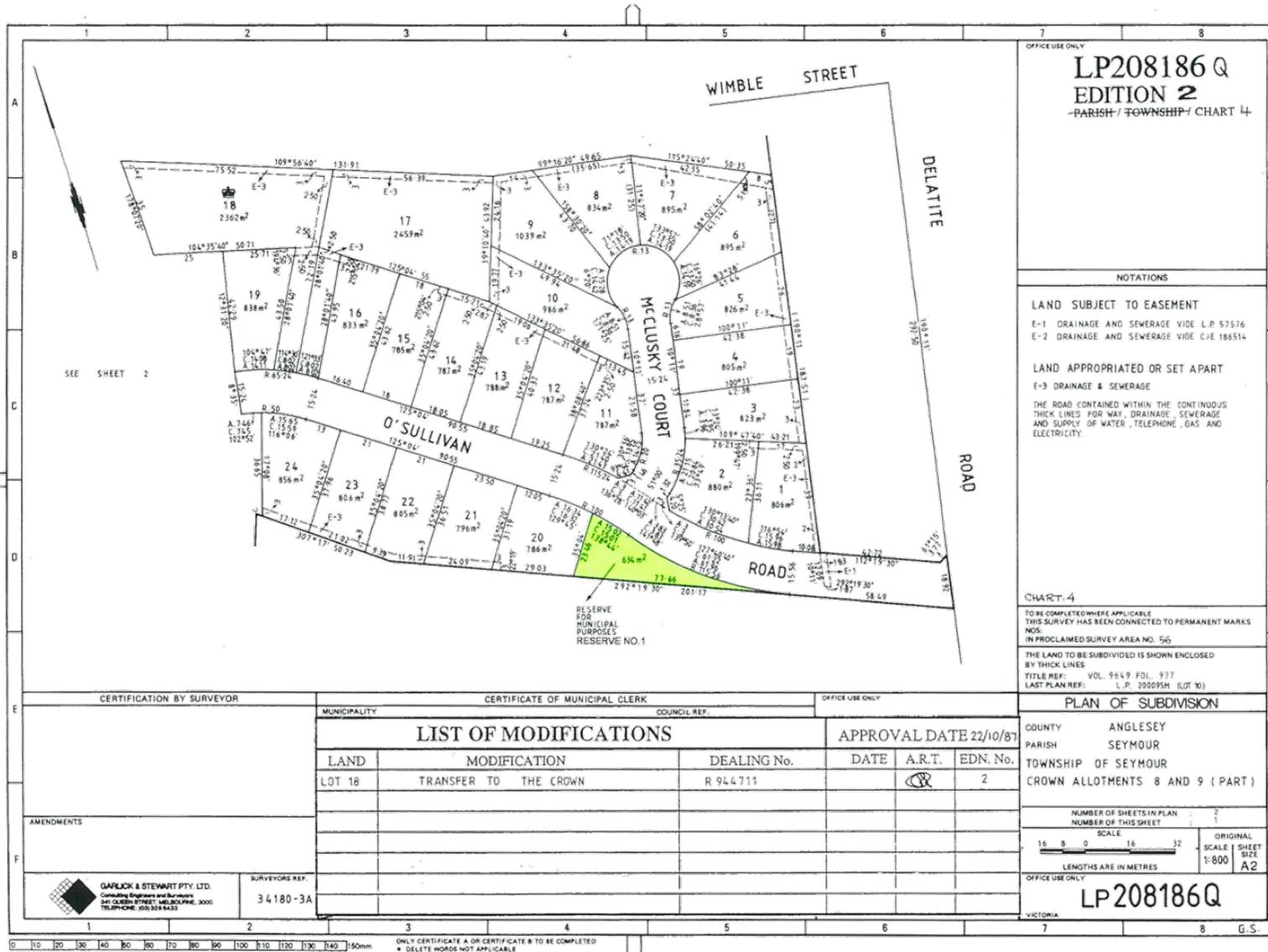
20 APRIL 2020

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**CONSIDERATION OF SALE OF LAND AT 5
O'SULLIVAN ROAD SEYMOUR**

Attachment No: 2

Title Plan



OFFICE USE ONLY
LP208186 Q
EDITION 2
 -PARISH / TOWNSHIP / CHART 4-

NOTATIONS
LAND SUBJECT TO EASEMENT
 E-1 DRAINAGE AND SEWERAGE VIDE L.P. 57576
 E-2 DRAINAGE AND SEWERAGE VIDE C/E 186514

LAND APPROPRIATED OR SET APART
 E-3 DRAINAGE & SEWERAGE
 THE ROAD CONTAINED WITHIN THE CONTINUOUS THICK LINES FOR WAY, DRAINAGE, SEWERAGE AND SUPPLY OF WATER, TELEPHONE, GAS AND ELECTRICITY.

CHART 4
 TO BE COMPLETED WHERE APPLICABLE THIS SURVEY HAS BEEN CONNECTED TO PERMANENT MARKS NOS. IN PROCLAIMED SURVEY AREA NO. 56
 THE LAND TO BE SUBDIVIDED IS SHOWN ENCLOSED BY THICK LINES
 TITLE REF: VOL. 9569 FOL. 977
 LAST PLAN REF: L.P. 200095H (LOT 90)

CERTIFICATION BY SURVEYOR
 AMENDMENTS
 GARLICK & STEWART PTY. LTD.
 Consulting Engineers and Surveyors
 241 QUEEN STREET, MELBOURNE, 3000
 TELEPHONE: (03) 259 8433
 SURVEYORS REF. 34180-3A

CERTIFICATE OF MUNICIPAL CLERK		COUNCIL REF.		OFFICE USE ONLY		
MUNICIPALITY			COUNCIL REF.			
LIST OF MODIFICATIONS			APPROVAL DATE 22/10/87			
LAND	MODIFICATION	DEALING No.	DATE	A.R.T.	EDN. No.	
LOT 18	TRANSFER TO THE CROWN	R 94.4711			2	

PLAN OF SUBDIVISION
 COUNTY ANGLESEY
 PARISH SEYMOUR
 TOWNSHIP OF SEYMOUR
 CROWN ALLOTMENTS 8 AND 9 (PART)

NUMBER OF SHEETS IN PLAN : 2
 NUMBER OF THIS SHEET : 1
 SCALE : 1:800
 ORIGINAL SCALE SHEET SIZE : A2
 LENGTHS ARE IN METRES

OFFICE USE ONLY
LP208186 Q
 VICTORIA

Delivered by LANDATA@ Land Victoria timestamp: 27/11/2014 11:51 Page 1 of 2

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**CONSIDERATION OF SALE OF LAND AT 5
O'SULLIVAN ROAD SEYMOUR**

Attachment No: 3

Locality Plan

Location Plan – 5 O’Sullivan Road shown in red



MITCHELL SHIRE COUNCIL

Council Meeting Attachment

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**CONSIDERATION OF SALE OF LAND AT 5
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**Attachment No: 4
Unauthorised Access**

Reserve outlined in red (approximate boundaries) – car tracks show unauthorised use of the land to access the school site and residential land

