

Confidential Item



Confidential Item

For Council meeting to be held on

Tuesday 6 February 2024 at 7.00 pm

Refer Item 11.12

Confidential Item**11.12 Strategic Land Purchase**

Chief Executive Officer, Paul Di Iulio's Report

Purpose of Report

To consider Strategic Land purchases.

Strategic Plan Link

Focus Area 2.2.2 Improve the quality of public green space (eg, parks, reserves, trees, streetscape and landscaping)

Focus Area 3.3.1 Implement our adopted master plans, management plans and strategies and prioritise through considered resourcing and budgeting

Focus Area 3.4.3 Manage our Community land, streetscapes and open space to enhance liveability

Focus Area 4.3.3 Plan for change in demographics, population needs and climatic conditions

Previous Council/Committee Resolution

Nil.

Background

As previously advised Staff have been discussing with the Alinea Group the potential strategic acquisition of two parcels of land to the east of Council's large land holding on Montacute Road Rostrevor, namely;

- 3 Ralph Court, Rostrevor
- 4 Ralph Court, Rostrevor

Although Council may not necessarily wish to acquire the parcels immediately, it may wish to secure rights to do so for a future point in time, should the project have a degree of market interest and a likelihood of proceeding. To minimise the costs to Council, Staff and Alinea have discussed the potential merits of Council taking an 'option' over the abovementioned land.

As can be seen from the attached plan of the Council owned property at 172 Montacute Road, Council owns the properties in orange, has resolved to purchase the properties in red and now Staff are exploring whether Council would like to place an Option over the properties in blue.

Staff sought advice from Norman Waterhouse Lawyers to provide Council with a high-level summary of the basic principles of an option agreement.

Discussion

At a high-level, an Option Agreement is a contract between a landowner and a potential buyer (in this case, the Council) that gives the buyer the right (or 'option') to purchase the land within pre-agreed conditions and timeframes.

Importantly, an Option Agreement does not commit the Council to the acquisition of the land, rather it is acquiring the exclusive right to purchase the land at its sole discretion within an agreed timeframe and at an agreed price or formula to determine an agreed price.

Whilst the specifics of an Option Agreement are tailored to the specific circumstances, the mechanics remain largely the same. An Option Agreement will typically set out:

- **Land:** details of the specific land in question
- **Option Fee:** typically, the buyer will pay the landowner an option fee as consideration for the landowner agreeing to grant to the buyer the right to acquire the land. Typically, the option fee is non-refundable and depending on the nature of the negotiations between the parties may be a token amount or may be a value amount reflective of the buyer's exclusive rights obtained under the agreement
- **Option Period:** this is the period during which the buyer may exercise their option to purchase the land. This period is negotiable and can range from a few months to a few years
- **Purchase Price:** this is typically a pre-agreed price that the buyer must pay to the landowner if the buyer chooses to exercise the option, however, depending on the circumstances the parties can also agree that the purchase price is linked to a calculation mechanism/formula
- **Terms and Conditions:** amongst other things, these set out the specific terms and conditions that relate to the option and include matters such as:
 - the process for the buyer exercising the option
 - whether the buyer and its agents can access the land in question (to undertake any due diligence investigations)
 - any restrictions or conditions that the buyer wishes to place on the landowner (or vice versa) during the option period (ie that the landowner cannot dispose or encumber the land without the buyer's permission).

Staff support the concept of seeking an option on these two properties as:

- these are unique circumstances in that the properties in question are located directly adjacent to the project site, and that there is strategic value in the Council acquiring rights to the site before the project comes into the public domain
- there is a risk that if the Council does not enter into a binding arrangement with these parties in the short-term, it may forego the opportunity to acquire the sites at a later stage (or if it does, it may have to do so at a premium once the project becomes public)

- the Council is not committing itself to the acquisition of the land parcels, rather by entering into a binding arrangement with these parties, the Council is acquiring the exclusive right to purchase the land within an agreed timeframe and at an agreed price.

It should be noted that should the project proceed and the successful developer believes these properties are important to the success of the overall project, Council could reassign the 'Option' to the developer to purchase the properties rather than Council purchasing these properties. If reassigning the 'Option' supported by Council, then the purchase cost would be borne by the developer not by Council.

These properties are currently not on the market, so Staff have not inspected the dwellings and/or obtained independent valuations for their purchase. Staff have considered the VG's (Valuer General's) Valuation as the minimum price that would be expected by the current land owners. As of 1 July 2023, the VG's valuation for the two properties are detailed in the table below:

Table 1			
Property	Land Size	VG's Valuation	Rate/m ²
3 Ralph Court, Rostrevor	670m ²	\$750,000	\$1,120
4 Ralph Court, Rostrevor	790m ²	\$860,000	\$1,090

As these strategic land purchases are for properties not currently on the market Council may need to pay a premium to encourage the current owners to consider negotiating an 'Option' for Council to purchase these properties.

Although Staff haven't obtained independent valuations for these two properties, it could be expected that their market value would be between 10-20% greater than the VG's Valuation. Members may recall for the properties in Julia Drive, Council set a maximum price of 30% above VG's Valuation, Table 2 provides a range of the likely values for these properties.

Table 2			
Property	VG's Valuation	+ 10%	+ 20%
3 Ralph Court, Rostrevor	\$750,000	\$825,000	\$900,000
4 Ralph Court, Rostrevor	\$860,000	\$986,000	\$1,022,000

Although the price Council may need to commit to pay is above current market value to secure an option on the properties, Staff consider it would be prudent to secure options on these two properties at this time.

Social Implications

There are no social implications in relation to this report.

Environmental / Climate Change Implications

There are no environmental / climate change implications in relation to this report.

Asset Management Implications

There are no asset management implications in relation to this report.

Governance / Risk Management

As this is a strategic purchase there is minimal risk with Council placing an Option to purchase these properties. Furthermore, if Council were to purchase these properties, they should be excluded from the Community Land Register, as that provides Council with the greatest flexibility with any future use.

Community Engagement

Due to the commercial nature of the potential purchase, no Community consultation has been undertaken and there are no plans to consult the Community on this matter.

Regional Implications

There are no regional implications in relation to this report.

Economic Development Implications

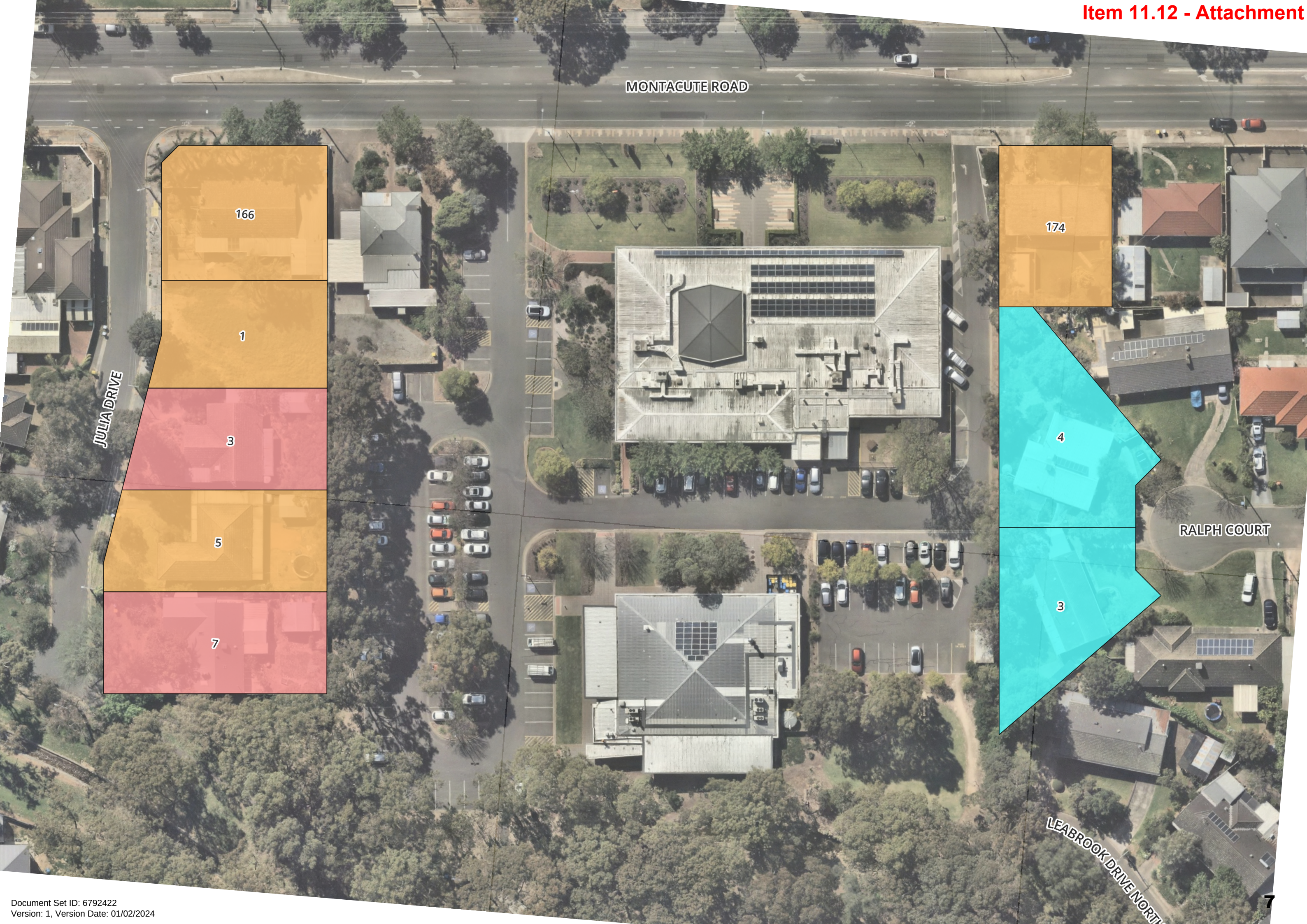
There are no economic development implications in relation to this report.

Financial Implications

Assuming Council agreed to an option to purchase the properties 20% higher than the VG's Valuation the estimated cost to purchase these two properties would be in the order of \$2.0 million. However, at this stage Council would not need to incur these costs simply the cost associated with obtaining the landowners agreement to place an Option on the properties for a potential future purchase.

Recommendation**That Council:**

- 1. agree that the purchase of 3 Ralph Court, Rostrevor and 4 Ralph Court, Rostrevor would be good strategic purchases for Council, especially of the project proceeds**
 - 2. delegate that the Chief Executive Officer be authorised to seek an option to purchase the properties at 3 Ralph Court, Rostrevor and 4 Ralph Court, Rostrevor to a maximum value of 20% greater than the Valuer General Valuation for each property as at 1 July 2023**
 - 3. exclude the properties of 3 Ralph Court, Rostrevor and 4 Ralph Court, Rostrevor from the Community Land Register if purchased**
 - 4. delegate to the Chief Executive Officer the opportunity to negotiate an option fee up to \$10,000 per property should it be required to secure an Option on each property.**
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MONTACUTE ROAD

166

1

3

5

7

174

4

3

RALPH COURT

LEABROOK DRIVE NORTH

