

POTENTIAL DISPOSAL OF ENDOWMENT LAND – 91 EARN STREET, INVERCARGILL

To: Infrastructure Committee

Meeting Date: Tuesday 7 February 2023

From: Heather Guise – Property Portfolio Manager

Approved: Michael Day - Group Manager - Finance and Assurance

Approved Date: Wednesday 1 February 2023

Open Agenda: No

Public Excluded Agenda: Yes

Reason(s) for the Public Excluded

Section of the Act	Subclause and Reason under the Act	“Plain English” Reason	When Report Can Be Released
7 – Other reasons for withholding official information	(2)(i) - Enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)	Council can carry on commercial negotiation without disadvantage to either party	Upon completion of the sale transaction and transfer of land

Purpose and Summary

Council has received an offer from Darren and Vicky Gwynn to purchase the freehold of the residential land leased by them at 91 Earn Street, Invercargill.

Recommendation

That the Infrastructure Committee:

1. Receive the report “Potential Disposal of Endowment Land – 91 Earn Street, Invercargill”.
2. Approve the method of disposal.

Background

Council has received a request from the current Lessee to purchase the freehold of the Council owned land at 91 Earn Street, Invercargill.

An aerial photograph showing the parcel of land in question is annexed as Appendix 1 (A4163825) and outlined in blue.

Status of the Land and Current Use

The land is held in trust as an endowment for the improvement and benefit of the Borough of Invercargill and forms part of Council's Investment Property portfolio as a Residential Lease (Endowment).

Property and lease details for the land are as follows:

Legal Description	Lot 1 DP 470999
Area	692m ² (more or less)
Tenure	Fee Simple
Record of Title	637615
Registered Owners	Invercargill City Council
Lease	9470273.2
Leasehold Record of Title	687876
Lessor	Invercargill City Council
Lessee	Darryn James Gwynn and Vicky Jane Gwynn
Term	21 years with perpetual right of renewal
Commencement Date	1 November 2006
Rent Reviews	7 yearly
Current Rental	\$2,600 per annum.

Issues and Options

Analysis

The land is leased for a 21 year period with a perpetual right of renewal which allows the Lessee surety of "leasehold ownership". While Council is the owner of the land, all improvements including buildings, fences and landscaping are owned by the Lessee. Purchasing the freehold of the land will enable the Lessee to own the land free of any encumbrances.

This land has been identified by Officers as land suitable to freeholding and ultimate disposal as it contributes only a minor rental income to the Investment Property portfolio. The Portfolio also includes two other residential parcels of land with endowment status.

Options

Option	Advantages	Disadvantages
Negotiate the freeholding offer from the Lessee following receipt of market valuations on behalf of both the Lessee and Council. <i>Preferred Option</i>	The Lessee has the ability to optimise the value of the property including development for residential purposes and maintaining Lessee owned improvements. Lower costs of sale.	Annual rental income to Investment Property portfolio will reduce.

Option	Advantages	Disadvantages
Place the land for disposal on the open market through a registered real estate agent, subject to the continued perpetual lease.	Surety of market value.	Restraints regarding perpetuity of lease and ownership of assets by Lessee may be reflected in low interest and offers received below the current offered price. Costs of sale would be higher reflecting marketing and commission costs.
Retain the land and continue with perpetual lease	The current rental return is received by Council	Is in conflict with encouraging appropriate development within the City.

Community Views

As disposal of the land will not materially affect the community and change the use of the land, it is considered that public consultation is not required in this matter.

Implications and Risks

Strategic Consistency

The disposal of this land is in line with Council's strategic outcomes, enabling Invercargill's economy to grow and diversify; and the continued use of this property meets any requirements of the District Plan.

Financial Implications

The financial implications of this transaction will be to reduce the Investment Property net debt by the value of the consideration received. There are no costs associated with this property as the tenant meets all outgoings and maintenance associated with the land including rates. The property is Endowment land and the net proceeds of sale will be returned to the Endowment Net Debt account to be used for the purposes of that fund in terms of the Local Government Act 2022.

Legal Implications

The Local Government Act 2002 (sections 140 and 141) strictly controls the disposal of endowment property and imposes conditions on the sale or exchange of endowment property and application of disposal proceeds. The Minister may approve additional or different purposes for which the property may be used, or for which income derived from the property may be used.

Notification to the Minister for Land Information and the Minister in Charge of Treaty of Waitangi Negotiations, as required by Section 141 of the Local Government Act 2002 is also required.

An opinion from Milton Smith of Land Information Services, annexed hereto as Appendix 2 (A4254862), records the status of the land as being endowment for the improvement and benefit of the Borough of Invercargill and its availability for disposal.

Risk

There are no risks associated with disposal of the land.

Next Steps

Following Council decision regarding the preferred option for disposal of the land either:

1. Seek a market assessment from a registered valuer and negotiate an agreed sale value;
or
2. Place the property on the open market for sale.

Provide an update to the Infrastructure Committee on 4 April 2023 including presentation of any Agreement(s) for consideration and recommendation to Council for disposal.

Attachments

1. Appendix 1 – Aerial photograph of the land (A4163825)
2. Appendix 2 – Opinion on endowment status of land and availability for disposal (A4254862)