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REPORT TO:	COMMUNITY SERVICES	AGENDA ITEM:	12
DATE OF MEETING:	6 <sup>TH</sup> JUNE 2002	CATEGORY:	DELEGATED
REPORT FROM:	CHIEF EXECUTIVE		OPEN
MEMBERS' CONTACT POINT:	Peter Woolrich Ext 5726	DOC:	Peniston.doc
SUBJECT:	SALE OF LAND OFF PENISTON RISE, MELBOURNE	REF:	myfiles/committees/community/penistonrise.doc
WARD(S) AFFECTED:	MELBOURNE	TERMS OF REFERENCE:	CS01

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### 1.0 Recommendations

- 1.1 That an easement is granted to at nil consideration to allow the sewer construction to commence as soon as possible
- 1.2 That negotiations commence to sell the land to the applicant

### 2.0 Purpose of Report

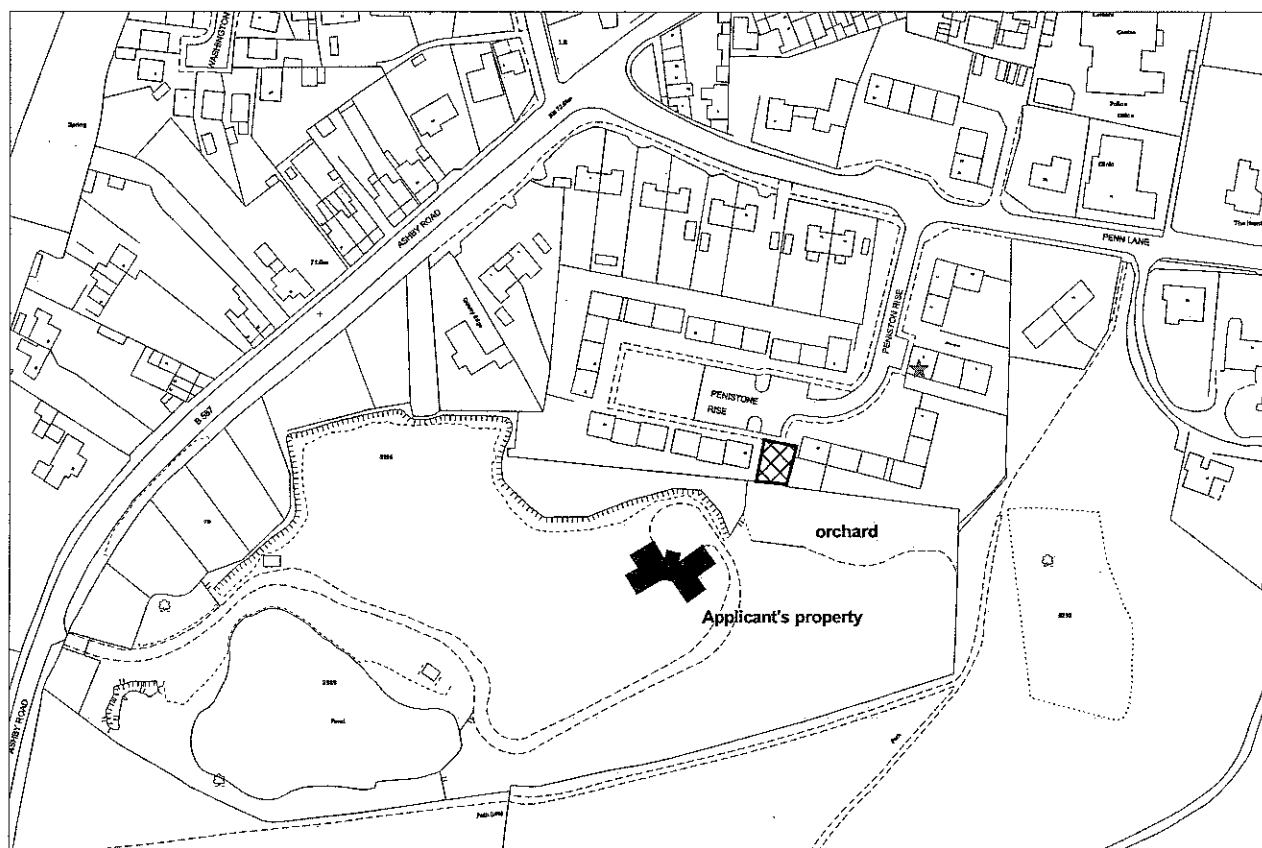
- 2.1 To seek Members approval to granting an easement over its land to allow the sewer construction to be undertaken and for negotiations to commence to sell the land to the applicant.

### 3.0 Content

- 3.1 Due to the continuing public nuisance to Council tenants on Penistone Rise, Melbourne, caused by the drainage system servicing the applicant's property, Environmental Health have requested that the owner disconnects the private sewer serving the property and arrange for its reconnection to the public sewer in Peniston Rise.
- 3.2 In order to do so and to remain responsible for its upkeep, the applicant has requested to purchase from the Council the small area of land between nos 15 and 17 Peniston Rise which is presently an access to the land at the rear of the property (for which the applicant presently has a licence to provide vehicular access to the land) and a garage base as shown below. The applicant would prefer to have ownership of the land in order to have permanent control over access and maintenance liability.
- 3.3 However, it is not necessary for him to be in ownership of the land in order to undertake and remain responsible for these works. The issue of undertaking the work should be kept separate from the applicants wish to purchase the land. The Council

can grant him an easement over its land, and it is proposed that this should be implemented as soon as possible at nil consideration to allow the work to commence.

- 3.4 The land in question is not considered to be amenity land but consists of an access to the land at the rear of the applicant's property and a garage base. It should be noted that the applicant's land served by this access from Peniston Rise is considerably higher than the house and gardens to which it belongs and is presently in use as an orchard to the house. It could possibly therefore form part of a separate future building plot in which case it is considered that the Council's land acts as a potential ransom strip. This needs to be taken into account when considering terms of disposal.



#### 4.0 Financial Implications

- 4.1 Should terms be agreed for a sale of the land, the applicant would be responsible for all this Council's costs and a capital receipt would be generated.

#### 5.0 Corporate Implications

None

#### 6.0 Community implications

None

## 7.0 **Conclusions**

7.1 This situation needs resolving as soon as possible to ameliorate the nuisance being caused to neighbours. The Council can grant the applicant an easement over its land to allow the sewer to be constructed. It can then subsequently negotiate a sale of the land to the applicant, bearing in mind that the land is a ransom strip to the adjacent site.

## 8.0 **Background Papers**

11<sup>th</sup> March 2002 Letter from applicant

