



8.2 **PROPOSED DISCONTINUANCE AND SALE OF ROAD ABUTTING 133 MORAY STREET AND 34 TOPE STREET, SOUTH MELBOURNE**

WARD: **GATEWAY**

GENERAL MANAGER: **CHRIS CARROLL, ORGANISATIONAL PERFORMANCE**

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TRIM FILE NO: **PF16/105222**

ATTACHMENTS:

1. Title Plan
2. Site Images

PURPOSE

This report seeks Council’s approval to commence the statutory procedures pursuant to the Local Government Act 1989 (Vic) (**Act**) to consider discontinuing the road abutting 133 Moray Street, South Melbourne and 34 Tope Street, South Melbourne, being part of the land contained in certificate of title volume 9108 folio 875 (**Road**).

I. RECOMMENDATION

That Council acting under clause 3 of Schedule 10 of the Act:

- 1.1 Resolves that the statutory procedures be commenced to discontinue the road abutting 133 Moray Street, South Melbourne and 34 Tope Street, South Melbourne, being part of the land contained in certificate of title volume 9108 folio 875.
- 1.2 Directs the public notice of the proposed discontinuance of the Road be given under sections 207A and 223 of the Act.
- 1.3 Resolves that the public notice required to be given under sections 207A and 223 of the Act should state that if the Road is discontinued, Council proposes to sell the Road to the owner of the properties at 133 Moray Street, South Melbourne and 34 Tope Street, South Melbourne, respectively, (**Owner**) for market value.
- 1.4 Authorises the Chief Executive Officer or delegate to undertake the administrative procedures necessary to enable Council to carry out its functions under section 223 of the Act in relation to this matter.
- 1.5 Resolves to hear and consider any submissions received pursuant to section 223 of the Act at a Council meeting to be held on 19 July 2017.

Further, should no submissions be received, that Council:

- 1.6 Resolves that, having followed all the required statutory procedures pursuant to sections 207A and 223 of the Act pursuant to its power under clause 3 of Schedule 10 of the Act, and being of the opinion that the Road, is not reasonably required for public use, it discontinues the Road



- 1.7 Directs that a notice pursuant to the provisions of clause 3(a) of Schedule 10 of the Act is to be published in the Victoria Government Gazette.
- 1.8 Directs that, once discontinued, the Road be transferred to the adjoining Owner for no less than the market value.
- 1.9 Directs that the common seal of Port Phillip City Council is affixed to any transfer or transfers of the Road and any other documents required to be signed in connection with the discontinuance of the Road and its subsequent transfer to the adjoining Owner.
- 1.10 Directs that any easements, rights or interests required to be created or saved over the Road by any authority be done so and not be affected by the discontinuance and sale.
- 1.11 Directs that the Owner be required to consolidate the title to the Road with either of the title to the property known as 34 Tope Street, South Melbourne, being the land contained in certificate of title volume 9108 folio 875 or, the property known as 133 Moray Street, South Melbourne, being the land contained in certificate of title volume 10617 folio 594, within 12 months of the date of transfer of the discontinued Road.

2. BACKGROUND

- 2.1 As a result of the Road Management Act 2004, ownership of municipal roads (with some exceptions) vests in Council. Roads required for public access are recorded on Council's Register of Public Roads.
- 2.2 Council has a policy to enable discontinuance of roads and sale to abutting owners if a road or part of a road is no longer required for public access.
- 2.3 In accordance with Council's Discontinuance and Sale of Roads Policy, the land is valued by Council's Contract Valuers at the current market value (per square metre) to determine the purchase price. A discounted land price can be applied, or waived in exceptional circumstances.

3. KEY INFORMATION

- 3.1 A request has been received from the Owner Telematic Communications Pty Ltd seeking to purchase the Road shown as lot 1 on the title plan contained in Attachment 1, abutting the properties at 133 Moray Street, South Melbourne and 34 Tope Street, South Melbourne (**Abutting Properties**), which are both owned by the Owner.
- 3.2 The subject Road is constructed with bluestone pavers, as shown on Attachment 2. It comprises an area of approximately 28 square metres.
- 3.3 The Road is encumbered by a carriageway easement created on 1 May 1909 in favour of the land known as 133 Moray Street, South Melbourne.
- 3.4 The Owner owns the Abutting Properties hence there is no requirement to seek written consent of the owners of any properties in the vicinity of the Road in respect of the proposed discontinuance.

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- 3.5 The Road provides vehicle access to an undercover car park at the rear of the building at 133 Moray Street, South Melbourne. It also provides pedestrian access to a door in the building at 34 Tope Street, South Melbourne.
- 3.6 Having regard to the occupation over many years, it is considered that the Road is not required for public access and only services the Abutting Properties.
- 3.7 It is proposed that easements of drainage and sewerage will be created to enable the protection of infrastructure services as required by relevant authorities. In particular, South East Water has an existing 100mm diameter sewer main within the area. As such, South East Water requires that upon land consolidation, the certified Plan of Consolidation/Subdivision should show minimum of 2.0 metre wide sewerage easements over all existing South East Water sewer mains located within the land, to be in favour of South East Water.
- 3.8 The proposed sale price of \$168,000 plus GST represents market value as determined by Council's Contract Valuers.
- 3.9 The road is not required by Council. The discontinuance enables the return of funds to Council to support future asset acquisition and development.
- 3.10 The following documents have been attached for reference:
 - 3.10.1 Attachment 1: Title Plan – showing the dimensions of the subject Road
 - 3.10.2 Attachment 2: Site Images – showing the existing conditions of the Road and views of the Road from the Abutting Properties



FURTHER SUPPORTING INFORMATION

4. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 4.1 Road discontinuance aligns with the following focus areas in the adopted Council Plan 2013-17:
 - 4.1.1 1 – Engaged – A Well-Governed City – Value transparent processes in Council decision making.
 - 4.1.2 4 – A Vibrant City – Ensure growth is well planned and managed for the future and improve and manage local amenity and assets now and in the future.
- 4.2 The proposal is in accordance with Council’s Discontinuance and Sale of Roads Policy.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 Council will consult with the community through a Public Notice to be published in the local newspaper inviting submissions in accordance with statutory procedures.
- 5.2 Service authorities have been consulted to determine the requirements for easements.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 The Road proposed to be discontinued only provides access to the Abutting Properties which are both owned by the adjoining Owner. This means that it provides no access to any other property.

7. SUSTAINABILITY – Triple Bottom Line

7.1 ENVIRONMENTAL IMPLICATIONS

- 7.1.1 The proposal has no detrimental environmental implications.

7.2 SOCIAL & CULTURAL IMPLICATIONS

- 7.2.1 The proposal has no detrimental social and cultural implications.

7.3 ECONOMIC IMPLICATIONS

- 7.3.1 The proposal has no detrimental economic implications.

7.4 FINANCIAL IMPLICATIONS

- 7.4.1 The price of the land is in accordance with Council’s Discontinuance and Sale of Roads Policy.
- 7.4.2 It is proposed to sell the land in the subject Road at market value. If discontinuance and sale of the Road is supported, Council will receive revenue of \$168,000 plus GST.
- 7.4.3 The Owner is required to pay the costs for professional services associated with the transaction, to be collected by Council’s lawyers.



8. IMPLEMENTATION STRATEGY

8.1 TIMELINE

8.1.1 A surveyor will be engaged to prepare a title plan, consolidation plan and gazettal plan for the land in the subject Road.

8.1.2 A Public Notice will invite submissions from interested persons within 28 days of the publication date. The notice will be published in the local newspaper on 16 May 2017.

8.2 COMMUNICATION

Any interested person will be given the opportunity to make a submission and to be heard in person and have their views considered.

9. OFFICER DIRECT OR INDIRECT INTEREST

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