



<b>8.5</b>	<b>PROPOSED DISCONTINUANCE AND SALE OF ROAD PART R2975 BETWEEN 17 COVENTRY PLACE AND 378 COVENTRY STREET, SOUTH MELBOURNE</b>
<b>WARD:</b>	<b>GATEWAY</b>
<b>GENERAL MANAGER:</b>	<b>CHRIS CARROLL, ORGANISATIONAL PERFORMANCE</b>
<b>PREPARED BY:</b>	<b>LYANN SERRANO, PROPERTY ADVISOR</b>
<b>TRIM FILE NO:</b>	<b>78/11/2975</b>
<b>ATTACHMENTS:</b>	<b>1. Title Plan</b>

**PURPOSE**

This report seeks Council’s approval to complete the statutory procedures and finalise Council decision in relation to the proposed discontinuance and sale of road between 17 Coventry Place and 378 Coventry Street, South Melbourne, part R2975, being part of the land contained in Memorial Book X Number 653 (Road).

**1. RECOMMENDATION**

That Council:

- 1.1. Resolves that, having followed all the required statutory procedures pursuant to sections 207A and 233 of the Local Government Act 1989 (Act) pursuant to its powers under clause 3 of Schedule 10 of the Act, and having considered the submission received in response to the public notice, not to discontinue the Road as it is still required for general public access.

**2. BACKGROUND**

- 2.1. On 15 February 2017, Council resolved to commence the statutory procedures under clause 3 of Schedule 10 of the Act to discontinue the Road, as shown on Attachment 1.
- 2.2. In accordance with sections 207A and 223 of the Act, a public notice was published in the Port Phillip Leader newspaper on 21 March 2017. The notice invited submissions and advised that if the Road is discontinued, it will be sold by private treaty to the owners of 17 Coventry Place and 378 Coventry Street, South Melbourne (“abutting owners”), respectively. It also advised that any submissions received would be heard at a future Council meeting.
- 2.3. In response to the public notice, one written submission opposing the proposal was received on 18 April 2017 from the owners of 376 Coventry Street, South Melbourne (“submitters”). The submitter listed three issues for objecting to the proposal:
  - 2.3.1. The road discontinuance will result in a loss of any rights to pedestrian and vehicle access to 376 Coventry Street, South Melbourne.



- 2.3.2. The road discontinuance will result in a loss of access to 376 Coventry Street, South Melbourne during any future construction.
- 2.3.3. The road discontinuance will result in a loss of any rights to light, air and ventilation to 376 Coventry Street, South Melbourne.
- 2.4. The Council meeting to hear submissions was scheduled for 19 July 2017.
- 2.5. On 14 July 2017, the submitter emailed Council officers saying that they have revised their renovation plans that are currently with Council for consideration. Should their plans be approved as is, they have no need to purchase any part of the subject laneway and thus, do not object to the Road being sold. However, if their plans are not approved, they may end up requiring the laneway for pedestrian and vehicle access, access during construction and for light, air and ventilation. This information was not part of their original written submission.
- 2.6. The submitters' planning consultant represented the submitter at the Council meeting on 19 July 2017 reiterating the three issues for objecting the proposal; adding that there is a sewer stack in the middle of the submitters' wall thus requiring major work for access in case the Road was discontinued and sold to the abutting owners and requesting that one third of the Road be sold to them.
- 2.7. One of the abutting owners, the owner of 378 Coventry Street, South Melbourne, came to speak at the Council meeting, in support of the proposal to discontinue and sell the Road, with an external report commissioned to address each of the objections.
- 2.8. Council has had the opportunity to consider the submission and other relevant material presented at the Council meeting on 19 July 2017.

### **3. KEY INFORMATION**

- 3.1. After the Council meeting of 19 July 2017, the submitter confirmed a desire to purchase a one third part of the Road. The submitter claims an equal right to purchase part of the Road and would use the portion of the Road as a courtyard. The planning application with Council for the consideration of redevelopment of 376 Coventry Street has now been further amended to show a door on the boundary of the property abutting the existing laneway. The owner of 376 Coventry Street also noted that access to the Road would be required for an excavator and bobcat to assist with demolition, excavation and building works during proposed renovations.
- 3.2. The proposal by the owner of 376 Coventry Street to be allowed to purchase one third of the land is materially different to the original proposal. Therefore a new process would be required to enable consideration and approval.
- 3.3. The proponents of the original proposal strongly object to the new proposal made by the owner of 376 Coventry Street.
- 3.4. There are two options for Council as follows;
  - Option 1: Finalise the proposed road discontinuance and sell the land in the road to the abutting owners of 17 Coventry Place and 378 Coventry Street. Having followed the statutory procedures Council may decide that the road is not reasonably required as a road for general public use.
  - Option 2: (Recommended) Decide not to proceed with the proposed road discontinuance. While the planning application for the redevelopment of 376 Coventry Street is live and shows a requirement to use the road, the road may still be required for general public use.



- 3.5. Neighbours are in a dispute about a planning application and this appears to have rolled over into the proposed road discontinuance and sale. Therefore it is considered that it is not appropriate to proceed with the proposal at this time. The recommended option is to maintain the status quo but that does not prevent a further proposal from being considered if the circumstances change over time. Council is now in a position to complete the statutory procedures and make a final decision.



## **FURTHER SUPPORTING INFORMATION**

### **4. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY**

- 4.1. The process for discontinuance and sale of Council roads aligns with the Strategic Direction 6 in the Council Plan 2017-2027 through supporting:
  - 4.1.1. Transparent governance and an actively engaged community.
- 4.2. The decision making process is in accordance with Council's Discontinuance and Sale of Roads Policy and the requirements of the Local Government Act 1989.

### **5. CONSULTATION AND STAKEHOLDERS**

- 5.1. Council has consulted with the community through a public notice in the Port Phillip Leader on 21 March 2017 inviting submissions in accordance with the statutory procedures described in section 223 of the Act.
- 5.2. In response to the public notice, one written submission opposing the proposal was received from the owners of 376 Coventry Street, South Melbourne.
- 5.3. A planning consultant on behalf of the submitters was heard in support of the submission at the Council meeting on 19 July 2017, as required under section 223 of the Act.
- 5.4. One of the abutting owners, the owner of 378 Coventry Street, South Melbourne, came to speak at the Council meeting, in support of the proposal.
- 5.5. Relevant Council departments have been notified by way of internal referral. Service authorities have also been consulted to determine the requirements for easements.

### **6. LEGAL AND RISK IMPLICATIONS**

- 6.1. Council has powers to discontinue roads under clause 3 of Schedule 10 of the Act. The definition of a 'road' includes a right of way and laneway.
- 6.2. Having considered the submission and followed the statutory procedures under the Act Council is able to make a final decision.

### **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 local implications for neighbours as the process is being linked to a separate application for permit.

#### **7.3. ECONOMIC IMPLICATIONS**

- 7.3.1. The proposal has no detrimental economic implications.

#### **7.4. FINANCIAL IMPLICATIONS**

- 7.4.1. There are no financial implications.
- 7.4.2. The proponents will pay all associated costs.



**8. IMPLEMENTATION STRATEGY**

8.1. TIMELINE

8.1.1. The proponents and submitter will be advised of Council's decision.

8.2. COMMUNICATION

8.2.1. The abutting owners and the submitters will be advised of the final Council decision and the reasons for it.

**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.