



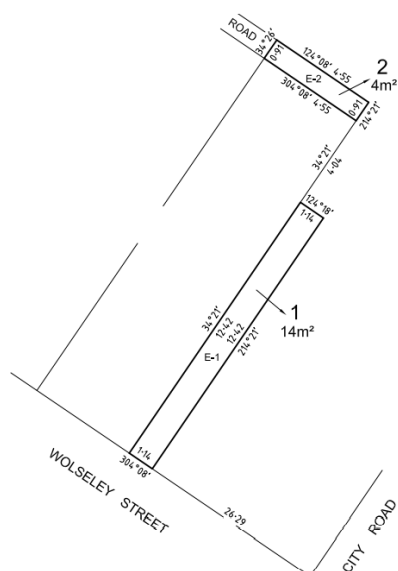
**13.2 PROPOSED DISCONTINUANCE AND SALE OF ROADS
R3187 AND PART R4053 ABUTTING 454-456 CITY ROAD,
SOUTH MELBOURNE**

**EXECUTIVE MEMBER: CHRIS CARROLL, GENERAL MANAGER, CUSTOMER,
OPERATIONS AND INFRASTRUCTURE**

PREPARED BY: LYANN SERRANO, PROPERTY ADVISOR

1. PURPOSE

- 1.1 To consider whether the roads known as R3187 and part R4053 abutting 454-456 City Road, South Melbourne, being part of the land contained in certificate of title volume 1871 folio 161 shown as lots 1 and 2 on the title plan attached as Attachment 1 to this report (**Roads**), an excerpt of which is provided below, should be discontinued pursuant to the *Local Government Act 1989 (Vic)* (**Act**) and sold to the adjoining owner.



2. EXECUTIVE SUMMARY

- 2.1 The Roads are 18 square metres in total area and abut 454-456 City Road, South Melbourne (**454-456 City Road**), 458-460 City Road, South Melbourne (**458-460 City Road**), and 7 Wolseley Street, South Melbourne (**7 Wolseley Street**).
- 2.2 The owner of 458-460 City Road and 7 Wolseley Street, South Melbourne (**Owner**), that is a related entity to the owner of the adjoining property located at 454-456 City Road (**Neighbouring Owner**) has requested that Council discontinues the Roads and sells the Roads to them (**Proposal**).
- 2.3 At its meeting on 3 February 2021, Council resolved to:
- remove the Roads from Council's Register of Public Roads; and
 - commence the statutory procedures and give notice pursuant to sections 207A and 223 of the Act of its intention to discontinue and sell the Roads to the adjoining owner.
- 2.4 Council did not receive any submissions in response to the public notice.



- 2.5 Officers recommend that Council discontinues the Roads and sells them to the Owner at full market value (estimated at \$90,000 plus GST) plus reimbursement of Council's costs to facilitate this transaction. The proceeds of the sale will be held in Council's Strategic Property Reserves to support future property acquisition and development.

3. RECOMMENDATION

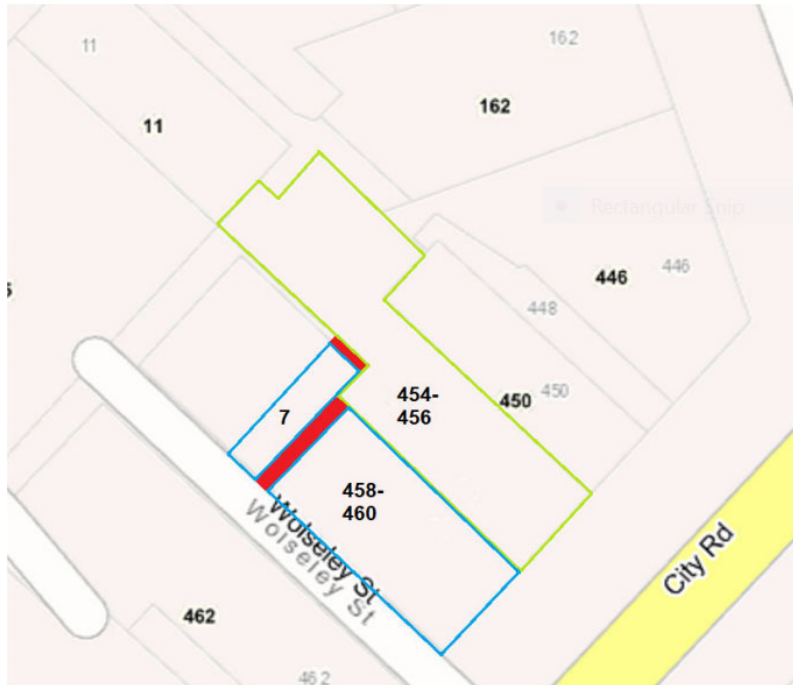
That Council having considered that there were no submissions in response to the public notice regarding Council's proposal to discontinue the roads, being part of the land contained in certificate of title volume 1871 folio 161, shown as lots 1 and 2 on the title plan attached as Attachment 1 to this report (**Roads**):

- 3.1.1 resolves to discontinue the Roads as it considers that the Roads are not reasonably required for public use for the reasons set out in the report;
- 3.1.2 resolves to sell the discontinued Roads for market value of \$90,000 plus GST to the owner of 458-460 City Road, South Melbourne and 7 Wolseley Street, South Melbourne (**Owner**), that is a related entity to the owner of 454-456 City Road (**Neighbouring Owner**);
- 3.1.3 notes that proceeds from the sale will go into Council's Strategy Property Reserves used to support the acquisition and development of the property portfolio;
- 3.1.4 directs that a notice pursuant to clause 3 of Schedule 10 of the *Local Government Act 1989* (Vic) is published in the *Victoria Government Gazette*;
- 3.1.5 directs that the Chief Executive Officer or delegate signs an authorisation allowing Council's solicitors to execute transfer documents and any other documents required to be signed on Council's behalf in connection with the transfer of the discontinued Roads to the Owner;
- 3.1.6 directs that any easements, rights or interests required to be created or saved over the Roads by any public authority be done so and not be affected by the discontinuance and sale of the Roads; and
- 3.1.7 directs that the Owner be required to consolidate the title to the discontinued Roads with the title to the Owner's land within 12 months of the date of the transfer of the discontinued Roads.

4. KEY POINTS/ISSUES

Background

- 4.1 The Roads, shown as the areas highlighted red on the locality plan provided below (**Locality Plan**) abut:
- (a) 458-460 City Road and 7 Wolseley Street (together, the **Owner's Properties**), which are shown delineated blue on the Locality Plan; and
- (b) 454-456 City Road (the **Neighbouring Owner's Property**), which is shown delineated green on the Locality Plan.



- 4.2 The Neighbouring Owner has common directors and shareholders with the Owner and is therefore a related party of the Owner.
- 4.3 The Owner has requested that Council discontinues the Roads and sells the Roads to them (**Proposal**).
- 4.4 The Owner has agreed to pay Council's costs and disbursements associated with the proposed discontinuance of the Roads, together with the market value for the transfer of the discontinued Roads to them.

Roads

- 4.5 The Roads are:
 - (a) constructed of concrete paving; and
 - (b) shown as 'passage ways' on title plan no. TP1178, which is attached as Attachment 2.
- 4.6 The Roads have been in the name of the current registered proprietor since 8 December 1886.
- 4.7 Site inspections of the Roads were conducted by Goodison Surveying on 17 July 2020. Copies of these reports are attached as Attachment 3.
- 4.8 The site inspection report in respect of the Road shown as lot 1 on the title plan in Attachment 1 (**Title Plan**) i.e. R3187 (**Lot 1 Road**), excerpts of which are provided below, notes that:
 - (a) the Lot 1 Road is constructed of concrete paving;
 - (b) there is no evidence of the Lot 1 Road being used;
 - (c) the Lot 1 Road is wholly enclosed behind a roller door at its boundary which abuts Wolseley Street, South Melbourne;

- (d) a hot water service and a gas meter encroach over part of the Lot 1 Road, and an air conditioning unit encroaches over the airspace above the Lot 1 Road, from the boundary of the property at 458-460 City Road, South Melbourne; and
- (e) the Lot 1 Road is not open and is not available for public use.



- 4.9 The site inspection report in respect of the Road shown as lot 2 on the Title Plan i.e. part R4053 (**Lot 2 Road**), excerpts of which are provided below, notes that:
- (a) the Lot 2 Road is constructed of concrete paving;
 - (b) there is no evidence of the Lot 2 Road being used;
 - (c) the Lot 2 Road is wholly fenced within the Neighbouring Owner's Property;
 - (d) an iron shed encroaches over part of the Lot 2 Road;
 - (e) there is no evidence of the Lot 2 Road being used; and
 - (f) the Lot 2 Road is not open and is not available for public use.



4.10 It is considered that the Roads are not reasonably required for public use as the Roads:

- (a) are fenced within the Owner's Properties and Neighbouring Owner's Property;
- (b) are not open or available to the general public for pedestrian or vehicular access and have not been open or available since at least 2009; and
- (c) do not form part of a thoroughfare for pedestrian or vehicular traffic to any other public road.

4.11 The Roads are 'roads' for the purposes of the Act.

4.12 Council has the statutory power to discontinue the Roads.

4.13 If the Roads are discontinued, the Roads will vest in Council.

Consolidation

4.14 If the Roads are discontinued and sold to the Owner, Council will require the Owner to consolidate the title to the discontinued Roads with the title to the Owner's land within



12 months of the date of transfer of the discontinued Roads to the Owner, at the Owner's expense.

Adjoining Owners

4.15 As the Owner is the registered proprietor of the adjoining properties and a related party of the Neighbouring Owner whose property also abuts the Roads, the Owner was not required to seek the consent of any other adjoining owners to the Proposal.

5. CONSULTATION AND STAKEHOLDERS

5.1 The following statutory authorities have been advised of the Proposal and have been asked to respond to the question of whether they have any existing assets in the Roads, which should be saved under section 207C of the Act:

- Council;
- South East Water;
- Melbourne Water;
- CitiPower;
- Multinet;
- Telstra; and
- Optus.

5.2 Council Asset Management team has advised that it has no assets in or above the Roads and that it has no objection to the Proposal.

5.3 Other relevant internal Council teams have been notified by way of internal referral and no one has objected to the Proposal.

5.4 Optus has advised that it has no assets in or above the Roads.

5.5 Melbourne Water, CitiPower and Multinet have advised that they have no objection to the Proposal.

5.6 In a letter dated 12 July 2020, Telstra advised that it has no assets in the near vicinity of the Roads, and would not object to the Proposal provided that the Owner calls 'Dial Before You Dig' before carrying out works in the vicinity of the Roads.

5.7 In a letter dated 15 July 2020, South East Water advised it has an existing 100mm diameter sewer mains within the Roads, but would not object to the Proposal provided sewerage easements were granted over the sewer mains. To address South East Water's requirements, sewerage easements in favour of South East Water are included on the Title Plan.

5.8 Council has notified the community of the Proposal through a public notice in The Age newspaper on 26 February 2021, inviting submissions in accordance with section 223 of the Act.

5.9 The deadline for submissions was on 26 March 2021.

5.10 No submissions were received by Council in response to the public notice.



6. LEGAL AND RISK IMPLICATIONS

- 6.1 Under clause 3 of Schedule 10 of the Act, a council has the power to discontinue roads located within its municipality and sell the land from that road or retain the land for itself.
- 6.2 Council has a Discontinuance and Sale of Roads Policy (**Policy**) that enables roads that are no longer required for public access to be discontinued and sold to the adjoining owner(s).

7. FINANCIAL IMPACT

- 7.1 The Owner has agreed to acquire the Roads for their market value (plus GST). If Council proposes to transfer the Roads, it will need to obtain a valuation of the Roads in accordance with the Act. This is in accordance with Council's Policy.
- 7.2 The Owner has agreed to pay Council's costs and disbursements associated with the proposed discontinuance of the Roads, together with the market value for the transfer of the discontinued Roads to them.
- 7.3 The market valuation of the land in the Roads is \$5,000 per square metre plus GST totalling a purchase price of \$90,000.00 plus GST. The valuation was undertaken on 25 September 2020 and an updated valuation will be sought by Council prior to any transfer. In accordance with Council's Policy and previous sales of roads, the value attributed to the land in the Roads is based on the following assumptions:
 - full value of the land is applicable to the Roads as though they are consolidated with the Owner's properties;
 - no discount is applicable to the full land value due to the limited purchasing market for the Roads; and
 - the Roads are not valued on the "before and after" method but are instead valued on the "street land value rate" of the consolidated site assuming the Roads are consolidated with the Owner's properties.

8. ENVIRONMENTAL IMPACT

- 8.1 The Proposal has no detrimental environmental implications.

9. COMMUNITY IMPACT

- 9.1 Council will facilitate the discontinuance and sale of roads where appropriate consultation has occurred, legislative requirements have been met and it is considered that road discontinuance and sale is in the best interest of the wider community.
- 9.2 The proposed discontinuance and sale of the Roads will enable the land in the Roads to be re-purposed.
- 9.3 If Council resolves to discontinue and sell the Roads, proceeds from the sale will go into Council's Strategic Property Reserves used to support the acquisition and development of the property portfolio.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 The proposed discontinuance of the Roads aligns with the Strategic Direction **Well Governed Port Phillip** – a leading government authority, where our community and our organisation are in a better place as a result of our collective efforts.
- 10.2 The Proposal is in accordance with Council's Policy.



11. IMPLEMENTATION STRATEGY

11.1 TIMELINE

If the Proposal is approved:

- 11.1.1 a notice will be published in the *Victoria Government Gazette* to formally discontinue the Roads; and
- 11.1.2 a transfer of the discontinued Roads pursuant to section 207D of the Act will be prepared by Council's solicitors.

11.2 COMMUNICATION

- 11.2.1 The public notification process has provided the community with the opportunity to make submissions in respect of the Proposal. Having considered that no submissions were received, Council may now determine whether to discontinue and sell the Roads.
- 11.2.2 The Owner will be advised of the final Council decision and the reasons for it within 5 days of the Council meeting.

12. OFFICER DIRECT OR INDIRECT INTEREST

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

TRIM FILE NO: 20/13/35

ATTACHMENTS

- 1. Title Plan
- 2. TP 1178
- 3. Site Inspection Report