

## 5.6 PROPOSED DISCONTINUANCE OF PART OF THE ROAD RESERVATION ABUTTING NOS 2 AND 3 MCLEOD PLACE MOUNT WAVERLEY

(TRAF153:SY:JMCA)

Ward: Mount Waverley

Responsible Director: Paul Kearsley

### **RECOMMENDATION**

1. *That Council, acting under Clause 3 of Schedule 10 to the Local Government Act 1989 (“the Act”), and being of the opinion that part of the Road reservation abutting 2 & 3 McLeod Place, Mount Waverley (“the Road reservation”) (as shown on the plan at Attachment 1 and 2) is not reasonably required as a Road:*
  - (a) *Commences the statutory procedures to discontinue the Road status of the road reservation abutting 2 & 3 McLeod Place, Mount Waverley;*
  - (b) *Gives, under Sections 207A and 223 of the Act, public notice of the proposed discontinuance in the Waverley Leader with such notices stating that, if discontinued, Council proposes to either retain or sell the land to the abutting owners;*
  - (c) *Appoints a Committee of Council, comprising the Ward Councillors to consider submissions received under S. 223 of the Act on 26 May, 2009 at 7.30 p.m. at the Civic Centre.*
2. *That, should no submissions be received in accordance with S. 223 of the Act, Council authorises the Chief Executive Officer or his delegate:*
  - a) *to publish a Notice of Discontinuance in the Victoria Government Gazette vesting the land in Council;*
  - b) *upon the vesting of the land in Council, to enter into negotiations for the sale of the land from the road reservation (including the signing and sealing of all relevant documentation required to effect the sale) to the abutting landowners and*
  - c) *to sell the land from the Road to the abutting owners at Council’s valuation (taking into consideration any easements located within part of Road reservation).*

### **INTRODUCTION**

This report proposes that Council commences the statutory procedures to discontinue the Road status from part of the road reservation abutting 2 & 3 McLeod Place, Mount Waverley (as indicated on the Plans attached) and retain or sell the land from the road to interested abutting owners.

### **BACKGROUND**

Parts of the road reservation abutting the front of the properties in McLeod Place are occupied by the abutting owners as excessive land to their title boundary entitlement (i.e. between the footpath and the current title boundaries as shown on the attached aerial plan).

Council was approached by one of the residents in 2006 to purchase part of the road reservation abutting his property (an irregular shaped allotment), as they have limited frontage to a court bowl.

Council resolved at its meeting on 14 March 2006 to commence the required statutory procedures to discontinue part of the Road reservation abutting properties at 2 –10 McLeod Place Mount Waverley in order to sell the land to the abutting owners and published a notice in the Waverley Leader on 18 April 2006.

However the discontinuance process was held in abeyance, as there was a requirement by Yarra Valley Water to relocate an existing water main in the southern section of the Road reservation abutting the front of properties at 8, 9 & 10 McLeod Place.

The proposal did not proceed as the costs for the water main relocation works were considered excessive by the affected property owners.

### ***REBVISIED PROPOSAL***

Following continual interest from the owners at 2 & 3 McLeod Place (who were not affected by the water main relocation works) in the purchase of the section of Road reservation abutting their properties Council officers undertook further investigations. It is considered that it is feasible to discontinue the section of the road reservation abutting 2 & 3 McLeod Place and sell the land from the road to the abutting owners. This section of the Road reservation proposed to be discontinued does not require relocation works of underground services.

Further the owners of 2 and 3 McLeod Place have offered to acquire each relevant parcel at Council's valuation subject to satisfactorily completion of statutory processes.

Accordingly, it is considered appropriate to discontinue and retain or sell the land from the part of the Road reservation abutting 2 & 3 McLeod Place, Mount Waverley to the abutting owners.

### ***EXTERNAL CONSULTATION***

Council has written to all statutory authorities concerning the existence of any assets and requirements with regards to easements required.

Although Yarra Valley Water, United Energy Ltd and Council have assets located within parts of the Road reservation, only United Energy Ltd has assets in the Road reserve area proposed to be discontinued. Accordingly, should the discontinuance proceed, it would be on the basis that the easements would be registered at the time of publication of the Victoria Government Gazette Notice.

### ***IMPLEMENTATION***

Statutory procedures require Council to give public notice of its intention to remove the road status from the portion of road reservation and sell or retain the land from the road and invite submissions from affected parties. Submitters may request to be heard by Council prior to a decision being made to proceed or otherwise withdraw the proposal.

All abutting property owners will be advised of the proposal in writing and informed of their rights to make a submission.

Should submissions be received, a Committee of Council will be required to convene to consider submissions and report back to a subsequent meeting of Council for further consideration. If there are no submissions, it is proposed that the Chief Executive Officer or his delegate be authorised on behalf of Council to publish a notice of discontinuance in the Victoria Government Gazette and vest the land in Council and enter into negotiations for the sale of the land to the interested abutting owners at the Council's valuation..

### ***CONCLUSION***

It is recommended that Council commence the statutory procedures to remove the 'road' reservation from part of the land abutting the front of the properties known as 2 and 3 McLeod Place, Mount Waverley and progress sale of each parcel to the abutting owners in accordance with this report.