

**1.11 PROPOSED ROAD DISCONTINUANCE AND SALE TO 10 & 12 THE AVENUE, OAKLEIGH**  
(JM:ROADS19)

Responsible Director: Peter Panagakos

**RECOMMENDATION**

*That Council:*

- 1) *Notes that the sections of road as shown hatched on the plan in Attachment 1 at the front of the properties at 10 and 12 The Avenue Oakleigh, was historically set aside to construct a cul de sac, and is no longer required as part of The Avenue or for any other municipal purpose.*
- 2) *Notes that the sections of road have always been occupied and maintained by the owners of 10 and 12 The Avenue Oakleigh as part of their front yards, and that the property owners have paid rates on the Land.*
- 3) *Notes that these sections of the road are now an anomaly that should be discontinued and incorporated with the property owner's land at 10 and 12 The Avenue Oakleigh, respectively.*
- 4) *Acting under Clause 3 of Schedule 10 to the Local Government Act 1989 ("the Act") and being of the opinion that parts of the road as shown in Attachment 1 abutting the subject properties at 10 and 12 The Avenue Oakleigh, being Lots 1 and 2 ("Land") on Title Plan 958343M ("Title Plan") is not reasonably required as road, resolves:*
  - a) *to commence the statutory procedures under Sections 189, 207A and 223 of the Act, to discontinue the road abutting the front of the properties at 10 and 12 The Avenue Oakleigh, by giving public notice of the proposed discontinuance in the Monash Leader newspaper stating that Council proposes to discontinue and sell the Land (as shown in the survey plan in attachment 1) to the abutting owners of 10 and 12 The Avenue Oakleigh respectively; and*
  - b) *to appoint a Committee of Council, comprising the Oakleigh Ward Councillors to consider submissions received under Section 223 of the Act at a time and date to be fixed.*
- 5) *Resolves that should no submissions be received in accordance with Section 223 of the Act, that:*
  - a) *The Land is not reasonably required for public use as a road, is discontinued and is to be sold to the respective adjoining owners;*
  - b) *The Chief Executive Officer or her delegate be authorised to:*
    - i. *to publish the Notices of Discontinuance in the Victoria Government Gazette vesting the Land in Council.*
    - ii. *upon the vesting of the Land in Council, to enter into negotiations for the sale of the Land from the road to the occupying abutting landowners; and*
    - iii. *to sell Lots 1 and 2 on the Title Plan to the owners of 10 and 12 The Avenue Oakleigh respectively for nominal consideration of \$1 (inclusive of GST) plus payment of associated costs and execute all relevant documentation required to effect the road discontinuance and sale.*

**INTRODUCTION**

This report proposes that Council commence the statutory procedures to discontinue a road forming part of the road reservation ("Land") at the front of the properties situated at 10 & 12 The Avenue Oakleigh and to sell the Land to the respective abutting property owners. Refer Attachments 1 and 2.

**BACKGROUND**

Historically, the road reservation for The Avenue in Oakleigh originally provided for a cul de sac to be constructed, to enable turning movements for vehicles. This was done through the provision of a 3 metre wide road reservation abutting the frontage of properties of situated at 10 & 12 The Avenue Oakleigh totalling approximately 99 m<sup>2</sup> of land.

Over time this area of land has been enclosed and integrated as part of the subject properties and has never been required for road purposes.

**DISCUSSION**

Both property owners have requested and agreed to the road discontinuance and sale of each respective parcel of land to them. This will align the title boundaries of the property to accord with their occupation of the land over a long period.

Both property owners have paid rates on the Land that they have occupied and maintained over a long period.

A site inspection reveals that the Land to be discontinued and sold forms part of the front garden areas of the respective properties and does not look like a road reservation. Service authorities do not object to the proposed road discontinuance.

As part of the proposal, an area of 26 m<sup>2</sup> with a width of 8.23 m<sup>2</sup> will remain road reserve and will not form part of the discontinuance and sale (refer to the survey plan on attachment). This will provide for sufficient turning area for recycling and refuse trucks along with other vehicles to turn around.

**CONSULTATION**

A public notice of the road discontinuance and sale proposal must be published in the Monash Leader newspaper. The public notice will invite submissions in accordance with Section 223 of the Act and submitters may request to be heard by a Committee Council prior to a decision being made to either proceed or otherwise withdraw the proposal.

Should submissions be received, a Committee of Oakleigh Ward Councillors would be required to convene to consider submissions and report back to a subsequent meeting of Council for further consideration.

If no submissions are received, then it is proposed by the recommendation in this report that the Chief Executive Officer or her delegate be authorised to proceed with the road discontinuance and sale proposal.

***FINANCIAL IMPLICATIONS***

The Land is proposed to be sold to the property owners at 10 and 12 The Avenue Oakleigh, for a nominal value, as it has been enclosed and occupied as part of their front garden area over a long period of time. Rates have also been paid on the Land.

Both owners have agreed to pay Council's reasonable costs associated with the road discontinuance and sale process which will be reimbursed to Council prior to settlement.

***CONCLUSION***

The land proposed for road discontinuance and sale has formed the front garden area for the properties at 10 & 12 The Avenue and is not required for road or any municipal purpose.

Accordingly it is considered in order for Council to commence the statutory procedures to discontinue and sell that part of The Avenue as indicated in this report.

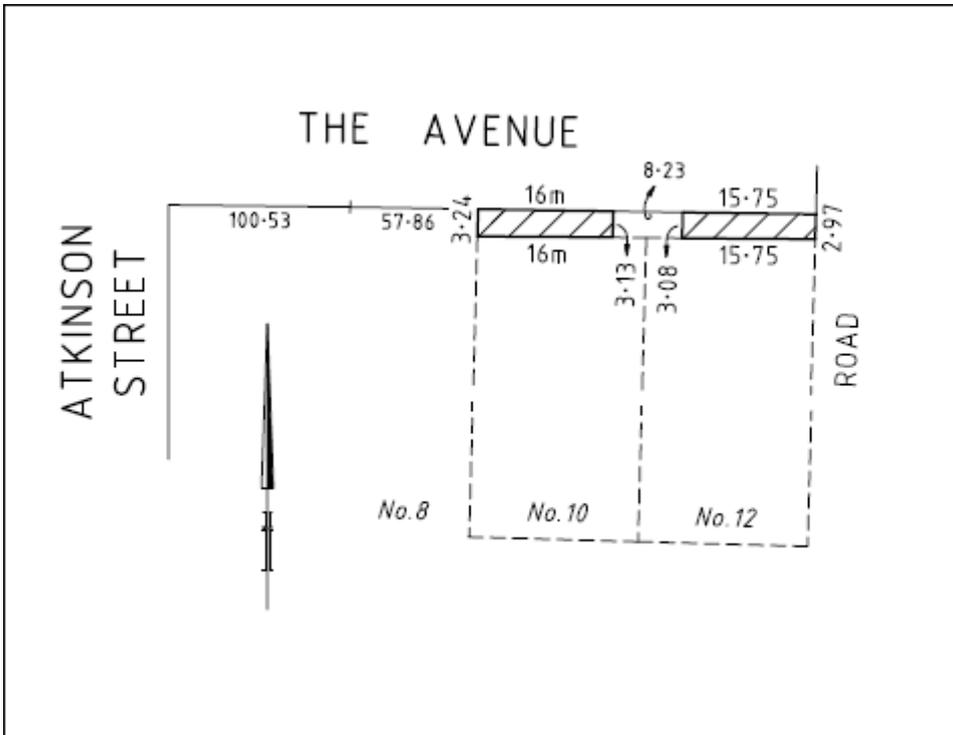
***ATTACHMENTS***

**Attachment 1:** Survey Plan & Aerial photo

**Attachment 2:** Location Plan

**ATTACHMENT 1**

**Survey Plan**



**Aerial photo**



**ATTACHMENT 2**

**Location Plan**

