

7 Presentation of officer reports

7.1 Rear of 32 Connell Street, Hawthorn - Proposed discontinuance and sale of right of way (road)

Abstract

This report is to consider commencement of the statutory procedures to discontinue and sell 2.0m of the 3.05m wide road at the rear of 32 Connell Street, Hawthorn.

Whilst the road is not used for vehicular access, it does provide pedestrian access to the adjoining properties at 34 and 26A Connell Street, Hawthorn. Accordingly, with the agreement of the abutting property owners, 1.05m of road, together with a 1m by 1m square section in the south-east corner, is to remain open and available for pedestrian access. The remaining 2.0m of road is proposed to be sold to the owners of 32 Connell Street, Hawthorn.

The 2.0m wide section of road is considered by officers to be suitable for discontinuance and sale.

Consultation has been undertaken with relevant Council departments and external service authorities as detailed in section 5 of the report. No objections have been received. Adjoining owners have also been consulted about the proposal and no objections have been received.

The proposed commencement of the statutory procedures requires Council to give public notice of its intention to discontinue and sell part of the road and invite submissions from affected parties.

Officers' recommendation

That Council, acting under section 206 clause 3 of Schedule 10 of the *Local Government Act 1989* and section 114 of the *Local Government Act 2020*, resolve to:

1. Commence the statutory procedures to discontinue and sell part of the road at the rear of 32 Connell Street, Hawthorn, shown hatched in Attachment 1 and as annexed to the minutes.
2. Give public notice under sections 223 of the *Local Government Act 1989* and section 114 of the *Local Government Act 2020* in the appropriate newspaper and on Council's website of the intention to discontinue the road and sell the land from the road to the owners of 32 Connell Street, Hawthorn, by private treaty in accordance with Principle 1 of Council's Discontinuance of Roads and Reserves Policy 2015.
3. If any submissions are received following publication of the public notice, note a further report will be presented to a future meeting of the Services Delegated Committee of Council to enable consideration of the submissions and for a decision on whether to proceed with the discontinuance and sale of the road in full, in part, or not to discontinue and sell the road.

4. If no submissions are received following the publication of the public notice, authorise the Chief Executive Officer, or such other person as the Chief Executive Officer approves, to undertake the necessary procedural steps to complete the formal procedures for the discontinuance and sale of the road.
5. Authorise the Chief Executive Officer, or such other person as the Chief Executive Officer approves, to sign all necessary documentation for the sale of the land to the adjoining property owners at 32 Connell Street, Hawthorn, for the sum of \$43,389.00 (inc of GST).
6. Note that an easement for drainage purposes in favour of Council will be 'created' over the land as part of the sale/conveyancing process.
7. Note that as the section of road which is proposed to be discontinued is currently listed on Council's Register of Public Roads (the Register) under the *Road Management Act 2004*, its removal from the Register will be attended to if a decision is taken by Council to discontinue the section of road, as it will no longer be considered to be reasonably required for general public use.

Responsible director: Phillip Storer, Chief Executive Officer

1. Purpose

This report is to consider commencement of the statutory procedures for the discontinuance and sale of part of the right of way (road) at the rear of 32 Connell Street, Hawthorn, shown hatched in **Attachment 1**.

2. Policy implications and relevance to community plan and council plan

This matter is addressed under Council's *Discontinuance of Roads and Reserves Policy 2015*.

This report is consistent with the Boroondara Community Plan 2021-31 (BCP) (Incorporating the 10-year Community Vision, Council Plan 2021–25 and Municipal Public Health and Wellbeing Plan 2021–25). In particular strategy 7.1 “*Decision-making is transparent and accountable through open governance processes with timely communication and reporting*”. It also supports Strategic Objective 7 of the BCP, to “*Ensure decisions are financially and socially responsible through transparent and ethical processes*”.

3. Background

Council received a request from the owners of 32 Connell Street, Hawthorn, for the discontinuance and sale of part of the road at the rear of their property as shown hatched on **Attachment 1**.

The section of road proposed for discontinuance is unconstructed and whilst the road is not used for vehicular access, it does provide pedestrian access to the adjoining properties at 34 and 26A Connell Street, Hawthorn. Accordingly, with the agreement of the abutting property owners, 1.05m of road, together with 1.0m by 1.0m square section in the south-east corner, is to remain open and available for pedestrian access. The remaining 2.0m of road is proposed to be sold to the owners of 32 Connell Street, Hawthorn.

The 2.0m wide section of road is considered by officers to be suitable for discontinuance and sale.

The section of road further eastwards, at the rear of 34 to 38 and adjoining 26A Connell Street, Hawthorn, was previously discontinued and sold by Council in 2012. The land was divided and sold in accordance with the division shown on Title Plan TP948247P in **Attachment 2**.

See **Attachment 3** for the proposed allocation of the land if the section of road is discontinued.

See **Attachment 4** for an aerial view.

4. Outline of key issues/options

It is considered by officers that the section of road is no longer required for public access and that its proposed discontinuance and sale to the adjoining owners at 32 Connell Street, Hawthorn, can be considered.

5. Consultation/communication

The owners of the properties at 34 and 26A Connell Street, Hawthorn, have been consulted about the proposal and have offered no objection to the proposal on the understanding that part of the road, as detailed above, will remain open for pedestrian access to their respective properties.

The following service authorities have been consulted:

- Yarra Valley Water
- Melbourne Water
- Telstra
- Multinet Gas
- CitiPower
- Optus
- AusNet Transmission Services (major electricity transmission lines)

No objections from the abovementioned authorities have been received.

The following Council departments have been consulted:

- Building Services
- Strategic and Statutory Planning
- Traffic and Transport
- Asset and Capital Planning
- Capital Projects

No objections from the abovementioned departments have been received. Council has identified that it may need to install a drain in the land in the future, therefore an easement will be 'created' as part of the sale/conveyancing process.

The section of road is also currently listed on Council's Register of Public Roads under the *Road Management Act 2004* (Vic). Its removal from the Register will be attended to if a decision is taken by Council that the section of road is no longer reasonably required for access and can be discontinued and sold.

The statutory procedures require Council to give public notice of its intention to discontinue and sell the section of road and invite submissions from affected parties. In addition, all abutting property owners will be advised of the proposal in writing and informed of their right to make a submission. Notification will also be given on Council's website.

Submitters may request to be heard by Council or a committee of Council prior to a decision being made to proceed or otherwise with the proposal.

If any submissions are received, a further report will be presented to a future meeting of the Services Delegation Committee of Council to enable the consideration of any submissions and for a decision on whether to proceed with the discontinue and sale of the road in full, in part or not to discontinue and sell the road.

If no submissions are received, the Chief Executive Officer, or any such other person as the Chief Executive Officer approves, will undertake the necessary procedural steps to complete the formal procedures for the discontinuance and sale of the section of road to the owners of 32 Connell Street, Hawthorn, including the execution of all relevant documentation.

6. Financial and resource implications

Council's *Discontinuance of Roads and Reserves Policy* outlines the methodology to be applied in determining the purchase price of discontinued roads and reserves. In relation to this discontinuance proposal, the following Policy Statement 3, Principle 1 of the policy has been utilised to determine the proposed sale price:

Principle 1

In order to assist with the discontinuance and disposal and subject to preliminary consultation demonstrating support for the discontinuance to proceed, Council will offer the land for purchase at the current market value, as determined by Council's contract valuers. The valuation under this Policy will reflect the additional value the subject parcel of land will add to the value of the existing property of the potential acquirer and will take into consideration the market value of land within the immediate locale having regard to the location of the subject land and characteristics including whether the land:

- *Is capable of being developed in its own right given the small land area;*
- *Is only marketable to the adjoining owners;*
- *Is long and narrow, and/or;*
- *Is encumbered with an easement.*

The 11.6m² of road proposed for discontinuance and sale has been valued at \$2,574.00 per m² (\$29,858.40) inclusive of GST.

The owners of 32 Connell Street, Hawthorn, have signed a conditional Offer to Purchase the land from Council for the sum of \$43,389.00 (inclusive of GST) should the section of road be discontinued. The purchase price comprises the following amounts:

• Land value component	\$29,858.40
• Reimbursement of Council's discontinuance costs	\$13,530.60

7. Governance issues

Officers involved in the preparation of this report have no conflict of interest. The list of prescribed human rights contained in the Victorian Charter of Human Rights and Responsibilities has been reviewed in accordance with Council's Human Rights Compatibility Assessment Tool and it is considered that the proposed actions contained in this report represent no breaches of, or infringements upon, those prescribed rights.

8. Social and environmental issues

Whilst the proposal does not give rise to any social or environmental issues it will generate once off income for Council as a result of the sale of the land together with an ability to rate the land in the future.

9. Evaluation and review

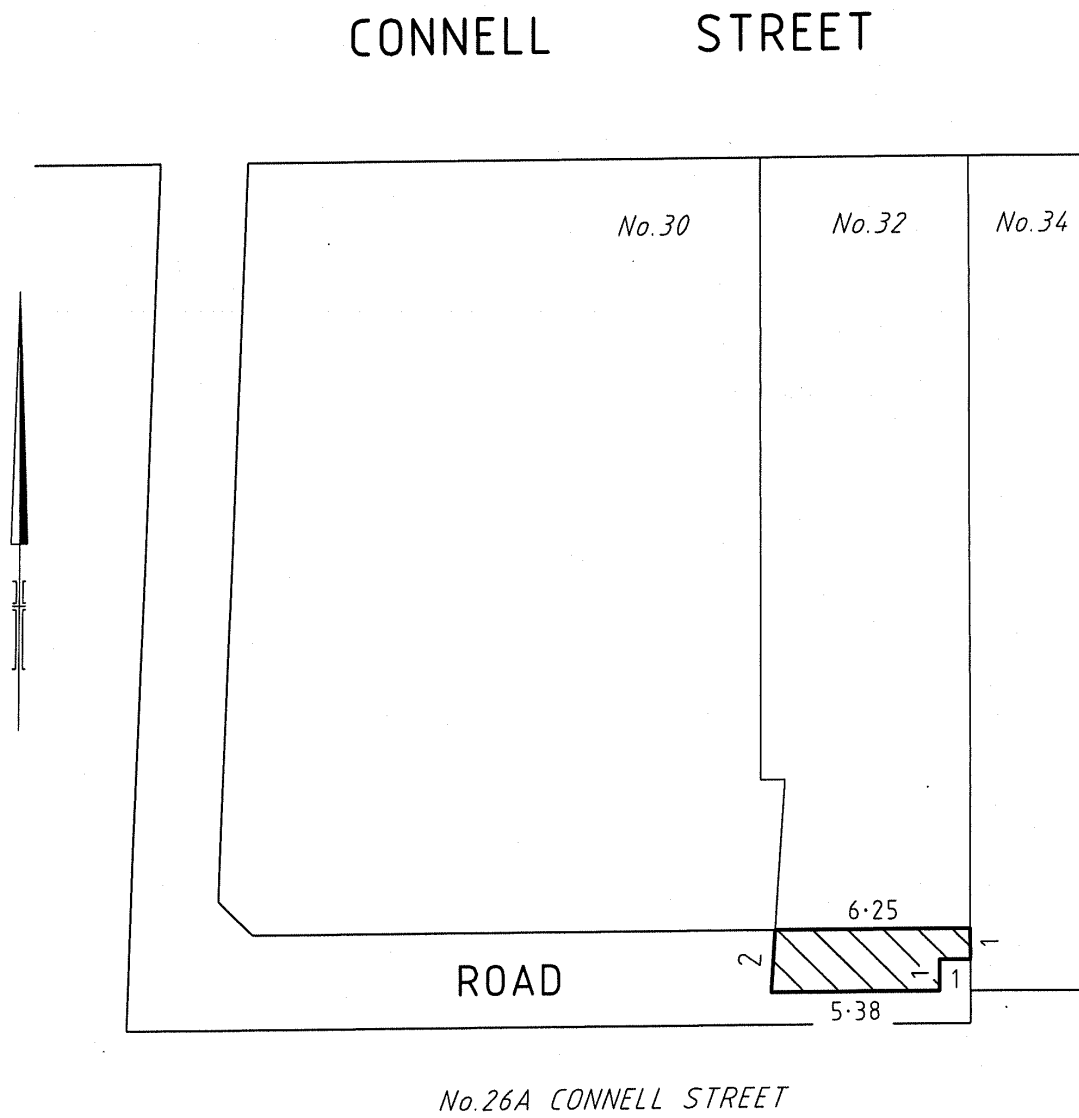
Council's intended course of action has been reviewed from a legislative compliance perspective by Council's consultants Macquarie Local Government Lawyers and no issues have been identified.

10. Conclusion

It is considered by officers that part of the road at the rear of 32 Connell Street, Hawthorn, shown hatched in **Attachment 1** is no longer reasonably required as a road for public use. Therefore, it is considered appropriate that procedures be commenced for its discontinuance and sale to the owners of 32 Connell Street, Hawthorn, in accordance with Council's Discontinuance of Roads and Reserves Policy.

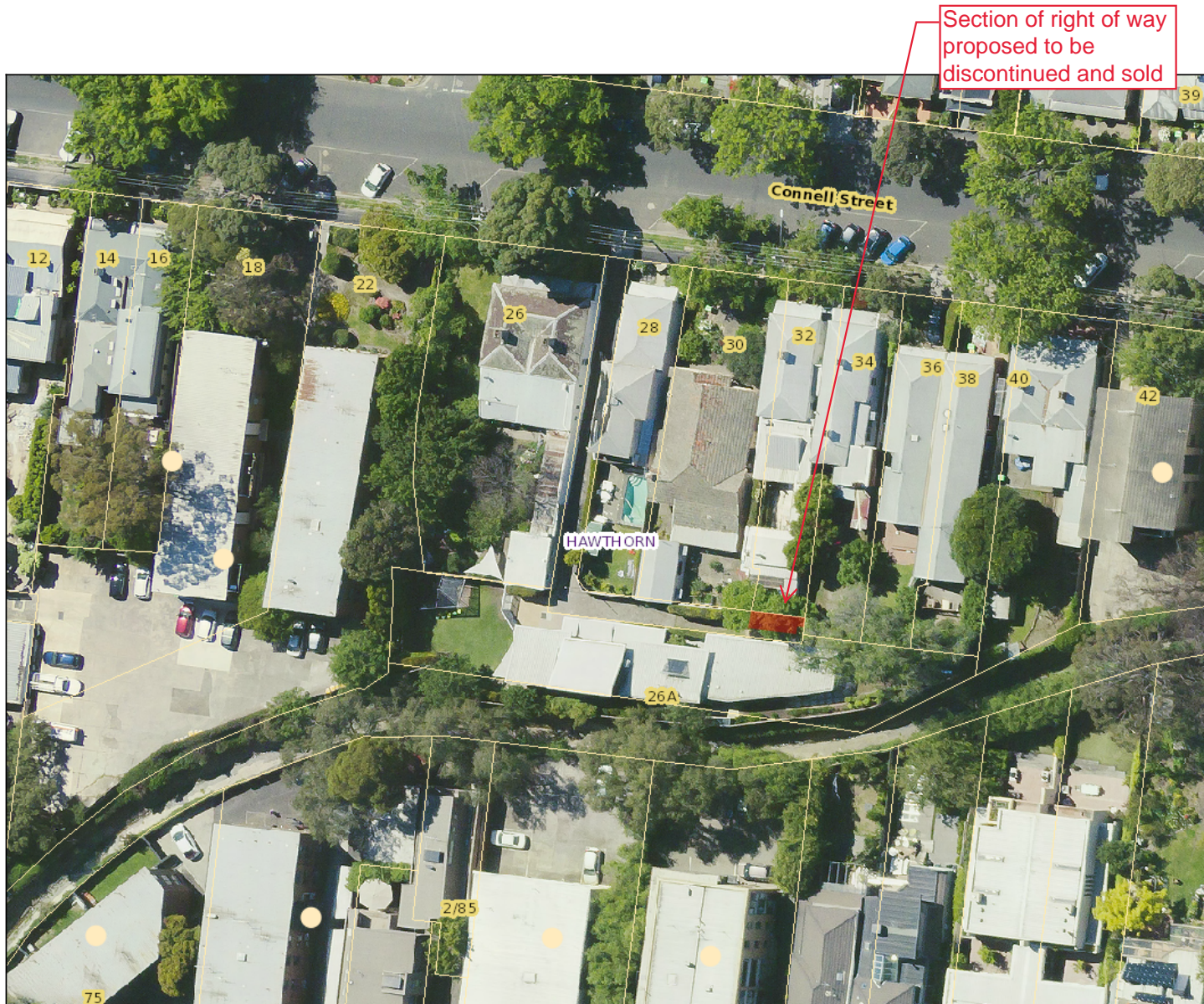
Manager: Amy Montalti, Chief Financial Officer

Report officer: Rebecca Dewar, Acting Coordinator Revenue and Property Services



	TITLE PLAN		LR USE ONLY	PLAN NUMBER TP948247P
LOCATION OF LAND PARISH BOROONDARA TOWNSHIP - SECTION - CROWN ALLOTMENT - CROWN PORTION 34 (PART) LAST PLAN REFERENCE LOT 1 ON TP9393408 DEPTH LIMITATION DOES NOT APPLY PARENT TITLE REFERENCE VOL 11150 FOL 561 MGA CO-ORDINATES E 326 107 ZONE 55 (APPROX. CENTRE OF LAND IN PLAN) N 5 812 435			WARNING THIS PLAN REPRESENTS AN EXPECTED DIVISION OF LAND. ANY ONE LOT MAY NOT HAVE BEEN CREATED. CHECK THE LOT/PLAN INDEX FOR CURRENT INFORMATION. NOTATIONS THIS PLAN IS NOT BASED ON SURVEY.	
EASEMENT INFORMATION				
LEGEND A - APPURTENANT EASEMENT E - ENCUMBERING EASEMENT R - ENCUMBERING EASEMENT (ROAD)				THIS PLAN HAS BEEN PREPARED FOR LAND REGISTRY FOR TITLE DIAGRAM PURPOSES. CHECKED BY DATE / / ASSISTANT REGISTRAR OF TITLES
EASEMENT REFERENCE	PURPOSE	WIDTH (METRES)	ORIGIN	
LAND BENEFITED/IN FAVOUR OF				
E-1	AS PROVIDED FOR IN SEC.207C LGA 1989	SEE DIAGRAM	SEC.207C LGA 1989	MELBOURNE WATER CORPORATION
<div style="display: flex; justify-content: space-between;"> CONNELL STREET ELGIN STREET </div>				
SCALE 1:250 LENGTHS ARE IN METRES BARKER MONAHAN <small>A.C.N. 005 394 865 SURVEYORS, DEVELOPMENT AND LOCAL GOVERNMENT CONSULTANTS 581 GILBERT ROAD, PRESTON 3072 P.O. BOX 2546 REGENT WEST 3072 TELEPHONE 9478 6133 FAX 9470 5189 EMAIL: survey@barkermonahan.com.au</small>		LICENSED SURVEYOR DAVID JOHN MONAHAN SIGNATURE DATE / / REF. 12968 VERSION 01 COMPUTER FILE: 2968TP.DWG DATE: 25/08/2011		FILE NO : LGD DEALING CODE : LGA SHEET 1 OF 1 SHEET ORIGINAL SHEET SIZE A3

TITLE PLAN		EDITION 1	TP969125L
LOCATION OF LAND PARISH BOROONDARA TOWNSHIP - SECTION - CROWN ALLOTMENT - CROWN PORTION 34 (PART) LAST PLAN REFERENCE LOT 1 (PART) & LOT 2 (PART) ON TP939340B DEPTH LIMITATION DOES NOT APPLY TITLE REFERENCE VOL.11150 FOL.561 VOL.11150 FOL.562 MGA CO-ORDINATES E 326 090 (APPROX. CENTRE OF LAND IN PLAN) N 5 812 440 ZONE 55		WARNING THIS PLAN REPRESENTS AN EXPECTED DIVISION OF LAND. ANY ONE LOT MAY NOT HAVE BEEN CREATED. CHECK THE LOT/PLAN INDEX FOR CURRENT INFORMATION. NOTATIONS THIS PLAN IS NOT BASED ON SURVEY.	
EASEMENT INFORMATION			
LEGEND E- ENCUMBERING EASEMENT OR CONDITION IN CROWN GRANT IN THE NATURE OF AN EASEMENT OR OTHER ENCUMBERANCE A- APPURTENANT EASEMENT R- ENCUMBERING EASEMENT (ROAD)			
EASEMENT REFERENCE	PURPOSE	WIDTH (METRES)	LAND BENEFITED/IN FAVOUR OF
<div style="display: flex; justify-content: space-between;"> CONNELL STREET ELGIN STREET </div> <p style="text-align: center;">ROAD</p>			
<div style="display: flex; justify-content: space-between;"> SEE ENLARGEMENT <div style="text-align: right;"> SCALE OF ENLARGEMENT 1:100 No. 32 </div> </div> <p style="text-align: center;">ROAD</p>			
SCALE 1:250 	SHEET 1 OF 1 SHEET ORIGINAL SHEET SIZE: A3 BARKER MONAHAN A DIVISION OF TERRAIN CONSULTING GROUP PTY LTD SURVEYORS, DEVELOPMENT AND LOCAL GOVERNMENT CONSULTANTS 501 GILBERT ROAD, PRESTON 3072 P.O. BOX 254-6 REGENT WEST 3072 TELEPHONE 9478 6133 FAX 9470 5189 EMAIL: survey@barkermonahan.com.au		LICENSED SURVEYOR ANDREW CLINTON SMITH SIGNATURE DATE / / REF. 21070 VERSION 01 COMPUTER FILE: 21070TP.DWG DATE: 03/03/2021
		FILE NO : LGD DEALING CODE : LGA	



Map Produced: 04 May, 2021 12:09:04

**KEY**

Multi Assessment

Multi Lot

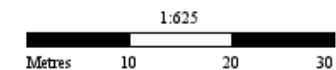
Road Names - Major

Road Names - Minor

Property

Roads - Major

Suburbs



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