



**10.2** **MOUBRAY STREET COMMUNITY PARK - ROAD DISCONTINUANCE SUBMISSIONS**

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**1. PURPOSE**

- 1.1 To consider feedback from those who have made submissions on the proposed discontinuance of Moubray Street, between Withers Street and Bridport Street West, Albert Park.

**2. EXECUTIVE SUMMARY**

- 2.1 The Moubray Street Pop Up Park is situated on part of the Road known as part of Moubray Street, between Withers Street and Bridport Street West, Albert Park shown coloured blue on the plan contained in Attachment 1 to this report (Road).
- 2.2 The Road has an area of approximately 192 m<sup>2</sup> and forms part of the local road known as MOUS02-20 on Council's Register of Public Roads.
- 2.3 This section of Road is located adjacent to Albert Park Primary School and has operated as a Pop-Up Park (in temporary form) since 2013.
- 2.4 A commitment has been made by the Department of Environment Land Water and Planning (DELWP) to transfer \$1.3 million of Local Parks Program Funding from Cobden Street Pocket Park project to Moubray Street Community Park.
- 2.5 The creation of the Moubray Street Pop Up Park will require removal of the Road from Council's Register of Public Roads (Register); and discontinuing the Road pursuant to Clause 3 of Schedule 10 of the Local Government Act 1989 (Vic) (Act) noting that if the Road is discontinued, the Road will vest in Council in fee simple.
- 2.6 The formal process to discontinue the Road commenced on 7 September 2022 and involves consultation with service authorities and the Department of Transport (DoT) and a statutory community notification process, inviting community members to make a submission to the proposed Road discontinuance. The submissions deadline for written submissions was 5 pm on 19 October 2022.
- 2.7 A total of twelve written submissions were received. Attachment 2 includes a summary of all submissions received.
- 2.8 The key feedback themes of the submissions included comments on:
- a) The park's proven benefits to the school and the broader community as a playing area and valuable open space



- b) Enhanced safety associated with slower traffic speeds in streets surrounding the park, providing positive impacts on pedestrian safety
- c) Desirability of prioritising access for the school during school hours and community access at other times
- d) No specific reason for objection was provided by the two submissions that did not support the road discontinuance

### 3. RECOMMENDATION

That Council:

- 3.1 Notes that on 7 September 2022, Council resolved to commence the process for the discontinuance of Moubray Street, between Withers Street and Bridport Street West, Albert Park; and its removal from Council's Register of Public Roads.
- 3.2 Receives and considers all written and verbal submissions to the proposed discontinuance of Moubray Street to facilitate the creation of the Moubray Street Community Park.
- 3.3 Extends its gratitude to all submitters.
- 3.4 Notes that officers will bring back a report for consideration for Council at a future meeting on the discontinuance of Moubray Street.

### 4. KEY POINTS/ISSUES

- 4.1 On 7 September 2022, Council resolved to:
  - a) consider removing the road known as part of Moubray Street, between Withers Street and Bridport Street West, Albert Park from Council's Register of Public Roads (Register); and
  - b) commence the statutory procedures to consider discontinuing the Road pursuant to Clause 3 of Schedule 10 of the Local Government Act 1989 (Vic) noting that if the Road is discontinued, the Road will vest in Council in fee simple.
- 4.2 Section 207A of the Local Government Act 1989 (Vic), requires a proposal to discontinue a road to comply with Section 223 (Right to make a submission) of the Act. This requires Council to undertake a formal public consultation process which is specific to the proposal to discontinue the road.
- 4.3 Council carried out community consultation throughout August, September and October 2022, providing an opportunity for community members to make submissions. The submissions deadline was 5 pm on 19 October 2022
- 4.4 A total of twelve written submissions were received. Ten submissions expressed support for the discontinuance of Moubray Street and creation of the Community Park, including support from the Albert Park Primary School Council. Two submissions objected to the discontinuance. Attachment 2 includes a summary of all submissions.
- 4.5 The key feedback themes of the submissions included:
  - a) The park's proven benefits to the school and the broader community as a playing area and valuable open space
  - b) Enhanced safety associated with slower traffic speeds in streets surrounding the park



- c) Desirability of prioritising access for the school during school hours and community access at all other times
- d) No specific reason for objection was provided by the two submissions that did not support the road discontinuance

## 5. CONSULTATION AND STAKEHOLDERS

- 5.1 The local community was engaged between 2013 and 2016 through the establishment of the initial trial Pop Up Park and the subsequent statutory process for a permanent road closure of Moubray Street, Albert Park, between Withers Street and Bridport Street West.
- 5.2 This feedback was considered when finalising the design for the Pop-Up Park adopted by Council in 2016 and is also helping to shape the concept design for the permanent Moubray Street Community Park.
- 5.3 The project webpage and Council's Have Your Say website have been updated with the latest project information prior to commencing the road discontinuance process.
- 5.4 The key previous consultation steps include:
  - a) Statutory requirements have been met by advertising intent of permanent closure in the Public Notice Section of The Age on 21 September 2022.
  - b) Letters were distributed to Albert Park Primary School and owners/occupiers in the area bounded by Victoria Av, Richardson St, St Vincent St and Cardigan Pl.
- 5.5 On 18 January 2016, VicRoads (the former State Government road authority) advised the City of Port Phillip that it had no objection to the closure of Moubray Street, Albert Park, between Withers Street and Bridport Street West, as proposed by Council. VicRoads' road closure and discontinuance statutory functions are now the responsibility of the Head, Transport for Victoria (Head, TfV).
- 5.6 Head, TfV has confirmed that Council is not required to obtain any additional formal consent to the road closure.
- 5.7 The following statutory authorities will be advised of the proposed discontinuance of Roads and 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. Easements on Title will be required in favour of these authorities dependant on their responses.
  - a) Council;
  - b) South East Water;
  - c) Melbourne Water;
  - d) CitiPower;
  - e) Multinet;
  - f) AusNet Electricity Services;
  - g) Australian Gas Networks;
  - h) United Energy;
  - i) NBN;
  - j) APA;
  - k) Telstra; and
  - l) Optus.



- 5.8 To date Council has not received responses from the statutory authorities. Any responses will be addressed in a future report to Council
- 5.9 The communications and consultation activities carried out between August 2022 and 19 October 2022 were:
- Onsite community engagement sessions on Tuesday 9 August, 3 to 5pm; and Saturday 20 August, 10am to 12pm
  - Letter and fact sheet mailed to property owners and occupiers in the area shown in Attachment 3.
  - Have Your Say online engagement page with feedback form.
  - Advertisement in The Age newspaper on 21 September 2022.

## **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.
- 6.2 Council has a Discontinuance and Sale of Roads Policy (Policy) that enables roads that are no longer reasonably required for general public access to be discontinued.
- 6.3 A preliminary soil contamination assessment was undertaken for the Moubray St Pop-Up Park, in June 2015. Four boreholes were drilled within asphalt areas of the site. Individual samples were tested for comprehensive screens and common contaminants reported in Albert Park. None of the samples exceeded the criteria for residential onsite use. As such the site is considered suitable for continued recreation use.
- 6.4 The legal risk associated with changing the function of Moubray Street is being addressed by complying with the legislation, policy and creating provision for service authorities.

## **7. FINANCIAL IMPACT**

- 7.1 The project was initially funded as part of the 21/22 portfolio to improve access and increase greening. Council allocated \$500,000 for the project, with 21/22 design and 22/23 delivery.
- 7.2 On 16 September 2022, the Department of Environment Land Water and Planning (DELWP) approved the Council request to transfer \$1.3 million of Local Parks Program Funding from Cobden Street Pocket Park project to Moubray Street Community Park.
- 7.3 The proposed discontinuance of the Road has no detrimental financial implications.

## **8. ENVIRONMENTAL IMPACT**

- 8.1 Strategies to reduce the impacts of urban heat include reduction in greenhouse gas emissions, increased permeable surfaces, increased vegetation and green spaces.
- 8.2 Incorporation of Water Sensitive Urban Design (WSUD) treatment zones to irrigate planting harvested from permeable paving area has been incorporated in the design.

## **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 project had broad community support, as evident through the previous consultation processes undertaken the initial establishment of the trial Pop-Up Park in 2013.
- 9.3 Well-designed public spaces have economic benefits and help facilitate the economic recovery from the COVID-19 pandemic.
- 9.4 Public space contributes to the liveability of our City and defines our unique sense of identity and place. It is open and accessible to people. It is where we meet our friends, exercise, play sport and relax and is essential to our physical and mental well-being.
- 9.5 The project will provide additional open space and align with Council's vision to create a well-connected network of public spaces that nurtures and supports the health, wellbeing, social connection, creative expressions and environment of our community.
- 9.6 Moubray Street Community Park will offer improved access and circulation throughout the reserve by providing upgraded walking paths and safer opportunities to access the park by more users.

## 10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 Transitioning the temporary road closure for the Moubray Street Community Park into a permanent public space aligns with the key moves of Council's new Places for People: Public Space Strategy 2022 – 2032 to repurpose road space to create more useable public spaces, ensuring our community is within a short, easy and safe walking distance to public space.
- 10.2 Council Plan – Liveable Port Phillip
  - Strategic Objective – Port Phillip is a great place to live, where our community has access to high quality public spaces, development and growth are well managed, and it is safer and easy to connect and travel within.
  - What we will work towards (our four-year strategies) – Port Phillip is safer with liveable streets and public spaces for people of all ages and abilities to enjoy.
  - We will provide – Access to upgraded, expanded and well-maintained public and outdoor spaces for people of all ages and abilities to visit, in line with our 10-year Public Space Strategy (once adopted by Council), prioritised within available budgets each year.
  - We will facilitate and advocate for – The best possible public space outcomes that support community health and wellbeing, through infrastructure projects undertaken in our City by other levels of government and stakeholders.
- 10.3 Council Plan – Sustainable Port Phillip
  - Strategic Objective – Port Phillip has a sustainable future, where our environmentally aware and active community benefits from living in a bayside city that is greener, cooler, cleaner and climate resilient. The importance of action in this area is emphasised by Council declaring a Climate Emergency in 2019.
  - What we will work towards (our four-year strategies) – Port Phillip has cleaner streets, parks, foreshore areas and waterways where biodiversity flourishes.
  - We will provide – Urban forests to increase tree canopy, vegetation, greening and biodiversity and reduce urban heat, in line with Council's Greening Port Phillip and Act and Adapt Strategies prioritised within available budgets each year.



- We will provide – Increased permeability of ground surfaces across public streets and in our public spaces as well as examining ways to support greater permeability on private property.

## 11. IMPLEMENTATION STRATEGY

### 11.1 TIMELINE

11.1.1 At a subsequent Council Meeting, Council to make a final decision regarding the Road Discontinuance taking into account the submissions received.

11.1.2 Finalise the road discontinuance process and park design so that construction of the Moubray Street Community Park can commence in mid 2023.

### 11.2 COMMUNICATION

11.2.1 After submissions have been considered, Council may decide to proceed with the discontinuance of all or any part of the Road or to reject the proposal in entirety.

11.2.2 If the Road is discontinued, Council must publish a notice in the Government Gazette and undertake the process to transfer the land to Council title.

11.2.3 Information about this project will be available on Council's website, along with information about how to sign up for updates on the project's process.

11.2.4 Council's Have Your Say page and web page will be updated with the details of Council's decision and a link to the minutes of this Council Meeting.

## 12. OFFICER DIRECT OR INDIRECT INTEREST

12.1 No officers involved in the preparation of this report have any material or general interest in the matter.

### ATTACHMENTS

1. Road Plan  [↓](#)
2. Summary of Submissions  [↓](#)
3. Letter and Fact Sheet mailed to community  [↓](#)