

1.3 9 COOMBS AVENUE, OAKLEIGH SOUTH – BEQUEST TO COUNCIL

Responsible Director: Peter Panagakos

RECOMMENDATION

That Council:

1. *Notes the letter from Richard Bull, Executor of the Will of Leon Emile Borelli (the Executor) (as shown in annexure 1) seeking to bequeath 9 Coombs Avenue, Oakleigh South to Council.*
2. *Writes to the executor of the will, passing on Council’s sympathies to the family on the passing of Mr Borelli, accepting the offer of bequest of 9 Coombs Avenue Oakleigh South to Council and acknowledging their kind gesture.*
3. *Agrees to the installation of a monument on the park once developed, in the form of a granite rock with a plaque stating:*

“This Park was gifted in 2022 in perpetuity to the City of Monash community, by Leon Emile Borelli (1952-2020) in memory of his parents Allan and Lisbeth Borelli who lived on this land from the early 1900’s.”
4. *Authorises Council’s Chief Executive Officer or her delegate to undertake the administrative functions necessary to facilitate the land transfer of 9 Coombs Avenue Oakleigh South from Richard Bull, Executor of Leon Emile Borelli (deceased) to the Monash Council.*
5. *Notes that a report to consider the naming of the new park will be presented to a future Council meeting following transfer of the land to Council.*

INTRODUCTION

9 Coombs Avenue Oakleigh South is owned by Richard Ian Bull, Executor of Leon Emile Borelli (deceased). Mr Borelli passed away in 2020. His Will bequeaths 9 Coombs Avenue Oakleigh South to the Council for use as a recreational park in perpetuity.

BACKGROUND

In June 2022, Richard Bull, Executor of Leon Emile Borelli, wrote to Council to advise that Mr Borelli’s Will bequeathed 9 Coombs Avenue Oakleigh South to Council for use as a public reserve. The letter is attached as Annexure 1.

Mr Bull advised that Mr Borelli's parents – Allan and Lisbeth Borelli – settled on the land over 100 years ago, and Mr Borelli's will sought for recognition of his parents upon the land through the installation of a monument. Mr Bull wishes for this recognition to be in the form of a granite rock within the park with a plaque inscribed with the following:

"This Park was gifted in 2022 in perpetuity to the City of Monash community, by Leon Emile Borelli (1952-2020) in memory of his parents Allan and Lisbeth Borelli who lived on this land from the early 1900's."

The land is currently improved with a dwelling to the north and an operational nursery at the rear of the property. A permit for the demolition of the residence has been issued.

Mr Bull will subdivide the property to create a Lot for the parkland which will be transferred to Council and a Lot for the nursery.

The nursery will remain operational. Mr Borelli's Will stipulates that upon the passing of Mr Borelli's wife – Susan Borelli – the remainder of the land (the nursery) will also be gifted to the City of Monash to be incorporated as parkland with the front portion.

9 Coombs Avenue Oakleigh South



Front Portion to transfer first

Land Status

The land at 9 Coombs Avenue Oakleigh South is described as Lot 1 on Lodged Plan 92246, Parish of Mordialloc, Certificate of Title Volume 8894 Folio 367 and is approximately 4,276m². Please refer to Annexure 2.

The land is subject to a Covenant upon Title, which requires the owners of the land to "...not carry on upon the said land or any part thereof any noxious trade or business of any description."

The land is zoned General Residential Zone 3 under the Monash Planning Scheme.

The land is within the Bunurong Land Council Aboriginal Corporation.

To the north, the land fronts Coombs Avenue. To the east and west, the land adjoins multi-unit residential properties. To the south the land adjoins 10 Alvina Street Oakleigh, which is currently under construction. Upon completion 10 Alvina Street will house 96 townhouses.

DISCUSSION

EPA - The subject site is not on the Environmental Protection Authority Register of Environmental Audits.

VHR – The subject site is not on the Victorian Heritage Register.

PSI – A Preliminary Site Investigation was commissioned by Council for the site and this identified that the potential for contamination is considered to be low. Additionally, exposure pathways would be low for a potential use as open space and no further investigation or environmental audits are required.

NAMING - Once the land is transferred to Council, it will need to be named.

Mr Bull has not proposed or advised that the Will includes a requirement for the park to be named in any particular way.

When naming a feature, Council must adhere to the Naming rules for places in Victoria – Statutory requirements for naming roads, features and localities – 2016. The Naming Rules which derive from the Geographic Place Names Act 1998 are mandatory for all naming authorities in Victoria and contain a number of Principles which must be adhered to, as well as specific community consultation requirements for naming proposals. This includes a community consultation process on any proposed name which must run for a minimum of 30 days.

POLICY IMPLICATIONS

Council Plan – One of the Council Plan’s Strategic Objectives is to “Enhance our open spaces and activity”. We will continue to improve parks and support the community to be health and active.

Monash Health and Wellbeing Plan – Pillar One: Active and Healthy – A city dedicated to optimal health and wellbeing for its community.

Priority 9: Open and Green Spaces

We want to achieve a Monash community that has a strong connection to the natural environment and an understanding of its direct impact on overall health and wellbeing.

We want to increase public access to local open, green space in accordance with the Monash Open Space Strategy.

Plaques and Memorials Policy – This Policy outlines principles to protect the intended purpose and aesthetic appearance of Council public space.

The Policy is silent with regard to a Plaque associated with a bequest.

Monash Open Space Strategy – The MOSS identifies that Oakleigh South is moderately well provided for in terms of community open space provision, however the Strategy does acknowledge the future residential growth from the former nearby Talbot Quarry site. The MOSS identifies that future development of social family recreation and parks should be prioritised in the areas to the south of the subject land.

CONSULTATION

Consultation in accordance with the Monash Community Engagement Policy has not occurred.

Should Council resolve to accept the offer of a bequest of the subject land, the community will be informed about the acquisition.

SOCIAL IMPLICATIONS

The benefits of public open space are well documented. The creation of new public open space occurs rarely, and these assets play a critical role in helping residents and visitors to enjoy outdoor areas, strengthen community connections, become active and improve the quality of life.

HUMAN RIGHTS CONSIDERATIONS

There are no Human Rights Considerations associated with this report.

GENDER EQUITY ASSESSMENT

A Gender Impact Assessment has not been undertaken for this proposal.

FINANCIAL IMPLICATIONS

When the land is transferred to Council, and assuming the land will be accessible by the public from the Coombs Avenue frontage, Council will assume responsibility for horticultural care and waste management (if required). It is expected that this cost will be absorbed into current operational budgets.

It is proposed that the budget for Capital Works for FY23/24 include an amount to design and construct a parkland which recognises the future transfer of the southern portion.

CONCLUSION

9 Coombs Avenue Oakleigh South which is owned by Richard Ian Bull, Executor of Leon Emile Borelli (deceased), through Mr Borelli's Will has bequeathed 9 Coombs Avenue Oakleigh South to the Council for use as a recreational park in perpetuity.

A condition of the bequest is the installation of granite rock with a plaque upon the land in recognition Mr Borelli's parents who resided upon the land since the early 1990's.

The land will be subdivided into two lots. The northern lot is proposed to transfer to Council now and the second lot will transfer to Council upon the passing of the late Mr Borelli's wife.

It is recommended that Council accept the bequest of 9 Coombs Avenue Oakleigh South and thank the Executor and family of Mr Leon Emile Borelli for their kind gesture.

Annexure 1

Dr Andi Diamond
Monash City Council
PO BOX 1
Glen Waverley 3150

17/6/22

Estate of Leon Emile Borelli – 9 Coombs Avenue, Oakleigh South

Dear Dr Andi

I am writing to you as sole trustee of the Estate of the late Leon Borelli. In his will Leon left a bequest to your council of the above-named property to be used as a public reserve. I have been in discussion with Karen Hayes of your organisation, and she has asked me to write to you now in order to provide my thoughts on how we might best comply with Leons wishes and at the same time meet the councils needs in respect to naming and recognition of his family on this newly created park.

Leons parents Allan and Lisbeth Borelli settled on this land over 100 years ago and raised their family there. The will seeks for recognition of Allan and Lisbeth Borelli to be remembered as Pioneers of the land through the installation of a monument.

To recognise this, as trustee I seek to have a granite rock suitably placed in the park which could be interpreted as a monument. A plaque could then be placed on the rock inscribed with the words:

"This Park was gifted in 2022 in perpetuity to the City of Monash community, by Leon Emile Borelli (1952-2020) in memory of his parents Allan and Lisbeth Borelli who lived on this land from the early 1900's".

There is a dwelling on the block which has a demolition planning request currently with your council. Once it has been removed, we are then required to subdivide the front house block from the rear of the property which at present operates a nursery (a right of access will need to be established to allow nursery operations to continue).

Leon's Will then stipulates that on the passing of his wife Susan Borelli the remainder of the land at the rear will also be gifted to the City of Monash as additional parkland.

Would you please let me know in due course if you and the council are happy with the above proposal?

Thank you.

Yours faithfully



Richard Bull
Trustee for the estate of Leon E Borelli

Annexure 2

Copyright State of Victoria. No part of this publication may be reproduced except as permitted by the Copyright Act 1968 (Cth), to comply with a statutory requirement or pursuant to a written agreement. The information is only valid at the time and in the form obtained from the LANDATA REGD TM System. None of the State of Victoria, its agents or contractors, accepts responsibility for any subsequent publication or reproduction of the information.

The Victorian Government acknowledges the Traditional Owners of Victoria and pays respects to their ongoing connection to their Country, History and Culture. The Victorian Government extends this respect to their Elders, past, present and emerging.

REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958
VOLUME 08894 FOLIO 367 Security no : 1240985854625
Produced 27/06/2022 02:50 PM

LAND DESCRIPTION

Lot 1 on Plan of Subdivision 092246.
PARENT TITLE Volume 06354 Folio 752
Created by instrument LP092246 02/09/1971

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
RICHARD IAN BULL of 1 AURELIA CLOSE POINT LONSDALE VIC 3225 Executor(s) of
LEON EMILE BORELLI deceased
[AU981196J](#) 03/11/2021

ENCUMBRANCES, CAVEATS AND NOTICES

COVENANT [1049151](#)

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan or imaged folio set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE [LP092246](#) FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL