

1.7 MONASH MEDICAL CENTRE – PROPOSED ROAD DISCONTINUANCE

Responsible Director: Peter Panagakos

RECOMMENDATION*That Council:*

1. *Acting under section 17(4) of the Road Management Act 2004 (Vic), resolves that the road reserve shown hatched in Attachment 2 to this report, with an area of approximately 347m², being part of the land contained in certificate of title volume 11551 folio 791 ('Road') be removed from Council's Register of Public Roads on the basis that the Road is no longer reasonably required for general public use for the reasons set out in the report;*
2. *Pursuant to Clause 3 of Schedule 10 and section 189(4) of the Local Government Act 1989 ('the Act') resolves to commence the statutory procedures to consider discontinuing the Road and transferring the land from the discontinued Road to Monash Health to facilitate the Monash Medical Centre Emergency Department Expansion and Traffic Improvement Project ('the Proposal');*
3. *Pursuant to Sections 207A and 223 of the Act, directs that public notice of the proposed discontinuance and transfer of the discontinued Road, be given in the local newspaper and on Council's website;*
4. *Authorises Council's Chief Executive Officer or her delegate to undertake the administrative procedures necessary to enable Council to carry out its functions under section 223 of the Act in relation to this matter ('Appointed Officer');*
5. *Appoints a Committee of Council, comprising Oakleigh Ward Councillors, to consider any submissions received under section 223 of the Act at the Civic Centre at a time and date to be fixed;*
6. *Directs that following any hearing of submissions by the Committee of Council, or if no submissions are received by Council's Appointed Officer, a report is to be received by Council to consider whether to proceed with the proposed road discontinuance and transfer of the discontinued Road referred to at points (2) and (3) above.*

7. *Notes that should the road discontinuance proceed as referred to in recommendation 6 above, that Monash Health intend to enter into an agreement with Council to facilitate the creation of the new road for public access as part of their plan of subdivision process.*

INTRODUCTION

Council has received a proposal from Monash Health requesting Council to agree to a land transaction that includes the re-alignment of a public walkway from Clayton Road through to Wright Street in Clayton as part of a major project by Monash Health. A copy of the request is provided in Attachment 1.

For this to occur, Council will need to commence the statutory procedures in accordance with the Local Government Act 1989, to remove the road status from the road that comprises the current location of the public walkway (**Road**) and agree to the new location for the public walkway to be created on a plan of subdivision to be created and lodged at the Land Registry by Monash Health.

Therefore, this report proposes that Council commence the statutory procedures under clause 3 of Schedule 10 and section 189 (4) of the *Local Government Act 1989* (Vic) (**LGA**) to discontinue the Road shown hatched in Attachment 2 to this report and transfer the land from the discontinued Road to Monash Health, to facilitate the creation of a new internal road for the Monash Medical Centre as part of the Monash Medical Centre Emergency Department Expansion and Traffic Improvement Project.

BACKGROUND

The Road is a public walkway and is part of the land contained in certificate of title volume 11551 folio 791, being that part of Road R1 on plan of subdivision no. LP7039 shown as a 'right of way' on that plan of subdivision.

The Road is a 'road' for the purposes of the LGA on the basis that it is known to title as a right of way (section 3(1) of the LGA) and, accordingly, Council has statutory power to consider discontinuing the Road.

The Road is listed on Council's register of public roads (**Register**). It is considered that the Road is no longer reasonably required for general public use having regard to the proposal by Monash Health to deviate the public walkway to align with their proposed internal road to be known as McCulloch Street.

The road status of the Road can only be extinguished if the Road is formally discontinued under clause 3 of Schedule 10 to the LGA or section 14 of the *Road Management Act 2004* (Vic). Once the Road has been discontinued, Council can then proceed to transfer the land comprising the discontinued Road (**Land**), to Monash Health.

Prior to discontinuing the Road and transferring the Land to Monash Health, Monash Health will enter into an agreement with Council to:

1. create a new internal private road (to be known as McCulloch Street) as part of the Monash Medical Centre Emergency Department Expansion and Traffic Improvement Project; and
2. create a new road to become a public walkway in lieu of the discontinuance of the existing Road.

DISCUSSION

The Project

The Victorian Health and Human Services Building Authority under the guidance of the Department of Health and Human Services has been funded to undertake capital improvement works to the Monash Medical Centre Emergency Department and associated traffic improvement works along Clayton Road.

These works will double the capacity of the Emergency Department and include a dedicated Paediatrics Emergency Department.

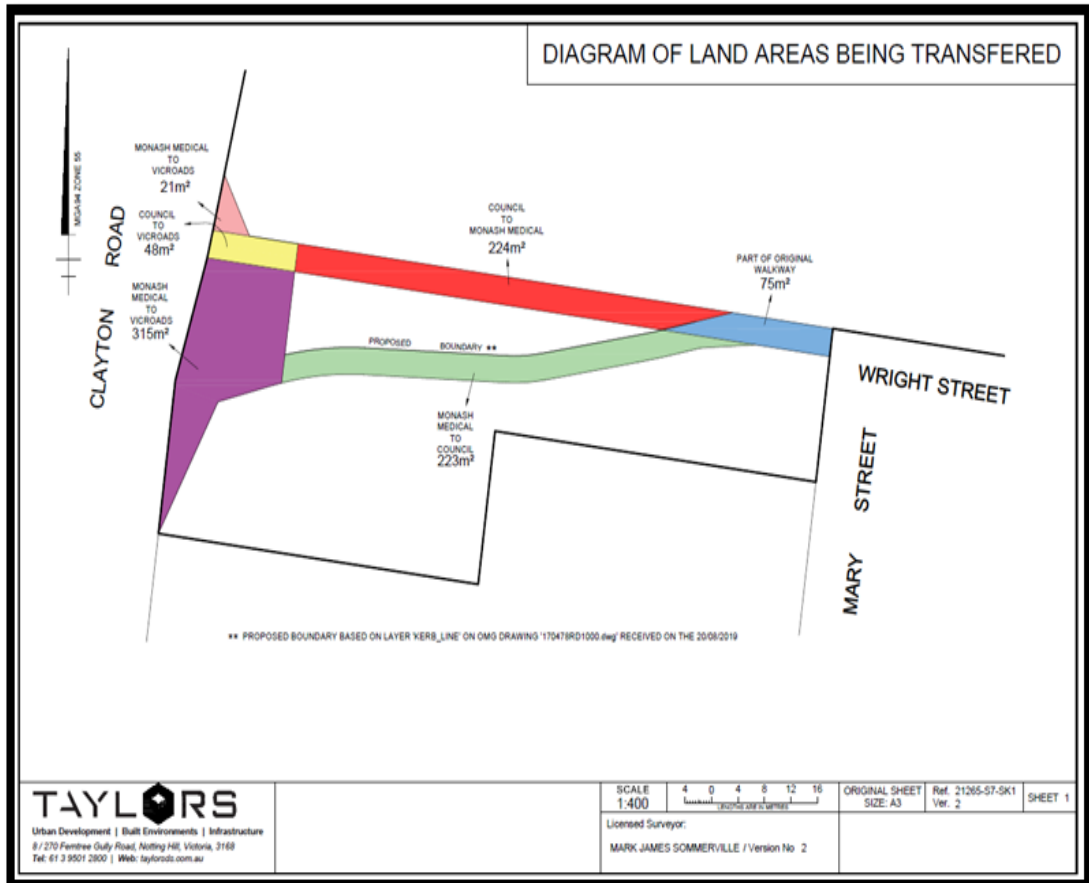
Part of the project is to improve the traffic flow in and around the existing Monash Medical Centre. This includes creating a new internal road and intersection with Clayton Road.

The new internal road will accommodate hospital staff vehicles and delivery traffic entering and exiting the Medical Centre, removing them from the main entry which is to be the focal point for public visitors and ambulances.

In order to achieve the design of the new internal road and intersection with Clayton Road, Monash Health need to realign the Road owned by Council.

The diagram below shows the location of the Road and the new road.

The yellow, red and blue areas make up the Road to be discontinued and transferred to Monash Health. The blue and green areas make up the new road (**New Road**) to be created on a plan of subdivision and transferred back to Council. The purple area is the Road Reserve to be managed by VicRoads.



Road to be Discontinued	Area	Transfer to:
Yellow	48m ²	Vic Roads to become part of the new Clayton Road intersection.
Red	224m ²	Monash Health to become part of the new internal road to be known as McCulloch Street.
Blue	75m ²	Monash Health then to be created on the plan of subdivision and owned by Council.
TOTAL	347m ²	

Legend:

New Road	Area	New Owner
Pink	21m2	Vic Roads to become part of the new Clayton Road intersection
Green	223m2	Council - to become the new public walkway
Purple	315m2	Vic Roads to become part of the new Clayton road intersection

The Proposal

The proposal involves Monash Health providing Council with the New Road to replace the loss of the Road.

The proposed key sequencing is:

- Council to agree to remove the Road from Council's Register as per agreement to be entered into with Monash Health;
- Council to discontinue the Road;
- The Land is transferred to Monash Health in consideration of Monash Health transferring to Council an area of land to become the New Road pursuant to a land exchange agreement between the parties; and
- A Plan of Subdivision is then submitted to and approved by Council setting out the new road alignment.

Once the plan of subdivision is registered at the Land Use Victoria, the New Road will be vested as a 'road' in Council's ownership and will reconnect the public's access from Mary Street through to Clayton Road.

CONSULTATION**Internal**

The Proposal has been discussed between officers in Council's Property, Engineering and Assets Departments. No concerns were raised with the request to remove the road status from the Road so long as there is an area of land to become the New Road.

In addition to the internal discussions, officers have also given due consideration to the principles outlined in the *Local Government Best Practice Guidelines for the Sale, Exchange and Transfer of Land*. Consideration and assessment of these principles has been given for the Proposal and officer's responses are set out in the following Table

Best Practice Consideration	Officer's Response
Ensuring that there is no other use by Council for the land prior to selling or exchange.	The land is being used to provide pedestrian access from Clayton Road to Wright Street / Mary Street Clayton. There is no other use proposed by Council.
Ensuring that the land offered for sale is sold at its highest and best use.	The land is zoned Public Use Zone - Schedule 3 Health & Community (PUZ3). No rezoning is required. However the land is designated as a right-of-way on Council's Roads Register. If discontinued as a road, this designation would need to be amended to accord with the realigned public walkway.
Presentation of the land to expose its best attributes.	The land presents as a well maintained public walkway and this is expected to be replicated in the realigned location.
The optimum development potential of the land should be considered for sale (this may include a feasibility study).	The optimum development potential of the land is incorporation of the land with Monash Health's abutting land to facilitate the growth of the Medical Centre and improve the traffic situation. No feasibility study is required.
Preparation of a section 173 agreement or other means should Council wish to control the future use of the land.	Monash Health will enter into an agreement to realign the Right of Way via a plan of subdivision process, pay Council's reasonable costs and address associated matters.
Any environmental reports should be obtained where there is a possible contamination and if so, preparing a strategy for its remediation.	Environmental reports are not required as the land will not be rezoned to, or used for, a more sensitive use.

External

In accordance with s.223 of the Local Government Act 1989, a public notice of the Proposal will be published in the Monash Leader newspaper and on Council's website.

The public notice will invite submissions on the proposal in accordance with Section 223 of the Local Government Act 1989 and submitters may request to be heard by a Committee of Council prior to a decision being made on the proposal.

Should submissions be received, a Committee comprising of Oakleigh Ward Councillors would be required to convene to consider any submissions received and hear any submitter who requested to be heard in support of their submission.

A further report will be then be presented to Council for consideration of the proposal following the public consultation period whether or not submissions are received.

Consultation on behalf of Monash Health has already taken place with the Department of Environment, Land, Water & Planning, Public Transport Victoria, Ventura Bus Lines, Council's Engineers and the Department of Transport. All are satisfied with the proposed road deviation to facilitate the new internal/intersection layout.

In respect of the overall development, Monash Health has advised that the construction works including the McCulloch Street works and its intersection with Clayton Road, will progress under a town planning exemption pursuant to section 16 of the Planning and Environment Act 1987. This means that the usual public notification process for the proposed buildings and works do not apply.

FINANCIAL IMPLICATIONS

Monash Health will reimburse Council's reasonable costs in this matter which will be referenced in the agreement with Monash Health.

The payment of financial consideration by Monash Health to Council is not required as the Land will be transferred to Monash Health in consideration for Monash Health transferring part of its adjoining land to Council pursuant to a land exchange agreement.

CONCLUSION

The Proposal provides many benefits to the operations of Monash Health and the surrounding residents. The design of the new internal road network and intersection with Clayton Road will improve traffic movement at Monash Hospital significantly by providing an alternative access for service vehicles, hospital staff, emergency vehicles and pedestrians. This will reduce the current traffic conflict between vehicles and pedestrians.

There is no net loss to the surrounding residents as the public walkway will be re-aligned in the location of the New Road and maintained by Council. Accordingly, the proposal by Monash Health for Council to agree to the land transaction discussed in this report and commence the statutory procedures for a road discontinuance procedure for the Road in return for Monash Health creating the New Road on a plan of subdivision is supported.

ATTACHMENT 1 MONASH HEALTH PROPOSAL

Capital & Infrastructure
Monash Medical Centre
246 Clayton Road
Clayton Victoria 3168
Australia

Postal Address:
Locked Bag 29
Clayton South Vic 3169
Australia

Tel (03) 9594 4386
Fax (03) 9594 6030

26 September 2019

Dr Andi Diamond
Chief Executive Officer
City of Monash
PO Box 1
Glen Waverley Vic 3150

email: andid@monash.vic.gov.au

Dear Dr Andi Diamond,

RE: MONASH MEDICAL CENTRE EMERGENCY DEPARTMENT EXPANSION AND TRAFFIC IMPROVEMENT PROJECT – PROPOSED McCULLOCH STREET CREATION

Monash Health wish to advise Monash City Council of its intent to enter into an agreement with it for a proposed land transaction, Road Discontinuance/Deviation and Plan of Subdivision to enable the creation of a new internal private road, McCulloch Street, under the Monash Medical Centre Emergency Department Expansion and Traffic Improvement Project.

As previously discussed with Monash City Council officers, the Victorian Health and Human Services Building Authority (VHHSBA), under the guidance of the Department of Health and Human Services, has been funded to undertake capital improvement works to the Monash Medical Centre Emergency Department and associated traffic improvement works along Clayton Road. The project has been fully funded by the Victorian State Government and construction works, including the McCulloch Street works and its intersection with Clayton Road, will progress under a town planning exemption pursuant to Section 16 of the *Planning and Environmental Act 1987*.

One of the Project's main design directions stated by the VHHSBA is to improve the traffic flow in and around the existing Monash Medical Centre. A key component of the final design solution is to create a new internal road and intersection with Clayton Road. This internal road, McCulloch Street, holds the key to Monash Medical Centre's ability to separate the flow of vehicles entering the site and improve safety for all users of the internal road system. The McCulloch St intersection will accommodate hospital staff vehicles and delivery traffic entering and exiting the site, removing them from the existing Main Entry which is to be the focal point for public visitors only.

The proposed McCulloch St roadway currently resides over a portion of existing walkway land owned by Monash City Council (MCC), adjacent to land owned by Monash Health (MH).

Land Transaction: Road Discontinuance/Deviation and Plan of Subdivision:

MH and MCC have previously discussed a possible land transaction agreement in order to realise the creation of McCulloch St. At recent meetings held between MH and MCC on 07 August and 10 September 2019, it was proposed and agreed that the land transaction could proceed under a 'Road Discontinuance/Deviation' procedure in association with a 'Plan of Subdivision'. The attached sketch produced by the Project's Traffic Engineer, One Mile Grid, summarises the proposed parcels of land to be transacted under this agreement. (Refer document '170478CLP113B.pdf' Drawing No. CLP113, Revision B, "Monash Medical Centre Redevelopment McCulloch Street Land Swap Areas).

MH, through the Project, sought professional advice on the proposed processes required to undertake the creation of McCulloch Street. The steps involve a Road Discontinuance/Deviation process to be undertaken by Monash City Council to extinguish the existing road. Monash Health will be responsible to then recreate the new road (walkway) in its new location through a Plan of Subdivision process.

Monash Medical Centre Clayton
Centre Road
246 Clayton Road
Clayton
Tel: 9594 6666

Moorabbin Hospital
Centre Road
East Bentleigh
Tel: 9928 8111

Kingston Centre
Warrigal Road
Cheltenham
Tel: 9265 1000

Dandenong Hospital
David Street
Dandenong
Tel: 9554 1000

Casey Hospital
Kangan Drive
Berwick
Tel: 8768 1200

Community-based services across the South East
ABN 82 142 080 338



The following is the proposed sequence of events leading to the creation of McCulloch Street:

1. The Project's Land Surveyor will prepare a Road Discontinuance Plan and a Title Plan for use by Monash City Council (MCC) to formally discontinue the walkway;
2. Monash Health (MH) Project team secures a formal agreement between key stakeholders to have MCC undertake the road discontinuance of the walkway, prepare the transfer the ownership of the discontinued road to MH for the proposed re-subdivision. The consideration for the transfer will be the new road (walkway) to be vested to MCC. No financial consideration will be required, as the road (walkway) is effectively being 'deviated' to the new position. The areas involved are practically the same, less the land being vested to VicRoads.
3. MCC will commence the Road (walkway) Discontinuance process in line with its statutory requirements, which ultimately will create a title which can be transferred to MH. Under Section 191 of the *Local Government Act 1989*, a Council powers to transfer any land include the power to do so without consideration to any public body (MH);
4. The Project's Land Surveyor will prepare a preliminary Plan of Subdivision (to realign the boundaries required), to assist the team with discussions with the key stakeholders (MCC, VicRoads and MH). This plan may also be included in a formal agreement;
5. The Project's Land Surveyor will submit an application to MCC, on behalf of the MH, for the planning permit and Plan of Subdivision for approval of the subdivision of the former walkway, 1 Mary Street and 248-250 Clayton Road to create the new walkway (road) to be vested to MCC; the entry road, southern and northern splays to be vested to VicRoads;
6. MCC will process the application and undertake any referrals to relevant authorities and certify the Plan of Subdivision;
7. MCC will issue Statement of Compliance for the Plan of Subdivision upon construction completion of new walkway and entry civil works;
8. MH solicitors/lodging party to submit an application for registration of the subdivision at Land Use Victoria. These will need to be accompanied by the relevant transfer documents (such as the transfer of the discontinued road from Monash City Council to Monash Health); and
9. Upon registration of the subdivision, the new MCC road (walkway) and the VicRoad's road (entry and splay) will vest to those bodies respectively.

For MCC's information, the Project has been advised that the timing of gaining the planning permit and certification of the Plan of Subdivision will be four to six months from time of submission. The issuing of the Statement of Compliance is dependent upon the civil works for the new roadway and new entry being completed to MCC and the Authorities' satisfaction.

It is proposed the Project's Land Surveyor, Taylors, will undertake a title survey early in the project to update and determine the subject site boundaries along Clayton Road and Mary Street Avenue and to assist in the preparation of the Plan of Subdivision. A second site survey visit will be undertaken by Taylors upon completion of the walkway to confirm the built dimensions accord with those in the prepared plans of subdivision.

Taylors has drafted the following plans for MCC's reference:

- The draft Road Discontinuance Plan (Refer document '21265-RD-Road Discontinuance.pdf');
- The draft Plan of Subdivision (Refer document '21265-S(V1-DRAFTC).pdf' ; and
- A 'For information' document with coloured areas indicating the sub-division boundaries overlaid on the proposed engineering concept plan. (Refer document '21265-S (V1-DRAFTC) LAND AREAS.pdf.)

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The Project notes that VicRoads has been kept informed throughout all phases of the Project's planning and finalisation of design and has issued the Project written confirmation of its approval of the McCulloch St/Clayton Road intersection's construction. Extensive correspondence between the Project and VicRoads has occurred and if required, separate copies of this correspondence will be sent through for MCC records.

The Subdivision and Road Discontinuance processes will run simultaneously and the Project proposes to cover all reasonable costs associated with the land transaction and manage the agreement between Monash Health, and Monash City Council and that required for vesting of the intersection land to VicRoads.

Fregon Hall:

As additional scope to this land exchange agreement Monash Health confirm its acceptance of the creation of the Carriageway Easement across its land in favour of Fregon Hall, for nominal consideration, in order to address an historical anomaly. This easement creation is highlighted on the attached documents 'Fregon Hall Aerial Carriageway Easement Creation.pdf' and 'Fregon Hall title and diagram (003) (002).pdf'. It is understood MCC will arrange for surveyors to prepare a 'Creation of Carriageway Easement Plan', separately to the above detailed land swap process.

Proposed Timing of the Agreement:

Monash Health note that on 19 August 2019, VHHSBA appointed Kane Constructions Pty Ltd as Main Contractor on the Project and construction works on the Emergency Department Expansion works commenced in September 2019. As such, MH request urgent consideration of this proposal by Monash City Council.

In summary, Monash Health propose to enter into the agreement as soon as possible with Monash City Council for the Road Discontinuance/Deviation and Plan of Subdivision and request confirmation by Monash City Council of its endorsement to proceed in due course as negotiated.

Please do not hesitate to contact me should you have any further queries in relation to this matter and we look forward to receiving MCC's endorsement of the agreement.

Yours Sincerely

David Ballantyne
Executive Director
Capital & Infrastructure

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