

Privacy acknowledgement: *

I have read and acknowledge how Council will use and disclose my personal information.

Name: *

Karl Hessian

Phone number: *

[REDACTED]

Email address: *

[REDACTED]

Date of Council meeting: *

Tuesday 25 October 2022

Agenda item title: *

5.1 Proposed discontinuance of parts of Bedford, Capel and Courtney Streets, North Melbourne

Please write your submission in the space provided below and submit by no later than 10am on the day of the scheduled meeting.

This is fantastic! More of this sort of thing please.

We encourage you to make your submission as early as possible.

Do you also wish to attend the Council meeting in person, noting that there is no provision to make verbal submissions at Council meetings? *

No

Privacy acknowledgement: I have read and acknowledge how Council will use and disclose my personal information.

*

Name: * Karl Hessian

Phone number: *

[REDACTED]

Email address: *

[REDACTED]

Date of Council meeting: * Tuesday 25 October 2022

Agenda item title: Proposed Road and Reserves Discontinuance and Sale Policy 6.2

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Please write your submission in the space provided below and submit by no later than 10am on the day of the scheduled meeting. We encourage you to make your submission as early as possible.

Section 5.1 of the proposed policy deals with conditions where Roads and Reserves are not required to be retained.

On my reading, this is drafted such that there are three conditions that need to be met for a road or reserve to qualify as not requiring to be retained.

These are: Points 1 & 2 must both be met, and ONE of Points 3 to 8 must be met.

Elsewhere in the document it is suggestive that all EIGHT points need to be met for a road or reserve to gain non-retention status.

I favour strengthening the test at section 5.1 such that all eight points are conditions that must be met.

Section 5.4 deals with the sale of a road or reserve, and states as an objective that Council will offer the road or reserve equally to abutting owners except where "an abutting owner can demonstrate continuous and exclusive occupation of the Road or Reserve for at least the last 15 years in which case, the Road or Reserve WILL be offered

directly to the occupying owner" (my emphasis).

On the face of it section 5.4 appears to be in conflict with the guidance on conditional contracts contained in the "Local Government Best Practice Guidelines for the Sale and Exchange of Land". It would be worthwhile to check this with counsel before adopting the policy.

If advice is received that this is lawful, I question whether it is sensible to pre-commit to offering a discontinued road to one party after 15 years. It is not inconceivable that other abutting (but non-occupying) parties are prepared to pay more for the land, and/or have a development vision for the land better aligned with council strategy, but who are nonetheless disqualified from negotiation.

A better position in my view is that 15 years of occupation by one party is a long enough period of time to demonstrate that the road or reserve is not required for its original function and public use, and is thereby worthy of consideration for divestment, but NOT long enough to confer a right of adverse possession on the occupying party.

If an occupying party desires to secure the land by means of adverse possession then they should demonstrate 30 years continuous and exclusive occupation as required by DELWP for land subject to a carriageway encumbrance easement.

Do you also wish No
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Council meeting
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that there is no
provision to make
verbal
submissions at
Council meetings?

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