



8.5	PROPOSED DISCONTINUANCE AND SALE OF ROAD AT THE REAR OF 159 GRAHAM STREET, PORT MELBOURNE
LOCATION/ADDRESS:	REAR OF 159 GRAHAM STREET, PORT MELBOURNE
ACTING GENERAL MANAGER:	MELISSA HARRIS, ORGANISATIONAL PERFORMANCE
PREPARED BY:	DAVID GRAFFEN, COORDINATOR PROPERTY MANAGEMENT
TRIM FILE NO:	78/10/0004
ATTACHMENTS:	1. Title Plan 2. Site Images

PURPOSE

To seek Council's approval to commence the statutory procedures pursuant to the Local Government Act 1989 to discontinue and sell the road at the rear of 159 Graham Street, Port Melbourne, being part of the land contained in certificate of title volume 11365 folio 535 (Road).

I. RECOMMENDATION

That Council acting under clause 3 of Schedule 10 of the Local Government Act 1989:

- 1.1 Resolves that the statutory procedures be commenced to discontinue the road at the rear of 159 Graham Street, Port Melbourne (Road), shown as lot 1 on the title plan contained in Attachment 1.
- 1.2 Directs the public notice of the proposed discontinuance be given under sections 207A and 223 of the Local Government Act 1989.
- 1.3 Resolves that the public notice required to be given under sections 207A and 223 of the Local Government Act 1989 should state that if the Road is discontinued, it will be sold by private treaty to the owners of 159 Graham Street, Port Melbourne for an amount of \$23,800 plus GST.
- 1.4 Authorises the Chief Executive Officer or delegate to undertake the administrative procedures necessary to enable Council to carry out its functions under section 223 of the Local Government Act 1989.
- 1.5 Resolves to hear and consider any submissions received pursuant to section 223 of the Local Government Act 1989 at a Council meeting to be held on 3 May 2017.

Further, should no submissions be received, Council:



- 1.6 Resolves that, having followed all the required statutory procedures pursuant to sections 189, 207A and 233 of the Local Government Act 1989 pursuant to its power under clause 3 of Schedule 10 of the Local Government Act 1989, and being of the opinion that the Road, is not reasonably required for public use, it discontinues the Road.
- 1.7 Directs that a notice pursuant to the provisions of clause 3(a) of Schedule 10 of the Local Government Act is to be published in the Victoria Government Gazette.
- 1.8 Directs that, once discontinued, the Road be transferred to the adjoining owners for no less than the market value.
- 1.9 Directs that the common seal of Port Phillip City Council is affixed to any transfer or transfers of the Road and any other documents required to be signed in connection with the discontinuance of the Road and its subsequent transfer to the adjoining owner.
- 1.10 That the adjoining owner be required to consolidate the title to the Road with the title to the property known as 159 Graham Street, Port Melbourne, being the land contained in certificate of title volume I 1633 folio 420, within 12 months of the date of transfer of the discontinued Road.

2. BACKGROUND

- 2.1 As a result of the Road Management Act 2004, ownership of municipal roads (with some exceptions) vests in Council. Roads required for public access are recorded on Council's Register of Public Roads.
- 2.2 Council has a policy to enable discontinuance of roads and sale to abutting owners if a road or part of a road is no longer required for public access.
- 2.3 In accordance with Council's Discontinuance and Sale of Roads policy, the land is valued by Council's Contract Valuers at the current market value (per square metre) to determine the purchase price. A discounted land price can be applied, or waived in exceptional circumstances.

3. KEY INFORMATION

- 3.1 A request has been received from the owners of 159 Graham Street, Port Melbourne seeking to purchase the road abutting the property. The road at the rear of 159 Graham Street, Port Melbourne, being part of the land contained in certificate of title volume I 1365 folio 535 (Road), is at the rear of the property.
- 3.2 The subject Road proposed to be discontinued and sold comprises approximately seven square metres. It is enclosed within the fenced boundaries of the owners' land, as shown on Attachment 2.
- 3.3 The Road is unconstructed and only provides access to the owners' land.
- 3.4 Having regard to the occupation over many years, it is considered that the Road is not required for public access.
- 3.5 It is proposed that easements of drainage and sewerage will be created to enable the protection of infrastructure services as required by the relevant authorities.

AGENDA - ORDINARY MEETING OF COUNCIL – 15 FEBRUARY 2017



- 3.6 The proposed sale price of \$23,800 plus GST represents market value as determined Council's Contract Valuers.
- 3.7 Discontinuance enables the Road to be used for a productive purpose and enjoyment of the proponent.
- 3.8 The following documents have been attached for reference:
 - 3.8.1 Attachment 1: Title Plan – showing the dimensions of the subject Road
 - 3.8.2 Attachment 2: Site Images – showing existing conditions at the rear of 159 Graham Street, Port Melbourne



FURTHER SUPPORTING INFORMATION

4. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 4.1 Road discontinuance aligns with the following focus areas in the adopted Council Plan 2013-2017:
 - 4.1.1 1 – Engaged – A Well-Governed City – Value transparent processes in Council decision making
 - 4.1.2 4 – A Vibrant City – Ensure growth is well planned and managed for the future and improve and manage local amenity and assets now and in the future.
- 4.2 The proposal is in accordance with Council’s Discontinuance and Sale of Roads Policy.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 Council will consult with the community through a “Public Notice” to be published in the local newspaper inviting submissions in accordance with statutory procedures.
- 5.2 Relevant Council departments have been notified by way of internal referral. Service authorities have also been consulted to determine the requirements for easements.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 The Road is currently fenced within the fenced boundaries of the owners’ land meaning the Council cannot access the land to maintain it without opening the land to public use.
- 6.2 Council has powers to discontinue roads under clause 3 of Schedule 10 of the Local Government Act 1989. The definition of a ‘road’ includes a right of way and laneway.
- 6.3 The price paid by the purchasers is in accordance with Council’s Discontinuance and Sale of Roads policy.

7. SUSTAINABILITY – Triple Bottom Line

7.1 ENVIRONMENTAL IMPLICATIONS

- 7.1.1 The proposal has no detrimental environmental implications.

7.2 SOCIAL & CULTURAL IMPLICATIONS

- 7.2.1 The proposal has no detrimental social and cultural implications.

7.3 ECONOMIC IMPLICATIONS

- 7.3.1 The proposal has no detrimental economic implications.

7.4 FINANCIAL IMPLICATIONS

- 7.4.1 The price of the land is in accordance with Council’s Discontinuance and Sale of Roads Policy.
- 7.4.2 It is proposed to sell the land in the subject Road at market value. If discontinuance and sale of the Road is supported, Council will receive revenue of \$23,800 plus GST.



- 7.4.3 The purchaser is required to pay the costs for professional services associated with the transaction, to be collected by Council's lawyers.

8. IMPLEMENTATION STRATEGY

8.1 TIMELINE

- 8.1.1 A surveyor will be engaged to prepare a title plan, consolidation plan and gazettal plan for the land.
- 8.1.2 A Public Notice will invite submissions from interested parties within 28 days of the publication date. The notice will be published in local newspapers on 28 February 2017.
- 8.1.3 Any submissions received may be heard and considered at a Council meeting on 3 May 2017.

8.2 COMMUNICATION

- 8.2.1 Any interested person will be given the opportunity to make a submission and to be heard in person and have their views considered.

9. OFFICER DIRECT OR INDIRECT INTEREST

- 9.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.