

COUNCIL POLICY



Discontinuance and Sale of Roads Policy	TRIM folder:	
	Approval date:	
	Approved by:	
	Review Date	
Responsible Officer: Manager Property Services	Expiry Date	
	Version No	
Authorising Officer:	Chief Executive Officer	

1. PURPOSE

The Council owns and controls property as custodian on behalf of the community. The Council is committed to the responsible management of Council's assets and resources.

Council has wide powers in relation to roads.

This policy sets out the Council's approach to the discontinuance and sale of roads and laneways to ensure that those roads reasonably required for public access remain open to the public and those not generally required for public access may be discontinued and the land sold.

2. SCOPE

This policy sets out the conditions and principles under which a road may be discontinued and the land sold.

3. REFERENCES

- Local Government Act 1989
- Road Management Act 2004
- City of Port Phillip Property Policy (2009)
- City of Port Phillip Road Management Plan (2008)
- Community Amenity Local Law No. 3
- Draft City of Port Phillip Laneway Strategy (2011)

4. DEFINITIONS

- "**Council**" is Port Phillip City Council.
- "**Road**" has the same meaning as set out in Section 3(1) of the Local Government Act 1989 and includes a Rights of Way and a laneway.
- "**Encroachment**" means an intrusion on to another's property rights by building or occupation.

- “**Obstruction**’ means the placement of a fence, gate, equipment or any other matter or material to prevent lawful access to a road.

5. COUNCIL POLICY

5.1 Principles

As part of the road network, rights of way and laneways were developed to satisfy an historical need and were documented in early plans of subdivision. In most cases this land is still required for access or other strategic purposes and as such Council will ensure the land remains open and available to the public and is kept free of any encroachment or obstruction.

Council will retain public ownership of rights of way and laneways where;

- they continue to add character to the public realm
- have a future strategic purpose or there may be a future opportunity to activate the laneway
- may improve the walkability and permeability of the public realm
- they improve the amenity of the area
- they provide options for improved environmental outcomes
- balances are required between competing needs (private vs public ownership)
- the historical element of the laneway continues to be celebrated.

The Council may support the discontinuance and sale of a road for reasons including the following;

- the road is not required for general public use
- it may result in amenity improvements particularly where the land becomes a haven for anti-social behaviour or a place to dump rubbish;
- it may result in a safer and more secure neighbourhood by reducing access points to properties;
- it may result in a better use of land;
- Council, on behalf of the community, may obtain a fair and equitable return on land that was originally set aside for a public purpose;
- Council will reduce its maintenance burden;
- it may rectify an anomaly which will result in greater certainty of property ownership and associated rights.
- the land has no strategic value to Council
- the road has no heritage value
- the road is not required to maintain the urban character of the area
- the road is not required for access to other premises.

5.2 Governance Statement

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 interests of the wider community

Where Council has undertaken the statutory procedures for road discontinuance and considered any submissions received it may decide to proceed with road discontinuance and sale for all or any part of the subject road or to reject the proposal in its entirety.

5.3 Objections

In the event that an objection is received to a road discontinuance and sale proposal (prior to the commencement of statutory procedures), the General Manager City and Infrastructure Services will make an assessment of the merits of the proposal. The General Manager City and Infrastructure Services may decide as follows;

- that the proposal has insufficient merit and therefore the road should be retained, or
- the proposal has sufficient merit to be referred to the Council for a decision.

5.4 Price and Costs

Where it is proposed that land is to be sold as a result of road discontinuance the following will apply;

- The land will be valued by Council's Contract Valuers at the current market value (per square metre) for land in that zone in that location to determine the purchase price.
- The General Manager City and Infrastructure Services may consider that the land to be sold will considerably increase the value of the purchaser's land holding through future development. In these circumstances the purchase price will be determined by negotiation between Council and the purchaser with Council seeking to maximise the financial return for the land being sold.
- In addition to price, the purchaser will be required to pay fixed administrative costs of \$3,000 (plus conveyancing costs). This fee will be increased by CPI on an annual basis.
- An application fee of \$500 is payable for a discontinuance and sale application. This fee will be increased by CPI on an annual basis.
- In exceptional circumstances, the purchase price and/or fee may be discounted or waived by Council.

5.5 Adverse possession

- The General Manager City and Infrastructure Services may consider that the land could be acquired by adverse possession. The purchaser must demonstrate to the General Manager City and Infrastructure Services that adverse possession could be achieved. In these circumstances, the purchase price will be \$7500. This price will be increased by CPI on an annual basis.

5.6 Sale Conditions

Any material in the road of value to the Council will be purchased by the purchaser at time of sale at the current market value of such materials.

The Council reserves the right to place any easement or covenant on the land to be sold.

The portion of land being purchased must be consolidated with the remainder of the purchaser's property, and the purchaser must meet all of the costs associated with consolidation.

Where there is two or more abutting property owners seeking to purchase the same land Council will decide on the allocation of the land. The existence of underground services may influence Council's decision.

6. ATTACHMENTS

- NIL