



8.3	PROPOSED ROAD DISCONTINUANCE AND SALE MELVILLE STREET
LOCATION/ADDRESS:	REAR OF 70 ALBERT STREET, PORT MELBOURNE
ACTING GENERAL MANAGER:	MELISSA HARRIS, ORGANISATIONAL PERFORMANCE
PREPARED BY:	DAVID GRAFFEN, COORDINATOR PROPERTY MANAGEMENT
TRIM FILE NO:	90/01/85
ATTACHMENTS:	1. Title Plan 2. Site Images 3. Title for Melville Street

PURPOSE

This report seeks 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 70 Albert Street, Port Melbourne, being part of the land contained in certificate of title volume 982 folio 265 (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 70 Albert Street, Port Melbourne (Road), as shown on 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 owner of 70 Albert Street, Port Melbourne for an amount of \$7,500 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 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 1989 is to be published in the Victoria Government Gazette.
- 1.8 Directs that, once discontinued, the Road be transferred to the adjoining owner for no less than the market value.
- 1.9 Directs that the common seal of 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 any easements, rights or interests required to be created or saved over the Road by any authority be done so and not be affected by the discontinuance and sale.
- 1.11 That the adjoining owner be required to consolidate the title to the Road with the title to the property known as 70 Albert Street, Port Melbourne, being the land contained in certificate of title volume 2282 folio 344, 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 owner of 70 Albert Street, Port Melbourne, seeking to purchase the road abutting the property. The road being part of the land contained in certificate of title volume 982 folio 265 (Road), is at the rear of the property.
- 3.2 The subject Road is part of the 8.8 metre wide road (Melville Street) defined in an old plan of subdivision. Melville Street, as constructed, has a width of 4.2 metres and is constructed with bluestone pavers, as shown on Attachment 2. The owners of other properties abutting Melville Street have enclosed or built on the unconstructed part of Melville Street. Some have acquired through adverse possession, as referred to in Attachment 3.



- 3.3 The Road proposed to be discontinued and sold comprises approximately 15 square metres. A garden shed has been built on the Road which is enclosed within the fenced boundaries of the owner's land at 70 Albert Street, Port Melbourne.
- 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.
- 3.6 It appears that the Road was incorrectly recorded on Council's Register of Roads. The proposed sale price of \$7,500 plus GST is discounted in accordance with the Council policy for cases where possessory rights have been established.
- 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 Title Plan – showing the dimensions of the subject Road
 - 3.8.2 Site Images – showing existing conditions at the rear of 70 Albert Street and Melville Street, Port Melbourne
 - 3.8.3 Title for Melville Street – showing all of those parcels of land acquired through adverse possession



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 2013-17:
 - 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 the 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 majority of the Road is currently built on and exclusively occupied 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 \$7,500 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 persons 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.