



MINUTES OF THE HEARING OF SUBMISSIONS COMMITTEE MEETING

MONDAY, 28 SEPTEMBER 2015

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**MINUTES OF THE MEETING OF THE HEARING OF SUBMISSIONS
COMMITTEE OF THE DAREBIN CITY COUNCIL
HELD AT DAREBIN CIVIC CENTRE,
350 HIGH ST, PRESTON ON MONDAY 28 SEPTEMBER 2015**

THE MEETING OPENED AT 7.00 PM

1. PRESENT

Councillors

Cr Steven Tsitas (Mayor) (Chairperson)
Cr. Vince Fontana
Cr. Gaetano Greco
Cr Tim Laurence
Cr Angela Vilella
Cr Oliver Walsh (Deputy Mayor)
Cr Julie Williams (7.01 pm)

Council Officers

Rasiah Dev – Chief Executive
Chris Meulblok – Acting Director Assets and Business Services
Jacinta Stevens – Manager Corporate Governance and Performance
Katia Croce – Coordinator Council Business
Kristie Berry – Senior Property Officer

2. APOLOGIES

Cr. McCarthy is on an approved leave of absence.

An apology was lodged for Cr. Li and initial absence of Cr. Williams.

3. DISCLOSURES OF CONFLICTS OF INTEREST

Nil

**4. CONFIRMATION OF THE MINUTES OF THE PREVIOUS
HEARING OF SUBMISSIONS COMMITTEE MEETING**

COMMITTEE DECISION

MOVED: Cr. V. Fontana

SECONDED: Cr. O. Walsh

THAT the Minutes of the Hearing of Submissions Committee meeting held on 11 June 2015 be confirmed as a correct record of business transacted.

CARRIED

Cr. Williams entered the meeting at 7.01 pm.

5. CONSIDERATION OF REPORTS

5.1 PROPOSED DISCONTINUANCE AND ACQUISITION OF TITLE OF RIGHT-OF-WAY REAR 185 WESTGARTH STREET AND ADJOINING 1 BOWER STREET, NORTHCOTE

AUTHOR: Manager Assets and Properties

REVIEWED BY: Director Assets and Business Services

SUMMARY

At its meeting on 20 July 2015, Council resolved to:

- (1) *Commence the statutory procedures under section 206 and clause 3 of Schedule 10 to the Local Government Act 1989 ("the Act") to discontinue the road (Road 4) (Road 4 is located adjoining 1 Bower Street and rear 185 Westgarth Street, Northcote); and*
- (2) *Give public notice under Sections 207A and 82A and 223 of the Local Government Act, 1989 of the proposed discontinuances in the appropriate newspapers and on Council's website and such notice state that if discontinued, Council proposes transfer to itself title to the land in the discontinued road (Road 4).*

Those persons wishing to make a submission in relation to the proposed discontinuance and sale of the Road were invited to do so by 27 August 2015 with any person requesting to be heard in support of their written submission to be heard by Council's Hearing of Submissions Committee.

One submission has been received regarding the proposal and the submitter has requested to be heard in support of their submission.

CONSULTATION

- Maddocks Lawyers
- Owners of adjoining properties
- Statutory Authorities
- Council Departments

RECOMMENDATION

THAT a further report be made to Council appraising the written submission received and verbal presentation heard by the Committee in respect of the proposed discontinuance and sale of right-of-way (road) adjoining 1 Bower Street and 185 Westgarth Street, Northcote.

REPORT

INTRODUCTION AND BACKGROUND

Council received an application from the owner of 185 Westgarth Street, Northcote, for the discontinuance and sale of the road shown hatched on the site plan (**Appendix A**) and the aerial photo (**Appendix B**). Council officers commenced investigations and commissioned Macquarie Lawyers to undertake the process to facilitate the possible discontinuance and sale of the 3.05m wide section of right of way (Road).

The Road is not listed on Council's Road Register under the *Road Management Act 2004*, is not constructed and is not used for access. The road, however, appears to have been enclosed within the adjoining property at 1 Bower Street for a long period of time.

At its meeting held on 20 July 2015, Council considered a report concerning this closure and resolved to commence the statutory procedures to formally discontinue the section of road and transfer to itself title to the land in the discontinued road.

Public notice of the proposed discontinuance and acquisition of title was given in the Preston Leader on 28 July 2015 and Northcote Leader on 29 July 2015 (**Appendix C**). Owners and occupiers of adjoining properties were also notified in writing advising that written submissions received will be considered by Council in accordance with Section 223 of the *Local Government Act 1989*.

ISSUES AND DISCUSSION

Council received one (1) written submission for consideration:

- Mr A Schudmak of Northcote

A copy of the submissions has been circulated separately to Councillors for their information.

Hearing of Submissions

Mr A Schudmak has requested to be heard in support of his written submission and has been advised of the time, date and place of this meeting of Council's Hearing of Submissions Committee.

Consideration of Submissions

In accordance with sections 129 and 223 of the *Local Government Act 1989*, the Council is required to take into consideration all submissions received in relation to the proposed discontinuance and sale of the Road and after it has made a decision, notify all persons who have made a submission of the decision and the reasons for the decision.

POLICY IMPLICATIONS**Environmental Sustainability**

There are no factors in this report which impact upon environmental sustainability.

Human Rights, Equity and Inclusion

Consultation has been undertaken in accordance with the *Local Government Act 1989*. Letters have been provided to all adjoining property owners and public notices were placed in the Preston and Northcote Leaders advising of the proposal and providing opportunity to make formal submissions to Council regarding the proposed discontinuance and acquisition of title to the Road.

Economic Development

There are no factors in this report which impact upon economic development.

Other

This report has been prepared having regard to Council's Sale of Minor Council Property Assets Policy.

FINANCIAL AND RESOURCE IMPLICATIONS

The cost of the placing the public notice has been managed within existing budgets.

FUTURE ACTIONS

An appraisal of the written submission received and any verbal presentation made will be included in a subsequent report to Council.

Persons who made a submission will be notified in writing of Council's decision and the reasons for it.

DISCLOSURE OF INTERESTS

Section 80C of the *Local Government Act 1989* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any direct or indirect interest in a matter to which the advice relates.

The Officer reviewing this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

RELATED DOCUMENTS

- Site plan (**Appendix A**)
- Aerial Photo (**Appendix B**)
- Public Notice in Preston and Northcote Leader on 28 and 29 July 2015 (**Appendix C**)
- Council minutes - 20 July 2015
- Sale of Minor Property Assets Policy - May 2015
- *Local Government Act 1989*
- *Road Management Act 2004*

PRESENTATION

At the invitation of the Chairperson, Cr. Tsitas, Mr Andrew Shudmack spoke in support to his written submission dated 26 August 2015. Points made during his presentation included:

- *Reiterating his objection to the discontinuance of the road and transfer of land to Council, asserting that upon purchase of the property at 1 Bower Street, came with it possession and rights to the subject land.*
- *Provided a historic account of the occupation of the subject land in excess of 40 years, also relevant to its current condition whereby a garage extension/work shed exists on part the subject land.*
- *Raised concerns relating to the Right of Way and Road Closure Policy 1997, questioning the validity of the Policy and how it has been administered, whilst noting that the Sale of Minor Council Property Assets Policy is not applicable to his situation.*
- *Appealed to Council that it reconsiders the transfer of the land to itself, having regard to the past and present occupation of the subject land and offer the land in its entirety to him in accordance with 1997 Policy.*

At the conclusion of the presentation, the Chairperson, Cr. Tsitas, thanked Mr Shudmack for addressing the Committee in support of his written submission.

COMMITTEE DECISION

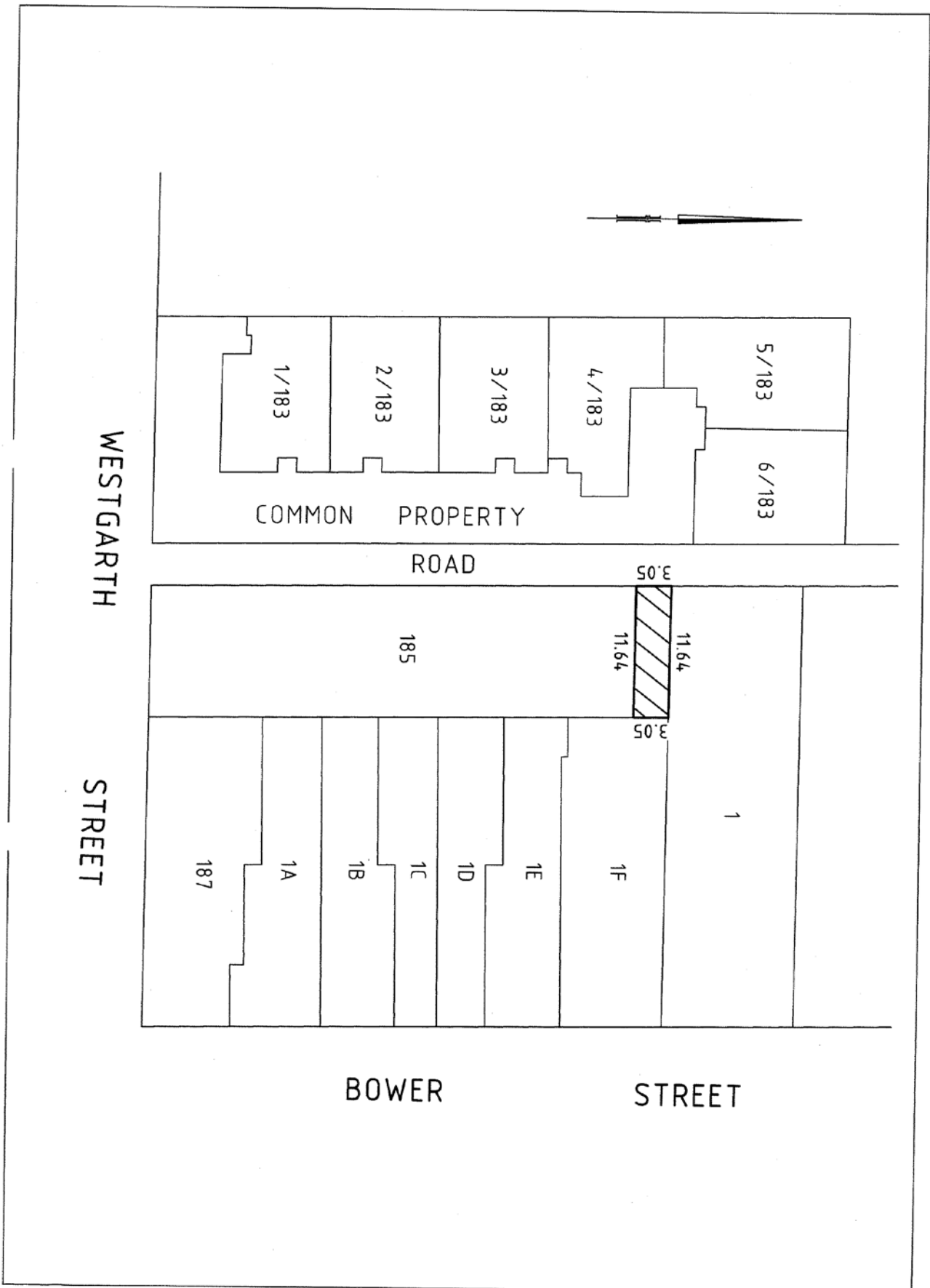
MOVED: Cr. T. Laurence
SECONDED: Cr. O. Walsh

THAT:

- (1) A further report be made to Council appraising the written submission received and verbal presentation heard by the Committee in respect of the proposed discontinuance and sale of right-of-way (road) adjoining 1 Bower Street and 185 Westgarth Street, Northcote at the Councillor Briefing Session on 12 October 2015 and at the Council Meeting on 19 October 2015.
- (2) Council thank the submitter for his submission.

CARRIED

Jacinta Stevens, Manager Corporate Governance and Performance, temporarily left the meeting during the presentation at 7.03 pm and returned 7.04 pm.



APPENDIX B- Aerial Photo



Public Notices



the place to live

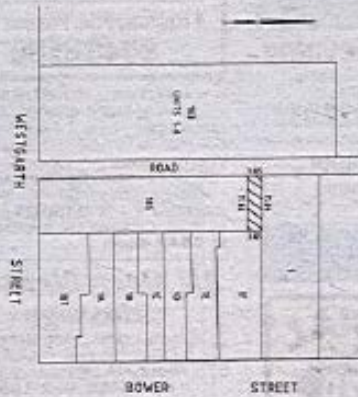
PROPOSED ROAD DISCONTINUANCES

The Darebin City Council, acting under section 206 and Schedule 10 Clause 3 of the Local Government Act 1989 ("the Act"), proposes to discontinue the following roads which are shown hatched on the plans below.

Adjoining 1 Bower Street and 185 Westgarth Street, Northcote

Reference No. FA254540

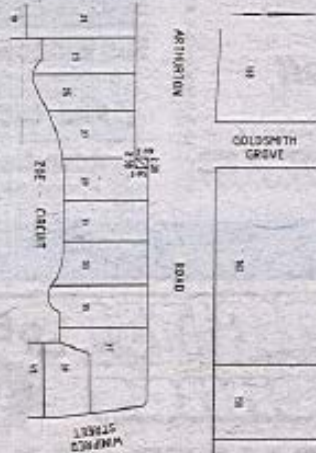
If discontinued, Council proposes to transfer the land from the road to itself.



Adjoining 29 Zoe Circuit, Northcote

Reference No. FA308396

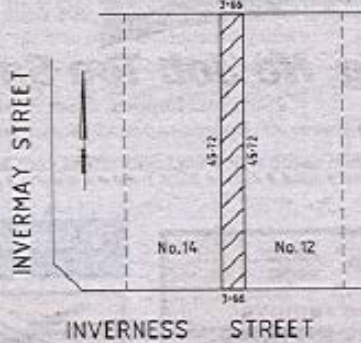
If discontinued, Council proposes to sell the land from the road by private treaty to the adjoining owner at 29 Zoe Circuit, Northcote.



Adjoining 12 and 14 Inverness Street, Reservoir

Reference No. FA311604

If discontinued, Council proposes to sell the land from the road by private treaty to the adjoining owners of 12 and 14 Inverness Street, Reservoir.



Any person wishing to make a submission on the above proposals must do so in writing to the undersigned no later than Thursday 27 August 2015.

A person making a submission is entitled to request in the submission that they wish to appear in person, or to be represented by a person specified in the submission, in support of the submission at a meeting of the Council or its Committee on a date, time and place to be determined by the Council.

All submissions will be considered in accordance with section 223 of the Act.

Following the consideration of any submissions, Council may decide to discontinue any of the roads, part of any of the roads or not to discontinue any of the roads shown hatched on the plans.

Enquiries to: Macquarie Local Government Lawyers on 9650 6700.

Submissions quoting the appropriate reference number listed above should be addressed to the Chief Executive, Darebin City Council, PO Box 91, Preston 3072, or delivered to the Municipal Offices, 274 Gower Street, Preston.

Rasiah Dev Chief Executive

6. CLOSE OF MEETING

The meeting closed at 7.14 pm.

