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AGENDA

Hearing of Submissions Committee Meeting

Darebin Council Chamber
350 High Street Preston
6.30pm Monday, 9 December 2024

This meeting will be a scheduled hybrid meeting, at which both councillors and members of the public may participate either in person or virtually.

This meeting will also be livestreamed and may be accessed from Councils website www.darebin.vic.gov.au

Persons wishing to observe the meeting in person are required to register by 12pm on the day of the meeting

Table of Contents

Item Number	Page Number
1. MEMBERSHIP	1
2. APOLOGIES.....	1
3. DISCLOSURES OF CONFLICTS OF INTEREST	1
4. CONFIRMATION OF THE MINUTES OF THE PREVIOUS HEARING OF SUBMISSIONS COMMITTEE MEETING	1
5. CONSIDERATION OF REPORTS	2
5.1 PROPERTY MATTERS - SALE OF MINOR ASSETS – 182-184 HIGH STREET AND 1 BUTLER STREET, NORTHCOTE	2
6. CLOSE OF MEETING.....	13

Agenda

1. MEMBERSHIP

Cr. Kristine Olaris OAM (Mayor)
Cr. Emily Dimitriadis (Deputy Mayor)
Cr. Matt Arturi
Cr. Connie Boglis OAM
Cr. Gaetano Greco
Cr. Ruth Jelley
Cr. Julie O'Brien
Cr. Alexandra Sangster
Cr. Vasilios Tsalkos

2. APOLOGIES

3. DISCLOSURES OF CONFLICTS OF INTEREST

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

Recommendation

That the Minutes of the Hearing of Submissions Committee Meeting held on 3 June 2024 be confirmed as a correct record of business transacted.

5. CONSIDERATION OF REPORTS

5.1 PROPERTY MATTERS - SALE OF MINOR ASSETS – 182-184 HIGH STREET AND 1 BUTLER STREET, NORTHCOTE

Author: Coordinator Property Services
Property Officer

Reviewed By: General Manager Infrastructure, Operations & Finance

EXECUTIVE SUMMARY

This report seeks the Hearing of Submissions Committee's consideration of the submissions made on the proposed discontinuance and sale of road adjoining 182-184 High Street and 1 Butler Street, Northcote, and more particularly shown as Lots 2 and 3 on Title Plan TP969622V (**Figure 2 – Appendix A 'Site Plans'**) ('subject road').

At its meeting on 17 June 2024, Council resolved to commence the statutory procedures under section 114 of the Local Government Act 2020, to sell the land from the subject road to the owner of 1 Butler Street, Northcote, by private treaty in accordance with Council's Sale of Minor Assets Policy May 2022 ('Council's Policy').

Public notice was given of Council's intention to sell the subject road and the notice period has now concluded, with one written submission having been received on the proposal.

It is noted that the role of the Hearing of Submissions Committee is only to 'hear' and receive submissions. There are no options for consideration, or analysis of submissions included in this report.

Following the Hearing of Submissions Committee meeting, a further report in relation to the proposed discontinuance and sale of the subject road will be provided to Council on 16 December 2024 seeking a final resolution on the same matter.

Officer Recommendation

That Council:

- (1) Receives the written and verbal submissions.
- (2) Thanks all submitters and presenters for addressing the Committee in support of their written responses.
- (3) Receives a report at its meeting on 16 December 2024 as part of Council's deliberations in considering the proposed discontinuance and sale of the road adjoining 182-184 High Street and 1 Butler Street, Northcote.

BACKGROUND / KEY INFORMATION

In June 2018, Council received an enquiry from the owner of 186 High Street, Northcote, requesting the discontinuance and sale of the 3.05 metre wide road abutting the rear of their property.

Preliminary investigations into the discontinuance and sale of the section of road were undertaken. The investigations identified that although the road remained a road on title, and was listed on Council's Register of Public Roads, it was unmade, overgrown with vegetation and did not appear to have been used for access by the adjoining properties for many years.

All adjoining property owners at 182, 184 and 186 High Street, Northcote agreed in principle to purchase the relevant section of road adjoining their property at market value, as well as meeting all reasonable costs associated with the statutory process.

On 9 June 2020, Council resolved to discontinue the road adjoining 182 to 186 High Street and 1 Butler Street, Northcote, and to sell the land by private treaty in accordance with Council policy. The discontinuance was gazetted in the Victoria Government Gazette on 18 June 2020, shown at **Figure 1 - Appendix A**.

Following gazettal, Council sold the parcel known as Lot 1 on Title Plan TP969622V (**Figure 2 – Appendix A**) and shown hatched in red on the Site Plan (**Figure 3 - Appendix A**) to the owner of 186 High Street, Northcote.

Whilst the owner of 182 & 184 High Street (both owned by a single owner) had initially agreed in principle to purchasing the subject road, the property owner subsequently withdrew their interest.

Following the withdrawal of interest, Council took title to the two parcels of unsold land making up the subject road. Council then commenced negotiations with the other abutting property owner at 1 Butler Street, Northcote for the sale of the subject road.

The owner of 1 Butler Street, Northcote has agreed, in principle, to purchase the land adjoining their property at market value as well as meeting 50% of the reasonable costs associated with the statutory process, should Council resolve to sell the land.

Public Notice and Submissions

Public notice was published on Council's website on 24 June 2024 of Council's intention to sell the subject road and all adjoining owners and occupiers of the whole of the roads and reserve were notified separately in writing and asked to provide written submissions. The public notice period ended on Monday, 22 July 2024.

Council received one written submission in regard to the proposal, requesting to be heard by Council in support of their submission.

Previous Council Resolution

At its meeting held on 17 June 2024 Council resolved:

That Council:

- (1) Commences the statutory procedures under section 114 of the Local Government Act 2020 to sell the land from the discontinued road adjoining 182 & 184 High Street and 1 Butler Street, Northcote, shown cross-hatched on the site plan in **Appendix A** and shown as Lots 2 and 3 on Title Plan TP969622V in **Appendix A** to the owner of 1 Butler Street, Northcote, by private treaty in accordance with Council's Sale of Minor Assets Policy May 2022 ("Council's Policy").
- (2) Gives notice of its intention to sell the land on Council's website and in such notice states that Council proposes to sell the land from the former road to the owner of 1 Butler Street, Northcote, by private treaty.
- (3) Invites both written and verbal submissions on the proposed sale and deal with any submissions received in line with the principles set out in section 223 of the Local Government Act 1989.
- (4) Note that any submissions received be considered by Council's Hearing of Submissions Committee on 9 September 2024 at 7:30pm.
- (5) If no submissions are received, a further report be presented to the Chief Executive Officer for a decision under delegation to consider completion of the statutory procedures for the sale of the land to the owner of 1 Butler Street, Northcote and sign all necessary documents to facilitate the sale of the land in accordance with Council's Policy.
- (6) Note that in the event that submissions are received from other adjoining property owners or interested parties, Council reserves the right to reallocate the manner in which the land is to be sold in accordance with Council's Policy.

ALIGNMENT TO 2041 DAREBIN COMMUNITY VISION

Strategic Direction 2: Prosperous, Liveable and Flourishing

ALIGNMENT TO 2021-25 COUNCIL PLAN

Strategic Direction 4 Responsible, Transparent and Responsive

ALIGNMENT TO COUNCIL PLAN STRATEGIC OBJECTIVES

4.2 We will ensure our assets are optimised for the benefit of our community

DISCUSSION

In accordance with sections 189 and 223 of the *Local Government Act 1989*, Council is required to take into consideration all submissions received in relation to the proposed discontinuance and sale of the roads and after it has made a decision, notify all persons who have made a submission of the decision and the reasons for the decision.

Submission One – Maria Teresa and Antoinette and Margherita Sagaria (Appendix B)

- Submission received on 16 July 2024

- The submitters have concerns that the sale of the discontinued road will impact their access to the back of their property.

The submitters, have requested to be heard in support of their written submissions, and have been advised of the time, date and place of this meeting of Council's Hearing of Submissions Committee.

If Council resolves to proceed with the proposed discontinuance of the roads and reserve, officers will undertake the procedure for sale of the subject road as provided for under section 114 of the Local Government Act 2020.

CONSIDERATION OF LOCAL GOVERNMENT ACT (2020) PRINCIPLES

Financial Management

There is a positive financial consideration as a result of commencing the statutory procedures outlined in this report. Costs associated with undertaking the statutory process are partly recoverable from the purchasers in accordance with the Sale of Minor Council Assets Policy.

Community Engagement

Public notice was given of Council's intention to sell the discontinued road on Councils website on Monday, 24 June 2024.

In addition to the public notice, all adjoining owners and occupiers along the rights of way were consulted in writing.

The public notice period ended on Monday, 22 July 2024.

The statutory procedures under 189 and 223 of the *Local Government Act 1989* require Council to give public notice of its intentions to discontinue and sell the road adjoining 182-184 High Street and 1 Butler Street, Northcote and invite submissions from affected parties.

In line with its obligations, Council has invited submitters to be heard by Council prior to a decision being made to proceed or otherwise with the proposal.

Policy Considerations

Council's Sale of Minor Council Property Assets Policy 2022, items 2.5.1 and 2.5.2 states:

2.5.1 Council will first offer parcels of land to those property owners adjoining the Minor Council Property Asset that can demonstrate continuous and exclusive occupation of those parcels for 12 years or more. This rule does not apply if there is a change in ownership of the Applicant's land.

2.5.2 Where 2.5.1 does not apply, the land will be offered on the basis of equal distribution to abutting property owners, taking into account: (i) Existing property boundaries (try to make neat parcels and maximise street frontage where possible) (ii) Existing structures and the surrounding land (consider how land can be used by purchasers) (iii) The presence of any underground assets (determining the future fence alignment so that it does not encroach on the easement reserved for the underground assets), noting that land will not be subdivided longitudinally where there is an easement running longitudinally along the land.

Council's Sale of Minor Council Property Assets Policy 2022, items 2.5.1 and 2.5.2 states:

2.5.7 Council will take title to the land created through the discontinuance of a Road or removal of the reserve status of Minor Council Property Assets, where no abutting property owners wish to purchase the land.

Council's Sale of Minor Council Property Assets Policy 2022, item 2.2.3(h) states:

Land from surplus Minor Council Property Assets may be sold subject to an easement registered on title in favour of a public authority or Council to protect any right, power or interest in, on, under or over the land.

Council's property portfolio must meet current service needs while providing the flexibility to meet future requirements. Roads, reserves, revenge strips and other pieces of land of unusual shape and limited usefulness that are less than 200m² in area (collectively referred to as minor Council property assets) were originally set aside in early plans of subdivision for a particular purpose, such as access or drainage. In many cases these parcels of land are still required for and need to remain open and available to the public. In situations where a minor Council property asset is no longer reasonably required for that purpose or any other strategic purposes it may be considered surplus and suitable for sale.

Other Principles for consideration

Overarching Governance Principles and Supporting Principles

(a) Council decisions are to be made and actions taken in accordance with the relevant law;

Public Transparency Principles

(a) Council decision making processes must be transparent except when the Council is dealing with information that is confidential by virtue of this Act or any other Act;

Strategic Planning Principles

(b) strategic planning must address the Community Vision;

Service Performance Principles

(a) services should be provided in an equitable manner and be responsive to the diverse needs of the municipal community;

COUNCIL POLICY CONSIDERATIONS

Environmental Sustainability Considerations (including Climate Emergency)

There are no additional factors in this report which impact on environmental sustainability considerations.

Equity, Inclusion, Wellbeing and Human Rights Considerations:

There are no additional factors in this report which impact on equity, inclusion, wellbeing and human rights.

Economic Development and Cultural Considerations

There are no additional factors in this report which impact upon cultural considerations.

Operational Impacts

There are no additional factors in this report which impact on operational impacts.

Legal and Risk Implications

Legal and risk implications associated with each option are covered under the analysis of each option.

IMPLEMENTATION ACTIONS

Following the Hearing of Submissions Committee meeting, a further report in relation to the matter will be provided to Council on 16 December 2024, seeking a final resolution on the matter.

RELATED DOCUMENTS

- *Local Government Act 1989*
- *Local Government Act 2020*
- *Road Management Act 2004*
- *Sale of Minor Council Property Assets Policy*

ATTACHMENTS

- Site Plans (**Appendix A**) [↓](#) 
- Submission (**Appendix B**) Confidential - enclosed under separate cover

DISCLOSURE OF INTEREST

Section 130 of the *Local Government Act 2020* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any conflicts of 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.

APPENDIX A

Sale of discontinued road adjoining 182 & 184 High Street and 1 Butler Street, Northcote

To contextualise the property matter:

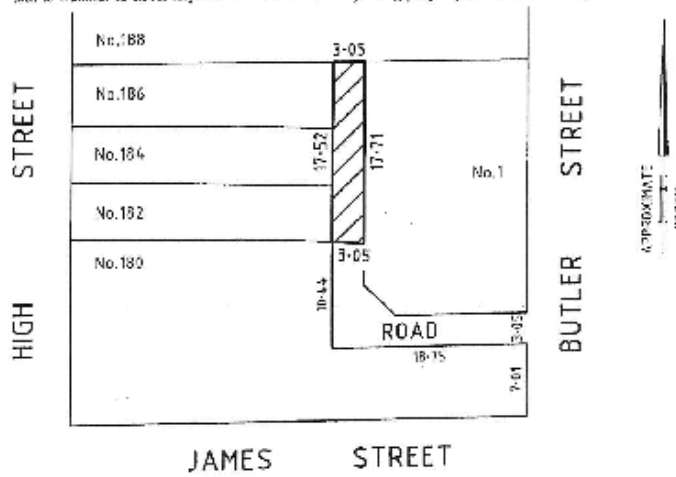
- Victoria Government Gazette notice is shown as **Figure 1**.
- The Title Plan is shown as **Figure 2**.
- The Site Plan is shown as **Figure 3**.
- The Aerial View is shown as **Figure 4**.

Figure 1 - Victoria Government Gazette notice sale of discontinued road adjoining 182 & 184 High Street and 1 Butler Street, Northcote

Victoria Government Gazette G 24 12 June 2020 2145

DAREBIN CITY COUNCIL
Road Discontinuance

Pursuant to section 296 and Schedule 10, Clause 3 of the Local Government Act 1989, the Darebin City Council at its ordinary meeting held on 9 June 2020, resolved to discontinue the road at the rear of 182 to 186 High Street and adjoining 1 Butler Street, Northcote, shown by hatching on the plan below, and to sell the land from the road by private treaty to the adjoining property owners, and to transfer to itself any land not sold to the adjoining property owners.



SUE WILKINSON
Chief Executive Officer

Figure 2 – Title Plan sale of discontinued road adjoining 182 & 184 High Street and 1 Butler Street, Northcote

© Crown in Right of Victoria (in respect of the Land) and the Registrar of Titles (in respect of the Plan) are not liable for any loss or damage caused by the use of this information in any way, whether or not such use is made in reliance on the information, and for the purposes of Section 32 of the Sale of Goods Act 1954 or pursuant to a written agreement. This information is only valid at the time and in the form obtained from the e-Registry System. Note of the State of Victoria, Land Information Systems, Secure Electronic Register as Victoria Pty Ltd (ARN 616 274 986 888) as trustee for the Secure Electronic Register Victoria Trust (ARN 616 208 746 887) accept responsibility for any subsequent release, publication or modification of the information.

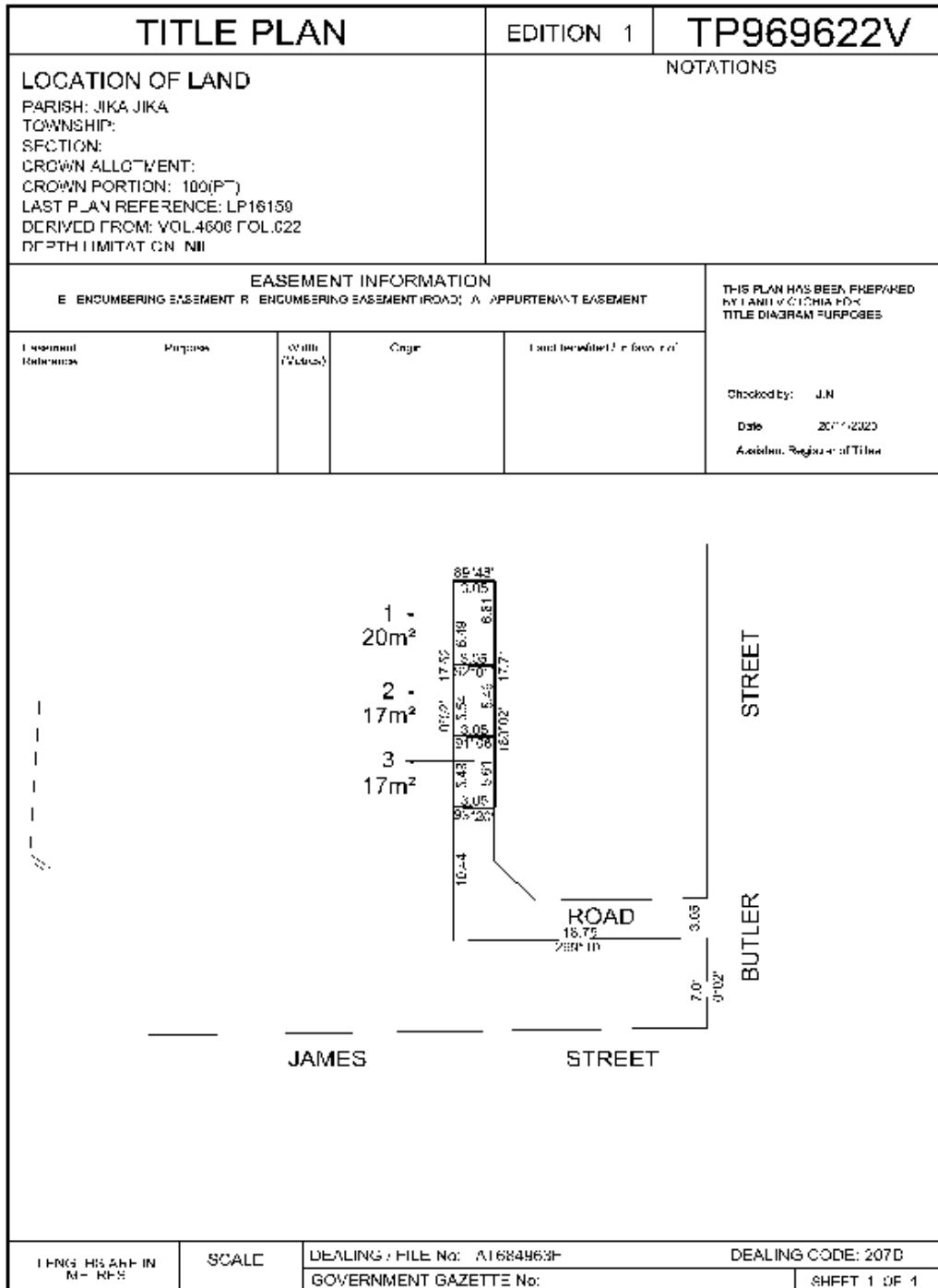


Figure 3 - Site Plan sale of discontinued road adjoining 182 & 184 High Street and 1 Butler Street, Northcote

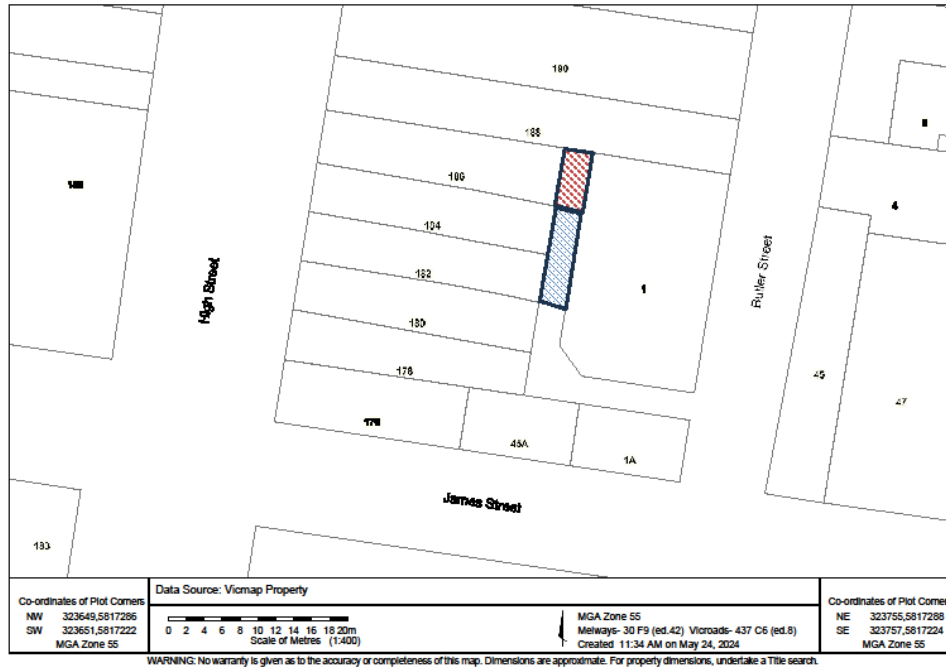


Figure 4 - Aerial View sale of discontinued road adjoining 182 & 184 High Street and 1 Butler Street, Northcote (in green)



6. CLOSE OF MEETING