



Road discontinuance and sale applications

Explanatory notes (July 2022)

These notes must be read in conjunction with Council's Road Discontinuance and Sale Policy ("the Policy")

General

The discontinuance of a road removes all private and public encumbrances from the subject land, save for certain public authority rights. This can have significant impacts on the access, servicing, building regulation compliance and development potential of other land and building.

Applicants should investigate and understand the impacts of discontinuance on others' legal and user rights.

Applicants should discuss their proposals with all potentially affected persons before lodging an application with Council.

Application

An application must be in writing and forwarded to Council's Property Branch, preferably on the Council Road Discontinuance application form. The application must include the following:

- Full, legible and current copies of titles of the applicant's land abutting the road and the road
- A copy of a plan clearly showing the area of the road proposed to be discontinued and purchased
- Photos/plans showing of the Road, including affected services, abutting buildings and fencing
- Details of any existing or required pedestrian or vehicular access across the Road;
- Identification of any proposed division of the Road with adjoining owners (if applicable);
- Detailed summary of consultation that has been carried out with adjoining owners and other potentially affected parties

Before an application can continue, the owner of abutting land must give Council:

- The application fee of \$2,500 plus GST
- An unconditional bank guarantee for a sum of \$30,000 is require to reimburse all of Council's reasonable advertising, valuation, gazettal and legal costs, regardless of whether the application is successful or not, or is withdrawn.
- A plan for road discontinuance purposes prepared by a licensed surveyor.
- Any other information deemed necessary by Council.

Approval to proceed

Council's powers to discontinue and sell a Road or Reserve is discretionary, meaning Council in its absolute discretion can decide not to progress an application. An applicant has no formal rights of appeal to such a decision.

Council's consent, if given, will be subject to appropriate conditions, including those of the public service authorities and the assessment of submissions.

Advertising/public consultancy

The discontinuance and sale of a Road must undergo a public notification process and will at a minimum meet the public notice requirements of the Act and comply with corporate standards, including Council's Community Engagement Policy. A public notice will be advertised in the Age and on Council's website detailing the proposal to discontinue and sell a Road or Reserve in accordance with sections 189 and 223 of the Act and s.114 of the Local Government Act 2020.

This must occur after Council's initial approval of a proposal and satisfactory receipt of the above information from the applicant.

Council has established a Submissions (Section 223) Committee to consider all written submissions received, to hear any person wishing to speak to their submission and make recommendations to Council.

The public notice will provide a person wishing to speak in support of a submission on a proposal to discontinue and sell the Road with a reasonable period of notice, advising the date, time and place. The Submissions (Section 223) Committee will consider the submissions and make a recommendation to Council who will then make a decision whether the Road will be discontinued sold, retained or considered for some other alternative use. All parties who have made a submission will be notified in writing of the resolution of Council.

After advertising

All of Council's approval conditions must be met before the road discontinuance is gazetted and the land subsequently sold by Council.

Council will require the applicant enter into a section 173 agreement for consolidation of the discontinued road with the applicant's abutting land.

Public authorities

Any service requirements of an authority will be the responsibility of the applicant.

Enquiries

Council's Property & Leasing Team manages all the aspects of a road discontinuances and should be the first contact point for all enquiries.

Email property@melbourne.vic.gov.au

Property Branch
City of Melbourne
GPO Box 1603
Melbourne VIC 3001