

5.10 PROPOSED DISCONTINUANCE OF PART OF THE ROAD KNOWN AS DOON AVENUE, GLEN WAVERLEY

(TRAF155:SAL:JWP)

Ward: **Mount Waverley**

Responsible Director : Don Cameron

RECOMMENDATION

1. That Council, acting under clause 3 of Schedule 10 to the Local Government Act 1989 ("the Act") and being of the opinion that part of the Road known as 2-16 Doon Avenue, Glen Waverley which portion of Road is occupied by St Christopher's Parish School ("St Christopher's") (as shown cross-hatched on the plan at Attachment 2 ("the Plan")) is not reasonably required as a Road –

(a) Commences the statutory procedures to discontinue part of the Road occupied by St Christopher's;

(b) Gives, under Sections 207A and 223 of the Act, public notice of the proposed discontinuance in the Waverley Leader with such notices stating that, if discontinued, Council proposes to either retain or sell the land to the abutting owners;

(c) Appoints a Committee of Council, comprising Councillors Banerji, Brown and Morrissey, to consider submissions received under S. 223 of the Act on 27 May, 2008 at 7.30 p.m. at the Civic Centre.

2. That, should no submissions be received in accordance with S. 223 of the Act, Council authorises the Chief Executive Officer or his delegate:

a) to publish a Notice of Discontinuance in the Victoria Government Gazette vesting the land in Council;

b) upon the vesting of the land in Council, to enter into negotiations for the sale of the land from the road (including the signing and sealing of all relevant documentation required to effect the sale) to the occupier predicated on current occupation;

c) to sell the land to the abutting owners at Council's valuation (taking into consideration accrued possessory entitlement and any easements located within part of Road reservation);

d) register carriageway easements over the two portions of St Christopher's land in favour of Council (shown hatched on the Plan at Attachment 2).

INTRODUCTION

This report proposes that Council:-

- commences the statutory procedures to remove the Road reservation from the portion of Road occupied by St Christopher's Parish School ("St Christopher's"), (shown cross-hatched on the Plan) and either retain the land or sell the land from the Road to St Christopher's; and
- registers carriageway easements over St Christopher's land (shown hatched on the Plan) in favour of Council.

BACKGROUND

An issue that raises concerns for Council is the incorporation of part of Doon Avenue within St Christopher's.

Council at its meeting on 4 October, 1983 resolved to commence the statutory procedures to discontinue the portion of occupied road however, it was not progressed at that time.

Occupation of part of Doon Avenue

This road land has been fenced and occupied for in excess of 20 years and is utilised for playground activities (being the land shown cross-hatched on the Plan at Attachment 2). The area of the land is 496m².

In considering the current usage of this portion of land and specifically from a risk management/liability point of view, it is preferable that Council consider divesting itself of any form of liability for this land. Accordingly, preliminary discussions have been held with St Christopher's (subject to the requirements under the Act) to ascertain whether or not it would be interesting in acquiring the occupied land.

St Christopher's has indicated that it would consider purchasing the portion of Road should Council proceed with a proposal to discontinue.

Waste Management Access

In assessing requirements for collection of waste from St Christopher's, Council's garbage contractor requires sufficient area for a 3 point turn. To be made by the garbage truck. The width of the road where the truck currently turns is insufficient causing it to enter onto adjoining private land to complete the turning circle.

Having regard to liability and safety issues, Council entered into discussions with St Christopher's with a view to creating two carriageway easements over St Christopher's land located on each side of the road (shown hatched on Attachment 2) to accommodate the required turning circle. St Christopher's has agreed to Council creating easements in its favour over its land, providing Council assumes the responsibility of maintaining the areas proposed to be the carriageway easement.

EXTERNAL CONSULTATION

All relevant Council departments and statutory service authorities will be contacted to ascertain whether or not they have any services located within the portion of land occupied by St Christopher's and what requirements they have should this proposal proceed.

VALUATION

A preliminary valuation of the land for the proposed easements and the Road land have been sought which indicates:-

- (a) The value of the easements land required to be created in favour of Council is \$6,500; and
- (b) The value of the road land is \$32,000.

Should these proposals proceed, Council will be required to obtain updated valuations.

However, on the figures quoted above, the final settlement figure that St Christopher's would be required to pay Council would be in the sum of \$25,500.

IMPLEMENTATION

In accordance with Sections 207A and 223 of the Local Government Act 1989, Council is required to give public notice of its proposal to remove the road status from the portion of road occupied by St Christopher's with Council either retaining or selling the land to the occupier. The public notice will also invite submissions. Submitters may request to be heard by Council prior to a decision being made to proceed or otherwise withdraw the proposal.

Should submissions be received, a Committee of Council will be required to convene to consider submissions and report back to a subsequent meeting of Council for further consideration. If there are no submissions, it is proposed that the Chief Executive Officer or his delegate be authorised on behalf of Council to vest the land in Council and enter into negotiations for the sale of the land to the owner.

CONCLUSION

Given that the occupation of the road has existed for many years, it is recommended that Council consider commencing the statutory process to remove the road status from the portion of Road occupied by St Christopher's.