ATTACHMENT 1

LOCALITY PLAN

NEIGHBOURHOOD PLAN

Proposed Road Deviation & Sale of Part of the ROW Abutting 1611-1615 Dandenong Road, Oakleigh
ATTACHMENT 2

PROPOSED SECTION OF ROAD TO BE DIVERTED

- **Remainder of Existing ROAD**
- **Section of ROAD Proposed to be Diverted**
- **Land owned by Adinadis**
ADINADIS' PROPOSAL

Proposed alignment of new road

Proposed section of road to be diverted

ADINADIS' PROPOSAL

Proposed Road Deviation & Sale of Part of the ROW Abutting 1611-1615 Dandenong Road, Oakleigh
ATTACHMENT 4
Proposed Discontinuance of Part of the Right of Way Abutting 1611-1615 Dandenong Road and 3-5 Lever Street Oakleigh

TRAFFIC SYDNEY

Ward: Oakleigh
Responsible Director: Paul Kearsley

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 right of way abutting 1611-1615 Dandenong Road and 3-5 Lever Street ("the Road") (as shown on Attachments 1 and 2) is not reasonably required as a right of way in the event of an alternate right of way access being provided for access:

   a) Commences the statutory procedures under Sections 207A and 223 of the Act, to discontinue the road status of the part of the right of way abutting 1611-1615 Dandenong Road and 3-5 Lever Street Oakleigh, by giving public notice of the proposed discontinuance in the Monash Weekly and Waverley and Oakleigh Monash Leader newspapers with such notices stating that, if discontinued, Council proposes to either retain the land or sell the land from the Road to the abutting owner and

   b) Appoints a Committee of Council, comprising the Oakleigh Ward Councillors to consider submissions received under S. 223 of the Act on 20 September 2011 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 to the abutting owner of 1611-1615 Dandenong Road, subject to the owner:

      1) transferring a strip of their land along the western boundary of 1611 Dandenong Road which also abuts 1609 Dandenong Road to Council, (shown on Attachment 3); and

      2) constructing on this land a right of way as an alternate public access, connecting the existing north-south right of way and the service Road in Dandenong Road to Council standards; and

   c) to sell the land from the Road to the abutting owners at Council's valuation including the signing and sealing of all relevant documentation required to effect the sale.

INTRODUCTION

This report proposes that Council commences the statutory procedures to discontinue part of the Right of Way abutting 1611-1615 Dandenong Road and 3-5 Lever Street Oakleigh ("the Road"), (as shown on Attachments 1 & 2) and retain or sell the land to the abutting owner of these properties in order to facilitate further development of the abutting land.
BACKGROUND & DISCUSSION

The Owner of 1611-1615 Dandenong Road and 3-5 Lever Street, Oakleigh have approached Council to ascertain if it would be interested in selling the existing section of Rights of Way (ROW) which abuts his properties. These properties are all owned by the same company, namely Adinadis Pty Ltd (‘Adinadis’). If the section of ROW was closed and sold to the owner of the adjoining properties, it would permit Adinadis to consolidate the properties into one site.

The ROW extends between Marriott Street and Lever Street and abuts properties at 1605-1615 Dandenong Road, 18 Marriott Street and 3-5 Lever Street, Oakleigh. The ROW consists of three sections, two being in the east-west direction connected by a north-south section (as shown on Attachments 1 and 2).

Adinadis have advised Council that if the Lever Street section of ROW was closed and sold to them they are prepared to create a link to the remainder of the ROW by annexing a strip of land along their western boundary to create a new section of ROW. This will ensure that access to the abutting properties is maintained.

Adinadis have also advised that they have been in discussions with all other property owners abutting the ROW and that the majority of owners have not expressed any concern with their proposal.

If the proposal were to proceed, the strip of land would need to be constructed as a formal right of way to Council’s standards and would need to be transferred into Council’s ownership.

The existing section of ROW, under consideration, is currently being utilised by the owners of 1609 Dandenong Road to load and unload vehicles servicing their premises. The ROW is only 3.05 m wide and their activity continually encroaches onto the adjoining property at 1611-1615 Dandenong Road.

Council is aware that Adinadis has been in discussions with the owners of 1609 Dandenong Road concerning the unauthorised use of its land for the loading and unloading of vehicles associated with their operations. These discussions are continuing.

It should also be noted that a sewer exists within the section of ROW requested to be closed. Adinadis’ consultants have been in contact with Yarra Valley Water and are satisfied that they can deal with the sewer to the satisfaction of Yarra Valley Water if the ROW was closed.

Council officers consider the proposal is acceptable, subject to vehicular access being provided to permit vehicles to service 1609 Dandenong Road. The provision of a new and wider ROW which is accessed from the Dandenong Road Service Road would address the access requirements.

Should the proposal proceed, it would be on the basis that all the properties owned by Adinadis and the ROW land to be purchased must be consolidated into one.

The ROW is zoned Industrial IN1 within the Monash Planning Scheme. This is the same zoning as all the abutting properties.

Accordingly, it is suggested that Council consider commencing the statutory procedures to discontinue the Road and sell the land from the Road to the abutting owners of 1611-1615 Dandenong Road at Council’s valuation and having regard to any land transfer. It is also proposed that owners pay for Council’s expenses for this land transaction.
FINANCIAL

An independent valuation is required for both parcels of the land, if the proposal proceeds.

EXTERNAL CONSULTATION

Nearby property owners and occupiers will be advised and a notice will be placed in the Monash Weekly and Oakleigh Monash and Waverley Leader newspapers and at the site. The public notice will invite submissions in accordance with Section 223 of the Local Government Act and 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.

IMPLEMENTATION

Statutory procedures require Council to give public notice of its intention to discontinue the Road and if discontinued, to retain or sell the land from the Road to the abutting owner of 1611-1615 Dandenong Road and 3-5 Lever Street, Oakleigh.

CONCLUSION

It is considered appropriate for Council to commence the statutory procedures to discontinue the Road abutting 1611-1615 Dandenong Road and 3-5 Lever Street, Oakleigh, and progress sale of the land to the abutting owners of these properties in accordance with this report.
Proposed Discontinuance of part of the road reservation abutting 1611-1615 Dandenong Road, Oakleigh
Proposed Road Deviation & Sale of Part of the ROW Abutting 1611-1615 Dandenong Road, Oakleigh

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