

Management report to Council

Agenda Item 6.7

Proposed public highway declaration of PL5140 Melbourne

Council

Presenter: Angela Meinke, Manager Planning and Building

29 November 2016

Purpose and background

1. The purpose of this report is to recommend that the road shown shaded on the plan in Attachment 2 (the Road) be declared as a public highway.
2. The Road is currently a private laneway which benefits adjoining owners.
3. Parents of children attending the Melbourne City Childcare Centre, located at 104 A'Beckett Street, for a number of years have complained about rubbish that has accumulated in the lane and the location of bins from the surrounding business that abut the lane, blocking the emergency exits for the childcare centre.
4. The Road is proposed to be declared a Public Highway for the following reasons:
 - 4.1. The title for the Council owned Melbourne City Childcare Centre has private rights to the Road which includes obligations for care and maintenance of the Road. Council is substantially the main adjoining land holder and would carry 40 percent of the care and maintenance costs for the private laneway, including any insurance claims should an accident occur.
 - 4.2. There are amenity and access issues including rubbish dumping and illegal parking.
 - 4.3. Following the successful gazetting as a Public Highway it would be added to Council's Road Register and a title obtained via a plan of subdivision being registered at Land Victoria.

Key issues

5. Public consultation in respect to the proposed declaration was undertaken (refer Attachment 1). A submission (refer Attachment 3) has been lodged on behalf of the businesses who abut the Road at 417-419 Elizabeth Street Melbourne, 429 Elizabeth Street Melbourne, 431 Elizabeth Street Melbourne, and 433 Elizabeth Street Melbourne (Interested Parties).
6. The Interested Parties have requested that they maintain the ability to use and enjoy the Road as they have done so for many decades. The Interested Parties currently keep bins and park their vehicles within the Road which actively conflicts with the existing carriageway easement and Road abuttal which requires clear and unfettered access to and egress from the Road by all users of the Road.
7. The owners of 433 Elizabeth Street followed up the progress of the declaration on 22 June 2016 due to illegally parked car blocking access their property (refer Attachment 3).
8. Advice has been received from both Infrastructure Development in Engineering Services and On-street Compliance Services supporting the declaration of the Road as a public highway.
9. The parking of vehicles can be managed by introducing parking restrictions and loading zones for deliveries.
10. The recommendation reflects the recommendation from Council's Submissions (Section 223) Committee held on 27 October 2016.

Recommendation from management

11. That Council:
 - 11.1. Declares PL5140, Melbourne as shown shaded on the public notice dated 20 April 2016 as a public highway for the reasons that:
 - 11.1.1. the current parking of vehicles conflicts with the existing carriageway easements over PL5140 and blocks the fire egress from abutting buildings
 - 11.1.2. Council assuming care and management:
 - 11.1.2.1. is reasonable, noting the Council already has significant obligations arising from its being an adjoining land owner
 - 11.1.2.2. will enable the installation of No Stopping (30 minute limit) - Vehicles Actually Engaged In Taking Up and Setting Down of Goods Excepted in line marked bays on one side of the laneway. This type of parking restriction is typically applied on narrow laneways in the Central City where certain flexibility is permitted for

Page 2 of 11

abutting residential and commercial establishments to undertake servicing matters.

11.1.2.3. will improve amenity, safety and access benefits for all users, as illegal parking will be managed by Council

11.1.2.4. will provide certainty of ownership, access for deliveries and fire egress to all users at all times.

11.2. Notify in writing every person who has lodged a separate submission of the decision and its reasons for the decision.

Attachments:

1. Supporting Attachment (page 3 of 11)
2. Public Notice and Plan (page 4 of 11)
3. Submissions (page 6 of 11)

Supporting Attachment

Legal

1. Where a Council proposes to declare a road as a public highway under section 204(1) of the *Local Government Act 1989* (Act), sections 207A(c) and 223 of the Act require it give public notice of the proposal and consider all submissions received prior to making its decision.

Finance

2. If management's recommendation is supported, the Road will be declared as a public highway and the subject land will vest in Council. The land surveying, plan of subdivision preparation and lodging costs at Land Victoria which will be in the order of \$20,000, this work will be undertaken using existing budgets.
3. Cost for reconstruction of the bluestone pitcher laneway, approximately 150 square metres, including provision of bluestone pitcher, street lighting upgrade and drainage will be in the order of \$100,000. This amount will be programmed from future renewal budgets.
4. Council responsibility for maintaining and cleaning of the Road will be met out of existing general and future budgets. Council may receive monies from parking infringements within the Roads.

Conflict of interest

5. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a direct or indirect interest in relation to the matter of the report.

Stakeholder consultation

6. Public consultation in respect to the proposed declaration was undertaken in accordance with the Act. Overall the consultation involved:
 - 6.1. advertising in The Age on the 20 April 2016
 - 6.2. a letter being sent to the owners and occupiers of abutting properties
 - 6.3. all of the Service Authorities being notified by e-mail of the proposal.
7. Submissions were received and reported at the Submissions (Section 223) Committee meeting held on 2 June 2016.

Relation to Council policy

8. There is no Council policy for the declaration of roads as public highways, however the actions taken and the recommendations in this report are all legislatively compliant and accord with well established practice.

Environmental sustainability

9. This proposal has no significant impact on environmental sustainability.

Public Notice published in the Age on the 20 April 2016

MELBOURNE CITY COUNCIL

PROPOSED PUBLIC HIGHWAY DECLARATION OF PL5140, MELBOURNE

Notice is given pursuant to sections 204(1) and 223 of the *Local Government Act* 1989 ('the Act') that the Melbourne City Council ('Council') proposes to declare the road shaded and shown on the plan below as a public highway ('Proposal').

Any person may make a submission on the Proposal to the Council. All submissions received by the Council on or before 19 May 2016 will be considered in accordance with Section 223(1) of the Act, by the Council's Submissions (Section 223) Committee ('Committee').

If a person wishes to be heard in support of their submission they must include the request to be heard in the written submission and this will entitle them to appear in person, or by a person acting on their behalf, before a meeting of the Committee, scheduled to be held on 2 June 2016, commencing at 3pm, in the Melbourne Town Hall, Administration Building, Swanston Street, Melbourne.

Written submissions should be marked 'Proposed Public Highway Declaration PL5140, Melbourne' and addressed to the Manager Governance and Legal, Melbourne City Council, Town Hall, 90 Swanston Street, Melbourne, 3000 or GPO Box 1603, Melbourne, 3001.

Submissions form part of the public record of the meeting (including any personal information you provide) and will be appended to the Council report which is published on Council's website (accessible worldwide) for an indefinite period. A hard copy will also be made available for inspection by members of the public at Council offices, in accordance with the requirements of the Act.

If you have any concerns about how Council will use and disclose your personal information, please contact the Council Business team via email at privacy@melbourne.vic.gov.au



Land Subject to Public Highway Declaration

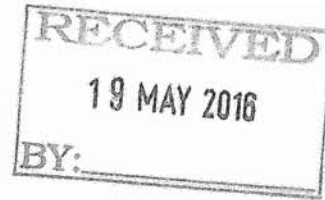
 Private Lane PL5140



Not to Scale

18 May 2016

Manager Governance and Legal
Melbourne City Council
Town Hall
90 Swanstan Street,
MELBOURNE VIC 3000



Dear Sir,

Subject: Proposed Public Highway Declaration of PL5140, Melbourne

This submission on behalf of the business occupiers which used the rear door to access PL5140

Background and outline submission

The Melbourne City Council (MCC) has submitted a proposed public highway Declaration of PL5140 (the Proposal)

The businesses have used PL5140 as a key service for it to carry out some of its essential business functions, activities and parking for many decades. To this end, PL5140 has become a vital means of access to egress from the business's staff, servicemen/women and/or trade men/women.

Since the businesses commencement date, the business occupiers at its sole cost and expense, maintained the presentation of PL5140, keeping it and its surrounding areas clean, tidy and free of refuse and vermin but unfortunately the businesses are unable to avoid the external vehicle to park at PL5140, because legally to move their vehicle. Also we are unable to control the external people to make the benefit of PL5140.

The business occupiers and staffs will be affected by the proposal if it:

- Gives rise to an obstruction to, or hindrance of, the way in which PL5140 is presently used and enjoyed by the business and/or
- Leads to an increase the cost parking for the businesses around \$4,000 to \$5,000 for each business per year. There are at least 5-7 businesses will be affected. The total cost will be around \$30,000 to \$35,000 per year and the incurred cost will be added into our business cost and staffs and/or
- Leads to an increase the traffic on Elizabeth street and/or
- Occupational health and safety, the proposal will be leading to the business occupiers and staff to take out the large waste bin/tank which is around 300-400 kgs/tank

In accordance with the above, the businesses occupiers are requesting a written declaration from MCC providing that:

- The business occupiers be permitted to continue to use and enjoy PL5140 to carry out its normal business functions, activities and parking in the same manner as it has been from on or about the Business Commencement Date;

- The Proposal will not lead to a greater volume of vehicular traffic passing through PL5140 which may inhibit the business from effectively carrying out its normal business functions and activities.

Use and Enjoyment of PL5140

The business occupiers request the Melbourne City Council provide the declaration above for reasons which include, but are not limited to, the following:

- Services provided via PL5140: From on or about the Business Commencement Date, PL5140 has been used as a service road for delivery vehicles to park and unpack and/or collect goods via the service entry doors located along the PL5140

We are submitting that the parking, collection and/or unpacking of goods must continue to be performed via the service back door located in PL5140

The service vehicles require access to entry points of the building other than through the front area located on Elizabeth Street due to the nature of the goods being collected.

For example, from time to time the waste oil and other waste providers will be collecting from the business. In our submission, it will not be appropriate for the service providers to empty the tank and bin these waste through the business's front entry doors located on Elizabeth Street.

- The business occupier vehicle parking: From on or about the Business Commencement Date, PL5140 has been used as the private parking for the business occupiers and staffs

We are submitting that the business occupiers and/or staffs of vehicle parking must be continuing due to the high parking cost in the city that will be adding into the cost of living and impacting to their social life.

- Increased Traffic Flow along Elizabeth Street: in our submission, the diversion of service vehicles that service the business to PL5140 has resulted in an ease of traffic congestion along primary thoroughfares such as Elizabeth and A'Beckett Street. A diversion of this nature will only become more necessary having regard to the expected increase in vehicular traffic flow along Elizabeth and A'Beckett Street.
- Occupation Health and Safety: in the event of a fire, staff, customers and servicemen/women of the business are required to exit the business via the front door. Accordingly, in our submission, the businesses require unfettered access to this part of PL5140 for occupational health and safety reasons.
- Environmental Reason: PL5140 has enabled the business to cordon off its rubbish disposal area and keep this area out of the site of members of the public who may be passing along Elizabeth and A'Beckett Street.

Requirement to Keep Traffic flow in PL5140

The business occupiers must be satisfied that the declaration of PL5140 as a "highway" will not give rise to PL5140 becoming a thoroughfare for passing vehicular traffic between Elizabeth and A'Backett Street

The historical designation of PL5140 as a "no through road" has enabled the businesses to use PL5140 to carry out those essential activities described above.

Summary

In our submission, the business occupiers require clear and unfettered access to and egress from PL5140 in order to carry out its normal business function and activities. There are overwhelming operational health and safety and environmental reasons for the businesses to continue to use and enjoy PL5140 as it has been from many decade

The business occupiers must be convinced that changing the designation of PL5140 to a "public highway" will not lead to an obstruction of or a hindrance to the effective running of the business

The Business Occupiers

WITTI PONGVATTANAPORN

All - Aleishe

> Lawrence michelle

Kingkaew Pongvattanaporn.

From: [Suzie Pan](#)
To: [Survey](#)
Subject: Proposed Public Highway Declaration PL5140
Date: Wednesday, 22 June 2016 10:42:10 AM
Attachments: [image1.JPG.DRF](#)
[ATT00001.txt.DRF](#)
[image2.JPG.DRF](#)
[ATT00002.txt.DRF](#)

Hi Maria,

It was only after I had called up your office to ask about the progress of this lane way that your colleague informed myself that I was allowed to make a submission FOR this proposed highway. I was of the understanding that all submissions were for reasons against the proposal.

I hope you are able to take my email into consideration.

My parents own the land title that is 433-435 Elizabeth street. So according to your plan our land is at the end of the proposed private lane 5140. As the land belongs to us we have been using the land to park 1 car.

As you may be aware the lane way is used for parking by tenants and non tenants of the shops in front of the lane way. As such the access to my property to park my car is at most times blocked. Some times I am able to ask them to move the car, other times I have no idea who the car belongs to.

People who park there cars in the lane way do not respect any signs that are put up regarding (please see photos attached)

- 24 hour access required
- keep clear at all times
- no standing
- emergency exit.

They still insist on parking their cars there.

At night when my car has been blocked in, I have called the police and the parking inspectors to help me remove the car. They have told me that they are unable to do so as it is a private lane.

How am I to gain clear access and exit my property?

Due to the fact that cars are banked up within the entire lane we cannot pull our rubbish bins into the back of our shop and our delivery people are unable to use their trolleys to delivery stock. Instead they must carry each box one by one weaving in between cars to get to our back door.

I am not sure who the rest of the lane belongs to? But everyone parking there does not treat the lane way with respect. The lane way is full of rubbish and because no one owns it. The rubbish just accumulates, creating a breeding ground for rodents and other pests. (Please see photo attached) The council would be able to clean and service the road if it was declared a public highway.

Because the lane way backs into the backdoor of the shops in front. I believe that in the case of any fire hazard at the front of the shops, running out the back would create a problem with all the cars banked up. Sometimes cars are parked right against the door? Making it impossible to open the doors. This is also the case with the childcare, the cars are parked up against their emergency exit. The car parking in the lane creates a safety issue.

With cars parking day and night in the lane it creates barriers and protection for people. I have witness people going to the toilet and shooting up in the lane during broad daylight. I cannot imagine what could happen at night.

I hope you are able to take my points into consideration, the parking in the lane has been an ongoing issue for the last 20 years. I was glad to receive your letter about council's proposal to declare it a public highway.

It would be great if you are able to keep me informed of the decision.

Many thanks,
Suzie Pan
(on behalf of Anne and Robert Pan)

