



ADMINISTRATIVE REPORT

Report Date: February 20, 2019
Contact: Al Zacharias
Contact No.: 604.873.7214
RTS No.: 13041
VanRIMS No.: 08-2000-20
Meeting Date: April 23, 2019

TO: Vancouver City Council

FROM: The General Manager of Engineering Services in Consultation with the General Manager of Real Estate and Facilities Management

SUBJECT: Powell Street Overpass - Land Exchanges Between the City, Canadian Pacific Railway Limited, and the Vancouver Fraser Port Authority

RECOMMENDATION

- A. THAT Council authorize the Director of Legal Services and Director of Real Estate Services, in consultation with the General Manager of Engineering Services, to proceed with the necessary arrangements to transfer from the Vancouver Fraser Port Authority now doing business under the name of Port of Vancouver ("POV") to the City, and to establish as road pursuant to the Vancouver Charter, that approximately 35 m² portion of 1299 Powell Street as shown within heavy bold outline on the plan attached as Appendix 'C' (to be referred to hereon as the "Port South 7") and advance to Council all resolutions as required to accept such lands and establish such lands as street.
- B. THAT Council authorize the Director of Legal Services or Director of Real Estate Services, in consultation with the General Manager of Engineering Services, to execute, on behalf of the City, any and all survey plans and documents and advance to Council all resolutions as required to close, stop-up, and convey to POV:
1. That approximately 115 m² portion of Powell Street, the same as shown shaded dark red on plan attached as Appendix 'C' (to be referred to hereon as 'City 1'); and,
 2. That approximately 256 m² portion of Powell Street, the same as shown green and cross-hatched on plan attached as Appendix 'C' (to be referred to hereon as 'City 2');

All subject to the terms and conditions in Appendix 'A'.

- C. THAT Council authorize the Director of Legal Services or Director of Real Estate Services, in consultation with the General Manager of Engineering Services, to execute, on behalf of the City, any and all survey plans and documents and advance to Council all resolutions as required to close, stop-up, and convey to Canadian Pacific Railway Limited (“CPR”):
1. That approximately 818 m² portion of Powell Street, the same as shown yellow and hatched on plan attached as Appendix ‘C’ (to be referred to hereon as ‘City A’); and,
 2. That approximately 2317 m² portion of Powell Street, the same as shown blue and dotted on plan attached as Appendix ‘C’ (to be referred to hereon as ‘City B’);

All subject to the terms and conditions in Appendix ‘B’.

- D. THAT the associated Road Closure Fee as prescribed under the Miscellaneous Fees By-law No. 5664, currently \$10,460, be waived.
- E. THAT Council authorize the General Manager of Engineering Services to approve minor and inconsequential amendments to the dimensions of the above described portions of street upon the provision of final plans.
- F. THAT all documentation and agreements are to be in accordance with the previously approved terms in the Powell Street Overpass Project Funding-Delivery Agreements between the City and CPR and between the City and POV both dated April 2, 2013 all to the satisfaction of the Director of Legal Services.
- G. THAT the Director of Legal Services be authorized to execute and deliver all other documents, surveys and plans not specified in the above Recommendations that may be reasonably required by the Powell Street Overpass - Project Funding Delivery Agreements (2013) between the City, POV, and the CPR.
- H. THAT no legal right or obligation shall be created and none shall arise hereafter until the documents are executed to the satisfaction of the Director of Legal Services.

If Council approves the recommendations as contained in this report the Formal Resolutions for the road closures, road establishments, and parcel consolidations will be advanced to Council later this day for approval.

REPORT SUMMARY

This report seeks Council authority to complete the previously authorized land exchange arrangements under the Powell Street Overpass - Project Funding Delivery Agreements (2013) between the City, POV, and CPR (the ‘Funding Agreements’).

COUNCIL AUTHORITY/PREVIOUS DECISIONS

The authority for closing and disposing of streets and lanes and for establishing streets and lanes is set out in Part VIII of the Vancouver Charter.

On July 21, 2009, (RTS8242) Council approved, in principle, the Powell Street grade separation project as a means to improve rail transport and support for the delivery of goods to and from Asia, North America, and the rest of Canada.

On March 14, 2013 (RTS9947) Council approved the Capital Project Budget and authorized senior staff to conclude the funding agreements between the City, POV, and CPR for the Powell Street Overpass Project.

On April 23, 2013 (RTS9947) Council received a report for information communicating the successful conclusion of negotiations with POV and CPR for project funding and the award of the design-build contract for the Powell Street Overpass project.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The City Manager recommends approval of the foregoing.

The General Manager of Engineering Services and the General Manager of Real Estate and Facilities Management recommend approval of the foregoing.

REPORT

Background/Context

The Powell Street Overpass Project

The Powell Street Overpass (the "Project") opened to traffic in 2014. It was built to provide benefits to goods movement by rail into the Port of Vancouver by realigning a portion of Powell Street to the south (by up to 15 metres) in order to make room for an additional east/west rail line and to provide an overpass above the Burlington Northern Railway line to provide a safer environment and fewer delays for pedestrians, cyclists, transit, and vehicles.

Since the completion of construction, the statutory land surveys have been underway to enable the conclusion of the land exchange obligations prescribed in the Funding Agreements. The Funding Agreements called for a series of land transfers along the north side of Powell Street between the funding partners to regularize ownership of the new rail line and road works, including the overpass. This report will address the outstanding land transfers along the north side of the Project as illustrated in Appendix 'C' and 'D'.

The Land Exchange Required by the Funding Agreements

The new Powell Street alignment results in one portion of POV land being required for new City road purposes (see *Port South 7* on sheet 2 of Appendix 'C') and four portions

of old City road becoming available for transfer to POV and CPR (see *City 1*, *City 2*, *City A*, and *City B* also on Appendix 'C'). These five pieces of land are the basis of the land exchange obligations pursuant to the Funding Agreements and the subject of this report.

Port South 7 (shown within bold outline on Appendix 'C') is the south seven feet of POV owned Lot 8 at 1299 Powell Street which is currently being used as City road. Under Recommendation 'A' the *Port South 7* will be transferred to the City and established as road under the Vancouver Charter.

City 1 (shown shaded dark red on Appendix 'C') consists of portions of old City owned road adjacent to POV owned 110 Hawks Avenue (shown red without shading). Under Recommendation 'B' it will be closed as road and transferred to POV for future consolidation with 110 Hawks Avenue.

City 2 (shown cross hatched and green on Appendix 'C') consists of old City owned road adjacent to POV owned 1155 Powell Street (shown in green without cross-hatching). Also under Recommendation B it will be closed as road and transferred to POV for future consolidation with 1155 Powell Street.

City A (shown hatched and yellow on Appendix 'C') consists of old City owned road adjacent to CPR owned 1101 Powell Street (Block A) (shown yellow without hatching). Under Recommendation 'C' it will be closed as road and transferred to CPR for consolidation with 1101 Powell Street (Block A).

City B (shown dotted and blue on Appendix 'C') consists of old City owned road adjacent to CPR owned 1101 Powell Street (Parcel B) (shown blue without dots). Also under Recommendation C it will be closed as road and transferred to CPR for consolidation with CPR owned 1101 Powell Street (Parcel B).

Consolidations of Port and CPR Lands

The City requires that, as soon as reasonably practicable, the old portions of City road be consolidated with the abutting lands owned by POV and CPR respectively; i.e. City 1 is to be consolidated with Port 1, City 2 is to be consolidated with Port 2, City A is to be consolidated with CPR A, and City B is to be consolidated with CPR B. The Funding Agreements provide that City 1 and City 2 are to be transferred to POV subject to an Option to Purchase arrangement in favour of the City such that the option may be exercised by the City if POV does not complete the consolidations within two years of the transfer date (see Appendix 'A' Terms and Conditions Item 3). The Funding Agreements also provide that the transfers of City A and City B between the City and CPR are not to be completed until CPR has made arrangements for their concurrent consolidations into single parcels (see Appendix 'B' Terms and Conditions Item 3).

Statutory Rights of Way (SRW's) for Overpass Maintenance and Access

The City requires a 3.0 metre buffer area over City 1, City 2, City A, and City B for footing encroachment and to enable maintenance and reconstruction access of the new overpass. The extent of the maintenance and reconstruction area is shown approximately as a dark dotted line on Appendix C. SRW's will be registered in favour of the City as agreed to in the Funding Agreements. The SRW's will also include rights for

use, access, and maintenance of the cantilevered lookout platform that's attached to the overpass. See Item 2 in both Appendix 'A' and 'Appendix B' for the SRW requirements.

Strategic Analysis

The Recommendations in this report are consistent with the previously approved Funding Agreements between the City, POV and the CPR. The proposed transfers will regularize land tenure such that the new Powell Street and overpass will be on City owned road, the new rail track will be on CPR and POV lands as intended, and the maintenance and access rights for these new City assets will be properly documented and registered as SRW's. These arrangements will conclude the outstanding land transfers between the funding partners and they are supportive of effective port and rail operations and the future economic viability of the Port. The Project resulted in improved rail transport, increased safety and reduced delays for all modes of travel.

Implications/Related Issues/Risk

Financial

The total gross project cost was approximately \$50M with Transport Canada, POV, CPR, Translink, and the City sharing the total cost. The City's share was 15% (\$7.5M) which was eligible for reimbursement from TransLink upon completion of the project, for a net budget share of approximately \$3.75M.

The Funding Agreements establish that the land transfers in the above Recommendations are to be carried out without compensation for the fair market value of the right, title, interest or access benefit being acquired by the other party, and will be received on an "as is where is" basis". Therefore, no party will receive compensation for these exchanges.

Conveyancing costs such as land survey plan preparation costs, Property Tax Act fees, Land Title Act fees, Goods and Services Tax, if any, and legal fees for conveyancing are the responsibility of the funding partners in accordance with the Funding Agreements.

Under the Funding Agreements the City was responsible for approximately 15% of the project costs under the sharing agreement with CPR, POV, Translink and Transport Canada.

Recommendation F seeks to waive the road closure fee of \$10,460.00 prescribed under the Miscellaneous Fees Bylaw given the City's role in the project as the lead agency.

Environmental

Under the Funding Agreements, the exchanged lands are to be transferred to the applicable party on an "as is where is" basis and each party is to take on the associated liability and risk. The City's Environmental Manager has reviewed this and has concluded that this is an acceptable arrangement.

The Design Build Contractor encountered contaminated soils while completing the works in 2013 and 2014. The City retained an independent environmental consultant to monitor and oversee construction activities to ensure all necessary work was conducted in accordance with standard environmental procedures and with the approval of the City's Environmental Manager.

Legal

The Recommendations in this report are in accordance with the previously approved Funding Agreements between the City, POV, and CPR. Although the land transfers will be completed without compensation payable by any party, they are not considered to be a grant under the Vancouver Charter since the City receives consideration under the Funding Agreements in the form of improved transportation facilities and assets.

CONCLUSION

The General Manager of Engineering Services, in consultation with the General Manager of Real Estate Services & Facilities Management and the Director of Legal Services, recommends approval of the Recommendations contained in this report.

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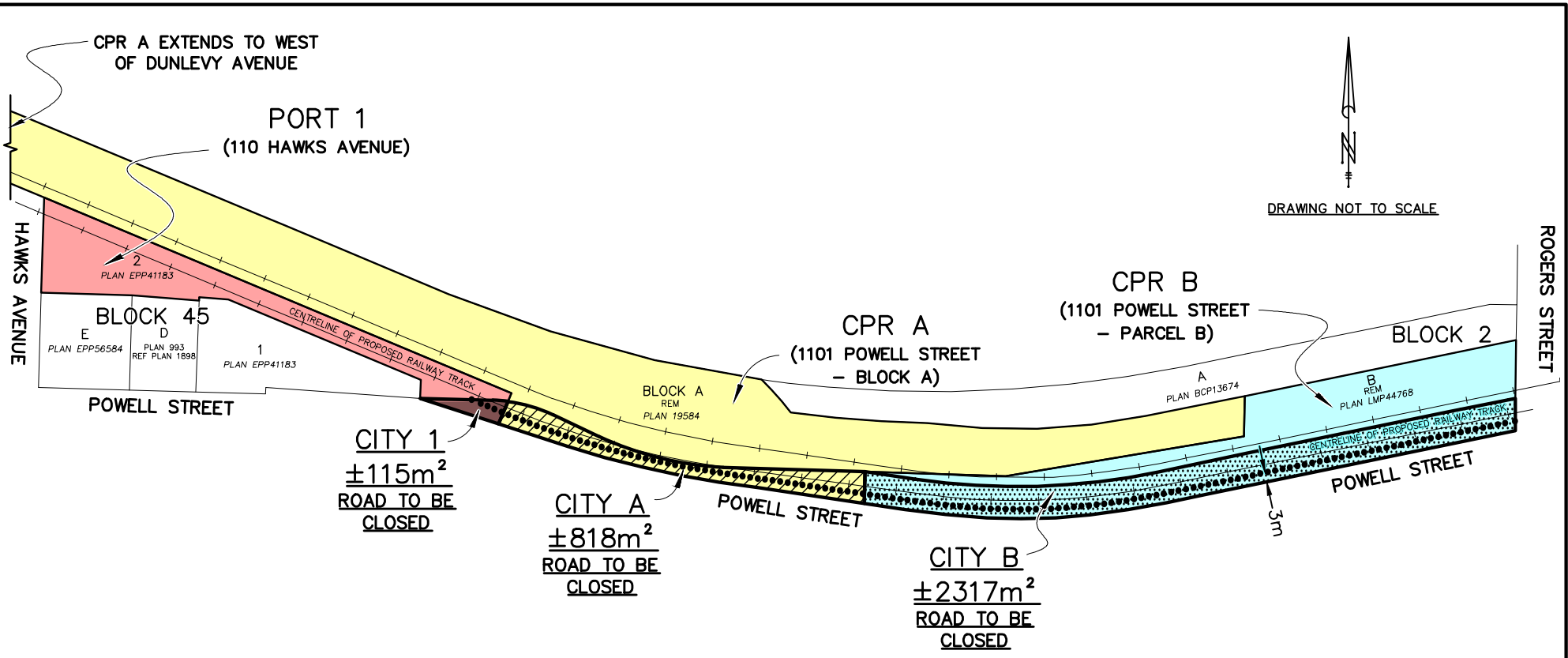
PORT OF VANCOUVER (POV) TERMS AND CONDITIONS

1. The conveyances between the City and POV are to be completed concurrently.
2. The registration of Statutory Rights of Way in favour of the City in accordance with the Project Funding-Delivery Agreement (POV) Exhibit E over the southerly 3.0 metres of City 1 and City 2 for footing encroachment and for maintenance and reconstruction access purposes.
3. The registration of Option to Purchase agreements in favour of the City in accordance with the Project Funding-Delivery Agreement (POV) Exhibit D over City 1 and City 2 such that City 1 and City 2 must be transferred from the City to the same entity that owns Port 1 (PID: 029-638-267; Lot 2 District Lots 181 and 196 Group 1 New Westminster District Plan EPP41183) and Port 2 (PID: 027-013-995; Parcel X Blocks 2 and 3 District Lot 182 Group 1 New Westminster District Plan BCP29063) respectively, and must also cause City 1 to be consolidated with Port 1 and City 2 to be consolidated with Port 2 within 2 years of the Transfer Date as defined in the Project Funding-Delivery Agreement (POV).







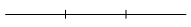

CANADIAN PACIFIC RAILWAY (CPR) TERMS AND CONDITIONS

1. The conveyances between the City and CPR are to be completed concurrently.
2. The registration of Statutory Rights of Way in favour of the City, generally in accordance with the Project Funding-Delivery Agreement (CPR) Exhibit F, over the southerly 3.0 metres of City A and City B for maintenance and reconstruction access purposes, footing encroachment, and for access and maintenance of the cantilevered lookout platform.
3. Consolidation of City A with CPR A (PID:007-009-399; Block A Except Portions in Reference Plan 19952, Plan LMP8263, Plan BCP13673, and Plan BCP25955, District Lot 181 and 196 Group 1 New Westminster District Plan 19584) and City B with CPR B (PID: 024-691-178; Parcel B Except Part in Plan BCP13673 Blocks H, K, 48, and 49 District Lots 181 and 182 Group 1 New Westminster District Plan LMP44768) to be completed concurrently with transfer.

Y:\LAND_SURVEY\APP\2019\DWG\121209 - Powell St - Appendix C.dwg (Sheet 1)

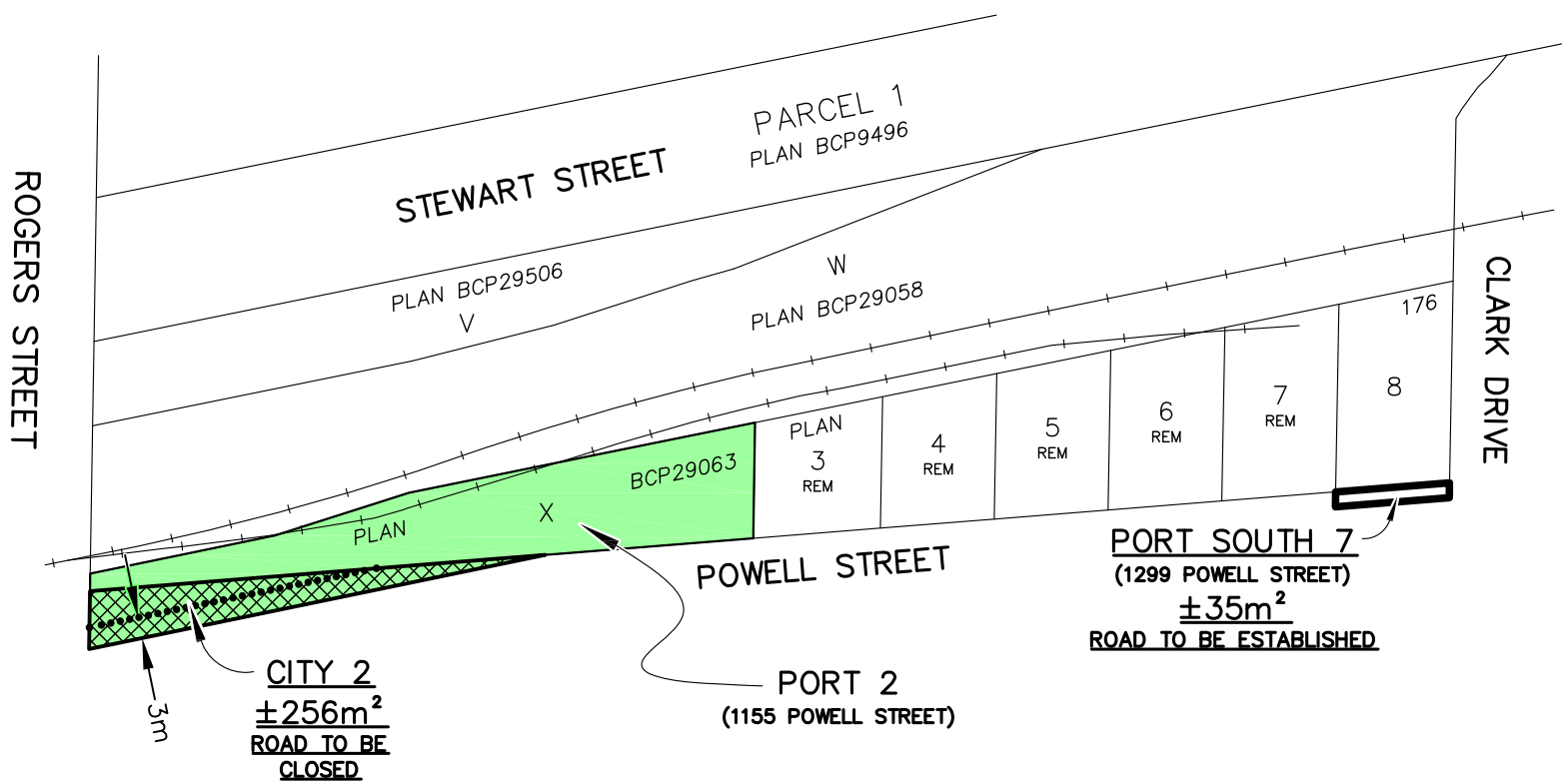


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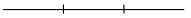

PORT 1 (110 HAWKS AVENUE)		029-638-267	LOT 2, DISTRICT LOTS 181 AND 196, GROUP 1, NWD, PLAN EPP41183
CPR A (1101 POWELL STREET BLOCK A)		007-009-399	BLOCK A, EXCEPT PORTIONS IN REFERENCE PLAN 19952, PLAN LMP8263, PLAN BCP13673, AND PLAN BCP25955; DISTRICT LOT 181 AND 196, GROUP 1, NWD, PLAN 19584
CPR B (1101 POWELL STREET PARCEL B)		024-691-178	PARCEL B, EXCEPT PART IN PLAN BCP13673, BLOCKS H, K, 48 AND 49, DISTRICT LOTS 181 AND 182, GROUP 1, NWD, PLAN LMP44768
CITY 1		±115m ²	CITY ROAD TO BE CLOSED AND TRANSFERRED TO POV FOR CONSOLIDATION WITH PORT 1
CITY A		±818m ²	CITY ROAD TO BE CLOSED AND TRANSFERRED TO CP RAIL FOR CONSOLIDATION WITH CPR A
CITY B		±2317m ²	CITY ROAD TO BE CLOSED AND TRANSFERRED TO CP RAIL FOR CONSOLIDATION WITH CPR B
			RAILWAY TRACK
			3m SRW's FOR BRIDGE MAINTENANCE AND RECONSTRUCTION
		CPR	CANADIAN PACIFIC RAILWAY
		CITY	CITY OF VANCOUVER
		PORT	PORT OF METRO VANCOUVER (POV)



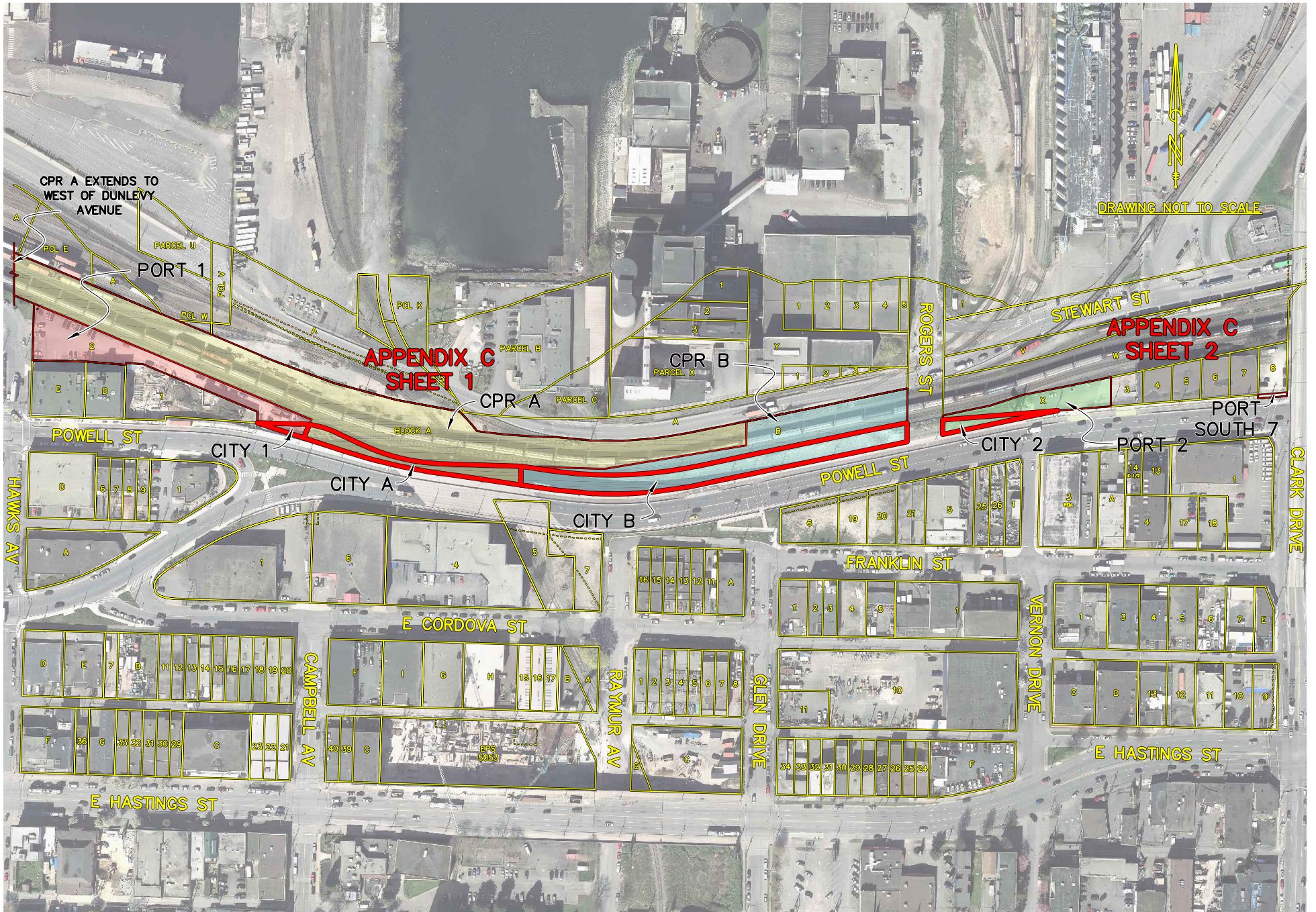
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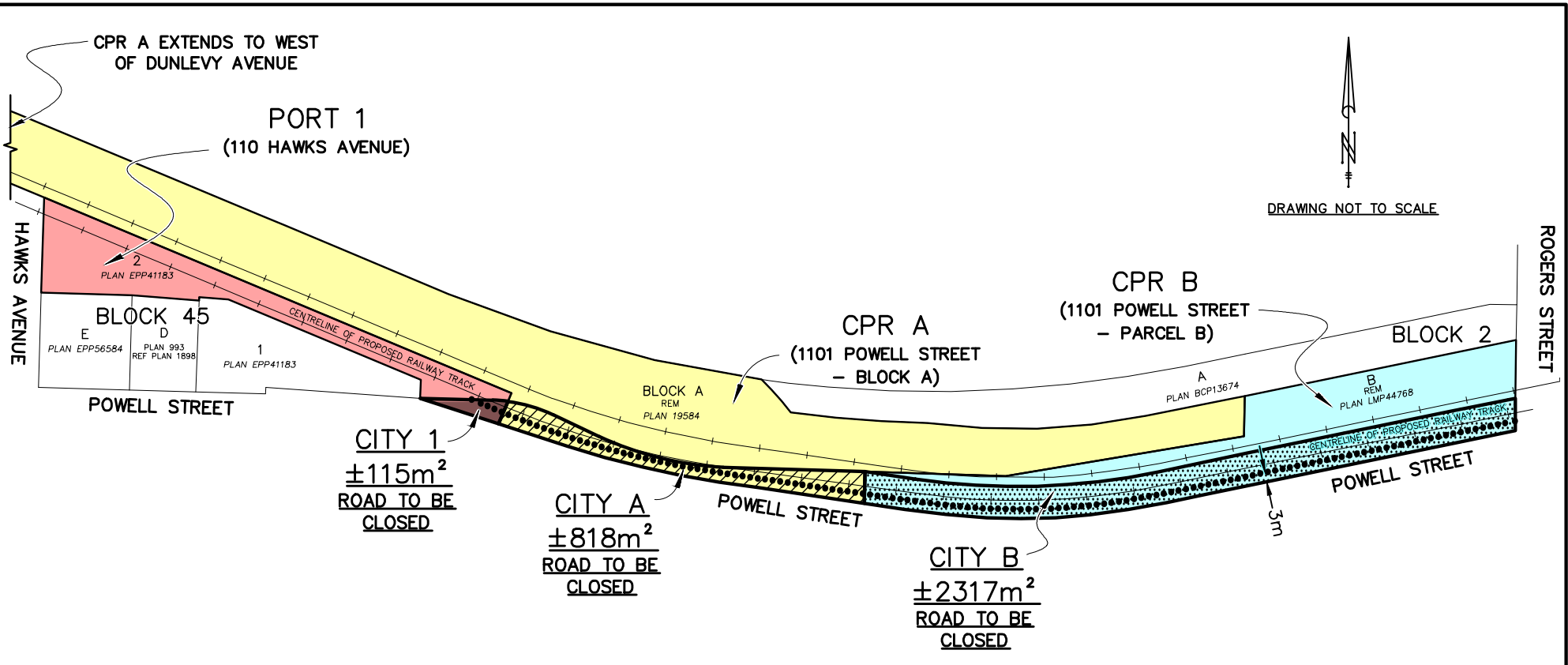
<p>PORT 2</p> <p>CITY 2</p> <p>PORT SOUTH 7 (1299 POWELL STREET)</p>	  	<p>027-013-995</p> <p>±256m²</p> <p>±35m²</p>	<p>PARCEL X, BLOCKS 2 AND 3, DISTRICT LOT 182, GROUP 1, NWD, PLAN BCP29063</p> <p>CITY ROAD TO BE CLOSED AND TRANSFERRED TO POV FOR CONSOLIDATION WITH PORT 2</p> <p>PORTION OF POV OWNED PID:008-180-083; LOT 8, EXCEPT PART IN PLAN 14625, OF LOT 3, BLOCK A, DISTRICT LOT 182, PLAN 176</p>	<p> RAILWAY TRACK</p> <p> 3m SRW's FOR BRIDGE MAINTENANCE AND RECONSTRUCTION</p> <p>CPR CANADIAN PACIFIC RAILWAY</p> <p>CITY CITY OF VANCOUVER</p> <p>PORT PORT OF METRO VANCOUVER (POV)</p>
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OVERALL CONTEXT MAP



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Y:\LAND_SURVEY\APP\2019\DWG\1412109 - Powell St - Appendix C.dwg (Sheet 1)

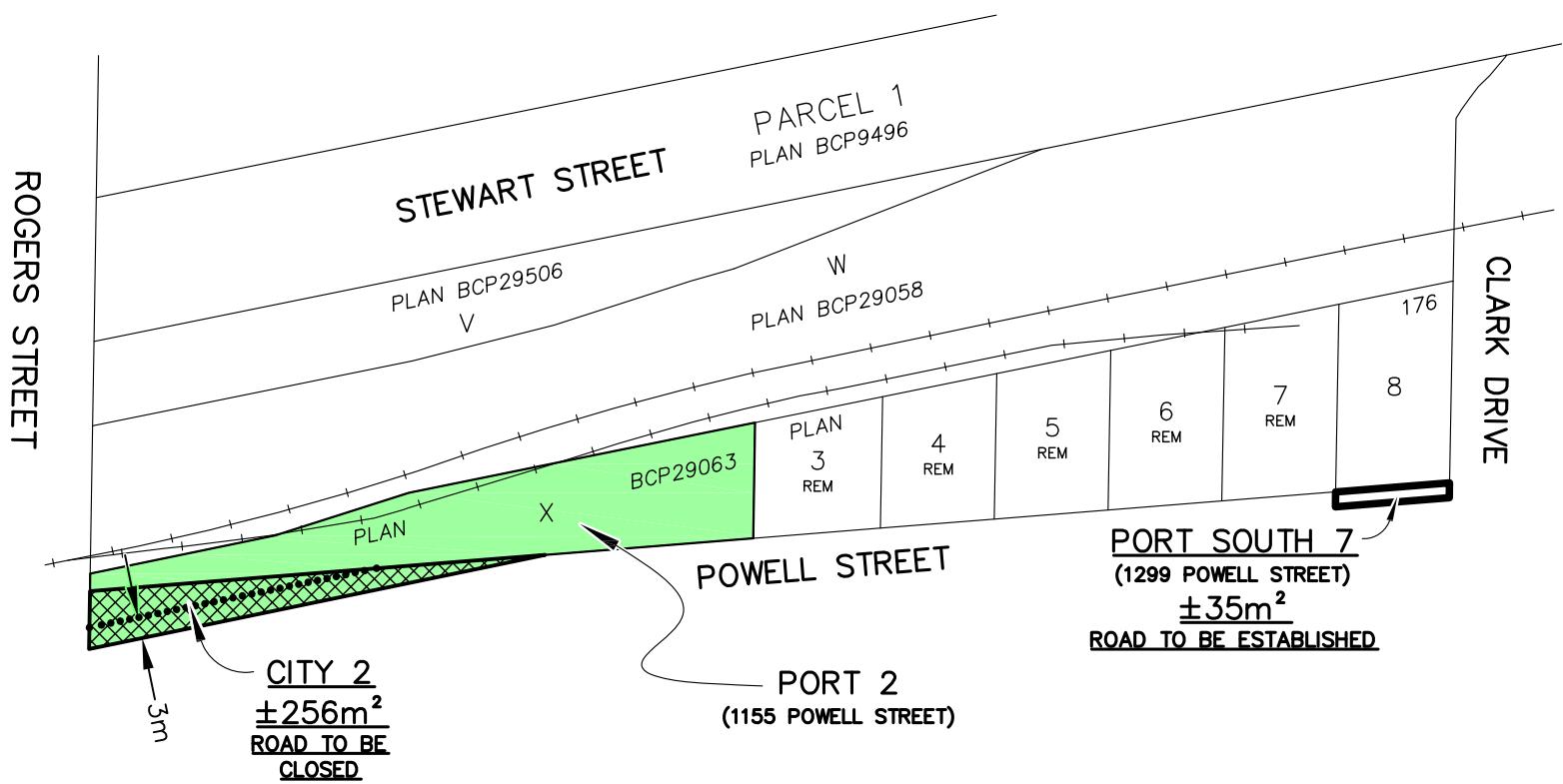


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<p>PORT 1 (110 HAWKS AVENUE)</p> <p>CPR A (1101 POWELL STREET BLOCK A)</p> <p>CPR B (1101 POWELL STREET PARCEL B)</p> <p>CITY 1</p> <p>CITY A</p> <p>CITY B</p>	<p> 029-638-267</p> <p> 007-009-399</p> <p> 024-691-178</p> <p> ±115m²</p> <p> ±818m²</p> <p> ±2317m²</p>	<p>LOT 2, DISTRICT LOTS 181 AND 196, GROUP 1, NWD, PLAN EPP41183</p> <p>BLOCK A, EXCEPT PORTIONS IN REFERENCE PLAN 19952, PLAN LMP8263, PLAN BCP13673, AND PLAN BCP25955; DISTRICT LOT 181 AND 196, GROUP 1, NWD, PLAN 19584</p> <p>PARCEL B, EXCEPT PART IN PLAN BCP13673, BLOCKS H, K, 48 AND 49, DISTRICT LOTS 181 AND 182, GROUP 1, NWD, PLAN LMP44768</p> <p>CITY ROAD TO BE CLOSED AND TRANSFERRED TO POV FOR CONSOLIDATION WITH PORT 1</p> <p>CITY ROAD TO BE CLOSED AND TRANSFERRED TO CP RAIL FOR CONSOLIDATION WITH CPR A</p> <p>CITY ROAD TO BE CLOSED AND TRANSFERRED TO CP RAIL FOR CONSOLIDATION WITH CPR B</p>	<p> RAILWAY TRACK</p> <p> 3m SRW's FOR BRIDGE MAINTENANCE AND RECONSTRUCTION</p> <p>CPR CANADIAN PACIFIC RAILWAY</p> <p>CITY CITY OF VANCOUVER</p> <p>PORT PORT OF METRO VANCOUVER (POV)</p>
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DRAWING NOT TO SCALE



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<p>PORT 2 027-013-995</p> <p>CITY 2 ±256m²</p> <p>PORT SOUTH 7 (1299 POWELL STREET) ±35m²</p>	<p>PARCEL X, BLOCKS 2 AND 3, DISTRICT LOT 182, GROUP 1, NWD, PLAN BCP29063</p> <p>CITY ROAD TO BE CLOSED AND TRANSFERRED TO POV FOR CONSOLIDATION WITH PORT 2</p> <p>PORTION OF POV OWNED PID:008-180-083; LOT 8, EXCEPT PART IN PLAN 14625, OF LOT 3, BLOCK A, DISTRICT LOT 182, PLAN 176</p>	<p> RAILWAY TRACK</p> <p> 3m SRW's FOR BRIDGE MAINTENANCE AND RECONSTRUCTION</p> <p>CPR CANADIAN PACIFIC RAILWAY</p> <p>CITY CITY OF VANCOUVER</p> <p>PORT PORT OF METRO VANCOUVER (POV)</p>
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OVERALL CONTEXT MAP

