

PART ROAD DISCONTINUANCE AND TRANSFER ABUTTING 37 FRANCES AVENUE, YARRA GLEN

Report Author: Property & Project Officer
Responsible Officer: Director Environment and Infrastructure
Ward(s) affected: Ryrie;

The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.

CONFIDENTIALITY

This item is to be considered at a Council Meeting that is open to the public.

SUMMARY

It is proposed Council use its powers under Section 206 (1) and Schedule 10 of the Local Government Act 1989 to discontinue a small portion (211m²) of unused road reserve abutting 37 Frances Avenue, Yarra Glen shown in Attachment 1.

The portion of road is not constructed or utilised for road purposes. It has not been identified as being reasonably required for public use now or into the future.

Upon removal of the road status, the land will vest in Council. It is proposed the road portion be transferred to the abutting owner subject to purchasing the land based on a land valuation, the reimbursement of Council costs and entering into an agreement to consolidate the land.

The proposal is fully supported by the relevant Council departments.

Consultation with the surrounding property owners was undertaken. There were no objections to the proposal.

Public Notice has been given and no formal submissions were received.

RECOMMENDATION

That Council having given notice of its intention to discontinue the 211m² road portion abutting 37 Frances Avenue, Yarra Glen and having invited public submissions with no public submissions received, and being of the opinion that this road portion is not reasonably required for public use

- 1. Discontinue the portion of road.***
- 2. Direct that notice of the discontinuance be published in the Government Gazette.***
- 3. Direct that the land from the road portion be transferred to the abutting***

owners subject to the reimbursement of Council costs, purchasing the land based on a land valuation and entering into an agreement to consolidate the land.

- 4. Direct that any necessary documentation to give effect to the transfer be signed and sealed.**

RELATED COUNCIL DECISIONS

There are no related Council Decisions for this matter.

DISCUSSION

Purpose and Background

The proposal was initiated by the owners of 37 Frances Avenue, Yarra Glen seeking to purchase the small portion (211m²) of unused road reserve. If the proposal is adopted this would enable the applicant to erect a fence and incorporate the unused road portion into their property.

The portion of road reserve is maintained by the applicant and appears to form part of their property (see attachment 2). It is identified as R1 on LP 1056 dating back to 1906.

The road is not listed as a public road on Yarra Ranges Shire Council's Road Register and it is not a Council maintained road.

A similar width of road reserve has been acquired by 18 Frances Avenue, Yarra Glen (see attachment 3).

This report will consider whether the road reserve is reasonably required for public use or not.

Options considered

To discontinue the road portion or not discontinue the road portion.

Recommended option and justification

It is proposed that Council use its powers under Section 206 (1) and Schedule 10 of the Local Government Act 1989 to discontinue the unused road portion (211m²) abutting 37 Frances Avenue, Yarra Glen and transfer the land shown in Attachment 1 to the abutting owners.

This option is recommended to formalise the current occupation of unused road reserve and enable the applicant to fence the area into their property. The proposal is fully supported (subject to the creation of easements for service utilities) and no public submissions were received.

The road is unconstructed and not listed as a public road on Council's Road Register. The road portion has not been identified as being reasonably required for public use now or into the future.

If a road was to be required in the future, the remaining road reserve width of 12 metres approx. would still be available.

FINANCIAL ANALYSIS

There is an existing budget to cover the costs associated with the proposal. The abutting owner has agreed to reimburse the Council costs associated with the proposal and purchase the land based on a land valuation.

APPLICABLE PLANS AND POLICIES

Local Government Best Practice Guidelines for the Sale, Exchange and Transfer of Land, provides the guidelines and principles by which Council should follow when discontinuing roads and selling land.

RELEVANT LAW

Council has powers under Section 206 (1) and Schedule 10 of the Local Government Act 1989 to discontinue roads and transfer the land.

Council, when considering road discontinuances is required to advertise the proposal and invite submissions from the public as prescribed in Section 223 of the Local Government Act 1989.

SUSTAINABILITY IMPLICATIONS

Economic Implications

Economic impacts have been considered. The proposal will generate little economic impacts.

Social Implications

Social impacts have been considered. The proposal will generate little social impacts.

Environmental Implications

Environmental impacts have been considered. In this circumstance there are none that apply.

CONSULTATION

Internal Consultation

The proposal was referred to relevant Council departments for comment.

There was no objection to the proposal and the road portion has not been identified as being reasonably required for public use as a road now or into the future.

There are no Council assets within the road reserve and therefore no requirements for any Council easements on the road portion.

Service Providers

The proposal was referred to relevant service providers for their comment. There was no objection to the proposal subject to the creation of easements in favour of Ausnet, Telstra, Yarra Valley Water, NBN and Multinet Gas. There is a full easement on the road portion marked as E1 on the Title Plan.

Abutting Owners

A letter was mailed to the surrounding property owners outlining the proposal and inviting comment. There were no objections to the proposal.

COMMUNITY ENGAGEMENT

Pursuant to Section 223 of the Local Government Act 1989, Council gave public notice of its intention to discontinue the road portion abutting 37 Frances Avenue, Yarra Glen and invited public submissions as to whether or not the proposal should proceed.

Public notices were published in the Mail newspaper group on 4 October 2022. In addition, the public notice was placed on Council's website for the duration of the 28 day consultation period.

No public submissions were received.

COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT

No collaboration with other Councils, Governments or statutory bodies was sought in relation to Council's proposal to discontinue and transfer the road portion.

RISK ASSESSMENT

There are no identifiable risks associated with the proposal.

CONFLICTS OF INTEREST

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

ATTACHMENTS TO THE REPORT

1. Title Plan
2. Locality Plan
3. Aerial Plan