

PART ROAD DISCONTINUANCE WELLMAN STREET (ABUTTING NO.12), LAUNCHING PLACE

Report Author: Property & Project Officer
Responsible Officer: Director Environment and Engineering
Ward(s) affected: O'Shannassy;

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 (281m²) of unused road reserve abutting 12 Wellman Street, Launching Place 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 281m² road portion abutting 12 Wellman Street, Launching Place 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 owner 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 owner of 12 Wellman Street, Launching Place seeking to purchase the small portion of unused road reserve. If the proposal is adopted this will enable the applicant to formalise the occupation of the road portion and apply for any relevant permits for their building structure/s which encroach onto the unused road portion.

The portion of road reserve is not part of the constructed roadway. It is maintained by the applicant and appears to form part of their property (see attachment 2). There are two structures partly situated on the unused road portion, one a galvanised iron shed and the other a machinery/igloo shed. There is also part of an above ground pool encroaching onto the road portion.

The road reserve for Wellman Street, Launching Place was created on LP7653 in 1919. It is a 20 metres wide road reserve which is generous, many road reserves are typically 15 metres wide. The proposal at the widest point would reduce the road reserve to approximately 13 metres in width. The remaining road reserve (not forming part of the proposal) would have a minimum 6 metres between the constructed road and the new road reserve boundary.

This report will consider whether the road portion is reasonably required for public use.

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 (281m²) abutting 12 Wellman Street, Launching Place and transfer the land shown in Attachment 1 to the abutting owners.

The option is recommended to formalise the current occupation of the road reserve and enable the applicant to apply for any relevant permits for their building structure/s. The proposal is fully supported (subject to the creation of an easement for Yarra Valley Water- sewerage) and no public submissions were received.

The portion of unused road reserve does not form part of the constructed roadway. The road portion has not been identified as being reasonably required for public use now or into the future.

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 19989 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 is 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.

Service Providers

Yarra Valley Water assets (sewerage) were identified within the road portion and an easement has been created on the road discontinuance plan (shown as E1 on attachment 1).

Abutting Owners

A letter was mailed to the surrounding property owners outlining the proposal. There was no objection 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 and invited public submissions as to whether or not the proposal should proceed.

Public notices were published in the Mail newspaper group on 18 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. Aerial Plan