

8 PROPOSED DISCONTINUANCE OF ROADS ENCROACHING PROPERTIES AT PEET STREET PAKENHAM AND 17 HILL STREET, PAKENHAM

FILE REFERENCE INT207852

RESPONSIBLE GENERAL MANAGER Tom McQualter

AUTHOR Fiona Shadforth

RECOMMENDATION

That the Chief Executive Officer be authorised on behalf of Council to effect the discontinuance of the portions of road abutting O'Sullivan Street and 17 Hill Street Pakenham, shown hatched on the attached locality plan and publish a notice in the Victorian Government Gazette and sign all documentation associated with the transfer of the land.

Attachments

- 1 Locality Plan - Peet Street 1 Page
- 2 Public Notice 23 October 2019 1 Page

EXECUTIVE SUMMARY

This report recommends that Council, acting under clause 3 of schedule 10 of the Local Government Act 1989 (the Act) and also in accordance with sections 207A and 223 of the Act, complete the statutory procedures to discontinue the portions of road abutting O'Sullivan Street and 17 Hill Street Pakenham, shown hatched on the attached locality plan (Roads).

BACKGROUND

In May 1994 Council negotiated with the landowners to acquire two reserves ('Municipal Reserves 1 and 2') which ran east west between O'Sullivan Street and Hill Street and east from Hill Street. The plan creating Municipal Reserves 1 and 2 also created road widenings noted as R1 and R2 ('roads') with allowance for a splay ('splays') on each road where the road connects with Municipal Reserves 1 and 2. The plan was registered in July 1994. The Permit expired in 1997 and the Estate was not constructed.

A subsequent plan was lodged in September 2004 to remove the reserve status of Municipal Reserves 1 and 2. The purpose of the removal of the reserve status was to sell the land back to the land owners. The land had been acquired for the purpose of a bypass arterial road but the location for the arterial road was changed and therefore the land was no longer required by Council for this purpose.

Council removed the reserve status of Municipal Reserves 1 and 2 and sold the land. However the roads remained in Council's ownership.

At the time of the removal of reserve status, Council should also have removed the road status of the splays and commenced the transfer. As Council did not remove the road status of the splays, the alignment of the roads is unusual with a small encroachment into two privately owned properties, one of which remains in the ownership of the landowners, being the Peet Street property.

As the Peet Street Industrial Estate has now been constructed, in accordance with the Special Charge Scheme, it would be an appropriate time to rectify the unusual alignment of the roads. The landowners have requested that this be done as it is impacting on the future development and sale of the (proposed) subdivided property. It would be in Council's best interest to remove the splays as they are not required for road. Removing Council's responsibility and risk of the surplus splays would be beneficial long term.

POLICY IMPLICATIONS

The proposal to discontinue and sell the Roads has been carried out in accordance with the 'Discontinuance of Roads Policy' (Policy). The Policy provides that Land will sold at market value however it allows for land to be transferred at a *'lower price if it is considered that the benefits that accrue to the community by the achievement of one or more of the objectives of this Policy are not reasonably obtained unless a lower sale price is received'*. As the splays were transferred to Council as part of the previous plan of subdivision it is proposed that the land will be transferred back to the landowners for \$1.

RELEVANCE TO COUNCIL PLAN

The relevant Council Plan objective is that 'We continue to plan and manage the natural and built environment for future generations'. The objective is to be achieved through balancing the needs of development, the community and the environment.

CONSULTATION/COMMUNICATION

On 19 August 2019 Council resolved to commence the process to discontinue the roads. In accordance with sections 207A and 223 of the Act Council has given public notice of the proposal to discontinue the Roads and transfer the land, and did not receive any submissions.

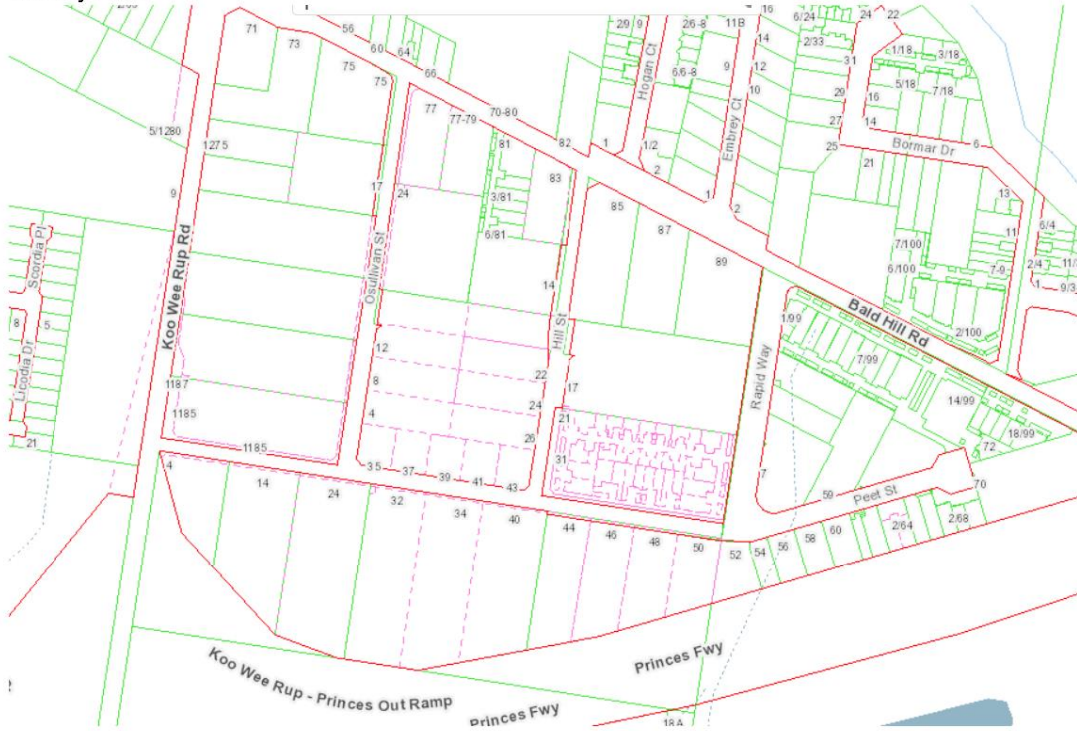
FINANCIAL AND RESOURCE IMPLICATIONS

Council will meet the costs to rectify the alignment of the roads which will reduce Council's long term ongoing costs to maintain the unused Roads which have no benefit to Council.

CONCLUSION

The Roads fall within the Peet Street Industrial Estate Special Charge Scheme and are not required for any infrastructure and are considered surplus to Council's purposes. No submissions were received in response to the public notice. As the proposal to discontinue the Roads has no apparent detrimental effect in relation to access or use within this area, the Roads are considered to be suitable for discontinuance and transfer.

Locality Plan:



Enlargement:



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Cardina

Notice of Intention to discontinue roads
 Community consultation

Cardina Shire Council ("Council") gives notice under Clause 3 Schedule 10 of the Local Government Act 1989 ("the Act") of a proposal to discontinue two sections of road abutting O'Sullivan Street, Pakenham and 17 Hill Street Pakenham respectively and transfer the land to the abutting property owners. The roads are known as part of R1 and R2 on PS535915 and described in Certificates of Title Volume 10197 Folios 892 and 893 and shown hatched on the plan below.

In accordance with Section 223 of the Act, any person may make a submission on this proposal and all submissions will be considered. Submissions must be received by 5pm, Thursday 21st November 2019.

Submissions may be emailed to mail@cardina.vic.gov.au, hand delivered to Council's Customer Service Centre at 20 Slings Avenue, Officer, or posted to:

Ms Carol Jeffs
 Chief Executive Officer
 Cardina Shire Council
 PO Box 7
 PAKENHAM VIC 3810

Please include the address of the abutting property in the subject heading or on the front of the envelope.

Any person requesting to be heard in support of his or her submission is entitled to verbally present their submission to Council (or a Committee established by Council for this purpose) or be represented by a person acting in his or her behalf. They will be notified of the time and date of this meeting.

Following the consideration of any submissions, Council may decide to discontinue the road and transfer the land to the abutting owners, or leave the road as a road reserve.

For further information contact Council's Property Officer on 1300 787 624

Locality Plan:

