

1.7 PROPOSED ROAD DISCONTINUANCE OF MULTIPLE UNUSED ROADS FORMING PART OF MOUNT WAVERLEY RESERVE

Responsible Director: Peter Panagakos

RECOMMENDATION

That Council:

1. *Notes that Council, at its meeting on 27 July 2021, adopted the draft Mount Waverley Reserve Masterplan for consultation and at its meeting on 30 November 2021, Council endorsed the Mount Waverley Reserve Masterplan.*
2. *Notes that the 27 July 2021 Council report highlighted the numerous parcels of land currently forming Mount Waverley Reserve that have the legal status of a road, a status which is not required for current or future use. These roads are identified on the Title Re-Establishment Survey for Mount Waverley Reserve in Attachment 1.*
3. *Notes the current and proposed future uses of the land that forms the roads and agrees that:*
 - a. *The road status should be removed (discontinued) from the areas shown on the Plan for Road Discontinuance Purposes in Attachment 2 pursuant to Section 206 and Clause 3 of Schedule 10 of the Local Government Act 1989 (Vic) ('Act') and the land consolidated within the surrounding land that forms the Mount Waverley Reserve as part of a Plan of Consolidation.*
 - b. *A small section of the road in the North East corner of Gwynne Street will become an extension of Fleet Street as part of the Plan of Consolidation process in order to protect the existing in-situ asset owned by United Energy Limited.*
4. *Resolves to commence the statutory procedures pursuant to Sections 207A and 223 of the Act to consider discontinuing the area of roads shown on the Plan for Road Discontinuance Purposes in Attachment 2 pursuant to Clause 3 of Schedule 10 of the Act ('the Proposal').*
5. *Gives public notice of the Proposal in accordance with Sections 207A and 223 of the Act in a daily newspaper and on Council's website from 1 March 2022 and invite submissions on the Proposal.*

6. *Authorises Council's Chief Executive Officer or her delegate to undertake the administrative procedures necessary to enable Council to carry out its functions under Section 223 of the Act in respect of the Proposal ('Appointed Officer').*
7. *Appoint a Committee of Council comprising of the Mayor and Mount Waverley Ward Councillors to meet to consider the outcome of the public notice referred to in point 5 above, and to hear and consider any submitters requesting to be heard in accordance with Section 223 of the Act at 7.15pm on 17 May 2022 at the Monash City Council Civic Centre, 293 Springvale Road Glen Waverley.*
8. *Notes that following the meeting referred to in point 7 above and consideration of any submissions, that the Committee of Council provide a report back to Council on its considerations including a summary of any submissions and make a recommendation to Council on whether or not to proceed with the Proposal.*

INTRODUCTION

This report discusses commencing the statutory procedures pursuant to Clause 3, Schedule 10 and Sections 207A and 223 of the Local Government Act 1989 (**Act**) to discontinue a number of unused roads which form part of the Mount Waverley Reserve and consolidate the land with the surrounding land that forms the Mount Waverley Reserve (**Reserve**). The roads are identified on the Mount Waverley Reserve Title Re-Establishment Survey plan in Attachment 1 and the areas to be discontinued shown hatched on the Plan for Road Discontinuance Purposes in Attachment 2 (**Proposal**).

BACKGROUND

The now endorsed Mount Waverley Reserve Masterplan (**Masterplan**), identified that the identified roads that exist are not required to be retained as roads. Access throughout the site will be managed in accordance with the Masterplan, but these internal access roads do not require a formal status.

In considering the Masterplan at its 27 July 2021 meeting Council amongst other matters resolved:

4. *Note that the Mount Waverley Reserve site is made of multiple parcels of land and agree that the further design and planning work for the site should include a plan to consolidate these parcels of land.*
5. *Note that some of the parcels of land referred to in item 4 above have the legal status of a Road and that a further report to Council will discuss commencing the statutory procedures pursuant to Sections*

207A and 223 of the Local Government Act 1989 to remove the Road status as part of the plan of consolidation process.

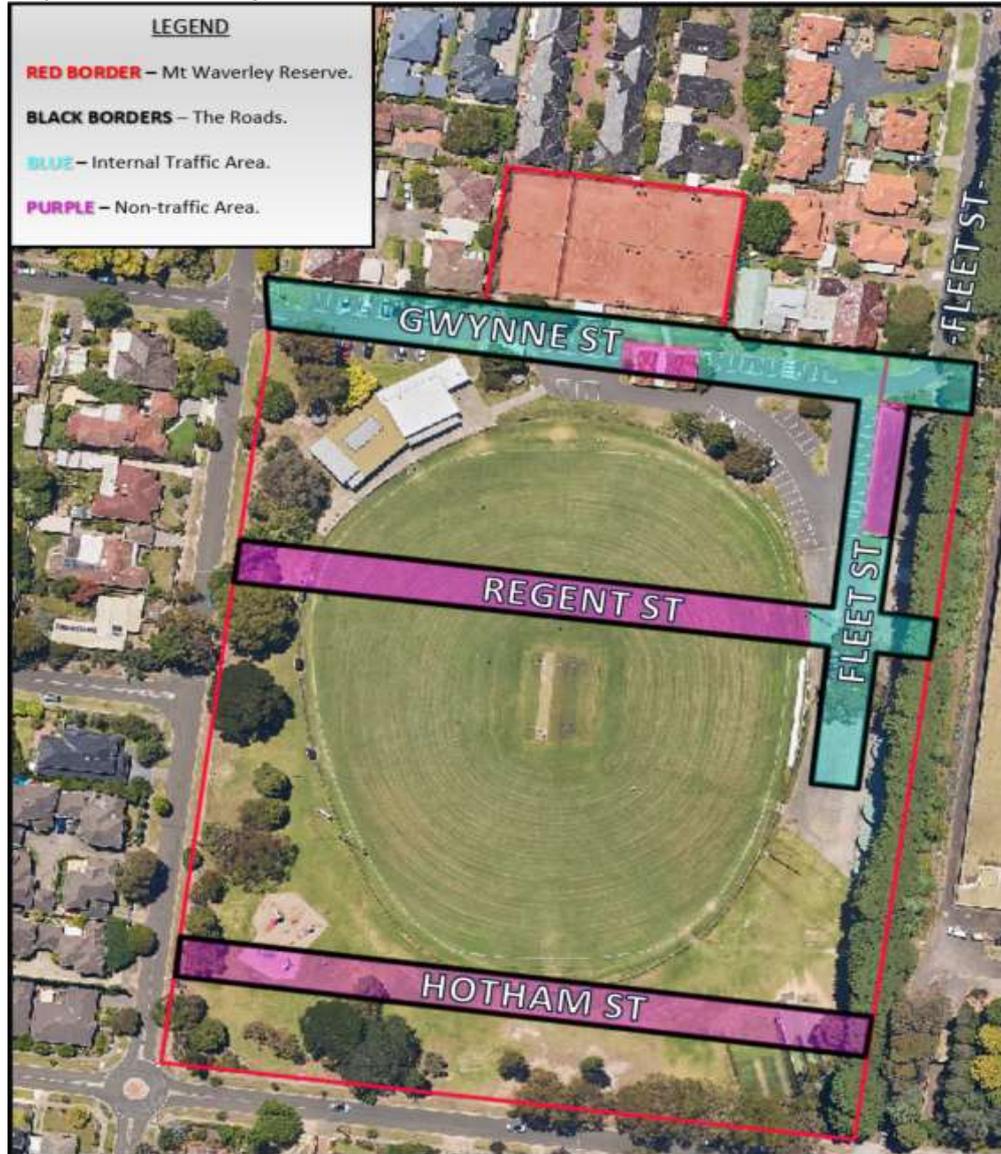
With the endorsement of the Masterplan, it is now time to commence the process that was identified in reference to the roads.

DISCUSSION

The Roads

Current Use

- The Roads are identified as carriageway easements on plan TP530016Q.
- The carriageway easement status means they are considered to be roads at common law for which Council as a Road Authority has powers over in accordance with the Road Management Act 2004 (**Roads**).
- Council has not included these Roads on its Register of Public Roads, meaning they are not considered public highways.
- The Roads are used for different purposes as shown on the aerial map below (ie. either non-traffic recreational use or internal pedestrian and vehicular traffic use).
- A small section of the north-east corner of Gwynne St forms an extension of Fleet St (discussed further below).
- Historic aerial images confirm that the Roads have formed part of the Reserve since at least the 1950s.

Map 1 – Current Use of the Roads

The areas coloured in blue being part of Fleet Street and Gwynne Street are used for internal reserve pedestrian and vehicular traffic purposes only as part of Reserve. They are not through roads or used by the broader 'public' for road purposes outside the use of the Reserve.

There is one exception to this relating to a small section of Gwynne Street in the north east corner adjoining Fleet Street which is discussed further below.

The Roads shown in pink are not and have not been used as roads and form part of the active/passive areas of the Reserve. The discontinuance of these Roads would maintain the status quo of how the Reserve has and is being used.

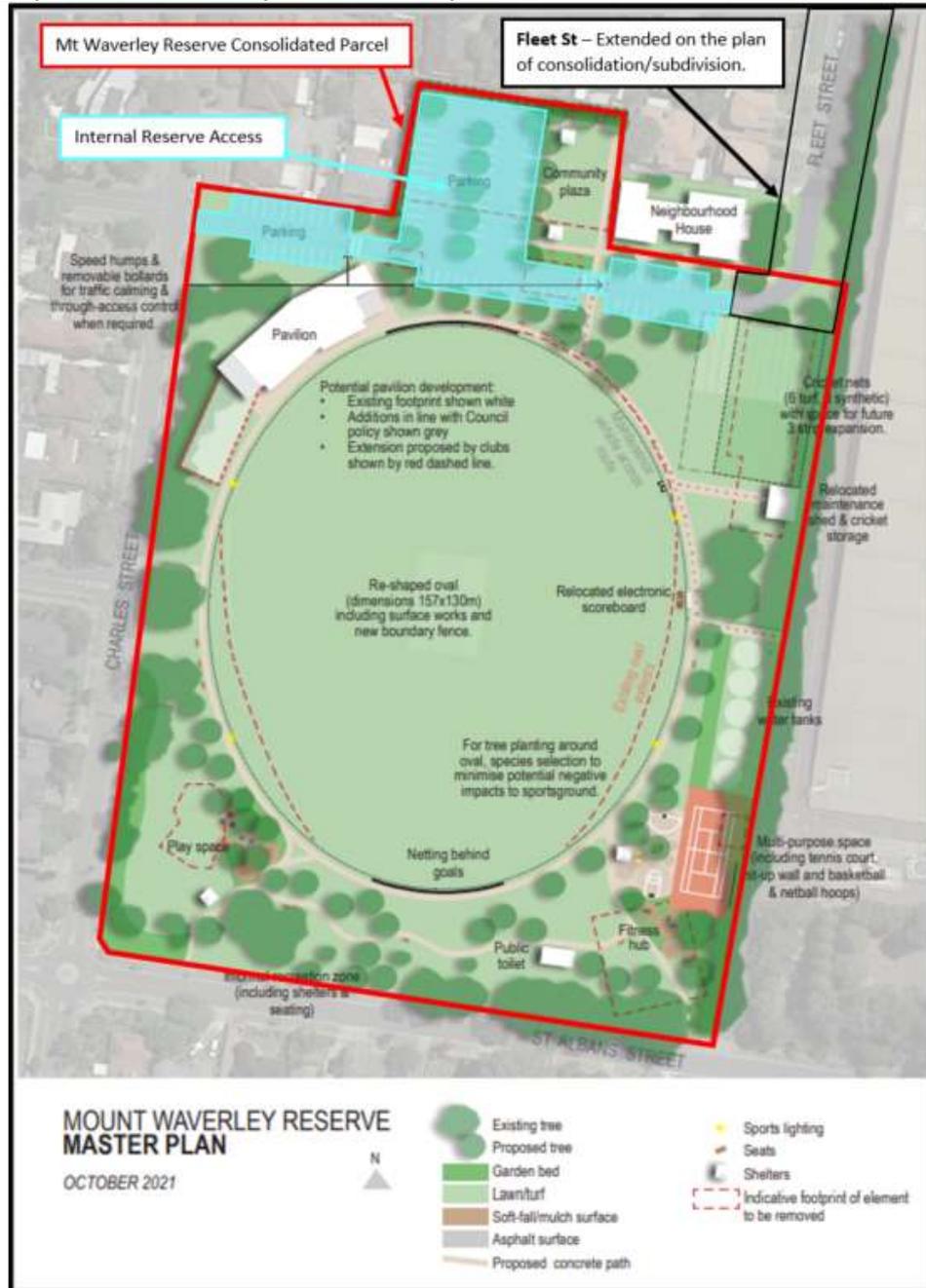
Future Use

The Masterplan is shown in Map 2 below. Whilst there are internal roads and carparking proposed, a formal road status is not required for these.

A small section of road that is currently Gwynne Street is proposed to become an extension of Fleet Street (as shown bordered in black in the North East corner of Map 2 below). This change is in response to a request from Uniting Energy that they require their existing asset to remain in its current location and their request that a formal road be provided to this asset.

Therefore, the carriageway easement currently in place on what is known as Gwynne St is proposed to be removed via the road discontinuance process and the plan of consolidation will arrange for the small rectangular area shown on the Map 2 below to become part of Fleet St.

Map 2 – Mount Waverley Reserve Masterplan



The Road Discontinuance

The consolidation of the parcels will not only remove historic and unused resolutions but will also simplify the process for any future upgrades or changes to the Reserve as proposed by the Masterplan.

The Statutory Process

- Council’s powers to discontinue a Road is provided by Clause 3, Schedule 10 of the Act.

- The statutory process includes Council publishing a notice in accordance with Section 223 of the LGA that invites written submissions from the public to the proposal to remove the road status from the Roads.
- Any submitters may request to be heard by a Committee of Council prior to a decision being made to either proceed or not proceed with the proposal.
- A Committee comprising the Mayor and Mount Waverley Ward Councillors will be convened to consider the outcome of the public notice and to hear any submitters who requested to be heard and consider their submissions. The Committee will report back to Council with a recommendation for decision on the Proposal.

POLICY IMPLICATIONS

The Proposal forms part of the goals of the Draft Mount Waverley Masterplan project and therefore shares the same policy implications, being:

- Council Plan 2017-2021.
- A Healthy and Resilient Monash: Integrated Plan 2017-2021.
- Monash Tennis Plan 2021.
- Monash Playground and Playspace Strategy 2020.
- Active Reserves Facility Hierarchy 2018.
- Active Monash Capital Works Prioritisation Framework 2018.
- Asset Management Strategy.
- Monash Open Space Strategy 2018.
- Draft Active Recreation Opportunities Strategy (in development).

CONSULTATION

Internal

An internal referral to various departments of Council did not raise any concerns to the Proposal and confirmed that discontinuing the Roads will achieve the best outcome for the Reserve.

Given that the land from the Roads will remain in Council's ownership, easements are not required for the protection of Council's assets.

External

Service Authorities

Service authorities were contacted and did not raise issues to the Proposal provided their assets are protected with an easement for access for maintenance purposes or as with the United Energy request, an area of Gwynne St becomes part of Fleet St to protect an existing asset.

In order to confirm the exact location of existing utility assets, Council's appointed land surveyor, Terrain Consulting Group, will engage an asset location company to identify all assets and to liaise with the relevant service authorities regarding the location of the required easements to be captured on the Plan of Consolidation/Subdivision.

FINANCIAL IMPLICATIONS

The financial implications of the current proposal are limited to survey work and advertising which have been allocated from the capital budget for the Masterplan.

Should Council resolve to proceed with the current proposal, additional costs will be incurred for the creation and submission of the plan of consolidation at the Land Registry. These costs are estimated at \$10,650.00 (excl. GST).

HUMAN RIGHTS CONSIDERATIONS

There are no human rights implications on discontinuing the Roads except for giving equal consideration to any and all submissions made by the community.

GENDER IMPACT ASSESSMENT

The Proposal does not include any additional gender impacts to those identified in the Masterplan endorsed by Council at its ordinary meeting held 27 July 2021.

CONCLUSION

The Roads are not required as formal roads within the Reserve. In accordance with the Masterplan it is recommended that Council undertake the process to have them discontinued and consolidated into the broader reserve.

This report recommends that Council commence the statutory process to remove the road status, which includes public consultation in accordance with Section 207A and 223 of the Act

Attachment 2
Plan for Road Discontinuance Purposes

