

## **5.1. APPLICATION FOR PERMANENT PARTIAL ROAD CLOSURE OVER PART OF LOT 12 N157447 HERITAGE LANE CRAIGLIE**

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<b>MANAGER</b>	Terry Farrelly, Manager Community Development
<b>DEPARTMENT</b>	Community Development

### **RECOMMENDATION**

- 1. Delegates authority under section 257 of the *Local Government Act 2009* to the Chief Executive Officer to execute a Form Part C as Road Manager, advising the Department of Natural Resources Mines & Energy (DNRME) that Council cannot authorise a proposed permanent road closure over part of Heritage Lane, Craiglie adjoining Lot 12 on N157447 (as per attachment) however, it requests DNRME to consider an application under the Land Act 1994 in relation to this matter.**
- 2. Advises DNRME that it has no objection to the proposed application for permanent partial road closure over part of Heritage Lane, Craiglie adjoining Lot 12 on N157447, subject to the following condition:**
  - The applicant must amalgamate the proposed road closure area Lot A on AP21268 into the adjoining Lot 12 on N157447.**
- 3. Delegates authority under section 257 of the *Local Government Act 2009* to the Chief Executive Officer to finalise any and all matters associated with the application.**

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### **EXECUTIVE SUMMARY**

Council has received an application from the owner of Lot 12 on N157447 Heritage Lane, Craiglie with respect to a proposal to permanently close part of the road reserve situated adjacent to their property for residential purposes.

DNRME has updated the form, "LA30 Statement in relation to an application under the Land Act 1994 over State land – Part C".

When following the new administrative process as detailed on the amended Part C form, Council is unable to authorise the proposed permanent road closure as it does not have a local law which empowers it to do so therefore, Council must complete the form, indicating that it requests DNRME to consider an application under the Land Act with respect to this matter. This is achieved by section 1 of the recommendation.

The Part C form has also been amended to allow Council to provide its views on the matter at the time that it executes the form. This removes the requirement for DNRME to undertake further consultation on the matter with Council, which in turn allows the DNRME assessment process to be expedited. This is achieved by section 2 of the recommendation.

During internal consultation no objections were raised against the proposal, providing the condition detailed in section 2 of the recommendation is met.

## BACKGROUND

Heritage Lane is located at a rural zone on the western side of the Captain Cook Highway adjacent to an existing cane and vanilla farm.

The portion of the road proposed for closure consists of an area of approximately 1540 m<sup>2</sup>; 154 meters long and 10 meters wide.

Currently, the subject area is under the Temporary Road Licence 0/238244 granted for residential purposes issued by DNRME on the 13<sup>th</sup> of January 2015 with no term mentioned.

The temporary road closure agreement was approved at the Ordinary Council Meeting held on the 16<sup>th</sup> of September 2014. Council had no objections subject to several conditions being met:

- *the proposed landscaping must comply with Council's Planning Scheme Policy;*
- *the proposed landscaping must not adversely impact on existing drainage flows in the area; and*
- *the proposed landscaping must be removed, and the area reinstated if the temporary road closure is revoked or otherwise terminated.*

If the application for permanent partial road closure is approved the subject area registered as Lot A on AP21268 must be incorporated into Lot 12 on N157447.

## COMMENT

Under previous requirements of DNRME, it was necessary for all applications made under the Land Act 1994 over State land, to provide written consent from Council as Trustee or Road Manager, as part of the initial application process with that office.

Once the applicant had received Council's consent by way of an executed Part C form, the applicant would then be able to lodge a full application for consideration at DNRME, after which DNRME would then seek Council's views on the matter.

In order to reduce application assessment times and to assist Council to continue to have a lead role in the management of local road areas and allocated trust land, DNRME have updated the form, "LA30 Statement in relation to an application under the Land Act 1994 over State land – Part C".

While temporary and intermittent use of State land can often be authorised by way of local laws, an application for permanent road closure cannot. Accordingly, where the proposed use cannot be authorised by Council as the Trustee or Road Manager, DNRME will then need to consider the views of Council when assessing the application under the Land Act.

Changes made to the Part C form now enable Council to provide its views regarding proposed applications at the time that it executes this form. This removes the requirement for DNRME to undertake further consultation on the matter with Council which in turn allows the DNRME assessment process to be expedited.

In addition to the administrative changes made to the Part C form there is also now a requirement for applicants to discuss their plans with the appointed land manager prior to any tenure application being lodged at DNRME. In this case the subject area is intended to be used by the applicants for residential purposes.

Council officers were asked to comment on the proposal. No adverse responses were received.

## PROPOSAL

That Council delegates authority to the CEO to execute Form C and advise DNRME that it does not have any objection to the permanent partial road closure, subject to the condition contained within section 2 of the recommendation.

## FINANCIAL/RESOURCE IMPLICATIONS

All costs associated with the lodgment of this application with DNRME are borne by the applicant.

## RISK MANAGEMENT IMPLICATIONS

If the permanent partial road closure proceeds there would be a loss of future use and access to a part of the current road reserve area. This is an acceptable risk as there is currently no perceived and future anticipated use of the subject road reserve.

## CORPORATE/OPERATIONAL PLAN, POLICY REFERENCE

This report has been prepared in accordance with the following:

### Corporate Plan 2014-2019 Initiatives:

#### Theme 5 - Robust Governance and Efficient Service Delivery

*Goal 1 - We will conduct Council business in an open and transparent manner with strong oversight and open reporting.*

## COUNCIL'S ROLE

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

The following areas outline where Council has a clear responsibility to act:

<b>Asset-Owner</b>	Meeting the responsibilities associated with owning or being the custodian of assets such as infrastructure.
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## CONSULTATION

<b>Internal:</b>	Manager Environment and Planning Manager Water & Wastewater Executive Manager Infrastructure
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<b>External:</b>	Department of Natural Resources Mines & Energy
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## ATTACHMENTS

1. Lot 12 N 157447 Proposed Permanent Partial Road Closure Location **[5.1.1 - 1 page]**

# Lot 12 N157447 Proposed Permanent Partial Road Closure Location

