

5.2. APPLICATION FOR PERMANENT ROAD CLOSURE OVER UNNAMED ROAD RESERVE ADJOINING LOT 1 ON SP243347 CAPTAIN COOK HIGHWAY WANGETTI (TURTLE COVE RESORT)

REPORT AUTHOR(S) Graham Busby, Property Officer
GENERAL MANAGER Darryl Crees, General Manager Corporate Services
DEPARTMENT Governance

RECOMMENDATION

That Council:

- 1. advises the Department of Natural Resources and Mines that:**
 - a. Council objects to the proposed application for permanent road closure over part of unnamed road reserve adjoining Lot 1 on SP243347, Captain Cook Highway Wangetti and shown as Lot 1 on drawing TSV17083 for the following reasons:**
 - i. The subject land is within the World Heritage Area and Environs Locality and included in a Conservation Planning Area under the current scheme and a Conservation Zone under the proposed Douglas Shire Planning Scheme. The intention of the Conservation Planning Area is that any use of land in private ownership does not affect the environmental, habitat, conservation or scenic values of that land or surrounding areas. The 'Minimum Areas and Dimensions of Lots for Each Planning Area' Table in the Lot Reconfiguration Code specifies for the World Heritage Areas and Environs Locality, that lots are "*as existing with no further reconfiguration*". Closing the road to expand freehold land in this location, even if amalgamated with Lot 1 on SP243347, would be contrary to this planning provision. From a planning perspective, the road closure application is not supported.**
 - ii. The land is also mapped as Coastal Hazard Area – Erosion Prone Area under the State's Interactive Planning mapping System. The land is not suitable for conversion from road reserve to freehold tenure as it may prompt future applications to defend the land from coastal processes such as beach erosion.**
 - b. that, should the Department of Natural Resources and Mines approve the proposed permanent road closure, all costs associated with the road closure be paid by the applicant.**
- 2. delegates authority to the Chief Executive Officer, in accordance with section 257 of the *Local Government Act 2009*, to finalise all matters associated with this matter.**

EXECUTIVE SUMMARY

A request has been received from the Department of Natural Resources and Mines (DNRM) for Council's views in relation to a proposed permanent road closure over part of an unnamed road reserve, within Permit to Occupy described as Lot A on AP21575, adjoining Lot 1 on SP243347 Captain Cook Highway, Wangetti.

At the Ordinary Meeting of Council held on 13 December 2016, Council resolved to execute a form Part C as road manager in relation to the proposed permanent road closure, so the application could be lodged with the DNRM. The application has now been lodged and it has referred to Council for comment.

Following internal Council departmental consultation, it is recommended that Council advises the DNRM that it objects to the proposed permanent road closure.

BACKGROUND

In November 2016 Council received a request to execute as road manager, a Form C 'Statement in relation to an application under the *Land Act 1994* over State land' for the proposed permanent road closure of part of an unnamed road reserve within Permit to Occupy described as Lot A on AP21575, adjoining Lot 1 on SP243347 Captain Cook Highway, Wangetti. The subject land is shown as Lot 1 on the attached drawing TSV17083. Council resolved to execute the Form C at the Ordinary Meeting held on 13 December 2016.

Council is now requested to provide its views in relation to the proposed permanent road closure as the application has recently been lodged with the DNRM.

COMMENT

It is highly unlikely that the section of unnamed road reserve totaling an area of approximately 1960m², which is represented by Lot 1 on attached drawing TSV17083 will be needed for road purposes in the future. However following internal consultation, the proposed permanent road closure at this location is not supported due to planning concerns as documented below.

"The land subject to the proposal to close road is associated with a small resort constructed on Lot 1 SP243347. The resort dates back to approvals in the early 1980's with subsequent additions in the late 1990's under the former Resort Business Zone that applied to the site. The area under the current permit to occupy is used for facilities associated with the resort (walking, lighting, volley ball court, etc.)."

The land is included in the Conservation Planning Area in the current Douglas Shire Planning Scheme and this is carried through as Conservation Zone in the proposed Douglas Shire Planning Scheme. The intention of the Conservation Planning Area is that any use of land in private ownership does not effect the environmental, habitat, conservation or scenic values of that land or surrounding areas. The 'Minimum Areas and Dimensions of Lots for Each Planning Area' Table in the Lot Reconfiguration Code specifies for the World Heritage Areas and Environs Locality that lots are "as existing with no further reconfiguration". Closing the road to expand freehold land in this location, even if amalgamated with Lot 1 on SP243347, would be contrary to this planning provision. From a planning perspective, the road closure application is not supported.

The land is also mapped as Coastal Hazard Area – Erosion Prone Area under the State's Interactive Planning Mapping System. The land is not suitable for conversion from road reserve to freehold tenure as it may prompt future applications to defend the land from coastal processes such as beach erosion."

PROPOSAL

The area under the current permit to occupy is used for facilities associated with the resort (walkway, lighting, volley ball court). The applicant has indicated to DNRM, that the intent of the application is to formalise tenure of these facilities and if approved, the land would then be amalgamated with Lot 1 on SP243347.

Upon taking into consideration internal comment which has been received from Sustainable Communities, it is recommended that Council advises DNRM that it objects to the proposed permanent road closure, based upon the reasons contained within the recommendation of this report.

FINANCIAL/RESOURCE IMPLICATIONS

There will be no cost to Council if the road closure is approved. Council will not receive any financial compensation from the State, if the road closure is approved and the land is amalgamated with the adjoining Lot 1 on SP243347.

RISK MANAGEMENT IMPLICATIONS

If the proposed road closure is approved and the land is amalgamated with the adjoining lot, should there be coastal erosion, Council will be at risk of receiving claims for remedial work associated with this beach erosion.

SUSTAINABILITY IMPLICATIONS

Economic: There are no economic sustainability implications in regard to the proposal.

Environmental: Possible sea level rises and erosion issues may impact upon future use of the subject land.

Social: There are no social sustainability implications in regard to the proposal.

CORPORATE/OPERATIONAL PLAN, POLICY REFERENCE

This report has been prepared in accordance with the following:

Corporate Plan 2014-2019 Initiatives:

Theme 5 – Governance

5.2.1 - Provide Councillors and community with accurate, unbiased and factual reporting to enable accountable and transparent decision-making.

Operational Plan 2015-2016 Actions:

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:

Asset-Owner Meeting the responsibilities associated with owning or being the custodian of assets such as infrastructure.

CONSULTATION

Internal: Internal consultation was undertaken with comment sought from the following areas:

Manager Finance
Manager Governance
Manager Infrastructure
Coordinator Water & Wastewater Operations
Manager Sustainable Communities
Executive Officer/Strategy & Policy Coordinator

External: Department of natural Resources & Mines

ATTACHMENTS

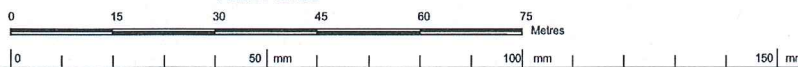
1. Drawing TS V 17083 **[5.2.1]**

THE PARCEL MAY REQUIRE A PLAN OF SURVEY TO BE
LODGED IN THE LAND REGISTRY



Imagery: Cape Tribulation 2016 orthophoto
Resolution 15cm

Scale: 1:750



Notings Data Base reference:
17N477



Prepared by:
SPATIAL INFORMATION
SERVICES NORTH
(TOWNSVILLE OFFICE)
NORTH REGION

9th Floor Verde Building
445 Flinders Street
Townsville Q 4810

Plan of Lot 1

Proposed Permanent Road Closure
Over part of Captain Cook Highway adjacent to
Lot 1 on SP243347
Cancelling Lot A on AP21575

LOCALITY : WANGETTI LOCAL AUTH : DOUGLAS SC

File Ref : eLVAS 2017/000455 Prepared by: Bill Sales Date: 28/04/2017

Compiled from the DCDB extracted April 2017 & AP21575

DRAWING

NOTE: Original size A3

TSV17083

Ortho