

## **5.5. APPLICATION FOR PERMANENT ROAD CLOSURE IN STRATA OVER PART OF STEWART STREET DAINTREE ADJOINING LOT 1 ON RP708742**

<b>REPORT AUTHOR</b>	Property Services
<b>MANAGER</b>	Lisa Golding, Acting Manager People and Community Services
<b>DEPARTMENT</b>	People and Community Services

### **RECOMMENDATION**

#### **That Council:**

- 1. Delegates authority to the Chief Executive Officer in accordance with section 257 of the *Local Government Act 2009*, to execute a Form Part C as Road Manager, in order to allow an application to be lodged with the Department of Resources (DOR), with respect to permanently closing the road (in strata) over part of Stewart Street Daintree adjoining Lot 1 on RP708742;**
- 2. Advises the Department of Resources that it has no objection to the proposed application for permanent road closure (in strata) adjoining Lot 1 on RP708742 to encompass the existing verandah for the Big Barra adjoining Stewart Street Daintree, subject to the following conditions:**
  - the area subject to the closure being dealt with by way of a Term Lease in strata between the applicant and DOR;**
  - Any development and use of the air space to be subject to a development application being lodged with Council;**
  - The use must not obstruct or impede the use of the subject road by both pedestrian and vehicular movement;**
  - the Lessee is to indemnify Council against any claim for damages or injury, which may occur as a result of the structure being erected over the footpath;**
  - should the lease be cancelled or the structure demolished, then the area of closure (in strata) is to be re-opened as road; and**
  - the above will be at no cost to Council.**
- 3. Delegates authority to the Chief Executive Officer in accordance with section 257 of the *Local Government Act 2009* to finalise all matters associated with the application.**

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### **EXECUTIVE SUMMARY**

Council has received an application from a consultant representing the landowner of Lot 1 on RP708742 with respect to a proposal to permanently close the road (in strata) at the Big Barra, Stewart Street Daintree, which adjoins this land parcel.

There is an existing verandah over the footpath at the Big Barra. As the existing verandah which is situated over road reserve will be used for commercial purposes, tenure of the air space will need to be established by way of a Term Lease in Strata between the applicant and DOR. Internal consultation has occurred and there have been no objections raised against the proposed application, subject to the applicant meeting those conditions as detailed in the recommendation of this report.

## COMMENT

The application relates to an existing verandah at the subject location. Because the existing verandah which is situated over road reserve will be used for commercial purposes, tenure of the air space will need to be established by way of a Term Lease in Strata between the applicant and DOR.

At the time of lodging this application, the consultant acting for the landowner has also provided Council with preliminary drawings which indicate their client's intent to develop the site further. From these drawings, Council's Planning section have noted concerns as detailed in the consultation section of this report, however it should be noted that any future development will be addressed as part of a properly made development application at a later date. At this point in time, Council is only dealing with the application for permanent road closure (in strata), in relation to the already existing first floor verandah.

## PROPOSAL

That Council delegates authority to the CEO to execute the Form C and advise DOR that it does not have any objection to the permanent road closure (in strata), subject to those conditions contained within the recommendation of this report.

## FINANCIAL/RESOURCE IMPLICATIONS

All costs associated with the lodgment of this application with DOR and in meeting the conditions as specified, are to be borne by the applicant.

## RISK MANAGEMENT IMPLICATIONS

If the proposed permanent road closure (in strata) is approved is approved by DOR, this would result in a loss of access to the air space above the road reserve at the subject location. This is an acceptable risk, as there is currently no perceived or anticipated future use of this air space by Council.

## CORPORATE/OPERATIONAL PLAN, POLICY REFERENCE

This report has been prepared in accordance with the following:

### Corporate Plan 2019-2024 Initiatives:

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

Strong governance and financial management are the foundations of the way in which Council will conduct its business and implement the initiatives of the Corporate Plan.

**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:

**Custodian** Council owns and manages infrastructure, facilities, reserves, resources and natural areas. In fulfilling its role as custodian, Council will be mindful of the community, the economy, the environment, and good governance.

## CONSULTATION

**Internal:** Infrastructure – No issues or concerns raised.

Project Office – No objection.

Water & Waste Water – There is no infrastructure at the proposed location or any future plans to utilize the area, there no objection.

Environment & Planning – no objection to the road closure in strata and supports the application being made to DOR as development out onto the footpath in Daintree Village within the centre zone is consistent with the planning intent for that area.

However, from the preliminary drawings supplied regarding proposed future development at the site, concerns are raised that an expansion of floor area for a food and drink outlet catering for more patrons will likely require an upgraded site effluent disposal system, as the area is not serviced by reticulated sewer. The preliminary drawings indicate that there will only be a small area of land available on-site to fit an upgraded system. This issue is compounded by the need for on-site car parking spaces and the associated maneuvering area. This concern can be addressed as part of the future development application.

Governance – No comment.

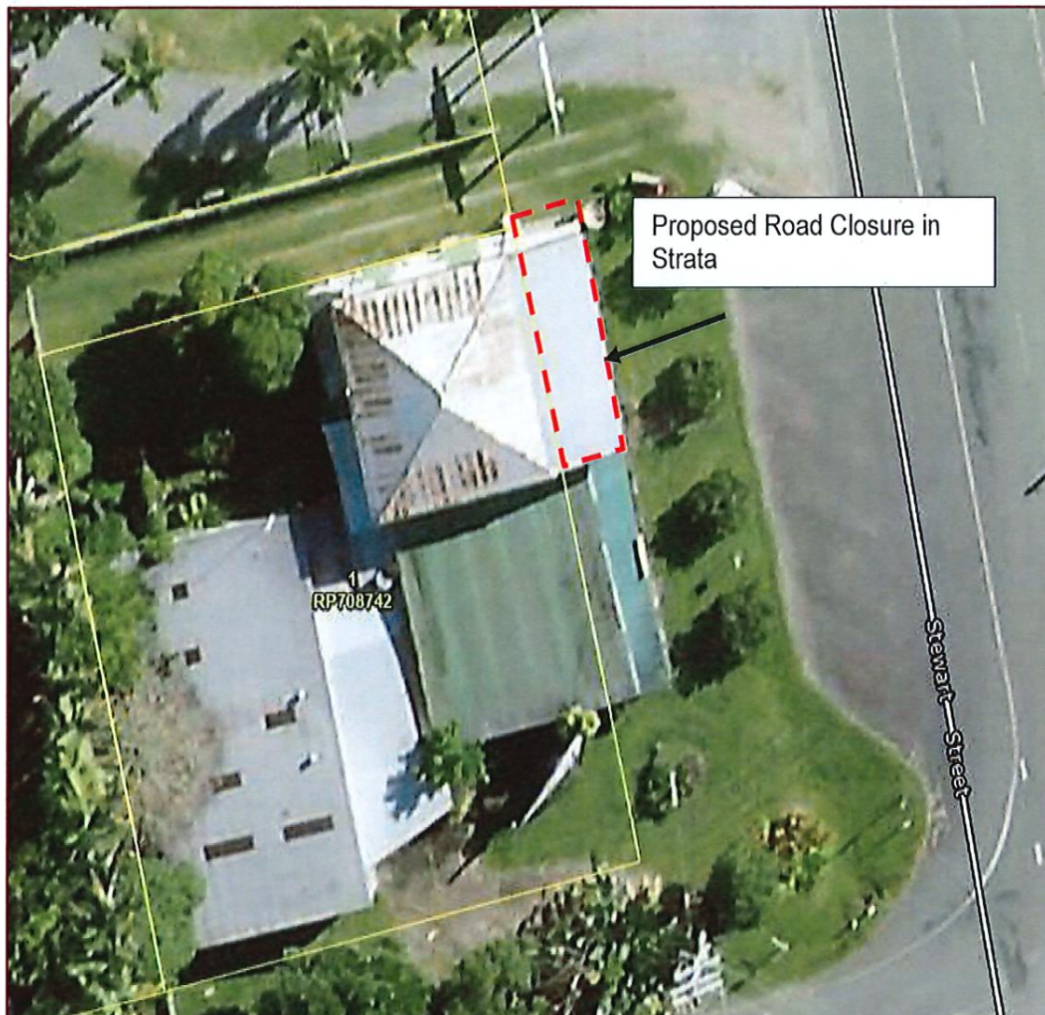
Finance – No comment.

**External:** Nil

## ATTACHMENTS

1. Aerial map of road closure In Strata adjoining Lot 1 on RP708742 [5.5.1 - 1 page]

### Aerial Map - road closure In Strata adjoining Lot 1 on RP708742



Application for road closure in Strata to encompass the existing verandah for the “Big Barra”

4 Stewart Street, Daintree