

5.5 PROPOSED APPLICATION FOR PERMANENT ROAD CLOSURE IN STRATA OVER PART OF MACROSSAN STREET PORT DOUGLAS ADJOINING LOT 10 ON SP262348 - CENTRAL HOTEL

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

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 Natural and Mines (DNRM), with respect to permanently closing the road (in strata) over part of Macrossan Street Port Douglas adjoining Lot 10 on SP262348;**
- 2. Advises the Department of Natural Resources and Mines that it has no objection to the proposed application for permanent road closure (in strata) adjoining Lot 10 on SP262348 to encompass the existing and proposed verandah for the Central Hotel adjoining Macrossan Street Port Douglas, subject to the following conditions:**
 - 2.1 the area subject to the closure being dealt with by way of a Term Lease in Strata between the applicant and DNRM;**
 - 2.2 any development and use of the air space to be subject to a development application being lodged with Council;**
 - 2.3 the use must not obstruct or impede the use of the subject road by both pedestrian and vehicular movement;**
 - 2.4 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.**
 - 2.5 should the lease be cancelled or the structure demolished, then the area of closure (in strata) is to be re-opened as road: and**
 - 2.6 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.**

EXECUTIVE SUMMARY

Council has received a request from Victor G Feros Town Planning Consultants, in respect to a client's proposed application to DNRM for a permanent road closure (in strata) at the Central Hotel, Macrossan Street Port Douglas, adjoining Lot 10 on SP262348.

There is an existing verandah over the footpath at the Central Hotel. The applicant is proposing to extend the existing verandah located within the road reserve, to enable it to wrap around the side of the existing building. Because the existing and proposed verandah over the area of the 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 DNRM.

Internal consultation has occurred and there have been no objections raised against the proposed application subject to those conditions as detailed in the recommendation of this report being met.

BACKGROUND

The proposed application relates to an existing and proposed verandah at the subject location.

It is the usual DNRM process, that the applicant must first seek Council's consent as Road Manager, in order to lodge such an application with that office. The consent is provided by Council to the applicant, by way of a DNRM form known as "Statement in Relation to an application under the *Land Act 1994* over State land Part C'. Council has not delegated authority to its CEO with respect to signing the DNRM Form C, therefore all such matters must first be resolved by way of Council resolution. This is achieved by Section 1 of the recommendation.

Once Council provides consent to the applicant by way of the Form C, the applicant will then be able to lodge a full application for consideration at DNRM. After which, DNRM then seeks formal comment on the application from Council, necessitating the requirement for a further Council report on the matter.

The Planning Consultants have requested that this matter be dealt with as a matter of urgency and have already sought advice from DNRM on the proposed application. Advice received from DNRM on the matter has confirmed that both stages of the abovementioned process may be considered by Council at the same time. By doing this, it would remove the requirement for DNRM to undertake further consultation on the matter with Council and allow the DNRM assessment process to be expedited. Which in turn would allow for a faster lodgment of a development application with Council, where there is a requirement to include the consent of DNRM on the matter. This is achieved by Section 2 of the recommendation.

PROPOSAL

The purpose of the proposed application for permanent road closure (in strata) is to formalise the use of the air space encompassing the existing and proposed verandah for the Central Hotel adjoining Macrossan Street Port Douglas.

FINANCIAL/RESOURCE IMPLICATIONS

There will be no cost to Council associated with the proposed permanent road closure in strata application.

RISK MANAGEMENT IMPLICATIONS

Council liability exposure brought about by the proposed permanent road closure in strata, will be covered by the requirement for the term lease to contain a clause indemnifying Council against any claim for damages or injury, which may occur as a result of the structure being erected over the footpath.

SUSTAINABILITY IMPLICATIONS

- Economic:** No associated cost to Council.
- Environmental:** There are no environmental sustainability implications.
- Social:** Existing and proposed verandah will enhance the social experience of the patrons visiting the Central Hotel.

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.

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:** Manager Governance
 Manager Finance
 Manager Infrastructure
 Manager Water & Wastewater
 Manager Sustainable Communities
 Executive Officer/Strategy & Policy Coordinator
- External:** Department of Natural Resources & Mines

ATTACHMENT

- Attachment 1 - Map of proposed area of permanent road closure in strata.



APPLICATION FOR PERMANENT ROAD CLOSURE IN STRATA TO ENCOMPASS THE EXISTING AND PROPOSED VERANDAH FOR THE CENTRAL HOTEL ADJOINING MACROSSAN STREET, PORT DOUGLAS



**7 - 9 MACROSSAN STREET, PORT DOUGLAS
TW AND FT PETERSON**

LOCATION