

5.6. APPLICATION FOR PERMANENT ROAD CLOSURE OVER ESPLANADE ADJACENT TO LOT 2 ON RP724386 PORT DOUGLAS

REPORT AUTHOR Property Services

MANAGER Lisa Golding, Acting Manager People and Community Services

DEPARTMENT People and Community Services

RECOMMENDATION

That Council:

- 1. Advises the Department of Resources (DOR) that it objects to the application for permanent road closure over road reserve adjoining Lot 2 on RP724386, Esplanade Port Douglas, indicated as Lot A on drawing CNS21/010. The reasons for this objection are as follows:**
 - Current water infrastructure is unlikely to be able to service the requirements of the proposed development and future demand will require water main upgrades and an interconnection between Murphy Street and Macrossan Street to meet the requirements of Council's drinking water quality management plan. This interconnection will occur via the road reserve, which is associated with the road closure application. If the road is closed it could jeopardise the supply of portable water in this area; and**
 - Due to significant stormwater and drainage issues in the area, there will be a future requirement for major stormwater services to be laid within the subject road closure area. There would be significant costs in establishing this new infrastructure, the extent of which will be unknown until a needs and solutions analysis is commissioned in a future Council budget.**
- 2. 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.**

EXECUTIVE SUMMARY

Council received an application from a consultant representing the landowner of Lot 2 on RP724386, regarding a proposal to permanently close part of the Esplanade road reserve, which adjoins this land parcel.

The proposed area of permanent road closure is situated at the northern end of the Esplanade at Port Douglas and consists of an area of approximately 915^m². The proposed area of road closure is shown as Lot A on drawing CNS21/010 (Attachment 3).

If the permanent road closure is approved, the applicant intends to amalgamate the subject area of road reserve into the adjoining freehold property and then use the additional land for driveway purposes to service a proposed development upon the amalgamated land.

Internal consultation at Council was undertaken and it was determined that officers did not support the proposed permanent road closure. The main reasons for this determination were as follows:

- Current water infrastructure is unlikely to be able to service the requirements of the proposed development, future demand will require water main upgrades and an interconnection between Murphy Street and Macrossan Street to meet the requirements of Council's drinking water quality management plan. This interconnection will occur via the road reserve, which is associated with the road closure application. If the road is closed, this could jeopardise the supply of portable water in this area; and
- Due to significant stormwater and drainage issues in the area, there will be a future requirement for major stormwater services to be laid within the subject road closure area. There would be significant costs in establishing this new infrastructure and the issue is further compounded by the fact that Council does not have a budget to analyse the needs and determine a solution at this point in time.

The Department of Resources (DOR) has requested Council to provide its views and/or requirements with respect to the proposed permanent road closure by 31 May 2021. DOR has also indicated that if Council were to object to the application, a full explanation stating the reason for the objection must be provided.

BACKGROUND

At the Council Meeting of 15 December 2020, a recommendation was adopted to allow the CEO to execute a Form Part C and on the same form to select the option to receive further contact from the DOR before a decision was made on the application. By Council providing the applicant with an executed Form Part C, Council was not consenting to the application itself, but allowing the applicant to proceed with lodging a properly made application at DOR.

At the 30 March 2021 Council Meeting, a Notice of Motion was passed to repeal the resolution adopted on 15 December 2020. Council notified DOR of this decision (*Attachment 1*).

On 23 April 2021, DOR responded (*Attachment 2*) to Council's letter regarding the Notice of Motion and requested Council to provide its views and/or requirements for the proposed permanent road closure. If Council offers an objection to the application, a full explanation stating the reason must be provided.

DOR also stated in their letter that as per section 101 of the *Land Act 1994*:

1. The Minister must consider all objections properly made to the proposed road closure.
2. The Minister may approve the road closure application, with or without conditions, or refuse the application.
3. However, the Minister must refuse the road closure application if the Minister is satisfied the road is still needed.

DOR requested that Council's views be provided by 21 May 2021, however this has now been extended to 31 May 2021 upon officer's request.

COMMENT

Property officers undertook consultation with all Council departments on the proposed road closure and the comments received are provided below for Council consideration:

1. People and Community Services - No issues raised.
2. Infrastructure - The road closure application is not supported, as Council requires access via the road reserve, in order to install future drainage infrastructure to service the surrounding properties, plus any potential new development in the area.
3. Water and Wastewater - The road closure is not supported. Current water infrastructure is unlikely to be able to service the requirements of the proposed development, future demand will require water main upgrades and an interconnection between Murphy Street and Macrossan Street to meet the requirements of Council's drinking water quality management plan. This interconnection will occur via the road reserve, which is associated with the road closure application. If the road is closed, this could jeopardise the supply of portable water in this area.
4. Environment and Planning – The road closure is not supported on the basis that the development, as proposed, represents significant non-compliance with the Planning Scheme. As the proposed road closure has been made to facilitate the development of the land as proposed, the road closure application is not supported.
5. Project Office – Council does not expect the subject road reserve to be needed for transport activities in the future, however it is expected that due to significant stormwater and drainage issues in the area, there will be a future requirement for major stormwater services to be laid within the subject road closure area. There would be significant costs in establishing this new infrastructure and the issue is further compounded by the fact that Council does not have a budget to analyse the needs and determine a solution at this point in time. Given these circumstances, Council should not be supporting closure of any part of the road reserve at this location.
6. Finance – No issues raised.
7. Governance – No issues raised.

PROPOSAL

Information provided by the consultant representing the landowner, has indicated that if the permanent road closure is approved, it is intended to amalgamate the subject area of road reserve into the adjoining freehold property and then use the additional land for driveway purposes to service a proposed development upon the amalgamated land.

However, after due consideration of officer comments obtained during internal consultation, it is recommended that Council objects to the proposed permanent road closure, due to the following circumstances;

- Current water infrastructure is unlikely to be able to service the requirements of the proposed development and future demand will require water main upgrades and an interconnection between Murphy Street and Macrossan Street to meet the requirements of Council's drinking water quality management plan.

This interconnection will occur via the road reserve, which is associated with the road closure application. If the road is closed it could jeopardise the supply of portable water in this area; and

- Due to significant stormwater and drainage issues in the area, there will be a future requirement for major stormwater services to be laid within the subject road closure area. There would be significant costs in establishing this new infrastructure, the extent of which will be unknown until a needs and solutions analysis is commissioned in a future Council budget.

FINANCIAL/RESOURCE IMPLICATIONS

All costs associated with the proposed road closure application are borne by the applicant.

RISK MANAGEMENT IMPLICATIONS

If the proposed permanent road closure is approved by DOR, this would result in a loss of access to the road reserve area. This is not an acceptable risk, as it could jeopardise the supply of portable water, as well as necessary future infrastructure upgrades in the area.

SUSTAINABILITY IMPLICATIONS

Economic: Nil

Environmental: Nil

Social: Nil

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: People and Community Services, Infrastructure, Water and Wastewater, Environment and Planning, Project Office, Finance and Governance.

External: Department of Resources

ATTACHMENTS

1. Letter Notice of Motion Notification from Council to the Department of Resources [**5.6.1** - 2 pages]
2. Letter Response to Notice of Motion from the Department of Resources to Council [**5.6.2** - 2 pages]
3. Drawing CN S 21-010 Road Proposed to be Permanently Closed (A) [**5.6.3** - 1 page]

YOUR REF: 2020/014188
OUR REF: RJD#1005220

Administration Office
64 - 66 Front St Mossman
P 07 4099 9444
F 07 4098 2902

30 March 2021

Department of Resources
PO Box 5318
Townsville QLD 4810

Dear Ms Hooper

RE: Road Closure Adjacent to Lot 2 RP724386

At the Ordinary Council on 15 December 2020 Council resolved to;

That Council;

- 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 the Esplanade In Port Douglas adjoining Lot 2 on RP 724386 (as per attachment) however, it requests DNRME to consider an application under the Land Act 1994 in relation to this matter; and**
- 2. 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.**

Subsequent to the above resolutions the Chief Executive Officer executed the Form C and sent to the applicant so they could submit an application to your department for consideration.

However at the Ordinary Meeting on the 30 March 2021 a Notice of Motion-Repeal of Decision For Application For Permanent Road Closure over Esplanade Adjacent To Lot 2 RP724386 was considered by Council with the following resolutions being

An amendment to the original motion by deleting Item 1 (i) and (ii) which will allow Development Assessment process to continue.

- 1. *Informs DNRME that if Part C assessment process has already been expedited, that Council delegates authority under section 257 of the Local Government Act 2009 to the Chief Executive Officer to immediately advise the Department of Natural Resources Mines & Energy (DNRME) that Council is not supportive of the road closure, and***
- 2. *When DNRME formally seeks views from Council and the public as outlined in the 15 December 2020 report, Council will provide objections to the proposed road closure***

Council now wishes to advise the Department that Council is not supportive of the proposed closure.

When the road closure application is publicly advertised Council will again consider the proposal and advise the Department of Councils position.

Should you wish to discuss this matter please contact Councils Property office on (07) 4099 9478

Yours faithfully



Mark Stoermer

Chief Executive Officer



**CERTIFIED
DESTINATION**



A certified ECO Destination by
Ecotourism Australia.

Cc: Evan Yelavich- Planning Plus

Your Ref: RJD#1005220
Our Ref: 2020/014188

23 April 2021

Douglas Shire Council
ATT: Robert Donovan
PO Box 723
MOSSMAN QLD 4873
Email via robert.donovan@douglas.qld.gov.au



Department of Resources

Dear Mr Donovan,

RE: Application for permanent road closure over road adjoining Lot 2 on RP724386, shown as Lot A on Drawing CNS20/010, Port Douglas
Applicant: Roger William Allen

Reference is made to Council's letter dated 30 March 2021 regarding a Notice of Motion-Repeal of Decision for Application for Permanent Road Closure over Esplanade Adjacent to Lot 2 on RP724386 and Council's amended decision not to support the proposed road closure.

As per section 101 of the *Land Act 1994*,

- (1) The Minister must consider all objections properly made to the proposed road closure.
- (2) The Minister may approve the road closure application, with or without conditions, or refuse the application.
- (3) However, the Minister must refuse the road closure application if the Minister is satisfied the road is still needed.

Please be advised that the department has not commenced the advertising stage of the application to date. It is the preference of the department to have Council's views prior to the advertising stage commencing.

Therefore, it is requested that Council provide its views and/or requirements for the permanent road closure over road shown as Lot A on Drawing CNS20/010 by close of business **21 May 2021**. If you offer an objection to the application, a full explanation stating the reason for such an object should be forwarded to this Office.

If applicable, it is also requested that Council provide a drawing of an alternative road closure area that Council deems appropriate (e.g. half of the area shown on Drawing CNS20/010).

Once we formally receive a response, we will advise applicant.

If you wish to discuss this matter please contact Taylah Hopper on (07) 4222 5417.

All future correspondence relative to this matter is to be referred to the contact Officer at the address below or by email to Townsville.SLAM@resources.qld.gov.au Any hard copy correspondence received will be electronically scanned and filed. For this reason, it is recommended that any attached plans, sketches or maps be no larger than A3-sized.

Please quote reference number 2020/014188 in any future correspondence.

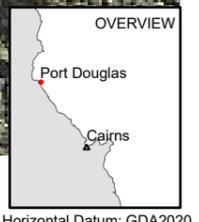
Yours sincerely

A handwritten signature in cursive script that reads "Taylah Hopper".

Taylah Hopper
Land Officer

In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data, and must not be utilised for direct marketing.

Property boundaries shown on this plan are a graphical representation.



Road Proposed to be Permanently Closed (A) Covering part of Esplanade abutting Lot 2 on RP724386 and Lot 141 on SR530

Scale 1:500
Original size A3

DRAWING
CNS21/010

LOCALITY: PORT DOUGLAS LOCAL AUTH: DOUGLAS SHIRE

eLVAS Ref: 2020/014188 Prepared by: LJS Date: 08 March 2021

Compiled from: Spatial Cadastre, sketch plan for Port Douglas 2020/014188 Ortho Notings Ref: 21N63

SPATIAL INFORMATION SERVICES NORTH
Office: Cairns
William McCormack Place
5b Sheridan Street
Cairns, QLD 4870

