

5.7. APPLICATION FOR PERMANENT ROAD CLOSURE OVER ESPLANADE ADJACENT TO LOT 2 RP 724386 PORT DOUGLAS

REPORT AUTHOR	Property Services
MANAGER	Terry Farrelly, Manager People and Community Services
DEPARTMENT	People and Community Services

RECOMMENDATION

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.**

EXECUTIVE SUMMARY

Council has received an application from the owner of Lot 2 on RP 724386 adjacent to esplanade in Port Douglas with respect to a proposal to permanently close the road reserve (esplanade) situated adjacent to their property for development purposes.

When following the 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 was 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.

However, for this application Council's Officers recommendation and Council's comments will be provided in an additional Council Report undertaken during DNRME's advertisement period.

BACKGROUND

Council has received an application from the owner of Lot 2 on RP 724386 adjacent to esplanade in Port Douglas with respect to a proposal to permanently close the road reserve (esplanade) situated adjacent to their property for development purposes.

The purpose of this report is only to enable the applicant to lodge the Part C form at DNRME however, when Council's CEO executes the Part C form, Council will choose an option that requires further contact from the DNRME before a decision is made on application

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 has 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 views from the public as well as Council.

The part road closure is intended to be used by the applicants for development purposes and Council officers comments will be provided in a future Council Report to be presented during DNRME's advertisement period. This is a procedure undertaken by DNRME to assess local community opinion about a proposed closure, a public notice is required (e.g. advertisement in a local/digital newspaper, signs erected on the land).

PROPOSAL

That Council delegates authority to the CEO to execute the Part C form.

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 road closure proceeds there would be a loss of future use and access to a part of the current road reserve 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: Nil - internal consultation to be presented in a future Council Report to be undertaken during DNRME's advertisement for this road closure.

External: Nil

ATTACHMENTS

1. Aerial Road Reserve Adjoining Lot 2 R P 724386 [5.7.1 - 1 page]

Aerial Road Reserve Adjoining Lot 2 RP 724386

Attachment 5.7.1

