

6.4. PERMANENT PARTIAL ROAD CLOSURE ADJOINING LOT 36 NR190, 245 MOWBRAY RIVER ROAD MOWBRAY

REPORT AUTHOR	Helen Coulthard, Property Officer
MANAGER	Sara Roberts, Acting Manager People and Community Services
DEPARTMENT	People and Community Services

RECOMMENDATION

That Council:

- 1. Delegates authority to the Chief Executive Officer in accordance with s 257 of the *Local Government Act 2009* to:**
 - a. Execute Part C – Form LA30 Statement in relation to an application under the *Land Act 1994* over State land as Road Manager adjoining 245 Mowbray River Road Mowbray, formally described as Lot 36 NR190;**
 - b. Advise the Department of Resources that Council supports a permanent partial road closure of approximately 3,955m² (subject to a formal survey to ensure a minimum road verge of 5.5 metres) for the full frontage of Lot 36 on NR190, indicated in the hatched area of Drawing Number M2169-SK-01 Issue D;**
 - c. Endorse the drawing for road closure of Mowbray River Road as shown in Milford Planning Drawing Number M2169-SK-01 Issue D; and**
 - d. Finalise any and all matters associated with the application.**

EXECUTIVE SUMMARY

Council received a proposal from a consultant, on behalf of the landowners, to permanently close part of the road adjoining 245 Mowbray River Road Mowbray, formally described as Lot 36 NR190, to resolve an encroachment issue.

Under s 60 of the *Local Government Act 2009* Council manages dedicated roads in the local government area, including construction and maintenance.

The road manager (Council) cannot permanently close the dedicated road and allocate the land for another use. Council can however the request Department of Resources consider the application under Division 2 of the *Land Act 1994*.

This report seeks Council's support for the road closure application and support for the proposed permanent partial road closure fronting 245 Mowbray River Road, Mowbray.

BACKGROUND

Council received a proposal from Milford Planning, consultants acting on behalf of the landowners, to permanently close part of the road adjoining 245 Mowbray River Road Mowbray, formally described as Lot 36 NR190, to resolve an encroachment issue.

A permanent partial road closure is the most appropriate option to resolve the encroachment issue.

COMMENT

Currently part of the single-storey brick dwelling at 245 Mowbray River Road Mowbray is located on road reserve. The road reserve in front of the property is wider than the road reserve in front of the adjoining properties, which the consultant suggests may be an historical anomaly.

Closure of part of the road will ensure the dwelling is contained within the lot and rectify the encroachment issue without needing to relocate or remove the dwelling, keeping with the landowners' plans to retain, and not comprise the house's structure.

A temporary road closure would only be appropriate for a temporary encroachment, which is not the case in this instance.

Feedback was sought from all Council departments, requesting issues or concerns about the proposal be provided. No objections or concerns were raised.

PROPOSAL

The proposal is for Council to:

1. Delegates authority to the Chief Executive Officer in accordance with s 257 of the *Local Government Act 2009* to:
 - a. Execute Part C – Form LA30 Statement in relation to an application under the *Land Act 1994* over State land as Road Manager adjoining 245 Mowbray River Road Mowbray, formally described as Lot 36 NR190;
 - b. Advise the Department of Resources that Council supports a permanent partial road closure of approximately 3,955m² (subject to a formal survey to ensure a minimum road verge of 5.5 metres) for the full frontage of Lot 36 on NR190, indicated in the hatched area of Drawing Number M2169-SK-01 Issue D;
 - c. Endorse the drawing for road closure of Mowbray River Road as shown in Milford Planning Drawing Number M2169-SK-01 Issue D; and
 - d. Finalise any and all matters associated with the application.

FINANCIAL/RESOURCE IMPLICATIONS

The applicant pays all costs associated with the application to the Department of Resources, including a purchase price for the permanent closure of part of the road, to the State Government.

RISK MANAGEMENT IMPLICATIONS

Resolving the encroachment issue will mitigate risks for Council and the landowner.

SUSTAINABILITY IMPLICATIONS

Economic: If the Department of Resources approves the road closure, a new title will be issued to include approximately 3,955m² and a valuation advice for the new parcel will be issued to Council. A supplementary notice will be issued to the owners for any changes to Rates that might occur.

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: Departmental Managers.
Councillor Workshop held 12 September 2023.

External: Consultant acting for landowner.
Department of Resources.

COMMUNITY ENGAGEMENT

Department of Resources will assess the application against legislative requirements and seek the views of other stakeholders such as State, regional and local agencies.

ATTACHMENTS

1. 245 Mowbray River Road MOWBRAY with Road Reserve Overlay [**6.4.1** - 2 pages]
2. Milford Planning Drawing Number M2169-SK-01 Issue D [**6.4.2** - 1 page]

245 Mowbray River Road MOWBRAY with Road Reserve Overlay

Attachment 6.4.1

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(c) Douglas Shire Council



200 m

Scale = 1:6074.460

14-August-2023

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Ordinary Council Meeting - 26 September 2023

Property (1)

Attachment 6.4.1

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OBJECTID: 12956

Lotplan: 36NR190

Part_lot:

Property_Name:

Address: 245 Mowbray River Road MOWBRAY

Tenure: Freehold

Zone_Planning:

Parcel_Type: Lot Type Parcel

Cover_Type: Base

ACC_Code: B&D ENTRY CONTROLLED - 0.1M

Assessment_Num: 870204

Valuation_Num: 2505

Parcel_Num: 4822

SegPar: 8616006

Par_Ind: 0

LOC: 5015

Locality: Mowbray

Survey_Plan: 0

Survey_Plan_G_Drive: NR190.tif

Sewer_Plan: 443281

Lot_Area_State: 32020

Excluded_Area_State: 0

Lot_Volume_State: 0

Surv_Ind: Y

Calc_Area_sqm: 32064.3103418069

Cadastre_Date: 06/08/2023

Update_Date:

LOT: 36

PLAN: NR190

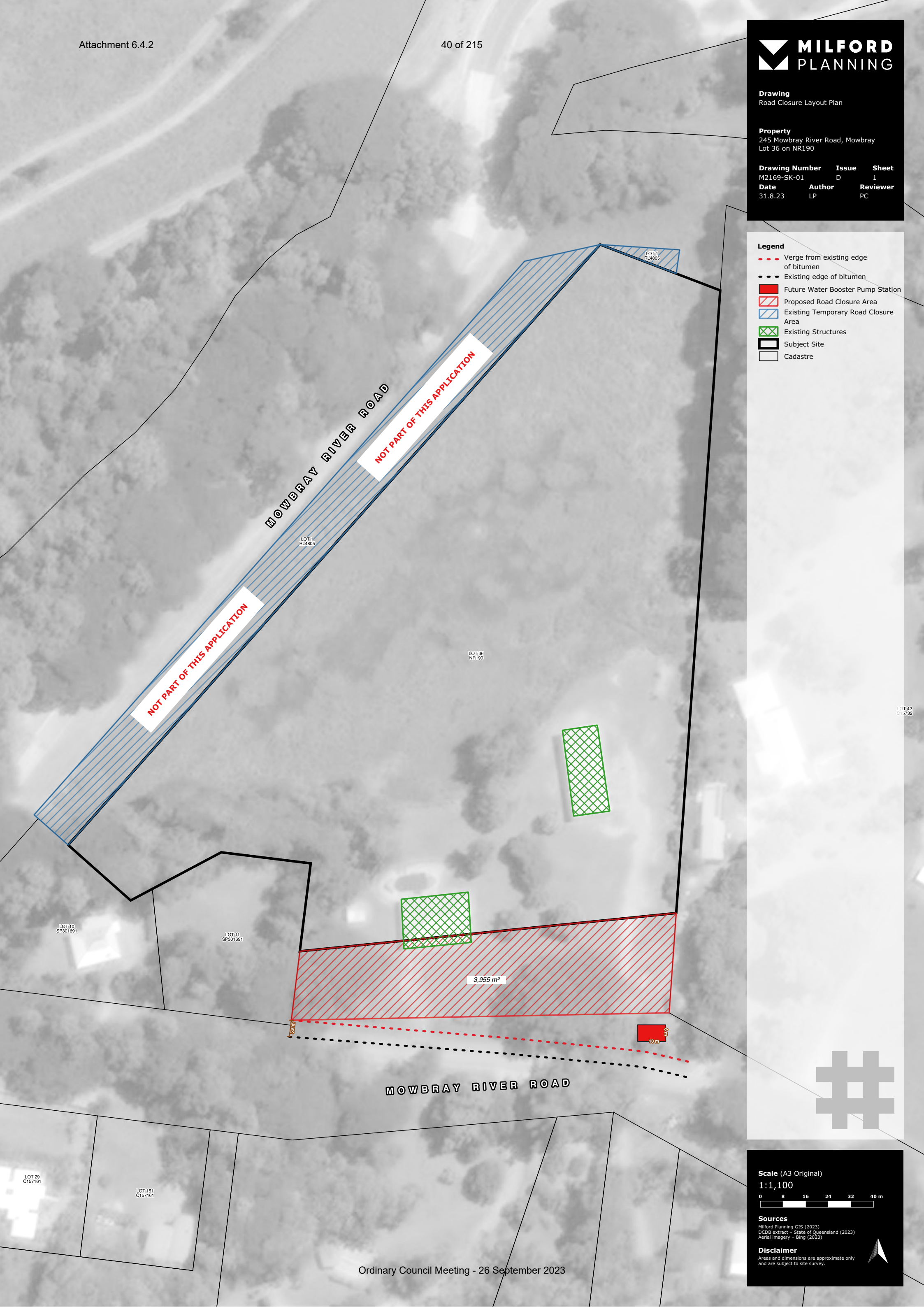
St_No_Label: 245

Drawing
Road Closure Layout Plan

Property
245 Mowbray River Road, Mowbray
Lot 36 on NR190

Drawing Number	Issue	Sheet
M2169-SK-01	D	1
Date	Author	Reviewer
31.8.23	LP	PC

- Legend
- Verge from existing edge of bitumen
 - - - Existing edge of bitumen
 - Future Water Booster Pump Station
 - Proposed Road Closure Area
 - Existing Temporary Road Closure Area
 - Existing Structures
 - Subject Site
 - Cadastre



Scale (A3 Original)
1:1,100
0 8 16 24 32 40 m

Sources
Milford Planning GIS (2023)
DCDB extract - State of Queensland (2023)
Aerial imagery - Bing (2023)

Disclaimer
Areas and dimensions are approximate only
and are subject to site survey.

