

5.4. APPLICATION FOR PERMANENT ROAD CLOSURE OVER PART OF UNNAMED ROAD ADJOINING LOT 2 ON RP865072 CASSOWARY ROAD, CASSOWARY

REPORT AUTHOR(S) Graham Busby, Property Officer

GENERAL MANAGER DEPARTMENT Darryl Crees, General Manager Corporate Services 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, advising the Department of Natural Resources Mines & Energy (DNRME) that Council cannot authorise a proposed permanent road closure over part of unnamed road reserve adjoining lot 2 on RP865072 (identified by the sketch plan attached to this report) Cassowary Road, Cassowary, however it requests DNRME to consider an application under the Land Act in relation to this matter.**
- 2. Advises DNRME that it has no objection to the proposed application for permanent road closure over unnamed road reserve adjoining Lot 2 on RP865072 Cassowary Road Cassowary, subject to the following condition:**
 - The applicant must amalgamate the proposed road closure area into the adjoining lot 2.**
- 3. Delegates authority to the Chief Executive Officer in accordance with section 257 of the *Local Government Act 2009* to finalise any and all matters associated with the application.**

EXECUTIVE SUMMARY

Council has received a request from the owner of Lot 2 on RP865072 Cassowary Road, Cassowary with respect to a proposal to permanently close a portion of road reserve situated adjacent to this property.

DNRME has updated the form, "LA30 Statement in relation to an application under the *Land Act 1994* over State land – Part C".

When following the new 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 has also been 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. This is achieved by Section 2 of the recommendation.

Council property officers have met with the subject land owner regarding the abovementioned proposal and have undertaken internal consultation with respect to the matter. During internal consultation, no objections were raised against the proposal, providing the condition as detailed in Section 2 of the recommendation of this report is met.

BACKGROUND

The subject area forms part of unnamed road reserve which is situated on the eastern side of Cassowary Road at Cassowary. Under Council's 2018 Planning Scheme, the road reserve is contained in a Rural Zone and the neighboring freehold land is also situated in the same Rural Zone.

The proposed area of permanent road closure consists of approximately 1896m² and is situated adjacent to the applicant's property at Cassowary Road, Cassowary.

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 had 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 Council's views on the matter.

In order to reduce application assessment times and to assist Council's to continue to have a lead role in the management of local road areas and allocated trust land, DNRME have updated the form, "LA30 Statement in relation to an application under the *Land Act 1994* over State land – Part C".

While temporary and intermittent use of State land can often be authorised by way of local laws, an application for permanent road closure cannot. Accordingly, where the proposed use cannot be authorised by Council as the Trustee or Road Manager, DNRME will then need to consider the views of Council when assessing the application under the Land Act.

Changes made to the Part C form, now enable Council to provide its views in regard to proposed applications, at the time that it executes this 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.

In addition to the administrative changes made to the Part C form, there is also now a requirement for applicants to discuss their plans with the appointed land manager, prior to any tenure application being lodged at DNRME.

When the applicant met with Council property officers, it was indicated that if the permanent road closure is approved, it is intended to amalgamate the subject area of road reserve into his adjoining freehold property and then use the additional land for growing some type of crop or maybe paddock a few horses upon it.

PROPOSAL

That Council delegates authority to the CEO to execute Form C and advise DNRME that it does not have any objection to the permanent road closure, subject to the condition contained within the recommendation.

FINANCIAL/RESOURCE IMPLICATIONS

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

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. This is an acceptable risk as there is currently no perceived and future anticipated use of the subject road reserve.

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 2014-2019 Initiatives:

Theme 5 – Governance

5.1.4 - Investigate opportunities for improved utilisation of Council's surplus assets by considering disposal where appropriate.

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:**
- Sustainable Communities has no objection to the proposed road closure. The area of road to be closed is not relied upon by adjoining properties to gain access. The area of closed road needs to be amalgamated into the parent parcel being Lot 2. No further approvals from Council are required in order to undertake the amalgamation.
 - Infrastructure: No concerns raised.
 - Water & Wastewater Operations: No concerns raised.
- External:**
- Owner of Lot 2 on RP865072
 - Department of Natural Resources Mines & Energy

ATTACHMENTS

1. Locality Map and Sketch Plan re proposed permanent road closure adjoining Lot 2 on R P 865072 **[5.4.1]**



