

REPORTS THROUGH THE ACTING GENERAL MANAGER

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS

a42 [EO-CM] Crown Road Closure Applications - Byangum and Eungella - Parish of Murwillumbah and Wollumbin

SUBMITTED BY: Design

FILE REFERENCE: GR3/12/8 and GR3/12/13

Valid



Civic Leadership

SUMMARY OF REPORT:

Council has received an application for reassessment of an objection by Council of a Crown road closure application, resolved by Council at its meeting of 20 April 2010. A copy of the report and resolution is attached for reference.

The reassessment request relates to a road reserve adjacent to Lot 4 DP 705636 at Eungella. The 2010 report related to two separate applications, one for Crown road reserves at Eungella, and the other within Lot 95 in DP 755754 at Byangum.

During the original investigation it was noted that both the proposed closure areas were road reserves located adjacent to the Tweed River with the potential to provide public access and access for foreshore regeneration works. Councils Policy on Road Closure and Private Purchase noted that due to this fact the Crown road reserves were not eligible for closure and purchase.

At the time of the applications, Council was not provided with any details of the applications provided to the Crown or the reasons for requesting the closures.

Information has now been received which shows that the majority of the original road reserve area within Lot 4 has been severely eroded and damaged with further significant damage caused as a result of recent major flooding in the area.

The land owner of Lot 4 DP 705636, Eungella has requested the Crown to undertake regeneration works to stop further erosion and damage. The Crown responded that it is unable to provide financial assistance for such works which have been estimated in the vicinity of \$8,000 to \$10,000. The Crown also advised the applicant that he may undertake the works himself, but would be required to obtain a licence from the Crown over the road reserve for an ongoing annual fee.

As the road reserve has now eroded to a point where any formation would be impossible and urgent remediation works are required to stop further foreshore damage, it appears that the original resolution to object to its closure is not warranted. The road reserve is not able to provide access to the waterway nor could it be judged to be of more economic worth than the current land value.

If the road reserve is closed and purchased by the applicant it will become land held in fee simple by the land owner who may then be eligible for assistance in riverbank rehabilitation through Councils river health grants program.

It is considered that the most economic and reasonable outcome would be to withdraw Councils original objection to the application and allow the applicant to close and purchase the road reserve along the eastern boundary of Lot 4 in DP705636 which in turn would allow remediation works to commence.

The applicant for the second application at Byangum, Crown road reserve within Lot 95 DP 755754, which was also the subject of the report of 20 April 2010 has not made a reassessment request and no change to Council's position on this application, is recommended.

RECOMMENDATION:

That Council:

- 1. Withdraws the original objection as resolved in its meeting of 20 April 2010 to the closure and purchase by the applicant of the Crown road reserve which runs along the eastern boundary of Lot 4 in DP705636; and**
- 2. Executes all relevant documentation under the Common Seal of Council.**

REPORT:

Council has received an application for reassessment of an objection by Council of a Crown road closure application, resolved by Council at its meeting of 20 April 2010. A copy of the report and resolution is attached for reference.

During the original investigation it was noted that the proposed closure areas were road reserves located adjacent to the Tweed River with the potential to provide access for foreshore regeneration works. Council's Policy on Road Closure and Private purchase noted that due to this fact the Crown road reserves were not eligible for closure and purchase.

At the time of the applications, Council was not provided with any details about or reasons for the road closure applications. Council was requested by the Crown to provide its comments regarding the application, which were based on the Road Closure Policy.

Information has now been received which shows that the majority of the original road reserve area at Eungella has been severely eroded and damaged with further significant damage caused as a result of recent major flooding in the area.

Crown Road adjacent to Lot 4 DP 705636 at Eungella

The land owner for the application at Eungella, for Lot 4 DP 705636, has requested that regeneration works be completed by the Crown in an attempt to stop further erosion and damage. The Crown has advised that they are unable to provide financial assistance for such works, which have been estimated in the vicinity of \$8,000 to \$10,000. The Crown has advised the applicant that he may undertake the works himself but will be required to licence the area from the Crown which includes an ongoing annual fee.

As the road reserve has now eroded to a point where any formation would be impossible and urgent remediation works are required to stop further foreshore damage it appears that the original resolution to object to its closure is not warranted. The road reserve is not able to provide access to the waterway nor could it be judged to be of more economic worth than the current land value.

If the road reserve is closed and purchased by the applicant it will become land held in fee simple by the land owner who may then be eligible for assistance in riverbank rehabilitation through Council's river health grants program.

The Department of Lands recommended that in the event that Council withdraw its objection to the application, then the Department would consider the approval of the Crown road closure application within Lot 4 on the basis that access to the river is not supported where there is instability and erosion.

Below are several photos of the areas of concern which shows the erosion damage.







Crown Road adjacent to Lot 95 in DP 755754.

The applicant for the second application at Byangum, Crown road reserve within Lot 95 DP 755754, which was also the subject of the report of 20 April 2010, has not made a reassessment request, and no change to Council's position on this application is recommended.

This will enable Council to retain access to the riverbank for future remediation works when funds are available.

OPTIONS:

1. Council withdraws the original objection to the closure of Crown road reserve at Eungella, as resolved in its meeting of 20 April 2010, which runs along the eastern boundary of Lot 4 in DP705636; or
2. Council upholds the original resolution from its meeting of 20 April 2010 objecting to the closure and purchase by the applicants of the Crown road reserve which runs along the eastern boundary of Lot 4 in DP705636 and the south eastern boundary of Lot 95 in DP755754.

CONCLUSION:

It is considered that the most economic and reasonable outcome would be to withdraw Councils objection to the application and allow the applicants to close and purchase the section of road reserve along the eastern boundary of Lot 4 in DP705636 which in turn would allow remediation works to commence.

COUNCIL IMPLICATIONS:

a. Policy:

Road Closures and Private Purchase Version 1.2.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Consult-We will listen to you, consider your ideas and concerns and keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.3 Delivering the objectives of this plan
- 1.3.1 Council's organisation will be resourced to provide the essential services and support functions to deliver the objectives of this Plan
- 1.3.1.16 Provision of property and legal services for internal clients
- 1.3.1.16.1 Review property and legal services section resources to ensure client timeframes for projects are maintained and implement appropriate remedial measures if required

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Report and resolution from Council Meeting held 20 April 2010 (ECM3048496).

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