

9. Administration Reports

9.1. Portion of West Creek Road - Road Closure Options

Cr Sue Miller declared a material conflict of interest in the matter under consideration due to a related party having provided contractual services to West Creek Partners and as West Creek Partners may derive a benefit or loss subject to Councils decision on this item. Cr Sue Miller advised that she will leave the Chamber during discussion on this item so as not to participate in the debate or vote. Cr Sue Miller left the Chamber at 7.12 pm.

C327/10/25

Moved Cr Milli Livingston seconded Cr Margaret Gardner

That Council receive and note the contents of the report titled 'Portion of West Creek Road - Road Closure Options'

CARRIED UNANIMOUSLY

C328/10/25

Moved Cr Craig Maidment seconded Cr Peter Oliver

That Council:

- 1. Resolve not to progress the proposal to close portion of West Creek Road under the *Roads (Opening & Closing) Act 1991* for the purpose of merger and sale with adjacent private land.**
- 2. Notify the Surveyor-General that no road process order will be made for the relevant portion of West Creek Road Langhorne Creek.**
- 3. Resolve to progress the option to close that portion of West Creek Road the subject of this report to vehicular traffic under Section 32 of the *Road Traffic Act 1961*, whereby the road remains as road but is closed to vehicle traffic for revegetation works.**
- 4. Grant consent to proceed to community engagement on the proposal, noting that a further report on the community engagement outcomes will be presented to a future meeting of Council.**

CARRIED UNANIMOUSLY

Cr Sue Miller returned to the Chamber at 7.22 pm

9. Administration Reports

9.1. Portion of West Creek Road - Road Closure Options

Decision Report

Responsible Officer: Tash Hunt (General Manager Corporate), Alan Harvey (General Manager Infrastructure)

Report Author: Lisa Hoyle (Manager Property and Procurement Services), Ross Whitfield (Manager Field Services)

Previous Decisions: C258/08/25, C257/08/25, March 2024 - C24086, February 2024 - C24047 & C24048, September 2023 - C23315

Report Purpose

To receive a report on the type of road closure options for a portion of West Creek Road Langhorne Creek which may include closure only or closure and sale, as an outcome of the 18 August 2025 Council resolution (C258/08/25).

Recommendation

Recommendation Group A

That Council receive and note the contents of the report titled 'Portion of West Creek Road - Road Closure Options'

Recommendation Group B

That Council:

- 1. Resolve not to progress the proposal to close portion of West Creek Road under the *Roads (Opening & Closing) Act 1991* for the purpose of merger and sale with adjacent private land.**
- 2. Notify the Surveyor-General that no road process order will be made for the relevant portion of West Creek Road Langhorne Creek.**
- 3. Finalise the Cost Agreement invoice to Mr McAnaney of \$5,118.23 (ex GST) to recoup costs incurred by Council to date to progress the proposed road closure and sale by merger of portion of West Creek under the *Roads (Opening & Closing) Act 1991*.**
- 4. Consider as part of the Annual Community Plan 2026/27 development the inclusion of the relevant portion of West Creek Road within the proposed Unsealed Road Renewal Program (Resheeting).**

Background

For context, the section of road the subject of this report is outlined in red below and is located close to the border between Alexandrina Council and the Rural City of Murray Bridge.



For context, a recent (September 2025) photo of the portion of West Creek Road the subject of this Report is provided below:



At the 18 September 2023 Council meeting, following a deputation by Mr McAnaney, Council resolved to formally investigate a road closure of portion of West Creek Road including procedure, process costs, closure options, potential sale price and details on traffic movement, existing usage, value to community to close and dispose of and access matters for adjoining properties. Council also resolved to delay the re-sheeting of the section of the road proposed to be sold (C23315). Community engagement was undertaken through My Say between 1 November and 9 December 2023.

At the 19 February 2024 Council Meeting, the community engagement outcomes were tabled. Six (6) responses were received, all in favour of the road remaining open. This report included the detailed process to close a road under the *Roads (Opening & Closing) Act 1991* (Act), including an analysis of the traffic volumes on both West Creek Road and McAnaney Road for the 3 months following the 18 September 2023 Council resolution. At this meeting Council resolved to initiate a road closure process under this Act, for the purpose of sale by merger of that portion of West Creek Road into Mr McAnaney (West Creek Pty Ltd) property (C24048).

As the 19 February 2024 Council Report did not include the particular resolutions required to enact a process under the Act, a further report was put to the 18 March 2024 Council Meeting, where Council reaffirmed its position to commence a road closure process under the Act for the purpose of closure and sale by merger into the proponent's adjacent property and, that the proponent entered a Costs Agreement with Council prior to works commencing (C24086).

This direction was therefore the basis on which all further reports were formed, with community engagement undertaken through My Say between 3 July and 1 August 2025.

At the 18 August 2025 Council Meeting, the outcomes from the community engagement to close and sell the road were received. This report only focused on the proposal to close and sell the road, as this was the directive of the 19 February 2024 and 18 March 2024 Council resolutions. For these reasons, no alternative options were presented. On close of consultation 16 responses were received. Four (4) (25%) supported the road closure and sale and 12 (75%) did not support the closure and sale. This response was generally consistent with the first round of consultation whereby all responses objected to the road closure. At this Council Meeting, Mr McAnaney made a second deputation in support of a road closure, and a separate deputation was received from Mr Eckert and Mr Verco objecting to the proposal. Following the deputations, the report was considered where it was resolved to explore options for *'the type of road closure which may include closure only; or closure and sale and bring a further report back to the October Council Meeting.'*

C257/08/25

Moved Cr Lou Nicholson seconded Cr Craig Maidment

That Council:

1. Receive and note the contents of the report titled **Closure of portion of West Creek Road, Langhorne Creek - Community engagement outcomes.**
2. Receive and note the **West Creek Road - Community Engagement Report** as provided at Attachment 1 contained in this meeting agenda, on the proposed closure of a portion of West Creek Road Langhorne Creek for the purpose of sale.

CARRIED UNANIMOUSLY

C258/08/25

Moved Cr Michael Scott seconded Cr Bill Coomans

That Council:

1. Endorse the road process order proceeding to the Surveyor-General for decision.
2. Require the proponents to enter into an 'Agreement for Transfer' for that portion of West Creek Road Langhorne Creek lettered 'A' in Preliminary Plan 25/0009, with the transfer value to be determined by an independent market valuation.
3. Resolve to close that portion of West Creek Road Langhorne as lettered 'A' in Preliminary Plan 25/0009 and transfer it by merger with Pieces 102 and 103 in Filed Plan 212836 in accordance with the 'Agreement for Transfer'.
4. Grant consent for the Mayor and CEO to sign and seal all documentation as necessary to complete the road closure process.

The mover, Cr Michael Scott with consent of the seconder, Cr Bill Coomans sought and was granted leave of the meeting to vary the motion.

(Motion as varied)

That Council explore options for the type of road closure which may include closure only; or closure and sale, and bring a further report back to the October Council meeting.

FORMAL MOTION

Moved Cr Milli Livingston

That the question be adjourned due to a lack of information and it be resumed at the next Council meeting.

**LAPSED
FOR WANT OF A SECONDER**

The motion as varied was put and **CARRIED UNANIMOUSLY**

Cr Miller returned to the Chamber at 7.28 pm

Cr Michael Scott left the Chamber at 7.28 pm

Discussion

This report addresses the resolution in three parts. Firstly, the road closure for the purpose of 'closure and sale'. Secondly 'closure only' and thirdly, alternative solutions to manage this road.

Closure for the purpose of sale

The closure of road under this Act is confirmed by the Minister for Planning on recommendation from the Surveyor-General. The final decision is not made by council, irrespective of a council resolution to progress with a road closure. Previous cases on road closures indicate that the Surveyor-General is unlikely to recommend closure to the Minister in circumstances where there are significant objections to the closure of a trafficable road, as is the case in this instance. The closure of the road for the purpose of sale under the Act is almost inevitably not achievable, due to the objections received.

At the 18 August 2025 Council meeting, a deputation by Mr Eckert and Mr Verco put forward a question as to why there is no opportunity for the road to be sold to any other person and only proposed to be sold to Mr McAnaney. The reason that the sale would only be to Mr McAnaney under this Act is because the road can only be sold by merger into an existing and adjacent land parcel, that is, no new title is created. As the only adjoining property owner (as identified in yellow below), Mr McAnaney is therefore the only buyer.



On the 15 September 2025, Council Officers attended onsite with the McAnaneys to discuss the matter further as Mr McAnaney is funding the road closure process under the Act via a Cost Agreement. At this meeting, it was established that purchase of the road by Mr McAnaney was not the preferred option, as raised in his deputation of 18 August 2025. Noting the unlikelihood of a road closure under the Act, Mr McAnaney confirmed his position on the 23 September 2025 by email, an excerpt of which is provided below:

'I can confirm that we would like to see the closure of the portion of west creek road in question, as discussed. West Creek Partners confirm that our preference would be not to purchase the land but for council to close the road and once this is done replant the area with native vegetation to join with existing private wildlife corridors'.

Should Council resolve to continue to progress a road closure under this Act, a further cost of approx. \$10,000 would be added to the costs incurred to date by Mr McAnaney for the survey works and valuation required in order to lodge an application with the Surveyor-General to close the road for the purpose of sale, and which is not Mr McAnaney's preferred outcome. As a road closure under the Act is only proposed where there is an adjacent and willing buyer, Recommendation Group B seeks to resolve not to proceed with the proposal to close and sell the road under the Act to Mr McAnaney and, to close off the Cost Agreement and invoice Mr McAnaney for costs incurred to date of \$5,118.23. Any alternative options for this road do not require as prescriptive a process as the Act and if progressed, would incur lower administrative costs that can be dealt with from existing budget.

Closure (no sale)

The only other potential option for closing the road is through section 32 of the *Road Traffic Act 1961*. This process permits a road to be closed to vehicular traffic but retained as road. In this instance it would be proposed to prevent vehicular access to the road by fencing and/or dirt mounds, with the road revegetated by Council or with a third party under a permit agreement (eg: Environmental Group/Mr McAnaney).

Under section 32 of the *Road Traffic Act 1961*, the Council is the decision maker. If Council took this approach, a further round of community engagement is required in accordance with the specific consultation requirements under the *Road Traffic Act 1961*. When considering this approach, Section 32(1) states that '*The council must give due consideration to all written submissions made on the proposal that are received by the council before the meeting*'. As with the outcomes from the two (2) rounds of consultation held to date, it is anticipated that further community objection will be received, potentially resulting in reputational risk for Council and further social angst for the local community.

The reason this road closure proposal cannot be treated the same as the current proposal to close a portion of road in Middleton, is that this portion of West Creek Road is a formed, trafficable road, whereby the portion of Ocean Road Middleton proposed to be sold and revegetated is essentially a rural access track.

If Council wish to progress a closure of the road to vehicle traffic for the purpose of revegetation (with no sale proposed) under Section 32 of the *Road Traffic Act 1961*, Administration will need to undertake a third round of community engagement to seek community interest in closing vehicle access to this road for the purpose of revegetation under this Act, noting the community opposition to the proposal to date indicates an ongoing desire to use this road for vehicle movement. Should Council determine to proceed with community engagement on a proposal to close the road for revegetation purposes under this *Road Traffic Act 1961*, an alternative recommendation is provided below:

That Council:

5. resolves to progress the option to close that portion of West Creek Road the subject of this Report to vehicular traffic under Section 32 of the Road Traffic Act 1961, whereby the road remains as road but is closed to vehicle traffic for revegetation works.

6. grants consent to proceed to community engagement on the proposal, noting that a further report on the community engagement outcomes will be presented to a future meeting of Council.

Alternative solutions

It is anticipated that any further consultations will result in community objections to any treatment on this road that prevents vehicle access. This, combined with the traffic volume count undertaken in late 2023 that identified that West Creek Road is 'used regularly' per the 'Rural Minor Roads' category of approximately 25 to 50 vehicles per day, it will be challenging for Council to resolve to close the road to vehicles under section 32 of the *Road Traffic Act 1961*. However, this would be a decision of Council as the decision-making authority under this Act.



Noting that the majority of homes and buildings on West Creek Road are not located adjacent to the portion of road proposed to be closed (as per above diagram), alternative road treatment solutions are put forward to assist with traffic management concerns such as speed and dust. Options could include:

- Realignment of West Creek Road and McAnaney Road intersection to promote use of McAnaney Road over West Creek Road as the through route (undertaken as part of the renewal (resheeting) work).
- Undertake additional maintenance controls to manage surface condition.
- Implement road treatments for dust suppressants (including a chemical) and rip the road to incorporate dust stabilization within it.
- Seal the road as a treatment solution.
- Encourage the proponent to obtain a section 221 permit to undertake plantings on the road, either side of the formed section.

Financial Implications

In accordance with the Alexandrina Council's Adopted Budget / Long Term Financial Plan, the financial implications of adopting this recommendation are considered medium.

- The administrative costs incurred to date are >100 hours (non-recoverable).
- The costs to continue to progress the road closure under the *Roads (Opening and Closing) Act 1991*, via an application to the Surveyor-General, are a further \$10,000 to be added to the Cost Agreement (in addition to the current \$5,118.23 incurred) and \$500 to lodge the Road Closure Application fee (non-recoverable). An additional 8 hours of administrative time is expected. If successful, the sale of the road is estimated at \$112,500 (subject to an independent valuation).
- The costs to progress a road closure under Section 32 of the *Road Traffic Act 1961* includes community engagement advertising fees of \$900. It is also proposed that additional signage be placed on site advising of the consultation process. Administrative time to undertake this process is estimated at 20 - 30 hours (non-recoverable).
- The current cost to re-sheet that portion of West Creek Road is \$73,758 inclusive of plant and labour. This would need to be considered through a future year's renewal program as budget was not carried forward from the original 2023/24 Unsealed Roads Capital Program.

Risk Implications

In accordance with Alexandrina Council's Risk Assessment Matrix, the risk of adopting Recommendation Group B is considered low as Council has received submissions from the community on two (2) separate occasions seeking to retain the road as open road. Mr McAnaney has also advised that he does not wish to proceed with a road closure for the purpose of sale by amalgamation into his property. In addition, subject to the consideration of renewal works in the Annual Community Plan 2026/27 development, additional work could be undertaken to reduce traffic concerns and encourage the use of McAnaney Road instead of this portion of West Creek Road as the through route.

In accordance with Alexandrina Council's Risk Assessment Matrix, the risk of adopting the alternative Recommendation for Road Closure (No Sale) is considered high. Should Council choose to progress a road process under Section 32 of the *Road Traffic Act 1961*, a further round of community engagement is required, with the submissions received to be given due consideration by the council as part of the decision-making process. Reputationally, proceeding with an application for a road closure that has been tested twice and does not have the majority of community support may impact the community's confidence in the Council's public consultation process.

Attachments

Nil