

8.3. West Creek Road - Roads Closing Process

Cr Sue Miller declared a material conflict of interest in the matter for consideration due to a related party undertaking contracting work for West Creek Partners and advised she will leave the Chamber. Cr Sue Miller left the Chamber at 7.11 pm.

C24086

Moved Cr Michael Scott seconded Cr Margaret Gardner

- 1. That Council affirms the resolution made at the February 2024 meeting (C24048) and resolves to commence a road closure process in accordance with the legislative processes stipulated by the Roads (Opening and Closing) Act 1991 and the Roads (Opening and Closing) Regulations 2021 to progress the proposal to close a portion of approximately 20,635 m² of West Creek Road, Langhorne Creek (subject to survey) with the intention that it be sold by merger to the owner of the land in Filed Plan 212836 Piece 102 as contained in Certificate of Title Volume 6287 Folio 242.**
- 2. That the proponents be required to enter into a Costs Agreement with Council prior to Council engaging a surveyor to prepare a preliminary plan for the road closure.**

CARRIED UNANIMOUSLY

Cr Sue Miller returned to the Chamber at 7.12 pm.

8.3. West Creek Road - Roads Closing Process

Responsible Officer: Alan Harvey - General Manager Infrastructure

Report Author: Jonathon Smyth - Manager Assets

Recommendation

1. Recommendation 1

That Council affirms the resolution made at the February 2024 meeting (C24048) and resolves to commence a road closure process in accordance with the legislative processes stipulated by the Roads (Opening and Closing) Act 1991 and the Roads (Opening and Closing) Regulations 2021 to progress the proposal to close a portion of approximately 20,635 m² of West Creek Road, Langhorne Creek (subject to survey) with the intention that it be sold by merger to the owner of the land in Filed Plan 212836 Piece 102 as contained in Certificate of Title Volume 6287 Folio 242.

2. Recommendation 2

That the proponents be required to enter into a Costs Agreement with Council prior to Council engaging a surveyor to prepare a preliminary plan for the road closure.

Prior Resolutions

Meeting Date	Agenda Item Number	Report Title	Resolution Number
18/09/2023	8.1	Request to purchase portion of West Creek Road, Langhorne Creek	C23315
19/02/2024	8.4	Request to purchase portion of West Creek Road, Langhorne Creek	C24048

Community Strategic Plan Impact

ENABLED	Proactive pursuit of innovative practices, ethical resource management and transparent leadership to foster community engagement, trust, and accountability, thus ensuring an inclusive and empowered Council
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Report Objective

The purpose of this report is to provide for a resolution from the Council regarding the requested closure of West Creek Road that will allow the administration to proceed with the roads opening and closing process. Including a cost agreement with the proponent which must be executed prior to commencement of the process, as all costs associated with the process will be borne by the proponent regardless of the outcome.

Executive Summary

At the ordinary Council meeting on the 19th of February 2024, a report was presented to Council regarding the proposed closure West Creek Road, Langhorne Creek, with the report recommending keeping the road open.

Recommendation:

That Council does not initiate a road closure process and associated sale of West Creek Road between Mosquito Creek Road and McAnaney Road.

Council resolved to proceed with the closure of the road and the recommendation was adjusted to reflect the decision, however removing the words 'does not' from the recommendation of the report do not provide a resolution with the wording that is necessary to formally and technically proceed with the process.

In addition, there was also no endorsed resolution to enter into a cost agreement with the proponent which is also a necessary component of the process.

Context

The Roads (Opening and Closing) Act 1991 is very procedural and if it is not conducted in the correct way, the process can be jeopardised resulting in lost time and re-work.

The resolution at the February Council meeting did not provide the wording necessary to commence the process or detail the requirement of a cost agreement.

General Analysis

Entering into a Roads (Opening and Closing) process takes upwards of 12 months with many activities that must be sequentially completed to finalise the process. The first step is for Council to resolve to commence the process, with technically correct wording in the resolution required before proceeding.

As advised in the previous report the costs involved in completing the process are to be paid for by the proponent regardless of the outcome, therefore they must enter into a Costs Agreement before the process can proceed. The manner in which this originally came to Council did not permit this to occur, there is also a reasonable chance that this application will be rejected by the Minister and not result in a road closure and sale and Council therefore risks incurring the full costs in the absence of a Costs Agreement.

Comparative Analysis

Nil

Financial and Economic Implications

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

Having the correct wording in a Council resolution ensures that the process can commence in the correct manner without the need for rework and lost time.

An executed cost agreement with the proponent will ensure that costs incurred throughout the process will not be paid for by Council, however administration time to process the closure is not recoverable.

Risk Management

In accordance with Alexandrina Council's Risk Assessment Matrix, the risk of adopting this recommendation is considered low.

Resolving the recommendations in this report ensures procedural compliance and protection from costs incurred that are to be paid for by the proponent.

Conclusion

To ensure that an efficient and compliant process is followed, in accordance with the Roads (Opening and Closing) Act 1991 and that Council is protected from bearing the costs of this process, the recommendations as written ensure this will occur. On that basis the recommendations should not be altered without seeking specialist advice.

Attachments

Nil