

ORDINARY MEETING	10
1 MAY 2024	

PERMANENT ROAD CLOSURE OVER PART OF ROAD ADJOINING LOT 485 ON SP323637, 2-48 COOK STREET PORTSMITH - DIVISION 5

55/2/4-03 | #7383967

RECOMMENDATION:

That Council:

1. Provides approval as road manager to support an application under section 99(1)(b) of the *Land Act 1994* being made by the adjoining landowner of lot 485 on SP323637 for permanent closure of the subject area of local government-controlled road subject to:
 - a. A Deed of Agreement between Council and Ports North to provide formalised access over part of lot 485 on SP323637 for maintenance purposes for the Fearnley Street drain; and
 - b. The landowner being responsible for all costs associated with the road closure application and access requirements.
2. Authorises the Executive Manager Licensing and Compliance to negotiate and finalise any and all matters relating to the proposed permanent road closure, Deed of Agreement and access requirements.

INTERESTED PARTIES:

Road Manager – Cairns Regional Council

Landowners – Ports North

Note: The identification of interested parties is provided on a best endeavours basis by Council Officers and may not be exhaustive.

EXECUTIVE SUMMARY:

This report has been prepared to gain approval to support an application under section 99(1)(b) of the *Land Act 1994* for permanent closure of the subject area of local government-controlled road.

The application, if approved under the *Land Act 1994*, would amalgamate the subject area into the adjoining lot 485 on SP323637, 2-48 Cook Street, Portsmith.

Council's support will be conditional on ensuring a formalised five metre wide vehicular access is maintained along the length of the Fearnley Street drain for Council access and maintenance purposes of the drain.

BACKGROUND:

Ports North have approached Council, as road manager, to seek support to close approximately 2,442m² of road adjoining lot 485 on SP323637, 2-48 Cook Street Portsmith (Area identified in Attachments 1 and 2).

The subject area is to be amalgamated with lot 485 on SP323637 which has been set aside for the Cairns Marine Precinct \$360 million joint State and Federal government project.

The road area originally provided access to lot 5 on SP323637, 85-91 Draper Street Portsmith which extended all the way to the Fearnley Street drain. Ports North purchased the undeveloped area of land from lot 5 and amalgamated it with lot 485 on SP323637. As such, the subject area of road is no longer required for access to lot 5.

Adjoining the subject area is Council reserve for drainage purposes, being lot 4 on NR7868 (refer to Attachment 1). Council will continue to require access along the entire length of Fearnley Street drain between Cook Street and Comport Street for maintenance of the drain, banks and creek bed de-siltation works.

A Deed of Agreement for a term of 5 – 10 years outlining the conditions between Council and the Ports North will ensure existing access remains and future access is formalised. A long-term Deed allows for all necessary road closure applications and development approvals to be completed without hindering the interested parties planning, development, and maintenance activities.

The subject area was earmarked for a future boat ramp car park; however confirmation has been received that the road area is no longer required for this purpose as the boat ramp is intended to be relocated as part of the Cairns Marine Precinct project.

COMMENT:

Cairns Infrastructure and Assets (CIA) Directorate as the asset owner responsible for ongoing maintenance of Fearnley Street drain are responsible for supporting the recommendation for the permanent road closure. CIA supports the recommendation as it assists the Cairns Marine Precinct project whilst securing future access for ongoing maintenance of the subject area of Fearnley Street drain.

OPTIONS:

Option 1: (Recommended)

That Council:

1. Provides approval as road manager to support an application under section 99(1)(b) of the *Land Act 1994* being made by the adjoining landowner of lot 485 on SP323637 for permanent closure of the subject area of local government-controlled road subject to:
 - a. A Deed of Agreement between Council and Ports North to provide formalised access over part of lot 485 on SP323637 for maintenance purposes for the Fearnley Street drain; and

- b. The landowner being responsible for all costs associated with the road closure application and access requirements.
2. Authorises the Executive Manager Licensing and Compliance to negotiate and finalise any and all matters relating to the proposed permanent road closure, Deed of Agreement and access requirements.

Option 2:

That Council does not provide approval as road manager to support an application under the *Land Act 1994* being made by the landowner of lot 485 on SP323637 for permanent closure of the subject area of local government-controlled road.

CONSIDERATIONS:

Risk Management:

There is minimal risk associated with the recommendations of this report. The subject land has been reviewed and is no longer required to maintain access to lot 5 on SP323637, nor is it required for a future boat ramp as originally earmarked. The Deed of Agreement between Council and Ports North, as recommended as part of this report, will formalise ongoing access to Fearnley Street drain for maintenance purposes.

Council Finance and the Local Economy:

All costs associated with the application will be borne by Ports North.

Corporate and Operational Plans:

This report aligns with Council's Corporate Plan 2021 – 2026 focus areas relating to:

1. Robust Economy – supporting a diversified and resilient economy that backs business innovation, growth and jobs; and
2. Focused Council - Ensure decision making is collaborative, transparent and accountable.

Statutory:

The permanent road closure of the subject area of local government-controlled road will be made pursuant to section 99(1)(b) of the *Land Act 1994*. The Executive Manager Licensing and Compliance has delegated authority under this provision.

CONSULTATION:

Discussions have occurred with the asset owner (CIA, Works), Property Services and Ports North to ensure that Council has suitable access to the Fearnley Street drain for maintenance purposes.

ATTACHMENT:

Attachment 1 – Site location

Attachment 2 – Detailed aerial view of proposed road closure area and formalised access

A handwritten signature in black ink that reads "Patterson". The signature is written in a cursive style with a long horizontal stroke at the end.

Amy Patterson
Executive Manager - Licensing and Compliance

A handwritten signature in black ink that reads "Ed Johnson". The signature is written in a cursive style with a long horizontal stroke at the end.

Ed Johnson
Director – Planning, Growth and Sustainability

Attachment 1 – Site location



Attachment 2 – Detailed aerial view of proposed road closure area and formalised access

