



Date: Tuesday, 26 July 2022
Time: 9.00am
Location: Council Chambers
Administration Office
10 Furneaux Street, Cooktown

AGENDA AND BUSINESS PAPERS

Late Reports

Ordinary Council Meeting

26 July 2022

Linda Cardew
Chief Executive Officer

Order Of Business

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15 COMMUNITY, ECONOMY AND INNOVATION - REPORTS



15.1 EXECUTION PART C – FORM LA30 ADMINISTRATIVE ADVICE FOR PERMANENT ROAD CLOSURE OF BERTIEHAUGH ROAD

File Number: D22/16160

Author: Property and Commercial Services Coordinator

Authoriser: Lawrence Booth, Director Community, Economy and Innovation

Attachments:

- 1 Report from OCM 24 May 2022 - Item 14.2 - Road Closure Application Bertiehaugh Road [↓](#) 
- 2 Road Closure Bertiehaugh Road - Aerial View [↓](#) 

PRECIS

Council has received a proposal from FC Lawyers acting on behalf of Silverback Properties Pty. Ltd., as Trustee under instrument 710960437 and its associated entities, seeking Council's support for the closure of the road locally known as "Bertiehaugh Road". The road traverses through Lot 4 SP266637, which is also known as Bertiehaugh Station.

A report on the road closure was presented to Council on 24 May 2022 (report attached) with the following resolution being passed:

RESOLUTION 2022/100

Moved: Councillor Ross Logan

Seconded: Councillor Peter Burns

That Council resolves to:

1. Advise the Department of Resources and the Applicant that Council objects to the identified road known locally as Bertiehaugh Road being permanently or temporarily closed and provide this report as explanation for that objection; and
2. Delegate authority to the Chief Executive Officer pursuant to s 257 of the *Local Government Act* to progress the proceedings in the Council's interest.

CARRIED

Written correspondence was sent to the applicant and the Department of Resources (DOR) advising of Council's resolution on the 6 June 2022.

Due to administrative process changes within DOR, Council must now communicate its decision concerning the road closure via Part C – Form LA30 stating its reasons as to why it believes the road should not be closed.

BACKGROUND/HISTORY

DOR has developed a Part C – Form LA30 Statement in relation to an Application under the *Land Act 1994* over State Land.

In following the administrative process as detailed on the Part C – Form LA30, Council is unable to authorise the proposed permanent road closure, as it does not have a relevant Local Law which

empowers it to do so. In such circumstances, Council must resolve to complete the Form indicating that it requests DOR to consider the application under the *Land Act 1994* in respect of this matter. This is achieved by Part 1 of this Report's recommendation.

Item 11 on the Form also indicates that completion of the Part C – Form LA30 is not only to approve the making of an application but is the sole opportunity for the road manager or reserve trustee to either support or not support the application.

By executing the Part C – Form LA30, Council is not consenting to the proposed permanent road closure itself. The execution of the Form LA30 by Council's CEO on behalf of Council, merely enables the applicant to lodge the Part C – Form LA30 with DOR.

In addition, the executed Form Part C will request DOR to seek Council's further views on the application. This is achieved by Part 2 of the recommendation contained in this report, which will mean that when Council's CEO executes the Form, the option that Council requires further consultation on the matter from DOR will be selected, before a decision is made by the Department on the application. Consequently, a further Council report on this matter will be required at a later date.

LINK TO CORPORATE PLAN

Theme 3 Accessibility and Connectivity - A growing Shire that supports active, connected and mobile communities

ACC 1: Preserve access to the range of natural areas throughout our region and balance the conservation of natural values with our lifestyle expectations.

CONSULTATION

Council will undertake extensive internal and external consultation during the advertising period and will be able to comment on the proposal when the proposed road closure is publically advertised.

LEGAL IMPLICATIONS (STATUTORY, BASIS, LEGAL RISKS)

If Council does not authorise the CEO to execute the Part C – Form LA30 for the applicant to submit to DOR, the applicant has other avenues available to them to lodge the application.

POLICY IMPLICATIONS

There are no identified Policy implications of this decision.

FINANCIAL AND RESOURCE IMPLICATIONS (BUDGETARY)

All costs associated with the lodgement of this application at DOR are borne by the applicant.

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 Part C – Form LA30 as Road Manager, advising the Department of Resources that Council cannot authorise a proposed permanent road closure over Lot 4 SP266637, however, it requests DOR to consider an application under the *Land Act 1994* in relation to this matter.
2. Advise the Department of Resources by way of the Part C – Form LA30 that Council requires further contact from the Department before a decision is made on the application.
3. Advise the Department of Resources that Council does not support the proposed road closure as this would disadvantage locals, Traditional Owners, tourists and the general public by increased travelling time and adding additional fuel costs.
4. 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.

16 ORGANISATIONAL BUSINESS SERVICES - REPORTS

16.10 ADMINISTRATIVE ACTION COMPLAINT MANAGEMENT POLICY AND PROCESS

File Number: D22/15421

Author: Governance Coordinator

Authoriser: Heather Kelly, Director Organisational Business Services

Attachments: 1 [Administrative Action Complaint Management Policy](#)  
2 [Administrative Action Complaint Management Process](#)  

PRECIS

Council has a legislative requirement to maintain a Complaints Management Process to respond to administrative action complaints received. A review of Council's complaint processes and systems has been undertaken and the revised policy and process is presented to Council for adoption.

BACKGROUND/HISTORY

Currently all types of complaints were dealt with in Council's Complaint Management Process Policy. This revision focuses on administrative action complaints and recognises that other types of complaints are managed under different policies and processes. The most common type of complaints are administrative in nature and it is appropriate to create an accessible and simplified process and policy documents for greater understanding and to better deliver services in this area.

Having a separate policy document, specifically for administrative action complaints, gives greater scope to establish a meaningful policy statement. Included in this revision is a statement regarding unreasonable behaviour and a commitment to support staff who can be negatively affected by unreasonable conduct from complainants.

Changes in operational procedures and responsibilities have been incorporated into the Administrative Action Complaints Management Process. The process for an internal review of a decision has also been included in this revision.

The Complaint Management Process Map (Appendix A) remains as a detailed framework for actions taken in response to complaints regardless of the type of complaint submitted.

LINK TO CORPORATE PLAN

Theme 6 Organisational Capability – A Council characterised by strong leadership, good governance, effective community engagement and excellence in delivery

Org 1b. Council activities comply with applicable legislation through well-maintained policies, procedures and information systems that guide and facilitate good decision making

Org 1c. Work management systems and procedures are reviewed and adjusted to support improved organisational service provision, compliance and efficiency

CONSULTATION

The Executive Leadership Team has considered the draft policy and procedure prior to presentation to Council for adoption.

LEGAL IMPLICATIONS (STATUTORY, BASIS, LEGAL RISKS)

It is a legislative requirement under section 268(1) of the *Local Government Act 2009*, that Council adopt a process for resolving administrative action complaints. An administrative action complaint is defined in section 268(2) and (3) of the *Local Government Act 2009*, which states:

(2) An administrative action complaint is a complaint that-

- a) Is about an administrative action of a local government, including the following, for example-*
 - i. A decision, or failure to make a decision, including a failure to provide a written statement of reasons for a decision;*
 - ii. An act, or a failure to do an act;*
 - iii. The formulation of a proposal or intention;*
 - iv. The making of a recommendation; and*
- b) is made by an affected person.*

(3) An affected person is a person who is apparently directly affected by an administrative action of a local government.

POLICY IMPLICATIONS

All necessary changes and updates to the Administrative Action Complaints Management Policy and Process have been completed prior to presentation to Council for consideration.

FINANCIAL AND RESOURCE IMPLICATIONS (BUDGETARY)

There are no financial or resource implications with adopting this revised policy.

RECOMMENDATION

That Council adopt the Administrative Action Complaint Management Policy and Process dated July 2022.

