

XXX - 2.378 hectare portion of Holland Street road reserve proposed to be permanently closed and amalgamated with all immediately adjoining lots.



13 TECHNICAL SERVICES

13.1 REQUEST TO CLOSE HOLLAND STREET, DERBY AND TO AMALGAMATE WITH ADJOINING LAND

File Number: 8145

Author: Robert Paull, Manager Development Services

Responsible Officer: Wayne Neate, Director Technical and Development Services

Authority/Discretion: Legislative

SUMMARY

Council is requested to consider the initiation of the road closure process to permanently close Holland Street (unconstructed) and to support the closed portion to be amalgamated with adjoining land.

DISCLOSURE OF ANY INTEREST

Nil by author; Nil by Responsible Officer.

BACKGROUND

Holland Street is a 40 metre wide, unconstructed road reserve between Fitzroy Street and Derby Highway, Derby.



Land owners adjoining Holland Road have written to the Shire requesting closure of the road and for the “... adjoining land owners to be offered to acquire those portions of the closed road that abut their land” (**Attachment 1**).

It is noted that over the years, several buildings have been constructed within the road reserve which are all associated with adjoining land (as highlighted):



STATUTORY ENVIRONMENT

Land Administration Act 1997

Land Administration Regulations 1998

Section 58 of the *Land Administration Act 1997 (Act)* and Regulation 9 of the *Land Administration Regulations 1998* outline the statutory process and required documents for the permanent closure of a public road reserve. Council must first resolve to initiate the permanent closure of the subject portion of road reserve.

The proposed road closure must then be advertised in accordance with the Act (see Consultation Section below).

Following the advertising process, Council may determine, in light of any submissions, either to proceed with the road closure or not to proceed. Should Council determine to proceed with the road closure a request would be sent to the Minister for Lands to permanently close the road. The Minister may then grant the request, or direct the Local Government to reconsider the request or refuse to grant the request.

Should the request for the proposed road closure be granted by the Minister for Lands, the subject closed portion will become unallocated Crown Land. Thereby, a Crown subdivision will potentially allow the amalgamation of the subject land into the adjoining Crown reserve as requested by the landowners. There is nothing preventing Council expressing a preference for the closed portion of the road being amalgamated with adjoining land.

POLICY IMPLICATIONS

None known.

FINANCIAL IMPLICATIONS

Permanently closing the portion of the road reserve would mean there is less road reserve for the Shire is responsible. This could potentially result in maintenance cost savings for Council.

There are costs associated with the statutory notifications associated with road closure. Whilst some of these costs can generally be absorbed in the Shire’s normal operations, specific costs for advertising a local newspaper and potentially surveying should be at the cost of the proponent.

STRATEGIC IMPLICATIONS

GOAL	OUTCOME	STRATEGY
Priority 1: Leadership and Governance	1.1 Collaboration and Partnerships 1.2 Capable, inclusive and effective organisation 1.3 Effective Communication	1.1.1 Maximise local opportunities 1.2.4 Attract and effectively use resources to meet community needs 1.3.3 Listen to and respond to the needs of our communities

RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
Legal & Compliance:	Unlikely	Minor	Low	Attention to process and procedure, awareness of legislation and vigilance.

CONSULTATION

The Act outlines that a local government must not make a request to the Minister for Lands to permanently close a road reserve until a period of 35 days has elapsed from the publication in a newspaper circulating in its district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice.

Although not required by the Act, generally the local government also refers a notice through a letter to landowners directly affected by the road closure, affording the opportunity to provide comments within 35 days from the date of the letter.

The notification to relevant agencies and service authorities, include:

- Western Australian Land Authority (Development WA)
- Water Corporation
- Department of Industry, Science, Energy and Resources
- MRWA
- Department of Primary industries and Regional Development
- Department of Planning, Lands and heritage
- DFES
- Western Australian Land Information Authority
- Horizon Power

COMMENT

Holland Road is heavily vegetated and does not appear to have any drainage or infrastructure such as water, power, sewer or communications located within the reserve. It is noted that several buildings have been erected in the road reserve and it is unlikely that Council would seek to have these removed.



It is not clear the purpose of Holland Road as all adjoining land is served by access to either Derby Highway, Fitzroy Street or Maxted Street. In this regard, it is not considered likely that the Council would seek to construct Holland Road and closure would not appear to impact the Shire's strategic road network.

Whilst Council is not obliged to express a preference for the closed portion of the road being amalgamated with a specific lot, it is considered appropriate to advise the community and relevant agencies that the closed portion be amalgamated with adjoining land.

VOTING REQUIREMENT

Simple majority

ATTACHMENTS

1. **Attachment 1 Request to Close Holland Street**  

RESOLUTION 110/22**Moved: Cr Andrew Twaddle****Seconded: Cr Rowena Mouda**

That with respect to request to close Holland Street, Derby and to amalgamate with adjoining land, Council:

- 1. Pursuant to Section 58 of the Land Administration Act 1997, support the permanent closure of Holland Street, Derby as outlined in this Report and expresses its preference that the closed portion be offered to adjoining land owners to acquire those portions of the closed road that abut their land;**
- 2. Give notice of the proposed road closure in accordance with *Land Administration Act 1978* allowing a minimum period of 35 days for people to lodge submissions from the date of the notice;**
- 3. At the conclusion of the submission period, that the Chief Executive Officer be requested to provide a further report addressing whether to proceed or not to proceed with the proposed road closure in light of any submissions; and**
- 4. Instruct the Chief Executive Officer to write to all of the owners requesting that they indemnify the Shire and the State of Western Australia of any and all third party costs that may be triggered by this process and only proceed with points 1, 2 and 3 when all letters are received from all property owners that adjoin the Holland Street road reserve.**

In Favour: Crs Geoff Davis, Andrew Twaddle, Rowena Mouda, Pat Riley, Linda Evans and Peter McCumstie

Against: Nil

CARRIED 6/0

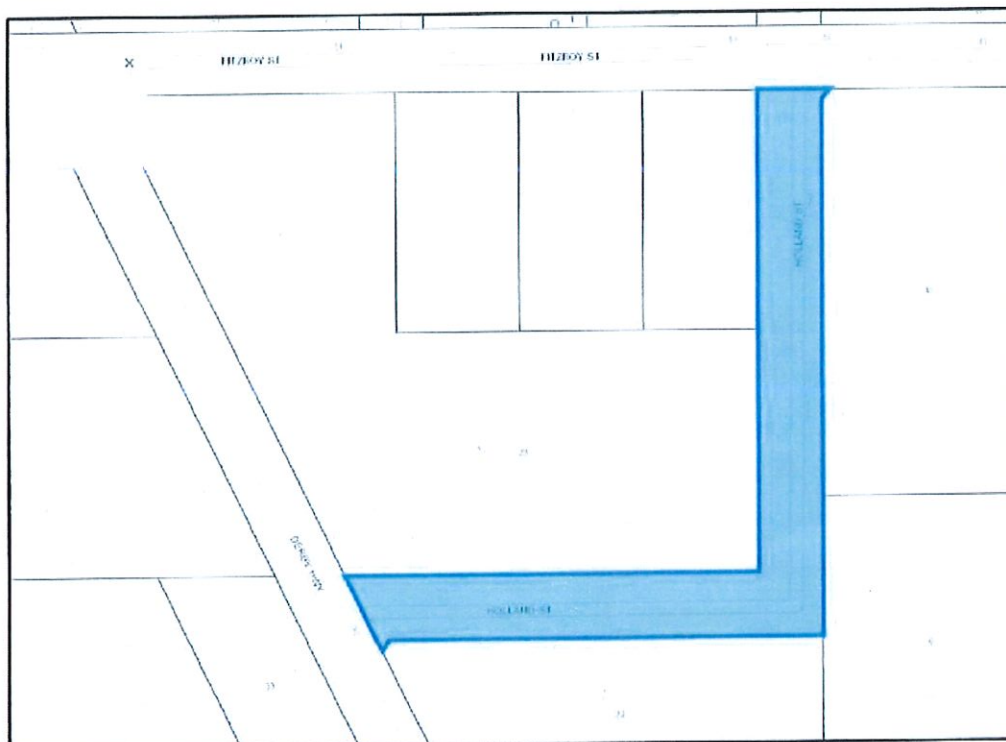
Amanda Dexter
 Chief Executive Officer
 Shire Derby West Kimberley
 PO Box 94
 Derby WA 6728

3rd July 2022

Dear Amanda.

Request to close Holland Street, Derby

We the undersigned request that the Shire takes the necessary steps to close un-constructed Holland Street, Derby.



The following indicates the land and ownership abutting Holland Street:

Land abutting	Ownership
Lot 9000 (No. 29) Derby Highway	Carmel Moore
Lot 5 (no. 33) Derby Highway	Kelvin Moore
Lot 45 (No. 45) Fitzroy Street	Carmel Moore
Lot 1 (No. 46) Fitzroy Street	Lynette Henderson-Yates
Lot 2 (No. 6) Maxted Street	Sandra Moore

Holland Street has never been constructed and is heavily vegetated. As landowners, we believe that the road serves no particular purpose.

We all agree that Holland Street should be formally closed and the adjoining land owners be offered to acquire those portions of the closed road that abut their land.

On this basis, we request the Shire to commence the closure process and recommend to the Minister for Lands that Holland Street be permanently closed.

Yours sincerely *L. Moore*

L. Moore CARMEL MOORE

S. Moore SANDRA MOORE

L. Henderson-Yates LYNETTE HENDERSON-YATES

K. Moore Kelvin Moore