

**QLDC Council
23 March 2018****Report for Agenda Item 13****Department: Property & Infrastructure****Alec Robins Road Legalisation & Sale****Purpose**

- 1 The purpose of this report is to consider a road stopping, realignment and sale request at Alec Robins Road.

Recommendation

- 2 That Council:
 1. **Note** the contents of this report;
 2. **Approve** initiation of the procedures of section 114 of the Public Works Act 1981 to declare as road that portions of land shown on the attached Paterson Pitts plan Q6310-11 shown as areas C & D and held in Computer Freehold Register 738021; and
 3. **Approve** initiation of the procedures of section 116 of the Public Works Act 1981 to stop that portion of road shown on the attached Paterson Pitts plan Q6310-11 shown as areas A & B; and
 4. **Approve** the road shown as area A, when stopped, being disposed of in accordance with sections 117 & 120(3) of the Public Works Act 1981 and amalgamated with the adjoining land held in Computer Freehold Register OT2C/107; and
 5. **Approve** the road shown as area B, when stopped, being either disposed of in accordance with sections 117 & 120(3) of the Public Works Act 1981, or section 345 the Local Government Act 1974 and amalgamated with the adjoining land held in Computer Freehold Register OT14B/175; and
 6. **Approve** the disposal of the stopped road referred to as Area A for \$75,000 (including GST if any) less stopping costs incurred by Council; and
 7. **Approve** the purchase of land to be taken as road referred to as Area D for \$3,000 (including GST if any); and
 8. **Approve** the disposal of the stopped road referred to as Area B for \$9,000 (including GST if any) less stopping costs incurred by Council; and
 9. **Approve** the purchase of land to be taken as road referred to as Area C for \$500 (including GST if any); and

10. **Agree** that Council's approval to undertake this process and any sale and purchase agreements relating to it shall be limited to a period of 2 years from the date of this resolution. If settlement is delayed beyond the 26 October 2018, Council to reserve the right to re-value the land and nominate a new 'market' purchase price; and
11. **Approve** Council's costs in undertaking the process, be billed and paid monthly by the applicant and on the basis that the applicant agrees to pay any costs incurred by the Council which are over and above the value of the land; and
12. **Delegate** final terms and conditions along with approvals for any placing or removal of easements, minor alignment and area changes, pro-rata changes in sale price based on area, along with any necessary umbrella agreements and signing authority to the Chief Executive of Council.

Prepared by:



Daniel Cruickshank
Property Advisor - APL
6 March 2018

Reviewed and Authorised by:



Peter Hansby
GM, Property & Infrastructure
12 March 2018

Background

- 3 Alec Robins Road is a rural road positioned to the south of Lake Hayes, servicing a number of rural and rural lifestyle properties.
- 4 The Council has received a request to realign a portion of road adjoining two properties at the northern end of the road, adjacent to the State Highway 6 intersection. The applicants are N&J Secker, who reside at 12 Alec Robins Road and B Guthrie at 20 Alec Robins Road.
- 5 Both properties are situated relatively close to the road and have extensive landscaping within the legal road. This encroachment is likely to have arisen over many decades and the applicants are keen to see the matter resolved.
- 6 The legal alignment of Nook Road is currently between 20.12 metres and 28.54 metres wide (northern intersection end). The proposed realignment would result in a road width of 20.00 metres at its narrowest point with no change to the current positioning of the formed road.

Comment

- 7 Council is considering the road realignment because it will resolve a current encroachment and will provide more space between the existing dwellings and the legal road, than what is provided currently.

- 8 Under the proposal illustrated on Attachment A, legal road will be stopped and sold on the western side of the road and amalgamated with the applicant's titles. New legal road will be taken on the eastern side from Mr Robins property, with this aspect being negotiated direct by the Secker's but forming part of an umbrella agreement to be signed by all parties.
- 9 Beyond the road stopping area, there is a mixture of rural and rural lifestyle properties. Their access will be unchanged by this proposal as the formed road will not move, and there is still space to form footpaths in the future.
- 10 It should be noted that whilst the initial road stopping request was made by both the Secker's at #12 and the Guthrie's at #20, due to personal circumstances only the Secker's are currently committed to progressing this request. For the benefit of reducing the need for a future Council resolution, it is recommended that the road shown on the attached plan as Area B still be stopped and be held by the Council until such time as it could be sold, subject to revaluation if necessary.
- 11 Council has commissioned a registered valuer to advise it of the respective values of the land to be stopped, sold and taken as road. If all parcels are transacted, the gross income to Council is expected to be \$80,500 including GST (if any). These values are shown as follows:
 - Area A \$75,000 including GST – to be stopped and sold
 - Area B \$9,000 including GST – to be stopped and sold
 - Area C \$500 including GST – to be taken as road
 - Area D \$3,000 including GST – to be taken as road
- 12 The primary applicant N & J Secker will be required to pay the costs of closing the road and taking of new road, with those costs being deducted from the sale price. Costs are recharged to the applicant monthly. If the stopping is not concluded for any reason, the applicant bears the costs incurred as well as any costs incurred above the sale price of the land. Should the owner at 20 Alec Robins Road wish to proceed with the acquisition process as well, they would need to pay a proportional share of the stopping cost, to be agreed between the parties.
- 13 The process of stopping this portion of road and taking of new road would be undertaken pursuant to sections 114 & 116 of the Public Works Act. Section 114 covers the process to declare land to be road, whilst section 116 relates to the stopping of existing legal road.
- 14 Of importance, section 116 requires that either adequate road must remain or that all adjoining owners consent to the stopping. The applicant has advised that they have consulted with adjacent owners and other residents on Alec Robins Road with no concerns being raised. If Council approves the process of stopping and taking of new road, the applicant will endeavour to gain written consent from adjacent owners. Final approval of the stopping however sits with the Minister of Lands, whom will review the overall impact of the proposal, along with any written consents before making a decision.
- 15 Council's Chief Engineer, Transport Strategy Manager and Manager of Planning Practice have been consulted on the application and approve of the stopping. The

road width proposed under the new alignment will not materially affect the use of the road, or moderate future development. However, it is acknowledged that should a development of 200+ dwellings be proposed in the area, the existing road format would already require extensive realignment in order to access onto the State Highway.

- 16 It should be noted that with this proposal a small area of the Secker's garden will still be within the legal road following legalisation. This is due to Council requiring a 20m road width at the junction with State Highway 6. It is recommended that the applicant either relocate their fence to the new correct boundary or seek a licence to occupy from the Council to resolve this aspect.

Options

- 17 This report identifies and assesses the following reasonably practicable options for assessing the matter as required by section 77 of the Local Government Act 2002:

- 18 Option 1 Agree to commence the road legalisation and sale procedures as described in this report and shown on the attached plan by Paterson Pitts Q6310-11.

Advantages:

- 19 Will legalise existing encroachments at both properties whilst still providing sufficient legal road width and no impact to existing formed roadway.
- 20 Will generate income for Council.

Disadvantages:

- 21 Will result in a reduction of legal road width at the intersection with Alec Robins Road and State Highway 6.

- 22 Option 2 Decline the request.

Advantages:

- 23 Would not result in a reduction of legal road width at the intersection with Alec Robins Road and State Highway 6

Disadvantages:

- 24 Would not legalise existing encroachments at both properties whilst still providing sufficient legal road width and no impact to existing formed roadway.
- 25 Would not generate income for Council.

- 26 This report recommends **Option 1** for addressing the matter because it will result legalise existing encroachments without materially affecting the legal or formed road and derive income to the Council.

Significance and Engagement

- 27 This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy because the issue relates to roads, identified as a strategic asset. In this case the significance is medium because the portions of road to be stopped are relatively small and will not affect the functionality of the road.

Risk

- 28 This matter relates to the strategic risk SR3, as documented in the Council's risk register. The risk is classed as moderate. This matter relates to this risk because stopping roads must follow the process detailed in the Public Works Act.
- 29 This report addresses the risk by seeking a Council resolution to stop the road, enabling the correct process to be commenced.

Financial Implications

- 30 The applicant has agreed to pay all costs incurred by Council to enact the proposed road stopping, transfer and vesting. Council is likely to receive gross income of \$80,500 including GST if all parcels are transacted.

Council Policies, Strategies and Bylaws

- 31 The following Council policies, strategies and bylaws were considered:
- Property Sale and Acquisition Policy 2014
- 32 The recommended option is consistent with the principles set out in the named policy. As if the land is not required for current or future needs of the community it may be considered for disposal.
- 33 This matter is not included in the 10-Year Plan/Annual Plan because the road stopping was not contemplated at the time the plan was written. As all costs to Council are being met by the applicant, Council will not require specific budgets to progress the project.

Local Government Act 2002 Purpose Provisions

- 34 The recommended option:
- Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses by ensuring Council has roading assets in locations most beneficial to the community and rate payers;
 - Can be implemented through current funding under the 10-Year Plan and Annual Plan;
 - Is consistent with the Council's plans and policies; and

- Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.

Consultation: Community Views and Preferences

35 The persons who are affected by or interested in this matter are the users and residents of Alec Robins Road. The owners have consulted with immediate owners to the road stopping, with no objection raised. Further written approvals will be included with any request to the Minister of Lands, however as the road is not being materially affected, it is likely that the road stopping may progress without these written approvals.

Attachments

- A Survey plan with affected areas
- B Overview plan