



# Shire of Derby / West Kimberley

## LAND ADMINISTRATION ACT 1997

### PROPOSED ROAD DEDICATION AVAILABLE FOR PUBLIC INSPECTION & COMMENT

Notice is hereby given that the Shire of Derby/West Kimberley has resolved, pursuant to Section 56 of the *Land Administration Act 1997*, to initiate the process required to dedicate a previously constructed portion of Sandford Road, Fitzroy Crossing through Lot 126 on DP215485 (Reserve 36669) and portion Lot 402 on DP77614 (Reserve 36669) as a public road.

A document and plans setting out and explaining the proposal are attached.

Comments on the proposal are now invited and can be emailed to [sdwk@sdwk.wa.gov.au](mailto:sdwk@sdwk.wa.gov.au) or posted to the Shire's Chief Executive Officer at PO Box 94 DERBY WA 6728. All submissions must include the following information:

- Your name, address and contact telephone number;
- How your interests are affected; whether as a private citizen, on behalf of a company or other organisation, or as an owner or occupier of property;
- Address of property affected (if applicable); and
- Whether your submission is in support of, or objecting to the proposal and provide any arguments supporting your comments.

Comments on the proposal may be submitted to the local government on or before **Tuesday 30 July 2024**.

All submissions received may be made public at a Council meeting and included in a Council Agenda, which will be available on the Shire's website, unless a submission specifically requests otherwise.

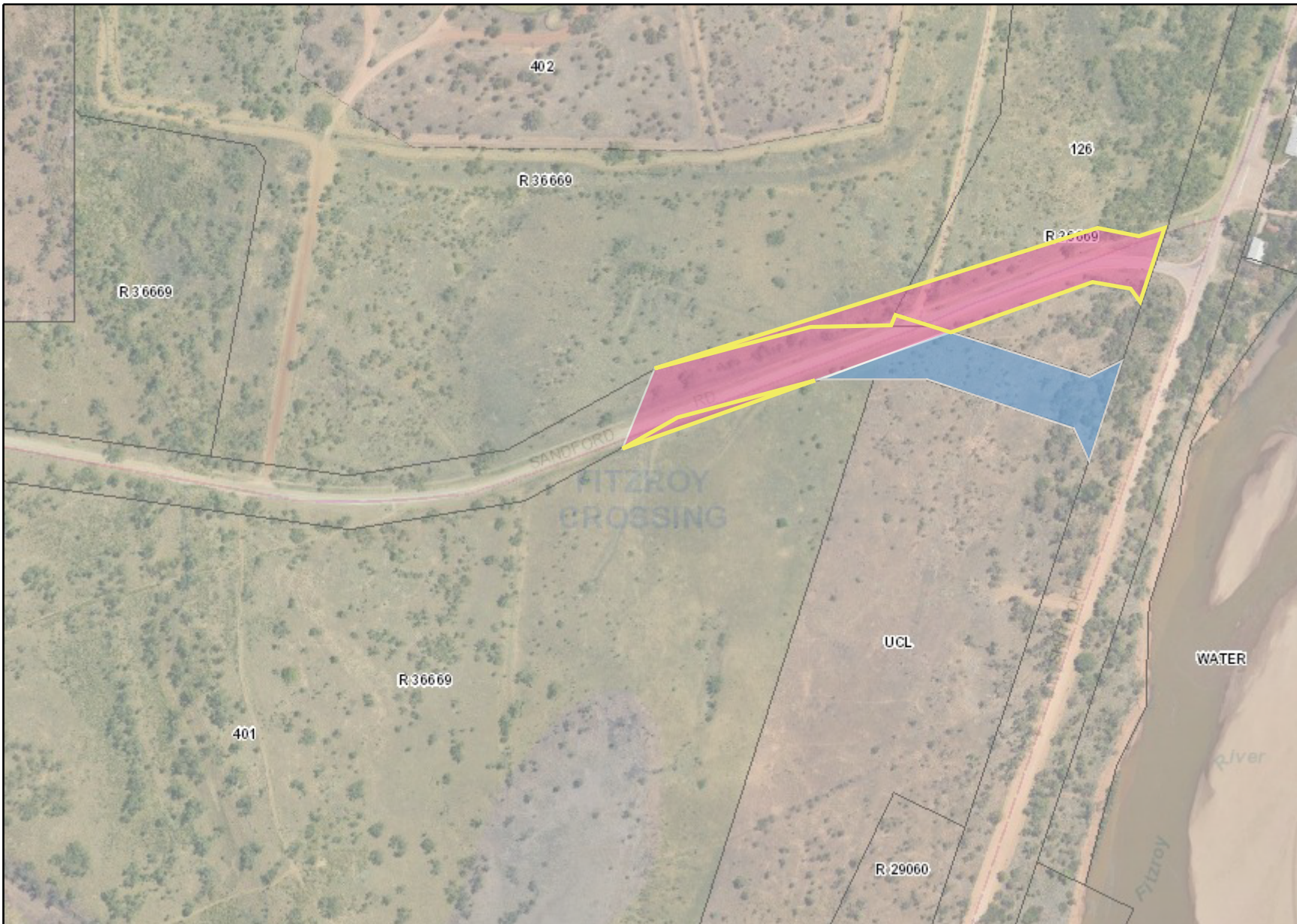
**Amanda Dexter**  
Chief Executive Officer

#### Derby

 (08) 9191 0999 | 30 Loch Street  
 [sdwk@sdwk.wa.gov.au](mailto:sdwk@sdwk.wa.gov.au) | PO Box 94, Derby WA 6728

#### Fitzroy Crossing

 (08) 9191 5355 | Flynn Drive  
 [sdwk@sdwk.wa.gov.au](mailto:sdwk@sdwk.wa.gov.au) | PO Box 101, Fitzroy Crossing



**Legend**

- Cadastre (View 1)
- Portion for closure and amalgamation into Reserve 36669
- Road to be dedicated
- Portions of Reserve 36669 to be converted to UCL

**Notes:**

\* The data that appears on the map may be out of date, not intended to be used at the scale displayed, or subject to license agreements. The map should only be used in matters related to Department of Planning, Lands and Heritage business.

\* This map is not intended for measurement purposes.

Map was produced using DPLH's InQuery.

**Case 2201498 Proposal**

**DPLH BUSINESS USE ONLY**



0 0.10 0.19 Kilometres

1: 4,514 at A4

Projection: WGS 1984 Web Mercator Auxiliary Sphere  
 Graticules (if visible): GDA 1994 Latitude/Longitude

Date produced: **08-Nov-2023**



**Shire of Derby /  
West Kimberley**

# **UNCONFIRMED MINUTES**

**Ordinary Council Meeting  
Thursday, 29 February 2024**

**Date: Thursday, 29 February 2024**

**Time: 5:30 PM**

**Location: Council Chambers  
Clarendon Street  
Derby**



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**15 DEVELOPMENT SERVICES****15.1 PROPOSED DEDICATION OF PORTION OF SANDFORD ROAD, FITZROY CROSSING**

**File Number:** 8145  
**Author:** Mark Chadwick, Manager of Development Services  
**Responsible Officer:** Wayne Neate, Director Technical and Development Services  
**Applicant:** Shire of Derby West Kimberley  
**Owner:** Crown Land, State of Western Australia  
**Proposal:** Dedication of Portion of Sandford Road Fitzroy Crossing as a public road  
**Location:** Sandford Road, Fitzroy Crossing through Lot 126 on DP215485 (Reserve 36669) and portion Lot 402 on DP77614 (Reserve 36669)  
**Authority/Discretion:** Legislative

**SUMMARY**

This report recommends that Council resolve to initiate the process required to dedicate a previously constructed portion of Sandford Road, Fitzroy Crossing through Lot 126 on DP215485 (Reserve 36669) and portion Lot 402 on DP77614 (Reserve 36669) as a public road pursuant to section 56 of the *Land Administration Act 1997* and associated regulations.

**DISCLOSURE OF ANY INTEREST**

Nil by Author; Nil by Responsible Officer.

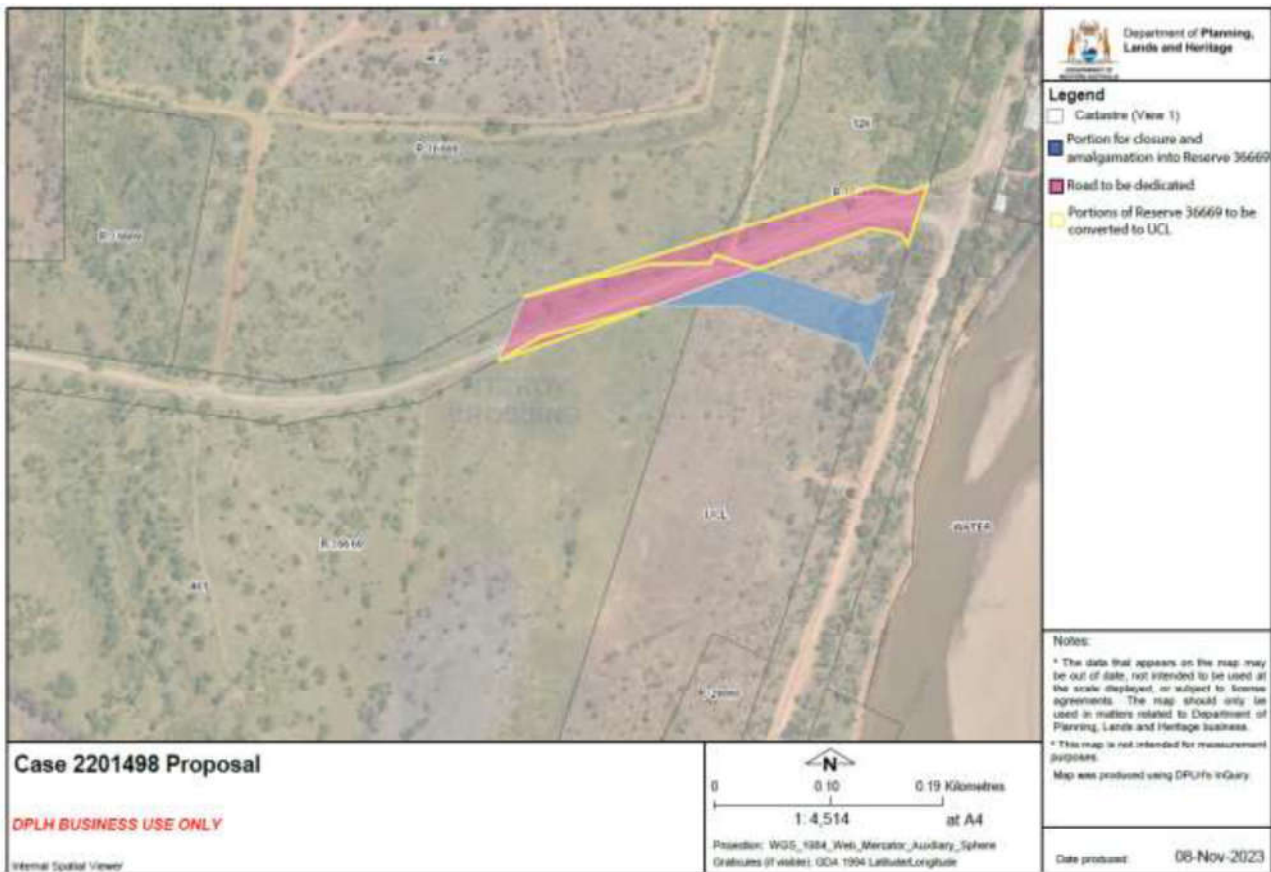
**BACKGROUND**

At its Ordinary Meeting held on 26 May 2022 Council resolved to initiate the process under section 58 of the *Land Administration Act 1997* and associated regulations to permanently close the eastern end of the Sandford Road, road reserve at its intersection with Skuthorp Road in Fitzroy Crossing. Refer to **Attachment 1**.

All steps required pursuant to the *Land Administration Act 1997* and associated regulations to progress the proposed closure of the relevant portion of Sandford Road have been completed by the Shire with the proposal now being formally considered by the Lands Division of the Department of Planning, Lands and Heritage.

The Department has however advised the new alignment of the Sandford Road, road reserve at its proposed new intersection with Skuthorp Road must also be subject to the procedural requirements of the *Land Administration Act 1997* and associated regulations in order to be dedicated as a public road (i.e. dedication of the road under the *Planning and Development Act 2005* as originally proposed and resolved by Council in May 2022 cannot be supported and approved due to the specific requirements of the *Native Title Act 1993* as it applies to unallocated Crown land).

The following plan prepared by the Department provides details of the exact location and extent of the proposed road closure and dedication described above:



**STATUTORY ENVIRONMENT**

**Land Administration Act 1997** – Section 56 – *Dedication of land as road*

**Land Administration Regulations 1998** – Regulation 8 - *Local government request to dedicate land as a road (Act s. 56), requirements for.*

**POLICY IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

The Shire will meet all administrative costs associated with progressing the proposed road closure and dedication in accordance with the procedural requirements of the relevant applicable legislation using funds allocated in its annual budget. This is expected to be in the range of \$20,000 to \$30,000.

No funding for road works is required given the new road alignment has already been constructed using blackspot improvement funding previously made available to the Shire.

If the Minister for Lands ultimately approves the proposed road dedication, the Shire will be liable to indemnify the Minister against any claim for compensation in an amount equal to the amount of all costs and expenses reasonably incurred by the Minister in considering and granting the request. The amount payable to the Department cannot be determined and confirmed at this preliminary stage and is dependent upon the outcomes from the Department’s processing of the Shire’s request.

**STRATEGIC IMPLICATIONS**

GOAL	OUR PRIORITIES	WE WILL
1. Leadership and Governance	1.1 Collaboration and partnership	1.1.2 Maximise local opportunities

**RISK MANAGEMENT CONSIDERATIONS**

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
<b>Legal &amp; Compliance:</b> Procedural requirements of section 56 of the <i>Land Administration Act 1997</i> and regulation 8 of the <i>Land Administration Regulations 1998</i> .	Unlikely	Minor	Low	Attention to process and procedure, awareness of legislation and vigilance.

**CONSULTATION**

Public advertising must be undertaken by the Shire in accordance with the procedural requirements of the *Land Administration Act 1997* and associated regulations for the minimum required period of thirty-five (35) days. This process will include publication of a suitable notice in a newspaper circulating throughout the district inviting feedback and comment from anyone who may have an interest in the proposal, publication of the proposal on the Shire’s website and referral of the proposal to all key essential service authorities inviting feedback/comment.

**COMMENT**

In light of the recent advice received from the Lands Division of the Department of Planning, Lands and Heritage regarding the correct process that must be followed to dedicate the relevant portion of Sandford Road and the need to ensure the newly constructed alignment of this road at its intersection with Skuthorp Road is formalised as a public roadway, it is recommended Council resolve to initiate the process required to dedicate portions of Lot 126 on DP215485 (Reserve 36669) and Lot 402 on DP77614 (Reserve 36669) as a public road pursuant to section 56 of the *Land Administration Act 1997* and associated regulations.

At the conclusion of public advertising and consideration of any submissions received, Council may then resolve to formally request the Minister for Land’s approval to the abovementioned proposal and submit the request accordingly.

**VOTING REQUIREMENT**

Simple majority

**ATTACHMENTS****1. Extract from Minutes of Council's Ordinary Meeting held on 26 May 2022.****RESOLUTION 17/24****Moved: Cr Andrew Twaddle****Seconded: Cr Brian Ellison**

**That Council initiate the process required to dedicate a previously constructed portion of Sandford Road, Fitzroy Crossing through Lot 126 on DP215485 (Reserve 36669) and portion Lot 402 on DP77614 (Reserve 36669) as a public road pursuant to section 56 of the *Land Administration Act 1997* and associated regulations and direct the Shire Chief Executive Officer to progress the proposal accordingly.**

**In Favour: Mr Peter McCumstie and Crs Brett Angwin, Geoff Davis, Brian Ellison, Wayne Foley, Kerrissa O'Meara and Andrew Twaddle**

**Against: Nil**

**CARRIED 7/0**



**ATTACHMENT 1**



**Shire of Derby /  
West Kimberley**

# **MINUTES**

## **Ordinary Council Meeting Thursday, 26 May 2022**

**Date:** Thursday, 26 May 2022

**Time:** 5:30pm

**Location:** Council Chambers  
Clarendon Street  
Derby



**Order Of Business**

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<b>4</b>	<b>Applications for Leave of Absence .....</b>	<b>5</b>
<b>5</b>	<b>Responses to Previous Public Questions taken on Notice .....</b>	<b>5</b>
<b>6</b>	<b>Public Time.....</b>	<b>5</b>
6.1	Public Question Time .....	5
6.2	Public Statements .....	6
<b>7</b>	<b>Petitions, Deputations, Presentations and Submissions .....</b>	<b>6</b>
<b>8</b>	<b>Announcements by Presiding Person without Discussion .....</b>	<b>6</b>
<b>9</b>	<b>Confirmation of Minutes of Previous Meetings .....</b>	<b>6</b>
<b>10</b>	<b>Recommendations and Reports of Committees .....</b>	<b>7</b>
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**13 TECHNICAL SERVICES****13.1 REQUEST TO CLOSE A PORTION OF SANDFORD ROAD, FITZROY CROSSING (MRWA REF. NO 30107) AND ESTABLISH A NEW ROAD RESERVE TO THE SANDFORD ROAD/SKUTHORP ROAD INTERSECTION****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 a portion of Sandford Road, Fitzroy Crossing (Main Roads Western Australia Ref. No 30107); and
- supporting the closed portions to be being amalgamated with Unallocated Crown Land and Lot 401. In addition, Council is requested to authorise the creation of a new Sandford Road (road) reserve over Lot 126 and Lot 401.

The road closure and new road reserve is an outcome of recent construction of the Sandford Road/Skuthorp Road intersection.

**DISCLOSURE OF ANY INTEREST**

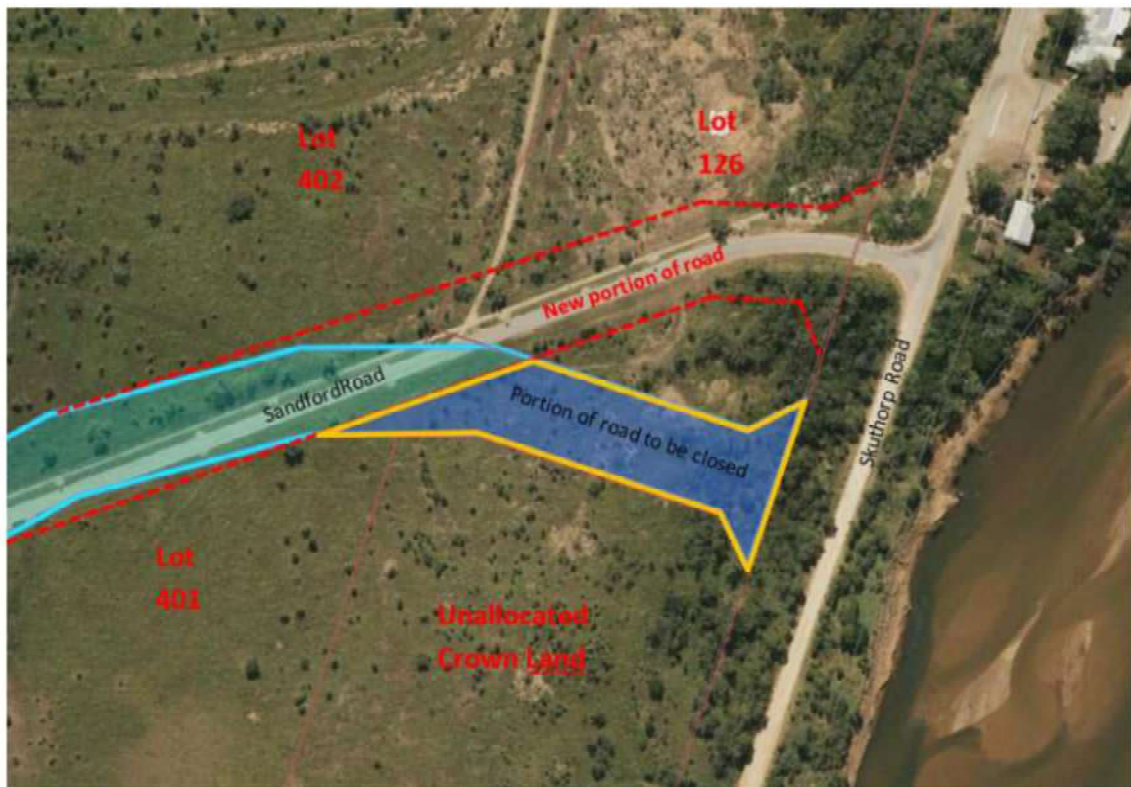
Nil by author and Responsible Officer.

**BACKGROUND**

In 2019/20, the Shire using Blackspot Improvement funding realigned the Sandford/Skuthorp Road intersection. The engineered design and construction necessitated a new alignment for the intersection and portion of Sandford Road for about 200m.



The road works will require the establishment of a new road reserve (approximately 40 m wide to reflect the existing reserve) over Lot 126 (Shire owned).



The works also result in the need to close a portion of road reserve that is now defunct (as above).

**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* (Regulations) 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 and Regulations (see Consultation Section below).

A public road (i.e. the realigned the Sandford/Skuthorp Road intersection) is created under s.28 of the Act by being set out as a road on an approved Crown deposited plan. Automatic dedication occurs on approval of the deposited plan through Landgate.

**POLICY IMPLICATIONS**

Nil

**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
<b>Legal &amp; Compliance:</b>	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

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.

In relation to formalising the realignment of the Sandford/Skuthorp Road intersection, it is appropriate that the Chief Executive Officer be authorised to employ a surveyor to set out Sandford/Skuthorp Road as a road on a deposited plan and to lodge the plan through Landgate.

#### VOTING REQUIREMENT

Simple majority

#### ATTACHMENTS

Nil

#### RESOLUTION 64/22

**Moved: Cr Andrew Twaddle**

**Seconded: Cr Rowena Mouda**

**That Council:**

- 1. Pursuant to Section 58 of the *Land Administration Act 1997 (Act)*, support the permanent closure of a portion of and expresses its preference that the closed portion be Unallocated Crown Land;**
- 2. Give notice of the proposed road closure in accordance with the *Land Administration Regulations 1998* 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. Authorises the Chief Executive Officer to formalise the realignment of the Sandford/Skuthorp Road intersection as outlined in this Report over Lot 126 under s.28 of the Act by employing a surveyor to set out Sandford/Skuthorp Road as a road on a deposited plan to be lodged through Landgate.**

In Favour: Crs Geoff Haerewa, Paul White, Geoff Davis, Andrew Twaddle, Rowena Mouda, Pat Riley, Keith Bedford, Linda Evans and Peter McCumstie

Against: Nil

**CARRIED 9/0**