

DEVELOPMENT ASSESSMENT REPORT – TODDS ROAD UPGRADE

PROPOSAL

Council is in receipt of combined Development Application 10.2011.43.1 and Construction Certificate 11.2011.43.1 from the Morris Lyda Organisation Pty Ltd being the extension of crown road at the end of Todds Road, Wisemans Creek.

The application seeks to construct a new road within the current crown road reserve and then dedicate that road to Council as public road. Previously, at its August 2011 Meeting, Council resolved to take over the road on the condition that approval was granted for the extension and that no costs were borne by Council following the construction of the road.

SUMMARY

To assess and recommend determination of DA 10.2011.43.1 & CC 11.2011.43.1
Recommendation will be for approval subject to conditions.

LOCATION OF THE PROPOSAL

Legal Description :	Crown Road Reserve (Todds Road) Lot 44 DP 757039, Lot 11 DP 1122719 & Lot 22 DP 1040146
Property Address :	Todds Road, Wisemans Creek

ZONING: The land is currently zoned General Rural 1(a) in accordance with Councils current Local Environmental Plan 1998.

PERMISSIBILITY: The development is considered permissible subject to development consent

POLICY IMPLICATIONS (OTHER THAN DCP's)

4104 – Public Gates and Grids Policy applies to the land.
It is considered that should development consent be considered a condition of consent requiring the compliance with the policy be implemented.

FINANCIAL IMPLICATIONS (eg Section 94)

As part of Councils previous resolution it is considered that upon approval no costs will be borne by Council pertaining to the construction of the road. However, over time financial implications will be incurred from the additional road infrastructure maintenance.

LEGAL IMPLICATIONS

Any Environmental Planning Instrument

Local Environmental Plan

Zone No 1 (a) (Rural 'A' Zone)

1 Objectives of Zone

The objectives of this zone are to promote the proper management and utilisation of resources by:

- (a) protecting, enhancing and conserving:
 - (i) agricultural land in a manner which sustains its efficient and effective agricultural production potential, and
 - (ii) soil stability, by controlling and locating development in accordance with land capability, and
 - (iii) forests of existing and potential commercial value for timber production, and
 - (iv) valuable deposits of minerals, coal, petroleum and extractive materials, by controlling the location of development in order to ensure the efficient extraction of those deposits, and
 - (v) trees and other vegetation in environmentally sensitive areas where the conservation of the vegetation is likely to control land degradation or is significant to scenic amenity or the natural wildlife habitat, and
 - (vi) water resources, including groundwater, for use in the public interest, preventing the pollution of water supply catchments and water storage, and
 - (vii) areas of significance for nature conservation, including areas with rare plants, wetlands and significant habitats, and
 - (viii) items of archaeological or heritage significance, including Aboriginal relics and places, and
- (b) preventing the unjustified development of prime crop and pasture land for purposes other than agriculture, and
- (c) facilitating farm adjustments, and
- (d) minimising the cost to the community of:
 - (i) fragmented and isolated development of rural land, and
 - (ii) providing, extending and maintaining public amenities and services, and
- (e) providing land for rural small holdings development and for other non-agricultural uses in accordance with demand for that development and in a manner which has the least adverse impact on prime crop and pasture land, and
- (f) controlling and locating dwelling-house development to provide buffers from adjoining agricultural land in order to provide adequate environmental safeguards to the inhabitants and not prejudice future agricultural activity in the near vicinity.

It is considered that the proposed development complies with the objectives of the zone.

2 Without Development Consent

Development for the purpose of:
agriculture (other than building work and intensive livestock keeping establishments); forestry.

3 Only with Development Consent

Development not included in item 2 or 4.

4 Prohibited

Development for the purpose of:
bulk stores; commercial premises; motor showrooms; residential flat buildings; sales rooms or showrooms; shops (other than general stores).

The proposal is considered to be consistent with the aims and objectives of the 1(a) zone and complies with the provisions of Clause 9 of councils current LEP

Regional Environmental Plan

Nil.

State Environmental Planning Policy

SEPP 44 – No proposed impacts are perceived as no additional construction work is proposed as part of this application

Any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority

If applicable, is the development consistent with the objectives of the draft instrument?

Nil.

Any Development Control Plan

Is the proposal consistent with the DCP? If not, is a variance warranted and has it been justified?

Councils Development Control Plan 2001 exists within the zone. As such any development needs to be undertaken in accordance with the relevant provisions of the DCP.

Any planning agreement that has been entered into under Section 93F, or any draft planning agreement that a developer has offered to enter into under Section 93F?

Nil.

Any matters prescribed by the regulations that apply to the land

Refer to clause 92, 93, & 94 of the Regulation. If a DA for demolition, the provisions of AS 2601-1991; The Demolition of Structures. Fire Safety considerations – DA that does not seek the rebuilding, alteration, enlargement or extension of the building. Consent Authority may require buildings to be upgraded – DA comprising the rebuilding, alteration enlargement or extension, take into consideration whether it is appropriate to require the building to be brought into conformity with the BCA.

Nil.

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The relevant matters are up to assessment and merit. **As a guide only**, the following may be considered if they are considered to be of relevance to the proposal. Amenity, streetscape, scenic quality, bulk, scale character, density, design, adjacent land use compatibility, solar access, noise, access & traffic, utility services, heritage, water, soils, air, flora & fauna, wastes, safety, security, crime prevention, natural hazards, social, economic & cumulative impacts.

Dust and Noise – Given the current location of an existing residence to the road reserve there is a perceived impact of noise and dust to the current landowner. In correspondence from the applicant it is envisaged that the proposed works will be undertaken within the existing crown road reserve however as far away from the existing house as can be expected within the current reserve. Should it be considered that dust and noise could be an impact mitigation measures could be undertaken to limit such. This may include the planting of landscaping within the road reserve between the residence and the proposed road, or sealing of the road to eliminate the dust/noise concern.

Potential for additional development – perceived impacts could arise for potential future development within the developers land. Council in its consideration of this matter can only assess the application based on potential developments in the future. At this time no applications exist for any of the land that the proposed road extends to and the applicant in his correspondence has indicated that the maximum allotments servicing this extension is in the realm of 7. However this would be based on potential maximum yields and not based upon any approvals existing for approved development.

Given the nature of the application it is considered that any impacts associated with the application can be rectified through conditions of consent that would be attached to any consent documentation should approval be recommended.

The Suitability of the site for the development

Does the proposal suit the site? Bulk/Scale/Sensitivity? Are there any natural or man made hazards?

The site is considered to be suitable for the development. The development is permissible in the zone and is consistent with the aims and objectives of the General Rural 1(a) zone. As such the applicant is considered to be suitable for the site.

Any submissions made in accordance with this Act or the Regulations

If relevant, consider public and authority submissions. Do submissions relate to valid Planning issues?

Public

The application was notified to the adjoining neighbours for a period of 14 days with notification closing on 23 August 2011. Through the submission period Council received 3 submissions objecting to the proposal. A summary of the objections listed the following concerns:

Response to Submissions

As part of the assessment process Council notified the development to the adjoining landowners for comment, with closing date for submissions being 12 August 2011. As part of that notification period, Council received 3 submissions all concerned over the proposed development. As such below is a summary of the concerns raised for your comment. They include:

- Potential traffic increase along Todds Road will have a negative effect in terms of dust, noise and amenity.
- The application gives little detail as to the purpose or need for the road upgrades
- The proposed route, in its current form will have undue dust, noise, amenity impacts on residents within 20m of the current road reserve. Should it remain in its current position there may be a need to seal the section in front of adjoining landowners current residence. Further investigation should be given to an alternate route away from existing development.
- There should be further consideration given to use the other accessway to minimise impacts on existing development.
- The proposal will have negative impacts on property values in the locality
- Works were undertaken prior to approval being sought.

As a result of the objections and the need for further information Council sought additional information from the applicant pertaining to the development including seeking advice relating to the concerned objections.

On 3 February 2012 Council received further information from the applicant relating to the further information letter sent by Council which included additional and revised engineering plans detailing the movement of the proposed road to the extremities of the crown road reserve away from the affected resident dwelling.

From the additional information supplied Council re-notified the affected landowners with the closing date for submissions being 1 March 2012.

As a result of the additional notification Council received 2 submissions objecting to the proposal and one concerned about issues relating to the proximity of the road to the existing dwelling.

Ongoing concerns were raised within the submissions relating to the following:

- Given the current proposal the need for the road to be located as far away from the existing dwelling in paramount.

- The extension must be bitumen sealed around the nearest residence (Stocks) to minimise dust impacts.
- Speed humps need to be installed to minimise safety concerns.
- The road reserve should be fenced out as grids are not effective against horses, and acceptance or responsibility of maintaining grids is not given.
- Any upgrade to current accesses for affected landowners will need to be completed at no cost to the affected landowners. All costs will be incumbent upon the applicant.
- The applicant needs to disclose the intent of future developments for the area, as under the current application no confidence can be given that it is simply an extension of an existing rural road.
- Confidence can not be given to the current applicant given the blatant disrespect for Council requirements.
- The real increase in potential traffic movements is dramatic for existing users of Todds Road and the application fails to be realistic with the information provided.
- The extension does not align with Councils own strategic planning document.
- There is unacceptable impacts in terms of environmental and biodiversity degradation relative to sensitive land resources, sensitive water resources and sensitive biodiversity contrary to Council policy and objectives.

Council Engineers

Given the nature of the application Councils Engineering division has assessed the application and has indicated that subject to the following conditions it is prepared to take over the proposed extension. They include:

- All earthworks shall be compacted to 95% standard compaction and test frequency shall be 1 per 2000sq metres (min 6 tests)
- Gravel base shall be a minimum thickness of 150mm and shall be compacted to 100% standard compaction and test frequency shall be 1 per 2000sq metres (min 6 tests)
- The quality of gravel used is subject to Council approval and is expected to generally have a minimum CBR of 30 and Plasticity Index (PI) of less than 8
- All culvert crossings shall consist of reinforced concrete pipes/box culverts and RC headwalls with a minimum internal diameter of 375mm and class of pipe to be determined by the thickness of cover over the pipes
- The main water course crossed by the road requires a hydrological analysis by a qualified Civil/Drainage Engineer to determine pipe size or cells required. Minimum recurrence interval is 50 years.
- Drainage is to be designed such that it follows the natural drainage paths without adversely affecting the adjacent properties
- Survey is required to confirm the entire road, including all earthworks and drainage is located within the road reserve.
- All grids shall be installed to the current Council grid standards and the owners of adjoining properties must accept responsibility for the maintenance of the respective grids.

- The construction standard of the road must be undertaken as per the requirements of 'Rural 2' Secondary Gravel Road standard in accordance with Councils current DCP.
- All costs associated with the transfer of the road to Council ownership are to be borne by the applicant, including all legals, surveying and engineering works.
- Council will not be accepting of any bridge crossing or works associated with the current application. At no time will Council take responsibility or ownership of the proposed bridge access crossing.
- Appropriate engineering and civil plans will be required to be submitted to Councils Director of Engineering for approval prior to the commencement of any works justifying the requirements of the above conditions.

Councils Engineering department commented on the potential for the proposed bridge to be designed to a structural capacity in excess of a 1 in 50 and hydraulic design of 1 in 20 however due to the bridge being proposed to be part of a private access (ROW) on the applicants land it is considered that these requirements will not be conditional as Council does not and will not take over ownership of the bridge.

NSW Office of Water

Given the nature and location of the proposed road extension the applicant was required to seek approval for the works with the NSW Office of Water (NOW) under the Water Management Act 2000. Given the nature of the proposal a Controlled Activity Approval (CAA) was required to be issued by NOW.

On 3 February 2012 Council were notified that a CAA for the works had been approved by NOW and as such should Council contemplate approval the conditions of consent required by NOW will be required to be implement into the approval. (Attachment 1)

The public interest

Have any genuine Planning issues been raised in by the wider public? Is there genuine irrefutable concerns relating to public health & safety?

Other than was has been previously discussed above it is considered that no additional public interest is perceived.

DISCUSSION AND CONCLUSIONS

The application is permissible in the zone and is consistent with the aims and objectives of that zone. Any perceived impacts can be minimised by onsite techniques in place or through conditions of consent. As such it is considered that the application can be supported in this instance.

ATTACHMENTS

1. Approved Controlled Activity Approval NSW Office of Water.

RECOMMENDATION

THAT the information is received and Council approve the application subject to the following conditions:

Administrative Conditions

1. The development is to be carried out in accordance with the approved stamped plans prepared by Morris Lyda Organisation Pty Ltd, dated 2 August 2011, and additional information supplied by Calare Civil dated January 2012 except as otherwise provided by the conditions of this determination

(Note:- modifications to the approved plans will require the lodgment and consideration by Council of a modification pursuant to Section 96 of the Environmental Planning and Assessment Act).

Reason:- to confirm and clarify the terms of Council's approval.

Engineering Conditions

2. All earthworks shall be compacted to 95% standard compaction and test frequency shall be 1 per 2000sq metres (min 6 tests)

Reason – To comply with relevant statutory requirements

3. Gravel base shall be a minimum thickness of 150mm and shall be compacted to 100% standard compaction and test frequency shall be 1 per 2000sq metres (min 6 tests)

Reason – To comply with relevant statutory requirements

4. The quality of gravel used is subject to Council approval and is expected to generally have a minimum CBR of 30 and Plasticity Index (PI) of less than 8

Reason – To comply with relevant statutory requirements

5. All culvert crossings shall consist of reinforced concrete pipes/box culverts and RC headwalls with a minimum internal diameter of 375mm and class of pipe to be determined by the thickness of cover over the pipes

Reason – To comply with relevant statutory requirements

6. The main water course crossed by the road requires a hydrological analysis by a qualified Civil/Drainage Engineer to determine pipe size or cells required. Minimum recurrence interval is 50 years.

Reason – To comply with relevant statutory requirements

7. Drainage is to be designed such that it follows the natural drainage paths without adversely affecting the adjacent properties

8. Survey is required to confirm the entire road, including all earthworks and drainage is located within the road reserve.

Reason – To comply with relevant statutory requirements

9. All grids shall be installed to the current Council grid standards and the owners of adjoining properties must accept responsibility for the maintenance of the respective grids. Should adjoining landowners not be accepting of the requirements of Councils policy alternative arrangements will be required to be undertaken to meet fencing requirements. Evidence will be required to be approved by Council prior to the issue of a final occupation certificate and sign off on the take over arrangements.

Reason – To comply with Council policy requirements

10. The construction standard of the road must be undertaken as per the requirements of 'Rural 2' Secondary Gravel Road standard in accordance with Councils current DCP.

Reason – To comply with Councils Development Control Plan

11. All costs associated with the transfer of the road to Council ownership are to be borne by the applicant, including all legals, surveying and engineering works.

Reason – To comply with relevant statutory requirements

12. Council will not be accepting of any bridge crossing or works associated with the current application. At no time will Council take responsibility or ownership of the proposed bridge access crossing.

Reason – To minimise unacceptable impacts on Council infrastructure requirements

13. Appropriate engineering and civil plans will be required to be submitted to Councils Director of Engineering for approval prior to the commencement of any works justifying the requirements of the above conditions, where applicable.

Reason – To comply with relevant statutory requirements

NSW Office of Water

14. All conditions associated with the approved Controlled Activity Approval dated 3 February 2012 are to be undertaken with evidence provided to Council upon completion of the project that all conditions relating to the CAA have been met and accepted by the NSW Office of Water.

Landscaping

15. A landscaping plan is to be submitted to Council indicating how landscaping can be implemented within Councils road reserve minimising the impact of

dust and noise on the adjoining dwelling located within close proximity to the road.

Report prepared by:..... Supervisor:.....

Dated:..... Dated:.....

REASONS FOR CONDITIONS

- To protect the environment.
- To ensure construction and operation of development is undertaken with minimal impact to the locality.
- To prevent, minimise, and/or offset adverse environmental impacts.
- To provide for the on-going environmental management of the development.
- To ensure orderly development to the site.
- To facilitate the manoeuvring of vehicles.
- To ensure lots are adequately serviced.
- To maintain the amenity of the local area.
- To ensure there is no unacceptable impact on the water quality.
- To ensure compliance with the Development Control Plan.
- To ensure compliance with the requirements of the Rural Fire Services.
- To ensure appropriate management of traffic.
- To ensure adequate soil conservation and protect against movement of soil and sediments.
- To ensure provisions are in place for public transportation.
- To ensure adequate provision of community and recreation facilities.