

10.5 Munghorn Gap National Park Land Revocation and Land Purchase for Minister's Acquisition of Compensatory Land

REPORT BY THE SENIOR WORKS ENGINEER
TO 21 APRIL 2021 ORDINARY MEETING
GOV400088, ROA100366

RECOMMENDATION

That Council:

1. receive the report by the Senior Works Engineer on the Wollar Rd, Munghorn Gap National Park Land Revocation and acquisition of suitable compensatory land to effect the Minister's approval.
2. agree for Council, to procure the preparation, lodgement and registration of an appropriate Subdivision Plan giving effect of transfer to Council, for the purpose of public road, the 0.42ha's of land to be revoked under *National Parks and Wildlife Legislation Amendment (Reservations) Bill 2020*.
3. resolve to acquire from the private land owner under the *Land Acquisition (Just Terms Compensation) Act 1991*, on behalf of the Minister and for the sum of \$11,000, 0.82ha of Lot 25 DP 755447 ('the Land') to be transferred to National Park (subject to the Ministers satisfaction of the Land being suitable compensation for revocation).
4. agree for Council, to procure the preparation, lodgement and registration of an appropriate Subdivision Plan giving effect to the transfer of the Land to National Park and fence the Land.
5. authorise the General Manager to complete and execute all documentation, where necessary, in relation to effect the subdivision and land acquisition and transfer;
6. authorise the Mayor to execute all documentation, where additionally required to do so, in relation to effect the subdivision and land acquisition and transfer; and
7. authorise the Common Seal of Council be affixed to all documentation, where necessary, in relation to effect the subdivision and land purchase or agreed works in kind to the equivalent value, for the purpose of the public road.

Executive summary

MR208 (Wollar Rd) Segments 1285 and 1280, in the location of the Munghorn Gap National Park, requires the revocation of 0.418 ha of land reserved under the National Parks & Wildlife Act 1974 for realignment and safety upgrade of the existing road. In compensation for the revocation of National Park land it is proposed:

- The acquisition of 0.82ha of Lot 25 DP755447 ('the Land') to be progressed under the *Land Acquisition (Just Terms Compensation) Act 1991*. The compensation cost for the acquisition is to be paid to the landowner by Council and the title transferred to National Park.

- A deed of Agreement is to be prepared to provide for the Landowner to enter into a S30 Agreement with the Minister
- The transfer of the Land is to be carried out by way of a plan of subdivision ('Subdivision Plan'), the registration of which will cause the Land to be dedicated as National Park land, and become part of Munghorn Gap National Park.
- Council agrees to pay, and the Landowner agrees to accept, the sum of \$11,000.00 ex GST ('Compensation Cost').

It is recommended that Council proceed with the subdivision and acquisition of the Land and authorise the General Manager to perform all duties necessary to finalise the land transfer.

Disclosure of Interest

Nil

Detailed report

Wollar Road is a 2-lane undivided sealed Regional road located within Mid-Western Regional Council's ('Council') Local Government Area. Between the localities of Cooyal and Cumbo, Wollar Road passes through the Munghorn Gap National Park.

Due to increasing traffic volumes arising from tourism, mining and agriculture numerous traffic incidents, including fatalities, have occurred on this road negatively impacting the local community. Council has secured funding under NSW State Govt *Restart* and *Saving Lives on Country Roads* funding programs to upgrade and provide safety improvements on a 10km section of Wollar Road through Munghorn Gap over a period of three financial years.

Within MR 208 Wollar Road Segments 1285 and 1280 there exists a 800m length of road comprising high risk corners. This section of road is the subject of proposed realignment and safety improvements under the *Saving Lives on Country Roads* fund program. Funding is immediately available to effect the construction works.

The proposed road realignment will require adjustment to the boundaries. It is expected 4,180m² of National Park land will be affected and requires revocation under the *National Parks and Wildlife Act 1994*. Only NSW Parliament may decide if the land may be revoked and ultimately the Minister for Energy and Environment ('the Minister') can approve.

On 18 November 2020 the NSW Parliament passed the *National Parks and Wildlife Legislation Amendment (Reservations) Bill 2020*. The Bill revokes 0.418 ha from Munghorn Gap Nature Reserve for the upgrading of Wollar Road, as well as land from nine other reserves managed by National Parks and Wildlife Services. The Bill states that the revoked land is now vested in the Minister and to enable the land to be transferred Council must:

- a) Complete the necessary subdivision and land title registration tasks; and
- b) Provide suitable compensation for the revoked land.

Council staff have identified, and National Parks and Wildlife Services have agreed, that the acquisition of 0.82ha of Lot 25 DP 755447 and transfer of title to National Park will be suitable to propose to the Minister as compensation for approval of the revocation and transfer of title to Council.

Market value has been assessed by a professional Valuer at \$11,000. Staff have made contact with the Landowner to discuss terms that would satisfy both parties for acquisition, that is:

1. The transfer of the land is to be carried out by way of Subdivision Plan, the registration of which will cause the land to be dedicated to National Park.
2. The Minister requires a S30 Agreement be entered into by the Landowner to effect the acquisition
3. In consideration of the acquisition, Council agrees to pay the Landowner the sum of \$11,000.
4. Council agree to bear the costs to prepare the necessary Agreements and procure the preparation, lodgement and registration of an appropriate Subdivision Plan.
5. The acquisition and the payment of the sum is subject to the Ministers satisfaction and approval.

Community Plan implications

Theme	Connecting Our Region
Goal	High quality road network that is safe and efficient
Strategy	Provide traffic management solutions that promote safer local roads and minimise traffic congestion

Strategic implications

Council Strategies

Not Applicable

Council Policies

Land Acquisition and Disposal Policy – extract as follows:-

If Council identifies land or interests in land that is required to facilitate functions of Council, but the land is not available for public sale, Council may approach the landowner and negotiate the purchase of the required land or interest in land. In this case, the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 apply irrespective of whether the acquisition is by agreement or by compulsory process. This Act requires Council to pay a fair compensation for the land or interest in land that is being acquired.

Legislation

Not Applicable

Financial implications

No financial implication to Council as the project is 100% NSW State Government *Saving Lives on Country Roads* program funded.

Budget Year	Operating Performance Ratio	Own Source Revenue	Building & Infrastructure Renewal
2021/22	-	-	-
Future Years	-	-	-

Associated Risks

This matter is considered medium risk of Native Title claim. The acquisition will not proceed if the existence of any Native Title claim cannot be cleared and alternative solution to safety upgrade of Wollar Road will be effected.

RAY KEARNS
SENIOR WORKS ENGINEER

GARRY HEMSWORTH
DIRECTOR OPERATIONS

26 March 2021

Attachments: Nil

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER