

Attachment 2

Action Status on Procedure for the Closure of Part Castlereagh Avenue, Binnaway

In terms of the procedure, below is a summary of the action taken to date and further action now required 8-16 to complete the process.

1. Confirm road status: Is it a Council Road?
Yes. In a Gazette dated 22 June 2018 Council dedicates the land as a public road under s16 *Roads Act* 1933.
2. Is closure suitable as per s38A?
S38A provides that a council may propose the closure of a council public road for which it is the roads authority if:
 - (a) The road is not reasonably required as a road for public use (whether for present or future needs), and
 - (b) The road is not required to provide the continuity for an existing road network, and
 - (c) If the road provides means of vehicular access to particular land, another public road provides lawful and reasonably practicable vehicular access to that land.Hence, the closure is suitable.
3. Confirm vesting: does council intend to keep the road vested in council upon closure?
Yes, the closed part will remain in use as a recreational area and for the campground (it was previously a public reserve area).
4. Road will remain vested in council upon closure.
5. Council meeting: Does council want to initiate closure process based on information?
Yes – undertaken.
6. Complete notification requirements.
Council must re-notify authorities listed in s32B *Roads Act* 1933 and s81 *Roads Regulation* 2018.

S81(1) provides the following are notifiable authorities:
 - (a) A major utility or water supply authority
 - (b) Forestry Corporation
 - (c) Local Land Services
 - (d) The Office of Environment and Heritage
S81(2) the owner/ occupier of land whose land will suffer a material loss of access because of the council public road closure concerned is prescribed in s38B(1)(b)(iii) of the Roads Act. (COMPLETED)

S32B – A council that is proposing to close a council public road must cause notice of the proposal. (COMPLETED)
 - (a) To be published in a local newspaper, and
 - (b) To be given to
 - i. All owners of land adjoining the road, and
 - ii. All notifiable authorities, and
 - iii. Any other person prescribed the regulations. (COMPLETED)

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As per previous correspondence there were two private objections that have been resolved and withdrawn.

7. Notifiable authority objection?
No.
8. Council will now consider all submissions and make decision on proposal.
S38D(1): provides that after considering any submissions that have been duly made with respect to the proposal, the council may, by notice publish in the Gazette, close the public road concerned.
9. Council advises relevant parties of decision.
This will involve advising the previous notifiable authorities that the road will be closed.
10. Instruct surveyor to prepare and finalise a formal survey and deposited plan. (Survey and Plan of the proposed road to be closed previously prepared on 21 April 2020).
11. Lodge the Deposited Plan and Survey NSW Land Registry Services (notification of the closing of the road will appear in the Government Gazette following registration of the plan.)
12. Publish notice in the Gazette.
13. Wait for 60-day Land and Environment Court appeal period to expire prior to proceeding.
14. The land will vest in the Council upon closure effected by registration.
15. This will then create title for the closed road.
16. Council will receive the title for former council public road.