

9.3 - Notice of Motion – Lot 123 and 124 Gordon Road Access, Serpentine (SJ1271)

Elected Member	President Coales
Disclosure of Officers Interest:	No Officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Notice of Motion

A Notice of Motion was received from President Coales via email on Thursday, 8 February 2024.

The Notice of Motion is

“That Council:

1. SUPPORTS funding of the design and construction of 80m of Gordon Road, to a 4m wide sealed road to Lots 123 and 124 within the existing road reserve, at an estimated cost of \$150,000 and APPROVES the following budget variation:

Account Number	Type	Account Description	Debit \$	Credit \$
6400-NEW-6600-0000	Increase Expense	Gordon Road -Capital Expenditure	150,000	
6400-NEW-5033-0000	Increase Trf From Reserve	Gordon Road – Transfer From Reserve – Road and Bridge Asset Management Reserve		150,000
Reason: Construction of 80m long section Gordon Road to be funded from Road and Bridge Asset Management Reserve				

2. NOTES that the newly built 80m long section of Gordon Road will become an asset for the Shire to manage and maintain.

Relevant Previous Decisions of Council

Ordinary Council Meeting – 21 August 2023 – OCM209/08/23 - COUNCIL RESOLUTION

That Council:

1. *ACKNOWLEDGES this is a challenging situation to resolve;*
2. *ACKNOWLEDGES the responses received from the two property owners affected, Lot 123 and Lot 124 Gordon Road in regards to the 4 options presented;*
3. *NOTES the legal advice received, that the Shire is under no responsibility to construct a road right up to the boundaries of Lot 123 and 124 as contained within CONFIDENTIAL attachment 1;*

Contact Us

Enquiries

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4. *REQUESTS that the CEO write to the affected properties advising that Council's adopted position is that it will only AGREE to design and construct the unconstructed 80m section of Gordon Road to a 4m wide sealed road, subject to the written agreement of the owners of Lot 123 and 124 Gordon Road that the:*
 - i. *Two owners pay the cost upfront to the Shire, split evenly between the two owners, or*
 - ii. *Two owners consent to signing a Deed of Agreement which will be supported by a "subject to" Caveat on their property title for payment of 50% of the total costs of the road construction to the Shire upon the sale or transfer of ownership of each lot;*
 - iii. *Whichever alternative is consented by the two owners, costs to be met by the owners upfront.*
5. *AUTHORISES the Chief Executive Officer to execute a formal deed of agreement, in agreement with the owner of Lot 123 and 124 Gordon Road, acknowledging the landowners' obligation to reimburse to the Shire for the total costs, by including a charging clause under which the landowners charge their land with the debt owed, and lodge caveat's on each title in accordance with the Deed of Agreement;*
6. *In the event that construction is not funded upfront by the owners, and option 4.ii (being the subject to caveat option) is agreed to by the owners of Lots 123 and 124 APPROVES the following budget variation:*

Account Number	Type	Account Description	Debit \$	Credit \$
6400-NEW-6600-0000	Increase Expense	Gordon Road -Capital Expenditure	150,000	
6400-NEW-4907-0000	Increase Revenue	Gordon Road – Capital Contributions – Other		150,000
Reason: Construction of something at Gordon Road to be funded from Contributions by the respective Landowners				

Officer Comment

The report on this matter was presented to Council at the Ordinary Council Meeting of 21 August 2023.

Since this time officers wrote (by email) to the landowners involved to communicate Council's decision as contained within **Attachment 1**.

A response to this correspondence was received from one of the landowners and is attached for Elected Members reference at **Attachment 2**.

The response received raises no additional information that warrants a change in the position of Officers.

Therefore an alternative Officer recommendation is provided for Council consideration.



Elected Member Recommendation

Voting Requirements: Absolute Majority (s6.8(1) of the *Local Government Act 1995*)

That Council:

1. **SUPPORTS** funding of the design and construction of 80m of Gordon Road, to a 4m wide sealed road to Lots 123 and 124 within the existing road reserve, at an estimated cost of \$150,000 and **APPROVES** the following budget variation:

Account Number	Type	Account Description	Debit \$	Credit \$
6400-NEW-6600-0000	Increase Expense	Gordon Road -Capital Expenditure	150,000	
6400-NEW-5033-0000	Increase Trf From Reserve	Gordon Road – Transfer From Reserve – Road and Bridge Asset Management Reserve		150,000
Reason: Construction of 80m long section Gordon Road to be funded from Road and Bridge Asset Management Reserve				

2. **NOTES** that the newly built 80m long section of Gordon Road will become an asset for the Shire to manage and maintain.

Alternative Officer Recommendation

That Council **NOTES** the correspondence received at Attachment 2 and **RESOLVES** to take no further action.