

ITEM GM - 02/03/15 - CLARENCE ACCESS - ZIG ZAG RAILWAY – SUPPLEMENTARY REPORT

REPORT BY: R BAILEY - GENERAL MANAGER

REFERENCE

Min No 15-29: Ordinary Meeting of Council held on 9 February 2015

SUMMARY

The report provides further advice in relation to the Clarence Access and Zig Zag Railway and is in addition to the report identified as Item 4 in the Council Business Paper.

COMMENTARY

At the Ordinary Meeting of Council held on 9 February 2015 Council resolved the following:

15-29 RESOLVED

THAT Council:

1. Dedicate Lot 1 DP 917875 as a Council Road.
2. Request Zig Zag Rail remove all infrastructure from Lot 1 DP 917875.
3. Enter into discussions with Zig Zag Rail for a land swap to accommodate both Road and Rail in this area.
4. Have discussions with Crown Lands Department to achieve access over Crown Land in this area.

Since that time discussions have been held with Zig Zag Railway Co-op Pty Limited (ZZR).

As a result of those discussions a Deed of Licence between Council and ZZR whereby ZZR grants Council for six (6) months full control of the existing access track at Clarence has been agreed. The Deed provides for the access track traversing Lot 1000 DP843871, Lot 134 DP751650, Lot 1 DP826250 and any other adjacent land owned by ZZR affected by that access track, for use by the general public and landowners and land users presently using the access track. This Deed is subject to:

- Council providing full indemnity in favour of ZZR, its directors and Officers against any liability or risk arising from any use of that access way by any party while it is under control of Council;
- On condition that the access will be closed if Council relinquishes control of any part of the access way;
- Council to pay ZZR's reasonable legal costs in relation to the negotiation and execution of the Licence.
- The preservation throughout the term of the licence of the current usage which ZZR has over the ZZR lands affected by the Licence.
- Council not requiring ZZR to remove any rail infrastructure or other items of ZZR from Council owned land at Clarence during the term of the licence; and

- That Council agrees to negotiate in good faith during the term of the licence in relation to the issues of fencing, culvert, level crossing, Interface Agreement and road dedication.

POLICY IMPLICATIONS

NIL at this stage

FINANCIAL IMPLICATIONS

Legal costs in the drawing up of the agreement along with the legal costs of Zig Zag Railway to a maximum of \$4,000.

LEGAL IMPLICATIONS

A Deed of Licence has been entered into for a period of six (6) months with Zig ag Railway.

The access track via Zig Zag Railway may be used by the general public for a period of six months whilst negotiations on the track continue.

ATTACHMENT

1. Map of Clarence.

RECOMMENDATION

THAT Council endorse the action taken in the signing of the Deed of Licence with Zig Zag Railway Co-op Pty Limited.