

ATTACHMENTS

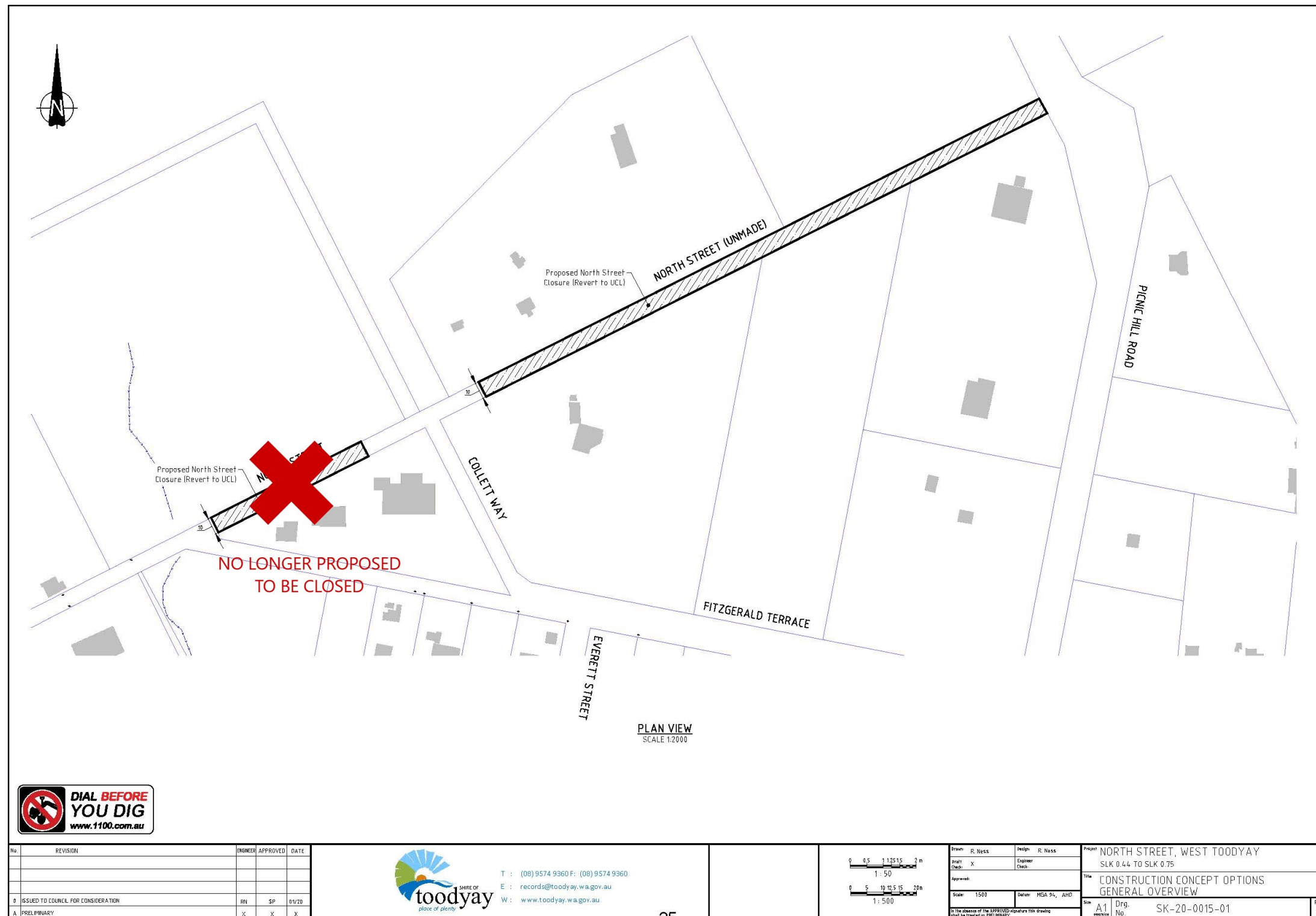
Ordinary Council Meeting

Wednesday, 27 September 2023

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9.3.3 North Street Closure

Cr R Madacsi declared a Proximity h pursuant to Section 5.60B of the Local Government Act 1995 in regard to Agenda Item 9.3.3. North Street Closure as North Street is part of a thoroughfare that has a common boundary with her property.

Date of Report:	11 April 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	00NORT
Author:	S Haslehurst – Chief Executive Officer
Responsible Officer:	S Haslehurst – Chief Executive Officer
Previously Before Council:	Various 1999 – 2012 OCM 25 February 2020 Item 9.3.1 OCM 26 May 2020 Item 9.1.1 OCM 23 June 2020 Item 10.1 OCM 28 July 2020 Item 9.3.5 OCM 24 August 2022 Item 9.5.1
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. List of North St Resolutions and Actions ⇒ 2. McLeods Legal Advice North St April 2023 (confidential) <i>Section 5.23(2)</i> <i>(d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting (under separate cover)</i> 3. Map - North St portions proposed to be closed ⇒
Tabled Attachments:	4 Tabled Map from Manager Development and Regulation prior to the Council Meeting.

PURPOSE OF THE REPORT

To provide for Council’s consideration advice and options regarding the construction of North Street between Fitzgerald Terrace and Collett Way, West Toodyay.

BACKGROUND

The closure and/or construction of North Street between Fitzgerald Terrace and Collett Way in West Toodyay has vexed Council, officers and ratepayers for over twenty years.

Attachment 1 provides a timeline of all Council resolutions relating to this matter. The following table provides an outline of the most recent resolutions and actions.

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February 2020	CEO was requested to undertake a formal community consultation process regarding the construction of the temporarily closed section of North Street for a period of not less than 35 days.
May 2020	Following the public consultation period, 26 submissions were considered. Council received a petition containing 17 signatures in relation to the North Street Closure east of Fitzgerald Terrace. Motion to include construction of North Street in the 2020/21 annual budget was lost for want of an absolute majority.
June 2020	A motion to remove the temporary “closed to the passage of vehicles” status of the 112m long portion of North Street between Fitzgerald Terrace and Collett Way was passed.
July 2020	Council noted that Resolution 191/06/12 remains current unless revoked by Council in accordance with Section 3.50(6) of the <i>Local Government Act 1995</i> (the Act) therefore the June 2020 motion not valid. CEO was requested to prepare a report regarding the Shire’s strategic fire access and egress to assist Council to make a decision. Due to capacity issues, the Bush Fire Preparedness and Resilience Strategies report was not completed until May 2022.
August 2022	Shire of Toodyay Bush Fire Preparedness and Resilience Strategies Report was received by Council, and priorities identified, including: <i>Report Recommendation 18</i> – The Shire should construct Alignment 10.1 linking North Street and Collett Way as a road, with the alternative option of constructing Alignment 10.2 linking Fitzgerald Terrace as a road.
November 2022	Council was provided with a history of the North Street Closure and the matter was discussed at a Council workshop attended by six elected members. CEO agreed to seek advice regarding the legal implications of the various resolutions of Council since 2001 and the potential risk of opening North Street to vehicular traffic.

Due to lack of capacity and matters competing for attention in the interim, officers were unable to return to this issue until early April 2023. At the Ordinary Council Meeting of 22 March 2023, it was resolved:

That Council requests the CEO to bring a report to the April 2023 Ordinary Council Meeting regarding legal advice obtained on the opening of North Street to vehicular traffic.

This report addresses the above resolution.

COMMENTS AND DETAILS

At the workshop held in November 2022 attended by six elected members, robust discussion occurred with the points raised outlined and discussed below:

1. *Doubt regarding the legality of the 2011 revocation of the 2001 motion to close North Street.*

Legal advice (Confidential Attachment 2) is that as it is not known for certain that the May 2011 resolution did not comply with Regulation 10 of the *Local Government (Administration) Regulations 1996* (Administration Regulations), then the resolution would, in accordance with the ‘presumption of regularity’ (refer Attachment 2), be deemed to have validly revoked the earlier 2001 resolution.

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26 APRIL 2023

Officers could spend more time searching Shire records to refute the abovementioned presumption of regularity. However, given that North Street for all intents and purposes, remains closed until constructed as a road, this is considered an imprudent use of resources and will not be pursued.

2. Potential to sell the closed portion of North Street to the owners of Lot 2 Fitzgerald Terrace (Mr and Mrs Street) if the road was permanently closed.

The State Government is the owner of all land in roads. As part of the closure process the Local Government informs the Minister of the proposed future disposition of the land in the closed road to adjoining land holders. Section 87 of the *Land Administration Act 1997* (LAA) provides the means for disposal of the land in a closed road by lodgement of a Conveyance and Amalgamation Order that allows for amalgamation of land into an adjoining land holder's land.

Should Council determine to close North Street, any amalgamation of land will be a matter between the State Government and the adjacent land holder(s).

3. Access to Lot 69 North Street in the event of a subdivision of the property.

Any decision to close North Street should not be affected by this consideration. It is the responsibility of the developer to provide appropriate access to proposed lots and would form part of the subdivision plans required to be submitted for approval should a subdivision be contemplated. The proposed closure (refer Attachment 3) provides for a small portion of North Street to remain open to allow access. Council could also consider construction of a cul-de-sac at the end of Collett Way to maintain access to the south-eastern corner of Lot 69.

4. Reasonable reliance on a decision of Council to permanently close North Street when building residence at Lot 2 Fitzgerald Terrace.

While the risk of successful legal action against the Shire is considered low in relation to the above, it could reasonably be argued that the construction of the portion of North Street west of Collett Way will adversely affect the amenity and enjoyment of the residence at Lot 2 Fitzgerald Terrace.

5. The cost comparison between constructing North Street as a road and upgrading Fitzgerald Terrace.

In November 2022, officers estimated the cost to construct North Street at \$105,000 (excl. GST) and Fitzgerald Terrace at \$130,000 (excl. GST). Both estimates included design, vegetation clearing, drainage, binding and formation works. However, these estimates did not include provision for the following additional costs.

North Street west of Collett Way (approx. 210m)

- Removal of hard structures such as temporary barriers, foundations, fencing, sea containers etc
- Road seal, street lighting, rock breaking, crash barriers, retaining structures, signage.

Fitzgerald Terrace (approx. 250m)

- Potential need to relocate power poles due to proximity to road edge
- Road width currently less than 3.5m – road widening will require retaining structures
- No space for stormwater drainage

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- Exposed rocks will need treatment (breaking), or significant fill will be required to re-sheet the road which could cause access issues with driveways being too steep to access Fitzgerald Terrace (design issue)
- Sharp bend needs realignment
- Road seal, street lighting, rock breaking, crash barriers, retaining structures, signage.

6. The current condition of Fitzgerald Terrace poses a liability risk to the Shire

Officers have since 'tidied up' the section of Fitzgerald Terrace to improve safety to those accessing Fitzgerald Terrace by undertaking maintenance grading of a portion of the dirt road.

IMPLICATIONS TO CONSIDER**Consultative:**

Over the years, this matter has been workshopped with a succession of Councillors, public submissions have been sought and received, and petitions submitted to Council. Legal advice was sought in 2011 and again in 2023.

In February 2020, Council requested that the matter be advertised for public consultation. In May 2020, Council considered the following:

- 18 submissions (69%) in favour of permanently closing North Street representing 20 people of which 8 also signed a petition.
- 7 submissions (27%) in favour of opening and constructing North Street, representing 9 people
- A petition containing 17 signatures in favour of permanently closing North Street, of which 9 were in addition to those who also made a submission.

If Council chooses to request permanent closure of North Street, a public notice must be issued seeking public submission for not less than 35 days in accordance with section 58(3) of the LAA.

Strategic:***Shire of Toodyay Strategic Community Plan 2028***

Social: Our community well-being and connection

O2: Facilitate community safety and well-being

Built environment: Our buildings, roads and transport

O1: Ensure safe and sustainable transport options

O2: Ensure our built environment meets community needs

Governance: The way the Shire leads and operates

O1: Provide accountable and transparent leadership for the community

Shire of Toodyay Bush Fire Preparedness and Resilience Strategies Report 2022

Recommendation 18 suggested the construction of route 10.1, the subject portion of North Street, as a fire access/egress solution. However, the upgrade of route 10.2, Fitzgerald Terrace, was proposed as an alternate recommendation with very similar strategic outcomes.

Policy related:

Nil

ORDINARY COUNCIL MEETING MINUTES**26 APRIL 2023****Financial:**

Regardless of Council's decision, there will be a financial impost on the Shire and its ratepayers. While the cost of upgrading Fitzgerald Terrace needs to be compared to the potential lesser cost of opening North Street, the Shire will remain responsible for maintaining both roads as it is unlikely that Fitzgerald Terrace can be closed and will remain a gazetted road. Council should also have regard for the outcomes of the community consultation that was undertaken.

Legal and Statutory:

A section of North Street, approximately 112m in length, is currently temporarily closed to traffic under the provisions of section 3.50(1)(a) of the *Local Government Act 1995* (the Act), pursuant to Council's 2012 motion. However, it remains a gazetted road until it is permanently closed by an order of the Minister for Planning Lands and Heritage.

Permanent road closures are regulated by section 58 of the *Land Administration Act 1997*.

Regulation 9 of the *Land Administration Regulations 1998* prescribes the actions to be taken to prepare and submit a request to the Minister.

Risk related:

There is a reputational risk should Council fail to resolve this issue once and for all following over 20 years of indecision. This risk is considered High (15).

Council should also consider the reputational risk of going against the outcomes of the community consultation which is also rated High (12).

There are also several risks to the Shire if Fitzgerald Terrace is not upgraded and maintained to a safe standard. These include health, financial, compliance and reputational risks with risk ratings ranging between Moderate (9) and High (12).

Workforce related:

Over the years, this matter has consumed an inordinate amount of Council and officer resources with no resolution to date. Should Council choose to construct North Street as a road for vehicular traffic, there is a possibility of legal action which will further impact officer resources. Regardless of Council's decision, officer time is likely to be impacted responding to ratepayer queries regarding this matter. However, this is likely to be insignificant when compared with the investment of officer resources to date.

OPTIONS

Officers propose the following options for Council's consideration:

Option 1

Council could determine to re-open North Street and construct it as a road. This would require revocation of the 2012 motion under section 3.50(6) of the Act and Regulation 10 of the Administration Regulations. Council would need to allocate funds for the road construction as well as the on-going maintenance of both North Street and Fitzgerald Terrace. This option is likely to attract negative responses from a majority of those members of the community who have an interest in this matter.

Option 2

Council could choose not to construct North Street as a road and make an application to the Minister for Planning Lands and Heritage to permanently close one or both sections of North Street in accordance with section 58 of the *Land Administration Act 1997* and Regulation 9

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of the *Land Administration Regulations 1998*. Council would need to consider an allocation of funds to upgrade Fitzgerald Terrace to enable safe emergency access and egress.

Option 3

Council could choose to confirm the 2012 resolution and maintain the temporary closure of North Street until the Shire constructs a road suitable for vehicular traffic. This option does not provide for a final determination of the matter and will likely result in further resources imposed and negative community response as outlined in the Risk Implications section above. Council would need to consider an allocation of funds to upgrade Fitzgerald Terrace to enable safe emergency access and egress in accordance with Recommendation 18 of the *Shire of Toodyay Bush Fire Preparedness and Resilience Strategies Report 2022*.

In consideration of the information outlined in this report, Officers are recommending Option 2 to finalise the matter once and for all. Officers can then develop a plan to implement Council's decision to meet legislative and resource requirements.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council:

1. Determines to advertise its intention to permanently close the following two portions of North Street, West Toodyay in accordance with section 58 of the *Land Administration Act 1997*:
 - (a) west of Collett Way to where it intersects with Fitzgerald Terrace; and
 - (b) east of Collett Way to Picnic Hill Road;as depicted in Attachment 3 to this report.
2. Requests the CEO to:
 - (a) give public notice of Council's intention to close the abovementioned portions of North Street, inviting public submissions for a period not less than 35 days; and
 - (b) bring a report back to the June 2023 Ordinary Council Meeting for Council to consider the submissions received.

Cr Ruthven assumed the Chair at 1.47pm.

Cr Madacsi departed Council Chambers at 1.47pm.

Cr Pearce proposed to move an alternate motion.

Cr McKeown objected, by way of a Point of Order, in accordance with Standing Order 8.2 (1) (b) of the Standing Orders, pertaining to Standing Orders 9.1(1); because Councillors were advised of the alternative recommendation at 9.15am via email and the *Local Government (Administration) Regulations 1996* require under regulation 14 that a notice of a paper and agenda relating to any council and committee meeting tabled for presentation be made available to members of council are to be made available to members of the public at the same time and they were not.

Clarification was sought.

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The Presiding Member rejected the Point of Order in accordance with Standing Order 8.5 as, even though it had been put to Councillors via email as a link on the Council Hub, the motion was not an Officer's Recommendation, but was an alternate motion from Cr Pearce. This is why the motion or alternate recommendation was not made available to the public at the same time. Councillors do have the option of moving an alternate motion at any time regardless of whether it has been made public.

Further clarification was sought.

Cr Pearce moved an alternate motion as follows:

That Council:

- 1. Determines to consider as part of the 2023/24 budget and/or future budgets, the construction of North Street, west from Collett Way to the junction of Fitzgerald Terrace, suitable for vehicular traffic to provide appropriate emergency access/egress.**
- 2. Determines to advertise its intention to permanently close the section of North Street, West Toodyay east of Collett Way to Picnic Hill Road as per Attachment 3 to this report in accordance with section 58 of the *Land Administration Act 1997*.**
- 3. Requests the CEO to:**
 - (a) give public notice of Council's intention to close the above-mentioned section of North Street, inviting public submissions from affected stakeholders in the West Toodyay area for a period of not less than 35 days;**
 - (b) bring a report back to the June 2023 Ordinary Council Meeting for Council to consider the submissions received; and**
 - (c) immediately advise the owners of Lot 2 Fitzgerald Terrace of Council's decision and direct them to remove physical obstructions and planted vegetation on the relevant portion of the North Street road reserve within 60 days of this decision.**

Clarification was sought.

Cr McCormick and Cr McKeown objected to the motion.

Cr Hart seconded the motion.

Debate commenced in regard to the motion.

Cr Pearce spoke to her motion.

Cr McCormick spoke against the motion.

Cr Ruthven spoke for the motion.

Cr McKeown spoke against the motion.

Cr Pearce provided her right of reply.

The motion was put.

ORDINARY COUNCIL MEETING MINUTES

26 APRIL 2023

AMENDMENT ALTERNATE MOTION/COUNCIL RESOLUTION NO. OCM084/04/23**MOVED** Cr S Pearce**SECONDED** Cr P Hart

That Council:


1. Determines to consider as part of the 2023/24 budget and/or future budgets, the construction of North Street, west from Collett Way to the junction of Fitzgerald Terrace, suitable for vehicular traffic to provide appropriate emergency access/egress.
2. Determines to advertise its intention to permanently close the section of North Street, West Toodyay east of Collett Way to Picnic Hill Road as per Attachment 3 to this report in accordance with section 58 of the *Land Administration Act 1997*.
3. Requests the CEO to:
 - (a) give public notice of Council's intention to close the above-mentioned section of North Street, inviting public submissions from affected stakeholders in the West Toodyay area for a period of not less than 35 days;
 - (b) bring a report back to the June 2023 Ordinary Council Meeting for Council to consider the submissions received; and
 - (c) immediately advise the owners of Lot 2 Fitzgerald Terrace of Council's decision and direct them to remove physical obstructions and planted vegetation on the relevant portion of the North Street road reserve within 60 days of this decision.

Voted For: Crs B Ruthven, C Duri, P Hart, S Pearce and D WrenchVoted Against: Crs S McCormick and M McKeown**MOTION CARRIED 5/2**

The Presiding Member advised that in accordance with regulation 11 of the Local Government (Administration) Regulations 1996, the reason for the decision of Council not to accept the Officer's Recommendation was due to the fact that a majority of Councillors felt that the safety issues in terms of access and egress concerns for the majority of affected residents in the West Toodyay area was more important than keeping the road closed; and if North St was closed it would be a dead end cul-de-sac area making it difficult for turning around of emergency vehicles; and four properties to the North of North Street would only have one access to get out that would include a very tight turnaround and according to DFES recommendations cul-de-sacs are not recommended for an access and egress evacuation point. This motion will provide access for the four residential properties north of North Street.

Cr Madacsi re-entered the Council Chambers at 2.06pm.

Cr Madacsi assumed the Chair at 2.10pm.

Signed: 
Presiding Member
Date: 31/5/2023

APPLICATION TO PERMANENTLY CLOSE A SECTION OF NORTH STREET IN WEST TOODYAY



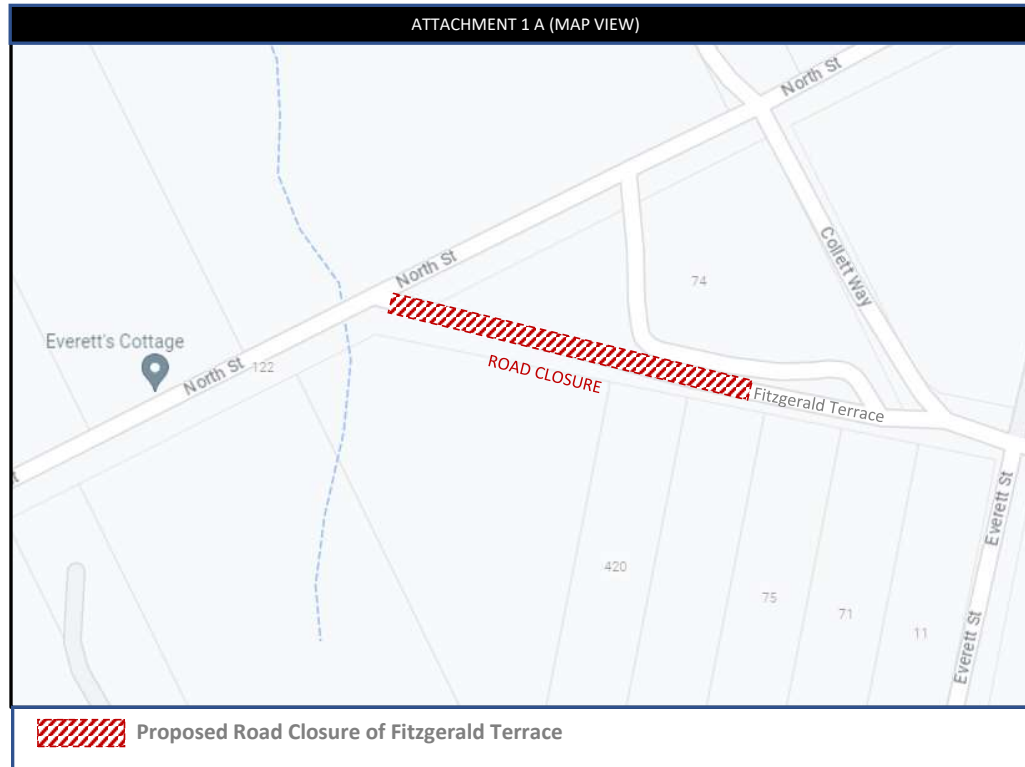
SCHEDULE OF SUBMISSIONS

APPLICATION TO PERMANENTLY CLOSE A SECTION OF NORTH STREET IN WEST TOODYAY

#	NAME	ADDRESS	SUMMARY OF SUBMISSION	DEVELOPMENT SERVICES COMMENTS ON SUBMISSION
1	Landowner/Ratepayer	Supplied	<ul style="list-style-type: none"> I require for safety purposes a second access point onto North Street. Winter paddock conditions will not allow me to have a safe departure point other than North Street. 	<ul style="list-style-type: none"> Note the submission opposing the road closure. Collett Way is an available access point.
2	Landowner/Ratepayer	Supplied	<ul style="list-style-type: none"> Regarding the proposed closure of any of North St West Toodyay is not t opposed by me or any of my immediate family or local friends, I have been maintaining a fire break for the past 20 years where the unused part of North St is, saving grading time for the shire. And am happy to do that into the future. Also will keep it open if there is a need for emergency vehicles. 	<ul style="list-style-type: none"> Note the submission supporting the proposal.
3	Landowner/Ratepayer	Supplied	<ul style="list-style-type: none"> Please note that we have no objection to permanently closing a section of North Street from Collett Way east to Picnic Hill Road as per letter and map received from your office, 8th August 2023. 	<ul style="list-style-type: none"> Note the submission supporting the proposal.

APPLICATION TO PERMANENTLY CLOSE A SECTION OF NORTH STREET IN WEST TOODYAY

#	NAME	ADDRESS	SUMMARY OF SUBMISSION	DEVELOPMENT SERVICES COMMENTS ON SUBMISSION
4	Landowner/Ratepayer	Supplied	<ul style="list-style-type: none"> The North Street section proposed to be closed, has never been developed and is totally inaccessible to the east by a large rock outcrop. There is no useful purpose served by preserving the road reserve and the likelihood of future development is extremely remote. The isolated end of North Street fronts three large properties that could be further divided in the future. Closure will provide clear GPS directions to direct traffic to North Street either by Cottage Street, or to Collett Way, particularly relevant as North Street has an older population. 	<ul style="list-style-type: none"> Note the submission supporting the proposal.
5	ATCO Gas		<ul style="list-style-type: none"> ATCO Gas Australia (ATCO) has no objection to the proposed application, based on the information and plan provided. 	<ul style="list-style-type: none"> Note the submission with no objection to the proposal
6	WaterCorp	PO Box 100, Leederville, WA 6902	<ul style="list-style-type: none"> The Water Corporation has no assets within this road reserve and therefore has no objection to the road closure. 	<ul style="list-style-type: none"> Note the submission with no objection to the proposal.
7	Landowner/Ratepayer	Supplied	<ul style="list-style-type: none"> Do you intend to open up and upgrade the remainder of North Street and Collett Way to enable passage of traffic and access for emergency response vehicles ? It would seem that this is alternative escape route , if a fire closes Toodyay West Rd . And considering the state of the verges and the river flood plain, at the Cottage Rd end , this is entirely possible if a fire was to go through this area . 	<ul style="list-style-type: none"> Note the submission. Matter for Council and Administration to determine.





ORDINARY COUNCIL MEETING MINUTES

24 MAY 2023

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

10.1 Notice of Motion - Cr Ruthven - Closure of a section of Fitzgerald Terrace

Date of Report:	9 May 2023
Applicant or Proponent:	Cr E Ruthven
File Reference:	MTG7
Author:	M Rebane – Executive Assistant
Responsible Officer:	S Haslehurst – Chief Executive Officer
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Maps of Fitzgerald Tce West Toodyay. ↗

PURPOSE OF THE REPORT

To consider a notice of motion provided by Councillor Ruthven.

BACKGROUND

On 9 May 2023 Councillor Ruthven provided the Chief Executive Officer notification of a notice of motion for the May 2023 Ordinary Meeting of Council as follows:

I would like to propose a motion to permanently close a section of Fitzgerald Terrace. The section I would like to have closed is between the driveway of 75 Fitzgerald Terrace west to where Fitzgerald Terrace meets North Street.

The property at 410 Toodyay West Road has a rear access gate onto Fitzgerald Terrace in addition to their main gate on Toodyay West Road and I'm not sure if the Shire should maintain the rear access in this situation.

Clause 4.4(4)(c) of the Shire of Toodyay Standing Orders Local Law states that the Chief Executive Officer "may provide to the Council relevant and material facts and circumstances pertaining to the notice of motion on matters such as policy, budget and law". This report is provided in accordance with such.

COMMENTS AND DETAILS

Nil.

IMPLICATIONS TO CONSIDER**Consultative:**

Local Government Act 1995

s. 3.50, (1) to (8) - Closing certain thoroughfares to vehicles

s. 3.51, (1) to (4) – Affected owners to be notified of certain proposals

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s.3.52, (1) to (4) – Public access to be maintained and plans kept

Strategic:

Shire of Toodyay Community Plan – Toodyay 2028

Built Environment:

O1: Ensure safe and sustainable transport options.

O2: Ensure our built environment meets community needs.

Policy related:

Nil.

Financial:

There are no immediate financial implications as a result of the Fitzgerald Terrace closure between North Street and driveway of 75 Fitzgerald Terrace.

Legal and Statutory:

The Shire of Toodyay Standing Orders Local Law prescribes the manner in which motions of notice are to be given. The provision of notice by Cr Ruthven is in accordance with said requirements.

Clause 4.4(6) of the Shire of Toodyay Standing Orders Local Law states,

'A motion of which notice has been given is to lapse unless:

- (a) the Member who gave notice of it, or some other Member authorised by the originating Member in writing, moves the motion when called on; or*
- (b) the Council on a motion agrees to defer consideration of the motion to a later stage or date.*

Risk related:

Emergency access requirements might be compromised if sections of Fitzgerald Terrace and North Street are closed at the same time. To provide emergency access to the east side of Fitzgerald Terrace, North Street would need to be re-opened to overcome this issue.

Workforce related:

Nil.

VOTING REQUIREMENTS

Simple Majority

Cr Ruthven moved the Notice of Motion.

Cr Pearce seconded the motion.

Clarification was sought.

Cr McKeown objected to the motion.

Debate commenced.

The motion was put.

ORDINARY COUNCIL MEETING MINUTES

24 MAY 2023

NOTICE OF MOTION/COUNCIL RESOLUTION NO. OCM111/05/23**MOVED** Cr B Ruthven**SECONDED** Cr S Pearce

That Council

1. Determines to advertise its intention to permanently close the section of Fitzgerald Terrace, West Toodyay west of Collett Way to North Street as per Attachment 1 to this report in accordance with section 58 of the *Land Administration Act 1997*.
2. Requests the CEO to:
 - (a) give public notice of Council's intention to close the above-mentioned section of Fitzgerald Terrace, inviting public submissions from affected stakeholders in the West Toodyay area for a period of not less than 35 days;
 - (b) bring a report back to the July 2023 Ordinary Council Meeting for Council to consider the submissions received.

Voted For: Crs R Madacsi, B Ruthven, C Duri, P Hart, S Pearce and D WrenchVoted Against: Crs S McCormick and M McKeown**MOTION CARRIED 6/2**

APPLICATION TO PERMANENTLY CLOSE A SECTION OF FITZGERALD STREET IN WEST TOODYAY



SCHEDULE OF SUBMISSIONS

APPLICATION TO PERMANENTLY CLOSE A SECTION OF FITZGERALD STREET IN WEST TOODYAY

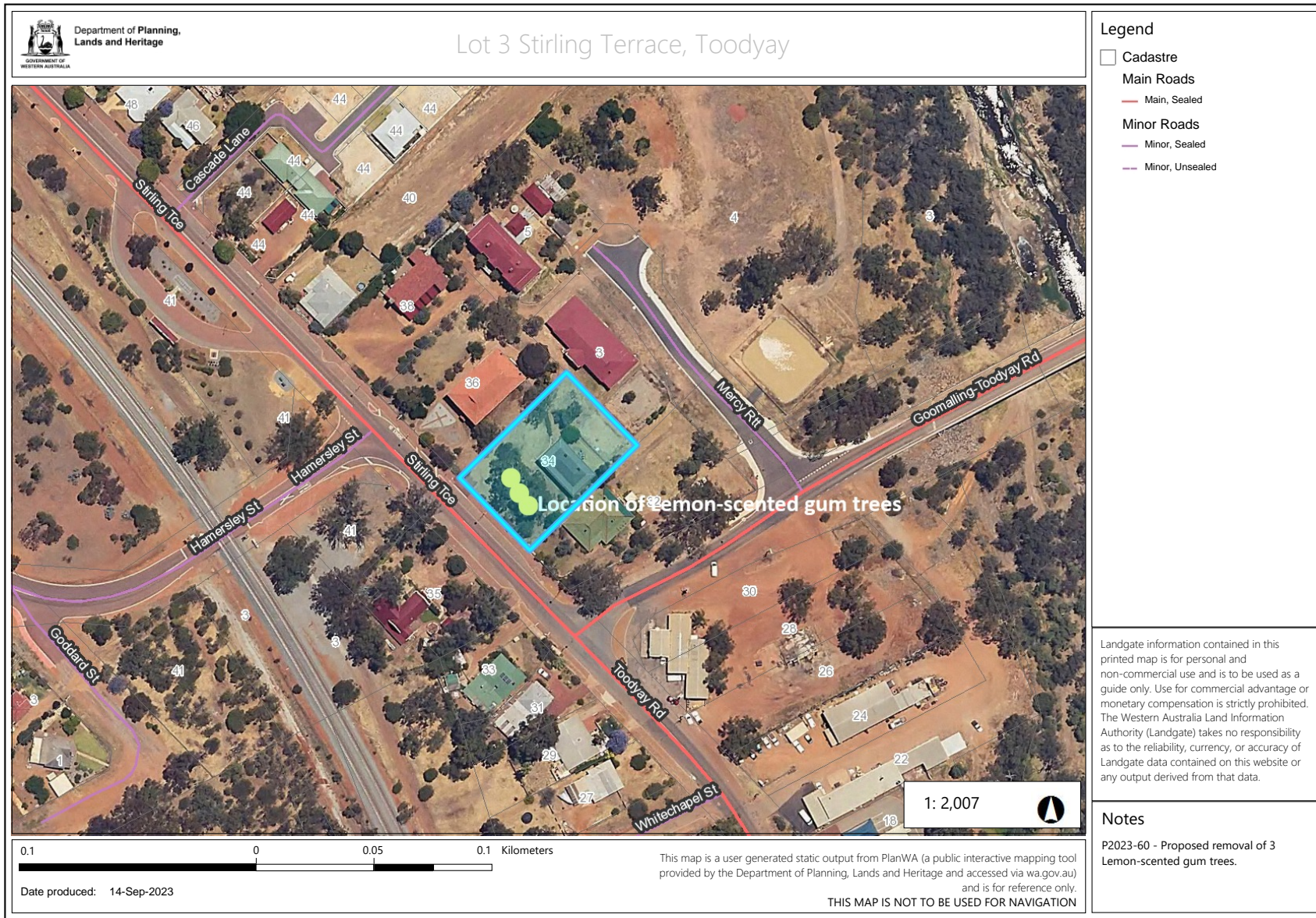
#	NAME	ADDRESS	SUMMARY OF SUBMISSION	DEVELOPMENT SERVICES COMMENTS ON SUBMISSION
1.	Landowner/Ratepayer	Supplied	<ul style="list-style-type: none"> As a resident whose driveway exits onto Fitzgerald Terrace, I object to the closing of Fitzgerald Terrace. Firstly, it is my fire exit. If there is a fire to the East, I would have to drive into it to get to North Road, instead of just turning left onto Fitzgerald. Secondly, I regard this as a waste of taxpayer dollars in face of the current state of the Accounts for the Shire. The road is functional as is, I see need no need for this massive expenditure. 	<ul style="list-style-type: none"> Note the submission objecting to the proposal. Access via another road is maintained.
2	Landowner/Ratepayer	Supplied	<ul style="list-style-type: none"> Strongly opposed. Frustrated with all the years we have been asking the shire to follow through on historical council decisions to close North Street behind us because of the formation of Collette way. Contends that Collette was formally gazetted after the fact of its existence without any community consultation or informative involvement. The formation of Collette way made the access of North Street redundant as now the neighbours had a direct access to their property and not one 	<ul style="list-style-type: none"> Note the objection to the proposal. Long standing issue with handling noted and has been addressed at length through Administration and Council.

APPLICATION TO PERMANENTLY CLOSE A SECTION OF FITZGERALD STREET IN WEST TOODYAY

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			neighbour has no access or fire egress if this road is closed instead of Fitzgerald Street.	
3	WaterCorp	PO Box 100, Leederville, WA 6902	<ul style="list-style-type: none"> The Water Corporation has no assets within this road reserve and therefore has no objection to the road closure. 	<ul style="list-style-type: none"> Note the submission not objecting to the proposal.
4	ATCO Gas	81 Prinsep Road, Jandakot, Western Australia, 6164	<ul style="list-style-type: none"> ATCO Gas Australia (ATCO) has no objection to the proposed application, based on the information and plan provided. 	<ul style="list-style-type: none"> Note the submission not objecting to the proposal
5	Western Power	363 Wellington St. Perth 6000	<ul style="list-style-type: none"> Unfortunately requests for general comments, feedback and approval for proposals can't be provided for without a formal application and the investigation by Western Power that follows. Submission of a proposed road closure: Where our assets are present, continued physical access for maintenance and emergency response must be provided. If this is not via the original road path, changed access conditions should be communicated via our Land Entry Preferences form. 	<ul style="list-style-type: none"> Note the submission providing no feedback.
6	Landowner/Ratepayer	Supplied	<ul style="list-style-type: none"> Initially was upset at the proposal due to the inconvenience of not having access to the top of the property. Proposes an alternative solution to create a cul-de-sac. 	<ul style="list-style-type: none"> Note the objection to the proposed road closure. Alternative solution regarding the cul-de-sac will be put to the Infrastructure, Assets and Services department to determine feasibility.
7	Landowner/Ratepayer	Supplied	<ul style="list-style-type: none"> Please note that we have no objection to permanently closing a section of Fitzgerald Street 	<ul style="list-style-type: none"> Note the submission not objecting to the proposal

APPLICATION TO PERMANENTLY CLOSE A SECTION OF FITZGERALD STREET IN WEST TOODYAY

#	NAME	ADDRESS	SUMMARY OF SUBMISSION	DEVELOPMENT SERVICES COMMENTS ON SUBMISSION
			in West Toodyay as per letter and map received from your office, 8th August 2023.	
8.	Landowner/Ratepayer	Supplied	<ul style="list-style-type: none"> The proposed section of Fitzgerald Terrace has been largely inaccessible except to 4WD since we have resided here. There is a tight bend into a rock outcrop and it is very narrow. We strongly support the closure of this section due to the access difficulty and confusion it causes with emergency services attempting to use this portion of Fitzgerald to access the isolated eastern portion of North Street via North Street. There have been several incidents which prolonged arrival of services. Time is a critical factor in emergencies and in one incident fire services were delayed for 20 minutes negotiating the access 	<ul style="list-style-type: none"> Note the submission not objecting to the proposal



I am contacting the Conservation Committee in reference for consideration of my request to remove two (2) lemon scented gum trees and adequately trim a third. (Corymbia Citriodora). (Also know as window makers due to the unpredictability of the self pruning). These trees are situated in my front yard close to my home and with the constant "self pruning" action, branches, some quite large, are often falling into my yard. My home is known as THE SHIP 34 Stirling Terrace and a part of the Catholic Heritage Precinct.

On speaking to my home insurance provider (NRMA), I was verbally advised that unless there had been an identified weather related event causing branches to fall, my policy does not cover "natural pruning" from native trees. I was also advised that if a tree should cause loss or damage to my home, my insurance would then act and cover the cost of a qualified expert to remove debris and remaining stump if tree deemed to be a risk again. Nothing to prevent damage in first instance.

In support of my request, I have attached the page from my Product Disclosure Statement from NRMA showing this detail.

I have also attached a 2nd document which is an extensive risk assessment undertaken by a reputable expert in these matters in relation to the safety of these trees.

My intention is to plant more appropriate trees and flower beds in my yard to replace the trees being removed.

Thankyou for considering my application.

Regards,

Cheryl-Jean



Dear Cheryl,

Thank you for allowing me the opportunity to conduct a risk assessment on the 3 Lemon Scented Gums also known as *Corymbia Citriodora* located at Lot 3/34 Stirling Toodyay, Toodyay.

This species of gum tree *Corymbia Citriodora*'s is most commonly found in the northeast of Australia and is an introduced species to Western Australia. *Corymbia*'s typically grow to a mature height between 25-40m. The 3 that are situated in your front yard would be described as being in their adolescent stage and in the height range of 16.6m to 17.8m.

I have categorised your *Corymbia*'s for illustration purposes as tree A, B & C.

Tree "A" is the smallest of the 3 at approximately 16.6m in height and is approximately 11m from your house. This tree would be suitable for a crown reduction and target pruning down to a height of around 12m. In doing so this would remove 3 large vertical limbs leaving sufficient light weight foliage in the remaining canopy to retain an aesthetic look while reducing weight and minimising the risk of limb shedding.

Tree "B" stands approximately 17.8m and approximately 12.6m from your house. It is in close proximity to tree "C" and this coupled with the canopy pattern suggests both trees are competing for sunlight as the foliage is concentrated at the top of the crown. Midway down the trunk of tree "C" there is bulging vertical limb union. In my opinion this type of union is the result of each limb putting lateral growth against each other rather than growing cohesively which can result in either limb to separate at this point due to a high weighted canopy.

Due to the top-heavy canopy with virtually no foliage below the pruning height. This tree in the future if it does survive will be laden with epicormic growth. Epicormic growth is a response of pruning where spores under the bark of tree sprout, which will not only need constant pruning maintenance every few years but are extremely unstable and weak.

Tree "C" in my opinion is comprised, this tree has a co-dominant stump base which appears it may have been poisoned at some stage. Tree "C" has also undergone some poor pruning techniques in past that may suggest the tree is struggling to put on growth. A little over

halfway up the tree there appears to be a scar on the trunk. This scar is showing signs of decay and will result in a pocket of wood rot and will severely compromise the integrity of this tree.

In my opinion the best course of action for these trees would be as follows:

- Tree "A" to undergo a crown reduction and target prune.
- Trees "B & C" to be removed and replaced if desired with a variety of tree that more conducive to the area. For example:
 - York Gum (Eucalyptus Loxophelba),
 - Marri (Corymbia Calophylla) or
 - Rose of the West (Eucalyptus Macocarpa)

Interesting enough the state government of Western Australia conducted a study in conjunction with the education department in 2013 of trees to avoid around buildings and people and the lemon scented gum was the number one tree on the list.

Please do not hesitate to contact me for further information or clarification.

Kind Regards



Darren Prater.

Landworx WA.

14 April 2023

