

SOUTH GIPPSLAND SHIRE COUNCIL

Council Minutes

Ordinary Meeting of Council

22 February 2017

Ordinary Meeting No. 409
Council Chambers, Leongatha
Commenced at 2pm



minutes



*South Gippsland
Shire Council*

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5.8. ROAD OPENING / NAMING / CLOSURE IN LEONGATHA (MITCHELL RISE ESTATE)

Sustainable Communities and Infrastructure Services Directorate

EXECUTIVE SUMMARY

An existing section of government road reserve located in Mitchell Rise Estate – Stage 3 - off Nerrena Road, Leongatha is required to be open to public traffic to allow legal and reasonable access from Tilly Court to Rayson Drive.




This section of road will to be constructed by the developer and needs to be named in line with the 'Naming Rules for Places in Victoria 2016'.

The closure of the east/west leg of Tilly Court is considered appropriate to remove the through traffic function of Tilly Court from the new subdivision to McDonald Street, except for pedestrian and cycle access. This would be done by the placement of a barrier to close the road at a location approximately 110 metres east of the intersection of Louise Simon Court.

In accordance with the Local Government Act 1989 (ss.204 and 223) Council is required to commence a public submission process and publish a notice of its intentions for these proposals.

RECOMMENDATION

That Council:

- 1.** Commence the statutory procedures pursuant to s.204(2) and s.223 of the Local Government Act 1989 on the following (the Proposals);
 - a.** Declare a section of unused government road off Tilly Court, Leongatha (being an area of 2,485m² cross hatched  in Figure 1) to be a public highway and open for public traffic; and
 - b.** Name the unnamed road off Tilly Court, Leongatha as 'Sadies Way' (shown cross hatched  in Figure 2); and
 - c.** Close a section of road known as 'Tilly Court' from approximately 110m east of Louise Simon Court to the government road (Sadies Way) which is proposed to be opened shown cross hatched  in Figure 3.
- 2.** Give public notice in its Noticeboard section of the local newspapers and on Council's website in the week commencing 27 February 2017 on the proposals, in accordance with s.223 of the Local Government Act 1989, to

commence a public consultation process inviting written submissions from the community by 5.00pm on Tuesday 28 March 2017.

3. Write to land owners abutting Tilly Court advising of the proposals listed in item 1 and invite written submissions to be received by Council no later than 5.00pm on Tuesday 28 March 2017. Also request that they state in their submission if they wish to speak to their submission at a Public Presentation Session of Council.
4. Authorise the Chief Executive Officer to undertake the administrative procedures necessary to enable the Council to carry out its functions under s.223 of the Local Government Act 1989 in respect of the proposal (items 1 and 2 above).
5. If submissions are received in response to the public notice (item 2 above):
 - a. Authorise the Chief Executive Officer to set the time, date, and place to hear submissions.
 - b. Hear submitters who have elected to speak to their submission at a Special Committee of Council in open session comprising of the Councillors present.
 - c. Consider submissions with a decision determined at the next available Ordinary Council Meeting in open session.
6. If no submissions are received to the public notice (item 2 above), publish the road declaration closure and opening in the Victorian Government Gazette (items 1a and 1c above).

NOTE: The recommendation was CARRIED UNANIMOUSLY as part of a single motion, refer to page 81.

REPORT

Background

A Planning Permit has been issued for the subdivision of the land east of Tilly Court between Nerrena Road and Parr Street, Leongatha.

The Subdivision is known as 'Mitchells Rise Estate' and comprises seven stages. Stages 1 and 2 have been completed. Stage 1 involved the creation of a road reserve off Nerrena Road to service the proposed subdivision (to be known as 'Rayson Drive' after Jack Rayson) and Stage 2 created eight lots at the east end off Parr Street.

Stage 3 of the subdivision will involve the creation of a road off Tilly Court (to be known as 'Luxford Lane' after Percy Luxford). The second road that will link Tilly Court to Rayson Drive, is an unused Government Road which will need to be legally opened to public traffic and officially named by Council.

The traffic study for this subdivision indicated that additional traffic generated by the subdivision should not be directed through the existing Ogilvy Street service road to McDonald Street. This meant that a section of Tilly Court would need to be closed. All traffic servicing and generated by the development and existing properties on Tilly Court should access Nerrena Road via the road reserve created in the subdivision of Stage 1 known as Rayson Drive, and the opening of the unused government road between Tilly Court and Rayson Drive.

A Plan of Subdivision Stage 3 is available in **Attachment 5.8.1** - Plan of Subdivision – Mitchel Rise Estate.

A locality plan of the road opening, road naming, and road closure is available in **Attachment 5.8.2** – Locality Map – Mitchell Estate Rise - Road Naming - Opening – Closure.

PROPOSED ROAD OPENING


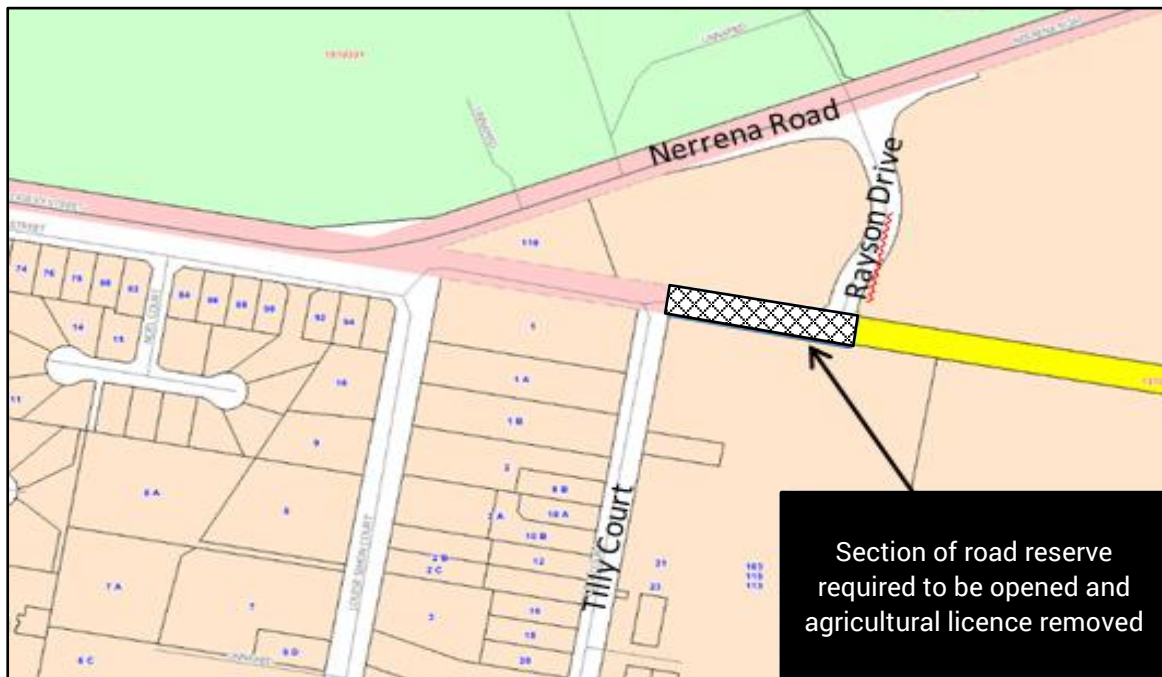
Mitchells Rise Estate Stage 3 is part of a staged subdivision off Nerrena Road, Leongatha. Within this plan of subdivision three new roads will be created. An existing section of unused government road running between Tilly Court and the future Rayson Drive needs to be opened to public traffic by Council to allow legal and reasonable access through from Tilly Court to Rayson Drive as shown cross hatched  in **Figure 1** below.

Figure 1 – Road to be opened

This section of unused government road has an Agricultural Licence (grazing licence) in place. If the proposed road opening is approved, Council will write to the Department of Environment, Land, Water, and Planning (DELWP) requesting that the existing grazing licence be revoked.

This unused section of government road will be constructed as part of the subdivision under the existing Planning Permit for Mitchell Rise Estate.

The creation of roads within plans of subdivision are usually the developer's responsibility, however, in this subdivision one of the roads is a unused government road and needs to be opened by Council.

Council has the power under the Local Government Act, s.204(2), to declare a road which is reasonably required for public use to be opened to public traffic (extract below):

"A Council may, by resolution, declare a road that is reasonably required for public use to be open to public traffic."


The declaration made under s.204(2) requires Council to follow a s.223 submission process in accordance with s.207A (c) of the Local Government Act. Both the Road Management Act and Local Government Act require Council to publish a notice of its declaration to open a road in the Government Gazette.

A Survey Plan of the proposed road to be opened is available in **Attachment 5.8.3 – Survey Plan of Road Opening**.

ROAD NAME - SADIES WAY

Road naming within plans of subdivision is usually the developer's role. Notwithstanding, the developer and road naming authority are encouraged to work collaboratively to develop compliant road names.

All road names submitted to Council need to be approved by the responsible road naming authority.

The proposed road naming is for a section of road to be constructed by the developers of Mitchell Rise Estate and runs between Tilly Court and Rayson Drive, Leongatha as shown cross hatched  in **Figure 2** on the following page.

The name put forward to Council by the developers is 'Sadies Way' after Sadie Foley, the daughter of Percy Luxford. This name is supported by the Leongatha Historical Society.

Information on the Foley and Luxford Family history is available in **Attachment [5.8.4]** – History of Sadie Foley and Percy Luxford.

Supporting document from Geographic Place Names for the name Sadie is available in **Attachment [5.8.5]** – Correspondence from Geographic Place Names – Proposed Road Names.


Overview of the Geographic Place Names (GPN) Guidelines is available in **Attachment [5.8.6]** – Naming Rules for Places in Victoria 2016.

Figure 2 - Road to be named



ROAD CLOSURE – PART OF TILLY COURT

The traffic study submitted with the Planning Permit application to Council indicated that additional traffic generated by the subdivision should not be directed through the existing Ogilvy Street service road to McDonald Street.

This requires closing a section of the east/west leg of Tilly Court. All the traffic servicing and generated by the development and existing properties on Tilly Court will access Nerrena Road via the road reserve created in the subdivision of Stage 1 (Rayson Drive) and the opening of the unused road reserve between Tilly Court and Rayson Drive. The section to be closed is shown cross hatched  in **Figure 3** below.

The closure of the east/west leg of Tilly Court is considered appropriate to remove the through traffic function of Tilly Court from the new subdivision to McDonald Street except for pedestrian and cycle access. This would be done by the placement of a barrier to close the road at a location approximately 110m east of the intersection of Louise Simon Court.

This road closure is being considered under section 207 (Powers of Council over traffic) and in particular Schedule 11, Clause 9 (1) (Power to place obstructions or barriers on a road permanently) of the Local Government Act.

Figure 3 - Section of Road to be Closed

CONSULTATION

Road Name – July 2016

Council's Engineering department has checked the VicNames website for road name compliance and the 15km radius duplications or similar sounding names check has been completed. No duplications or similar sounding names were found for the name 'Sadie'.

The surname of 'Foley' is already used by another road in the municipality (in Foster). The name Foley is therefore considered to be a duplication.

The proposed road name has been discussed with Geographic Place Names and is considered appropriate if Council wishes to commemorate Sadie Foley.

Road Opening

Internal consultation has occurred between the Engineering and Assets Department and the Planning Department regarding the road opening and closure.

The Road opening of this unused road formed part of the Planning Permit for the Subdivision. No objections were received regarding the opening of the unused road reserve between Tilly Court and Rayson Drive.

Road Closure – November 2016

Letters were sent to abutting land owners along Tilly Court in November 2016 in regards to the proposed closing of this section of Tilly Court, calling for community comment on the Proposal. Council has not received any correspondence on the closure.

Discussions were held with the abutting property owner affected by the closure location and it was agreed to locate the closure approximately 110 metres from Louise Simon Court.

External

Council will place a public notice of the proposed road naming, road opening, and road closure in its Noticeboard section of the local newspapers and on Council's website in the week commencing 27 February 2017, in accordance with s.223 of the Local Government Act, and send letters to adjoining property owners.

The submission period is 28 days from publication and will close on Tuesday 28 March 2017.

If submissions are received to the public notice, they will be heard, considered, and the decision determined at the next available Ordinary Council Meeting in open session.

If no submissions are received to the public notice for the:

- Road opening – agree to publish the declaration in the Victorian Government Gazette.
- Road naming and road closure – prepare a report for Council at the next available meeting to endorse the road name and closure of the road.

RESOURCES

Financial Considerations

There will be no cost to Council as all costs for the design and construction of the road will be borne by the developer if the road opening is approved by Council.

The future maintenance cost of this section of road, are estimated to be \$1,100 per annum. This will be included in Council's operating budget for road maintenance when required.

There will be no cost to Council for the supply and installation of new signage for the affected road if approved by Council. This will be covered by the developer of the subdivision.

RISKS

There are no risks to Council if this road opening proceeds as all legal risks fall under the Road Management Act 2004 and are subsequently addressed in Council's Road Management Plan 2013.

If Council does not open the road there will be no reasonable access in and out of Tilly Court.

There is minimal risk to Council as the methodology for the naming of roads is contained in 'The Naming Rules for Places in Victoria 2016'.

ATTACHMENTS

Attachments are available on Council's website –visit www.southgippsland.vic.gov.au.

1. Plan of Subdivision - Mitchells Rise Estate **[5.8.1]**
2. Locality Map - Mitchell Estate Rise - Road Naming - Opening - Closure **[5.8.2]**
3. Survey Plan of Road Opening **[5.8.3]**
4. History of Sadie Foley and Percy Luxford **[5.8.4]**
5. Correspondence from Geographic Place Names - Proposed Road Names **[5.8.5]**
6. Naming Rules for Places in Victoria 2016 **[5.8.6]**

REFERENCE DOCUMENTS

Local Government Act 1987
Planning and Environment Act 1987
Road Management Plan 2013
Road Management Act 2004
Land Act 1958
Infrastructure Design Manual
Geographic Place Names Act 1998
Naming Rules for Places in Victoria 2016
AS/NZS4819: 2011 Rural and Urban Addressing
SGSC Road Opening Procedure
SGSC Public Road Register