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Sent: Thu, 26 Aug 2021 09:56:17 +1000
To: "Council Email" <Council@clarenc.nsw.gov.au>
Subject: Request for Council concurrence to add council roads to Everlasting Swamp NP
Attachments: Requesting concurrence to add council road to Everlasting Swamp NP.pdf,
Information Sheet - Reservation of council roads under the National Parks and Wildlife Act 1974.pdf

Good morning,

Please find attached a letter of request from the National Parks and Wildlife Service for consideration

Kind regards
Nyssa



Nyssa Lesniak
Project Officer, Reserve Access Program
Conservation Branch
NSW National Parks & Wildlife Service

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NPWS reference:
NPWS contact:

DOC21/741859
Nyssa Lesniak,
02 6641 1578
26 August 2021

Date:

General Manager
Clarence Valley Council
Locked Bag 23
GRAFTON NSW 2460

Dear Mr Lindsay

The National Parks and Wildlife Service (NPWS) has identified council public roads at Lower Southgate, that appear suitable for addition to Everlasting Swamp National Park (NP). The information sheet attached provides more information about the reservation of council roads under the *National Parks and Wildlife Act 1974*. It will give some guidance and background about the department's considerations and the statutory process.

The council roads that NPWS proposes for reservation are shown by yellow colour on the attached diagram (Appendix 1).

If council agrees that the roads are suitable for addition, NPWS can publish a gazette notice to reserve the roads as part of Everlasting Swamp NP. Under the *National Parks and Wildlife Act 1974*, the gazette notice has the effect of extinguishing the council road without needing to undertake a formal road closure under the *Roads Act 1993*.

In assessing the suitability for reservation of these council roads NPWS has confirmed that:

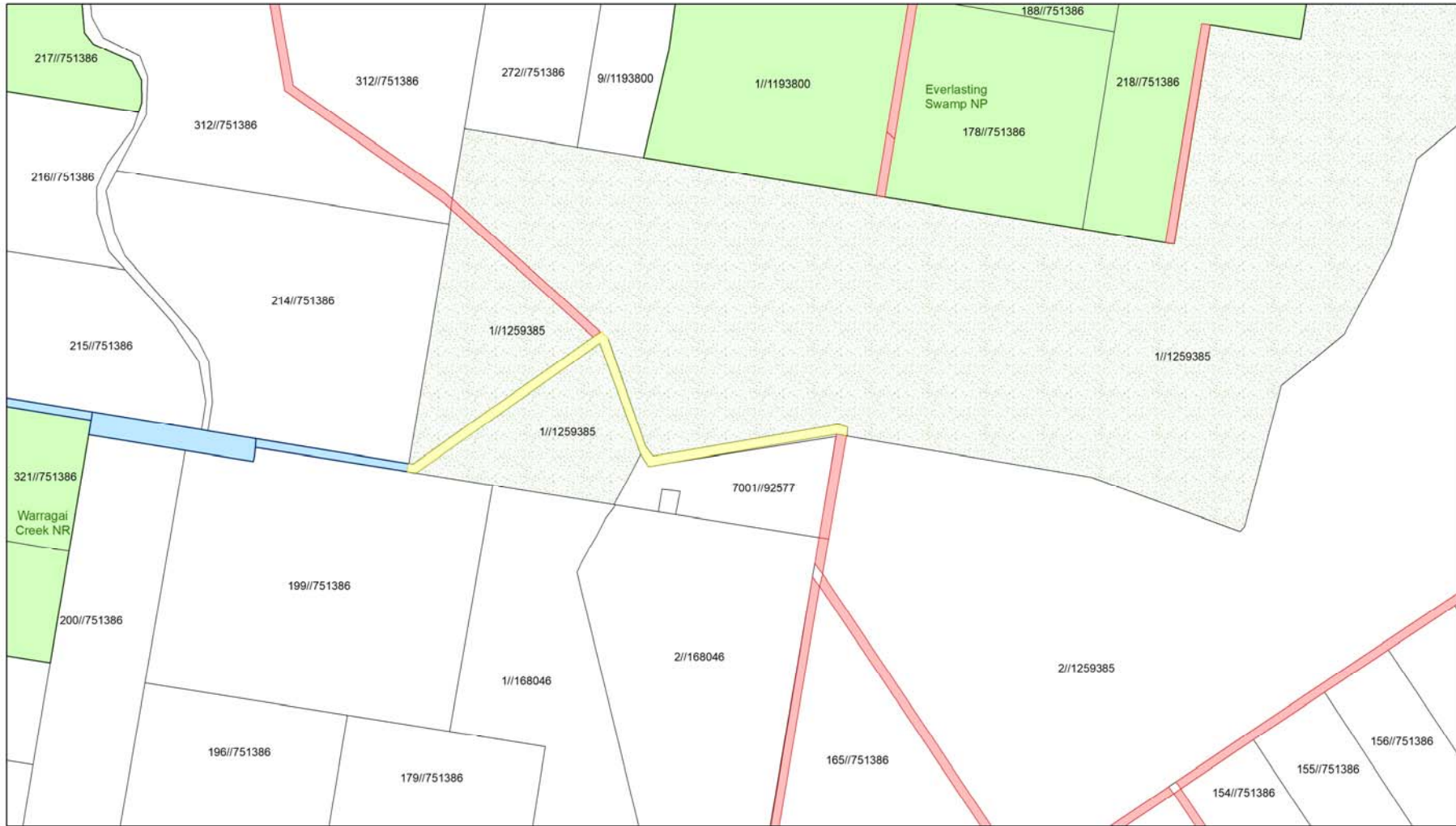
- Clarence Valley Council is the controlling authority of the public roads subject to this proposal.
- Assessment of the legal access network indicates that removal of the public right of passage along the road will not impact on the legal access of any surrounding properties

We would appreciate it if you could review this proposal at the next Council meeting, and if council agrees please respond with written concurrence.

If you have any questions about this proposal please do not hesitate to contact me

Kind regards

Nyssa Lesniak
Project Officer, Reserve Access Program
Reserve Establishment Unit
National Parks & Wildlife Service



- NPWS Estate
- NPWS Acquired Not Gazetted
- Digital Cadastre
- Council Road
- Crown Road
- Council roads proposed for reservation

Appendix 1

Council roads proposed for addition to Everlasting Swamp NP

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INFORMATION SHEET

Reservation of council road under the National Parks & Wildlife Act 1974

This information sheet is for general guidance to local councils about the considerations and statutory process for adding council public roads to an existing reserve under the *National Parks and Wildlife Act 1974*. Councils should contact the Reserve Access Program at the National Parks and Wildlife Service (NPWS) for any enquiries.

Why consolidate public roads into the adjoining NPWS reservation area?

Throughout New South Wales there are council roads which are within or adjoining NPWS managed land. Some of these roads are the preferred public access to the reserve and are maintained for that purpose. NPWS has identified circumstances where use of the road as a public access is incompatible with the strategic management of the reserve. As a public road, the *Roads Act 1993* entitles any member of the public to use it as a passage of access.

Consolidating suitable public roads as part of the adjoining reserve will improve NPWS ability to effectively manage public access to the land it administers as well as allowing NPWS to undertake appropriate management activities under the NPW Act without the need for obtaining council concurrence for each activity. The reservation of suitable council roads also simplifies the ownership and management of the access into the future and absolves council from any liability or maintenance responsibilities.

Incorporating road corridors with environmental characteristics that are comparable to the adjoining reserve means the land can be managed according to reserve management principles under the NPW Act; and any environmental, heritage, cultural or social values that are attributed to that reserve. The direct responsibility for the conservation and restoration of the road corridor is transferred from the road authority to NPWS.

Statutory requirements for adding council roads to a NPWS reservation area

Under the *National Parks and Wildlife Act 1974* (NPW Act), publishing a gazette to reserve a council public road as an addition to a national park, nature reserve, state conservation area, regional park or historic site, has the effect of extinguishing the road without needing to complete a formal road closure under the *Roads Act 1993* (Roads Act).

This means that publishing a gazette notice for the reservation of a council road under the NPW Act, has the dual function of both transferring ownership of the land to NPWS and closing the road.

NPWS has sought advice on the effect of the reservation of a council road under the NPW Act, in view of amendments to the Roads Act that came into effect 1 July 2018. The advice confirmed that under [section 30C](#) of the NPW Act, written concurrence must be given by council before the reservation can occur.

In summary, with council's concurrence, a council road that is reserved as one of the above reservation types under the NPW Act, after 1 July 1993 (commencement of the Roads Act), has the effect of extinguishing the road and transferring it to NPWS for future management.

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