

## ITEM 8 DRAINAGE EASEMENT OVER COMMUNITY LAND AT KEIRAVILLE

This report is submitted to obtain Council approval to grant an easement for drainage over Council Community Land, Murrays Reserve, Keiraville, identified as Lot 206 DP 217886. The easement is in favour of 74 Robsons Road, Keiraville, which adjoins the land.

### RECOMMENDATION

- 1 Council resolves to grant a drainage easement under S. 46 (a1) of the Local Government Act 1993 over Council Community Land, Lot 226 DP 217886, known as Murray Reserve, Keiraville.
- 2 The drainage easement is to benefit the adjoining land, 74 Robsons Road, Keiraville, identified as Lot 6 DP 503156.
- 3 Council resolves to accept compensation for the grant of the easement in accordance with the valuation report prepared by the registered valuer, the amount to be calculated as being 20% of the square metre rate of the property determined to be \$576.29 per square metre (GST free).
- 4 The applicant be responsible for all costs associated with the matter.
- 5 The Lord Mayor and General Manager be authorised to finalise the matter.
- 6 Council grant authority for the use of the Common Seal of Council on all documents relevant to this matter, should it be required to give effect to this resolution.

### REPORT AUTHORISATIONS

Report of: Lucielle Power, Manager Property + Recreation (Acting)  
Authorised by: Kerry Hunt, Director Community Services - Creative and Innovative City

### ATTACHMENTS

- 1 Business Paper Map of Proposed Drainage Easement over Council Community Land known as Murray Reserve, Keiraville
- 2 Aerial Map of Proposed Drainage Easement over Council Community Land known as Murray Reserve, Keiraville

### BACKGROUND

In 2016, the applicant lodged a development application for demolition and construction of multi-dwelling housing (DA-2016/1632). Condition 27 of DA-2016/1632, permits the owners of 74 Robsons Road, Keiraville, to install drainage infrastructure on the adjoining Council Community Land known as Murray Reserve, and identified as Lot 226 DP 217886 as was required for the development. In 2016 adjoining owners were permitted to install drainage infrastructure on Council Community Land in exchange for a fee. At the time, in accordance with Council's Fees and Charges in 2016, the fee depended on the length of the easement and took into account the ongoing maintenance by Council. The owners paid a fee of \$6,420.

In 2019 the owners of 74 Robsons Road approached Council to provide seven days notice of the installation of the drainage infrastructure as required under 27 (b) (ii) of DA-2016/1632.

Since 2018, and as per Section 46 (a1) of the Local Government Act 1993, Council has not charged a fee for the installation of drainage infrastructure on Community Land. Instead Council has requested that applicants obtain a drainage easement over the land. The benefit of an easement is that Council can identify where the infrastructure is located and is not responsible for its maintenance. As the applicant has already paid the \$6,420 fee, it is intended that the application fee payable for the easement on Community Land and the compensation amount payable will be offset against the amount already paid with any surplus amount to be refunded to the applicant. Council will no longer have the ongoing burden and cost of maintenance of the drainage infrastructure as this will be the responsibility of the applicant.

The Development Assessment Certification Division contacted Council's Property Division to enquire whether the owners would be allowed to install the drainage infrastructure without obtaining an easement, given that the owners had paid the fee in 2016 before the requirement for an easement was in place.

The Property Section obtained advice from Council's Legal Section which stated that *"whilst there may be a technical argument that could suggest Council is precluded from enforcing the proposed easement requirement, given the potential future exposure liability from Council's perspective, we recommend advising the developer that obtaining an easement is in its best interest"*.

The owners of 74 Robsons Road, were advised that even though they had paid a fee back in 2016 to allow for the installation of the drainage infrastructure over the Council land, a drainage easement was now required, and that the fee previously paid could be put toward the cost of the easement. The owners have agreed to this.

A valuation report was obtained from the registered valuer Walsh and Monaghan which valued the easement at 20% of the value of the land, the value of the land being \$576.29 per square metre (GST free). As the easement is proposed to measure approximately 12 square metres, the compensation payable is estimated to be \$1,400 (GST free). The final amount of compensation payable is subject to the surveyed area determined in the registered easement plan. The applicant has agreed to this.

## PROPOSAL

It is proposed to grant a drainage easement over the Council Community Land known as Murray Reserve, Keiraville, identified as Lot 206 DP 217886. The easement will benefit the adjoining land known as 74 Robsons Road, Keiraville.

## CONSULTATION AND COMMUNICATION

- The owners of 74 Robsons Road, Keiraville.
- Development Assessment Certification Division.
- Council's Legal Services.
- Walsh and Monaghan Property Valuers.

## PLANNING AND POLICY IMPACT

This acquisition is in accordance with Council's policy "Land and Easement Acquisition and Disposal".

This report contributes to the Wollongong 2028 Objective "We have a healthy community in a liveable city".

It specifically delivers on core business activities as detailed in the Property Services Service Plan 2019-20 "Manage Council's property portfolio, including purchase, sale, leasing, easements and other encumbrances on Council lands".

## FINANCIAL IMPLICATIONS

The owners of 74 Robsons Road will be responsible for all costs associated with the creation of the drainage easement and will be responsible for future associated maintenance costs.

Council has received the relevant fees and charges that were payable in accordance with the 2016 Fees and Charges in the amount of \$6,420. Council will retain the current fees and charges for the application for an easement in addition to the compensation determined for the granting of the easement with any variation to be either refunded or paid in addition to the amount already paid by the applicant. Council will no longer have the ongoing burden and cost of maintenance of the drainage infrastructure as this will be the responsibility of the applicant.

## CONCLUSION

Condition 27(b)(ii) of DA-2016/1632 permits the owners of 74 Robsons Road, Keiraville, to install drainage infrastructure on Council's adjoining Community Land. By permitting a drainage easement over the land, Council will receive compensation for the easement, be able to identify its exact location and will not be responsible for its future maintenance.





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