

ITEM 7

PROPOSED GRANT OF EASEMENT TO DRAIN WATER 1.0M WIDE OVER LOT 29 DP 26939

As a condition of consent of DA-2018/177 relating to No 14 Guest Avenue, Fairy Meadow for demolition of existing dwelling and construction of a five-unit multi-dwelling, the applicant is required to obtain an easement to drain water through the adjoining Council owned land known as Lot 29 DP 26939. This report seeks approval to the grant of the easement.

### RECOMMENDATION

- 1 Pursuant to section 46(a1) of the *Local Government Act 1993*, Council resolves to grant an easement to drain water 1.0m wide over Council Community land known as Lot 29 DP 26939, in favour of Lot 31 DP 26939 No 14 Guest Avenue, Fairy Meadow, as shown crosshatched on the attachment to this report (Attachment 1).
- 2 Council accept payment in the amount of \$1,000.00 (GST free) from the owner of Lot 31 DP 26939 No 14 Guest Avenue, Fairy Meadow as compensation for the grant of the easement.
- 3 The applicant be responsible for all costs relating to the easement including valuation, survey, plan registration and legal costs, and any other costs incurred in this matter.
- 4 Approval be granted to affix the Common Seal of Council to the survey plan, Section 88B Instrument and any other documentation required to give effect to this resolution.

### REPORT AUTHORISATIONS

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

### ATTACHMENTS

- 1 Map of Proposed Easement to Drain water 1.0m wide over Council Community Land known as Lot 29 DP 26939
- 2 Aerial Map of Proposed Easement

### BACKGROUND

Development consent for DA-2018/177 at No 14 Guest Avenue, Fairy Meadow was granted following proceedings in the Land & Environment Court referred to as Guido Developments Pty Ltd v Wollongong City Council [2019] NSWLEC 1641.

Consent condition (i)(a) of DA-2018/177 at No14 Guest Avenue, Fairy Meadow for demolition of existing dwelling and construction of five unit multi-dwelling housing with five lot strata subdivision requires the applicant to obtain an easement to drain water 1.0m wide through the adjoining Council owned land known as Lot 29 DP 26939, as shown crosshatched on the attachments to this report (see Attachment 1 and 2).

Lot 29 DP 26939 is classified as Community land under the Local Government Act 1993. The grant of the easement will not impact the current use of the Community land.

Council obtained a valuation report from Walsh & Monaghan Valuers for the amount of compensation that would be payable by the applicant to Council for the grant of the easement. The amount of compensation was assessed at \$1,000.00 (GST free) which has been agreed by the applicant.

By granting a drainage easement over the land, Council will receive compensation for the easement, be able to identify the exact location of the drainage infrastructure and will formalise maintenance obligations to ensure that Council is not responsible for future maintenance of the drainage infrastructure.

## PROPOSAL

It is proposed that Council approve the grant of an easement to drain water 1.0m wide over Lot 29 DP 26939, in favour of Lot 31 DP 26939 No 14 Guest Avenue, Fairy Meadow, as shown crosshatched on the attachment to this report for the compensation amount assessed at \$1,000 (GST free).

## CONSULTATION AND COMMUNICATION

- Legal Services in relation to the condition in DA-2018/177
- RMB Lawyers acting on behalf of the applicant
- Walsh & Monaghan Valuers
- Council's Finance Division in relation to GST advice on the amount of compensation payable by the applicant to Council for the grant of the easement.

## PLANNING AND POLICY IMPACT

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

This report contributes to the delivery of Wollongong 2028 goal "We value and protect our environment".

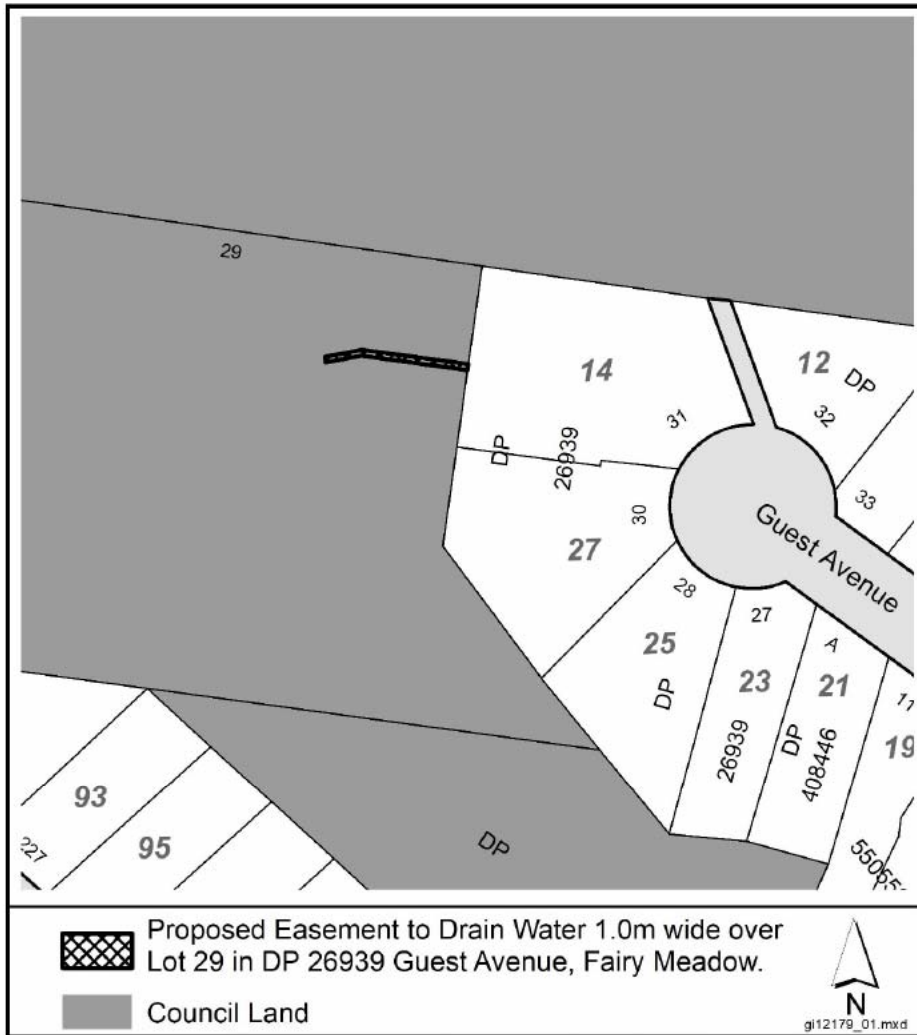
It specifically delivers on core business activities as detailed in the Property Services Service.

## FINANCIAL IMPLICATIONS

Council will receive \$1,000.00 (GST free) as compensation for the grant of the easement which is considered to be fair and reasonable based on the valuation report obtained. The applicant will also be responsible for all costs in the creation of the easement including valuation, survey, plan lodgement and legal costs, and any other costs.

## CONCLUSION

Consent condition (i)(a) of DA-2018/177 permits the owners of Lot 31 DP 26939 No 14 Guest Avenue, Fairy Meadow to install drainage infrastructure on Council's adjoining Community land. By granting a drainage easement over the land, Council will receive compensation for the easement, be able to identify the exact location of the drainage infrastructure and will formalise maintenance obligations to ensure that Council is not responsible for future maintenance of the drainage infrastructure.



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