

**MAYORAL MINUTE: PROPOSED ROAD CLOSURE – STOCK STREET**

**Council Meeting**

**11 May, 2016**

**AE: Mayor – Proposed Road Closure – Stock Street**

**EXECUTIVE SUMMARY**

In April 2014 Council was approached by Ms Sabina Read to purchase the road reserve adjacent to her late father's (Mr Bernie Carroll) property at 20 Stock Street, Darlington Point. When the property was to be offered for auction it was found that the corner of the shed was outside the property boundary and encroached onto the road reserve. This report proposes a way forward to resolve the matter.

**RECOMMENDATION**

**That Council vest that part of Stock Street being the subject of a road closure application as shown in Attachment A to this report in the Crown, subject to payment by the Estate of the Late Bernie Carroll of advertising costs and contributing the amount of \$300.00 towards the cost of the valuation fee for the original road closure application.**

**BACKGROUND**

Council resolved at the November 2014 meeting in relation to a road closure application for part of Stock Street, as follows:-

“That Council offers the sale of the roads reserve to the estate of the Late Bernie Carroll for the amount of \$1,000 plus all associated costs incurred be paid by the estate in relation to the sale”. The proposed closure is shown in **Attachment A**.

Subsequent to the resolution the necessary actions were undertaken and the relevant information was forwarded to the Department of Primary Industries – Lands for finalisation in November, 2015.

Lands responded by requiring the following before the application can be progressed:-

*“Any evidence regarding prior construction to support vesting in Council if approved for closure. This can be by way of a historical aerial photograph showing the road to be constructed and in use by the public, copies of the expenditure by Council and minutes authorising the construction”.*

The request was based on a 1972 Lands Department Locality Sketch showing the subject land to be fenced into the adjacent property (See **Attachment B**). The Department contends that since the land has been fenced off it does not constitute part of the Council road reserve and accordingly, cannot approve the proposed closure.

Considerable effort has been made to obtain approval including submission of Parish maps, gazettal notices of the dedication of the Stock Street widening in 1936 and recent

photographs. These approaches were to no avail. It is now quite evident that the land was resumed in 1936 but the fence was not removed at any time after that resumption and therefore, Lands will not concede that the land is part of the Council road reserve.

In order to have this matter finalised Lands has advised as follows:

*"If Council are unable to provide evidence of prior road construction then please advise if Council consents to the vesting of the road in the Crown and the department dealing directly with the owner of Lots 6 DP826992."*

Council has incurred considerable cost in obtaining a valuation, advertising and preparation of Plan of Road Closure as well as staff time involved in undertaking the process. It should be noted that these costs might not have been incurred if Land's concurrence had been sought in the first instance in accordance with the procedure for road closures.

Costs, other than staff time incurred to date are advertising \$684.15 and valuation fee of \$770.00. The Estate of the late Bernie Carroll paid the subdivision costs and has agreed to pay the advertising costs. In regards to the valuation fee the Estate has offered to contribute the amount of \$300.00. A letter outlining, inter alia, the basis for the offer of \$300.00 for the valuation is attached in **Attachment C**.

### **COMMENT**

Given that this matter was initiated in early 2014, considerable Council staff hours have been involved to no avail and Council cannot provide the necessary evidence that Lands requires to prove the subject land is part of the Council road reserve, it is recommended that Council vest interest in the parcel of land to the Crown to effect its sale to the Estate of the late Bernie Carroll.

**CONSIDERATIONS** (Statutory Compliance/Policy, Financial, Integrated Plan, Risk Management)

### **STATUTORY COMPLIANCE/POLICY**

Roads Act 1993

Crown Lands Act 1989

### **FINANCIAL**

This process has cost the Council in the vicinity of \$1,400 in advertising and valuation fees alone, not to mention the number of staff hours invested in securing the required documentation to meet the Department of Primary Industries – Lands requirements.

### **INTEGRATED PLANS**

### **RISK MANAGEMENT**

N/A

### **CONSULTATION / ENGAGEMENT**

Sabina Reed – Executor of the Estate of the late Bernie Carroll  
Department of Primary Industry – Lands  
ELT

**OPTIONS**

- a) The recommendation as printed is the preferred option.
- b) Another resolution as determined by Council. However, should Council wish to pursue the purchase/sale of land itself, it will require additional staff resources and a budget allocation to undertake the required searches etc.

**ATTACHMENTS**

**Attachment A: Map showing the subject site.**  
**Attachment B: 1972 Lands Department Locality Sketch.**  
**Attachment C: Correspondence from Sabina Reed.**

Austin Evans  
**MAYOR**

**Attachment A: Map showing the subject site.**

**11 MAY, 2016**





**Attachment C: Correspondence from Sabina Reed.**

Sabina Read

Administrator of the Estate of the late Bernard

Thomas Carroll

The Mayor

Murrumbidgee Shire Council

21 Carrington Street

Darlington Point NSW 2706

563 Whinray Crescent, East Albury NSW 2640

**RE: 20 STOCK STREET, DARLINGTON  
POINT**

To the Mayor and Councillors of Murrumbidgee  
Shire Council

The Estate of the late Bernard Thomas Carroll formally request Council to consider the following without prejudice offer if the council agrees to vest the allotment adjoining 20 Stock Street in The Crown.

The estate will pay the advertising costs of \$684.15 upon receipt of cost and copies of said advertorials.

The estate has already paid PHL Surveyors \$3,520.00 as per council's instruction. The estate requires return of the original plans and all paperwork received by the council from PHL Surveyors in regards to this matter.

The estate also agrees to contribute \$300 to the valuation of this allotment if council agrees to vest said section in the crown and a copy of the valuation is provided to the estate.

The estate believes this contribution should be more than acceptable due to the following:

- The valuation was obtained by Mr Biancini in 2014 to educate council in regard to this project and has been used by council to base previous decisions on.
- The estate did not request nor authorise the valuation, was not provided with quotations from any valuation firms and has never received a copy of the valuation.
- Crown lands has indicated they may or may not use the valuation during the next process and may require the estate to obtain a current valuation as said valuation is now redundant as it expired quite some time ago.
- This valuation may have been valid if parties employed to act on Councils behalf had acted in a timely manner but the considerable delays in this matter have resulted in substantial stress to the estates concerned parties, potential decreases in land values in the area and additional unnecessary costs incurred by the estate including solicitor fees, council rates and water, maintenance and vandalism and potential loss of interested parties in the estates property.
- The vesting of the land in Crown Lands is a matter which should have been detected by council when this matter first arose and if that had happened it may not have been necessary for Council to obtain a valuation of the land. We believe that had Mr Biancini competently processed this matter at an earlier date than council and the estate could have avoided the unnecessary costs associated with this process.



- The estate will now most likely have to negotiate a new purchase price for the land with Crown Lands which will most likely result in additional costs to the estate.

Both the estate and Council have invested substantially in this matter, we believe that vesting the land to The Crown is the best outcome for both parties.

We would also like to place on the record that we have been approached by a current member of the Council with an offer to purchase the property. We would assume that this Councillor would declare a conflict of interest and excuse himself from any discussion or vote on the matter.

Thank you for your

consideration. Sincerely,

Sabina Read

Administrator of the Estate of the late Bernard Thomas Carroll