

## Jenny – Secretary to Darryl Anderson

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**From:** Tony McAteer <tony.mcateer@richmondvalley.nsw.gov.au>  
**Sent:** Thursday, 6 June 2019 11:18 AM  
**To:** Jenny – Secretary to Darryl Anderson  
**Cc:** Mike Perkins  
**Subject:** FW: Iron Gates - Lots 276 & 277 DP 755624 and Water Reserve 28105  
**Attachments:** Richmond 1928.1744.pdf; Richmond 1929.1744.pdf; GG15Dec1909F.6774.pdf; GG17Jun1908F.3319.pdf; GG17Jun1908F.3318.pdf; WR4 & WR28105 - Crown Plan 89-1834.pdf

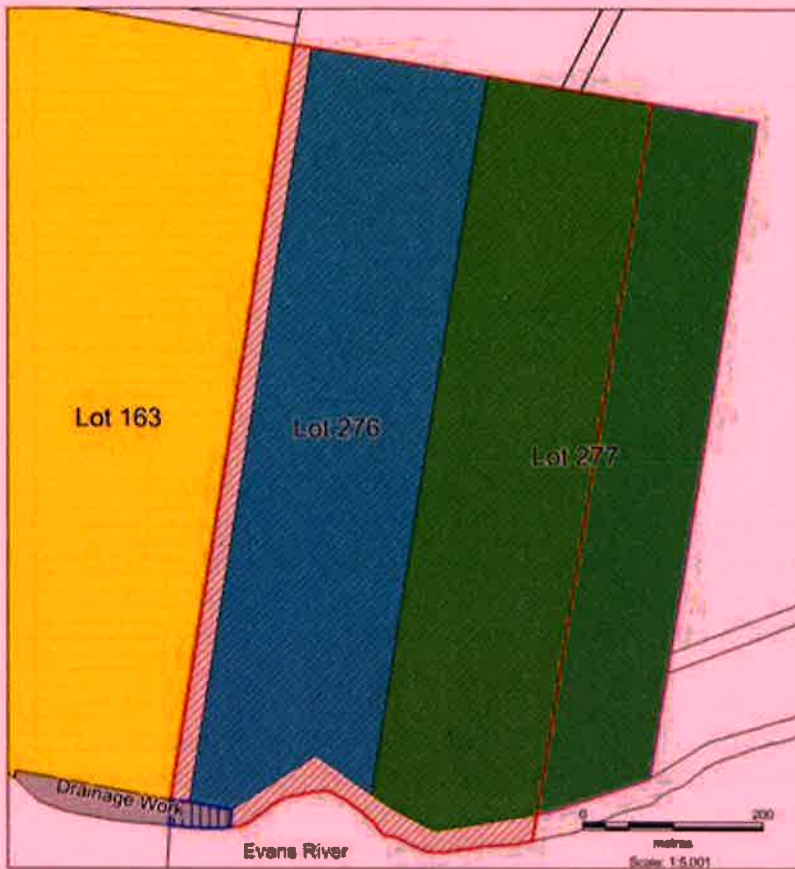
Hi Darryl




Thank you for sending through Peter Baumann's email of 29 March 2019. This clearly articulates the status of Crown Roads in the Iron Gates development and a preference by NSW Lands for them to be transferred to Council's control where they can remain available for public access. This also indicates a willingness from NSW Lands to provide owner's consent to lodgement of DA2015/0096, which you need to secure prior to submitting the amended application.

The only outstanding matter from Council's perspective was the status of Water Reserve WR28105, which was Gazetted on 17 September 1898 (and replaced WR4 Gazetted on 24 December 1861), and questions over whether the presence of this reservation would in any way complicate the DA or the transfer of the Crown Roads to Council. In this regard, I contacted Peter Baumann and he in turn responded by email on 5 June 2019, see below. He has confirmed that the WR has been revoked over the Crown Roads, except for about 130 metres of road on the eastern end (as it sits below Portion 277).

I have attempted to plot the locations of the various Gazettes Peter included in his email (and attached to this email), and which revoked parts of WR28105. Peter also states the presence of the WR will not impact on transferring the roads to Council in Fee Simple, but he isn't sure if doing so will further revoke the WR. As it stands there is no proposed DA works to be done in any part of the remaining WR, therefore, its presence shouldn't create any issues.

I have also included a copy of the Plan for WR28105 (& WR4).



-  Govt. Gaz - 17 June 1908 - Conditional Lease of about 80 acres east of Portion 163 (WR28105 revoked in same Gazl.)
-  Govt. Gaz - 15 December 1909 - Crown Grant of Portion 277 being 80 acres to the east of Portion 276 (Revokes Pt of Cond. Lease of 17/06/1908 & about 23 acres of WR28105)
-  Govt. Gaz - 11 May 1894 - Resumption for Drainage Works (Resuming Pt WR4 (note WR4 was replaced by WR28105 by Govt. Gaz of 17/09/1898))

Regards

**Tony McAteer**

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#ECMBODY  
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**From:** Peter Baumann [mailto:[peter.baumann@crowland.nsw.gov.au](mailto:peter.baumann@crowland.nsw.gov.au)]

**Sent:** Wednesday, 5 June 2019 4:16 PM

**To:** Tony McAteer

**Subject:** Iron Gates - Lots 276 & 277 DP 755624

Hi Tony

Further to our recent telephone discussion;

Firstly, I can confirm Water Reserve 4 was revoked by Water Reserve 28105.

Second, I have located records of the (partial) revocation of Water Reserve 28105. Copies of relevant gazette notices attached. The situation is complicated by the fact that the revocation gazetted 17 June 1908 (which predates the Crown plans) only covers part of the foreshore road reserve area as the gazetted revocation didn't extend to cover the entirety of the area of Portion 277. The residual area of WR2815 within measured area of Por 277 was revoked in gazette of 15 December 1909 to correct the anomaly however this would not have included the road component.

Our verification of the areas supports the above. In my view this was unintentional and was not picked at the time. So it appears we have a residual area of WR28105 concurrently over the eastern end of the Crown Road south of Portion 277.

In principle this anomaly shouldn't constrain the transfer of the Crown road to council control although I appreciate that Council has concerns in this regard. Under the Roads Act 1993 a Roads Authority owns a Public Road in fee simple. On transfer of a Crown Public Road to a local council the road ceases to be a Crown road and its ownership vests in the local council as Roads Authority. It is unclear whether this action automatically revokes any residual Crown reservation and I have been seeking further advice from across the department however have been unable to get any clarification so far. It's not an entirely unique situation so we may need to seek some legal advice to help resolve the matter.

In the meantime I suggest Council can consider seeking transfer of the Crown roads in question subject to this matter being addressed by the department prior to transfer.

Happy to discuss further,

Regards  
Peter

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*The Crown Land Management Act 2016 commenced on 1 July 2018.*  
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