

TRUSTEE MEETING BOOKLET

Northern Peninsula Area Regional Council

Trustees Council Meeting #5

to commence at 10:00am

on

Monday 26th August 2024

at

BAMAGA BOARDROOM

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Agenda Item 1 to 5
TRUSTEE COUNCIL MEETING #5
26th August 2024

- 1. Welcome and Opening of Meeting**
- 2. Acknowledgement of Traditional Owners**
- 3. Present**
- 4. Apologies**
- 5. Declarations of Conflict of Interest**
- 6. Confirmation of Minutes of Previous Meeting**



UNCONFIRMED

Meeting Minutes
TRUSTEE COUNCIL MEETING #4
Monday 22nd July 2024
Bamaga Boardroom

Agenda Item 1. Welcome and Opening of Meeting

Mayor Poi Poi welcomed attendees and opened the meeting at 10:03am with a prayer by Cr Yoelu.

Agenda Item 2. Acknowledgement of Country

Mayor Poi Poi paid respects on behalf of the Trustee to the traditional owners of the land upon which the meeting was held and the traditional owners of the Northern Peninsula Area; and to their elders past, present and emerging.

Council observed a minute silence out of respect to sorry business within the communities

Agenda Item 3. Present

Mayor & Councillors

Mayor Robert Poi Poi	Mayor
Cr David Byrne	Division 1
Cr Mary Yoelu	Division 2 / Deputy Mayor
Cr Kitty Gebadi	Division 3
Cr Bradford Elu	Division 5

Other Attendees

Kate Gallaway	CEO
Elimau Blarrey	Senior Executive Assistant (Minute Taker)

Agenda Item 4. Apologies

Resolution

That Council:

Moves to grant a leave of absence to Cr Bond who is away on study commitments

Moved: Cr Yoelu

Vote: 5/0

Seconded: Cr Gebadi

Resolution: T4-22072024

CARRIED

Agenda Item 5. Declarations of Conflict of Interest

Cr Yoelu declared a declarable conflict of interest for agenda item 8.6 as a close associate is a director of a corporation subject to this agenda item.



UNCONFIRMED

Meeting Minutes
TRUSTEE COUNCIL MEETING #4
Monday 22nd July 2024
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Agenda Item 6. Confirmation of Minutes of Previous Meeting

Resolution

That Council as Trustees:

Notes and confirms the minutes from the Trustee Meeting held Monday 17th June 2024.

Moved: Cr Byrne

Vote: 5/0

Seconded: Cr Gebadi

Resolution: T6.1-22072024

CARRIED

Agenda Item 7. Business Arising from Previous Meeting

Resolution

That Council as Trustees:

1. Pursuant to section 84(2) of the *Local Government Act 2009* "LG Act" to close this part of the meeting to the public;
2. Pursuant to section 84(2) of the LG Act:
 - (a) The matters that is to be discussed includes legal advice obtained by the local government as trustee, including contracts proposed to be made by the trustee council for which a public discussion would be likely to prejudice the interests of the trustee (section 84(2)(a) and 84(3)(e) of the LG Act).
 - (b) An overview of what is to be discussed while the meeting is closed is the ongoing business of finalising commercial leasing arrangements as resolved at previous Trustee meetings

Moved: Cr Elu

Vote: 5/0

Seconded: Cr Yoelu

Resolution: T7.1-22072024

CARRIED

Action items were discussed as per the Action Task List

Cr Yoelu left the room at 10:41am.

Cr Yoelu returned into the room at 10:42am.

Resolution

That Council as Trustees:

1. Resolve to open the meeting.

Moved: Cr Yoelu

Vote: 5/0

Seconded: Cr Byrne

Resolution: T7.2-22072024

CARRIED



UNCONFIRMED

Meeting Minutes
TRUSTEE COUNCIL MEETING #4
Monday 22nd July 2024
Bamaga Boardroom

Agenda Item 8.

Reports

Agenda Item 8.1.

Tenure Arrangements for Lot 337 on SP276661

Resolution

That Council as Trustees:

1. Note the report
2. Defer the matter to the August Trustee meeting.

Moved: Cr Gebadi

Vote: 5/0

Seconded: Cr Elu

Resolution: T8.1-22072024

CARRIED

Agenda Item 8.2.

EOI for part of lot 87 on SP284242

Resolution

That Council as Trustees:

1. Note the Report
2. Delegate to the Chief Executive Officer, pursuant to section 257(1)(b) of the Local Government Act 2009, power to negotiate and finalise on behalf of the Trustee (including by signing necessary documents on behalf of the Trustee), arrangements with Ergon Energy Corporation Limited on the basis of an Agreement to Grant Lease and Lease at current commercial rates subject to 4% annual increase for 20+5 years for part of Lot 87 on SP284242 identified as Lease Area A, subject to public consultation.

Moved: Cr Gebadi

Vote: 5/0

Seconded: Cr Yoelu

Resolution: T8.2-22072024

CARRIED



UNCONFIRMED

Meeting Minutes
TRUSTEE COUNCIL MEETING #4
Monday 22nd July 2024
Bamaga Boardroom

Agenda Item 8.3. Home Ownership Application – Lot 190 on SP273359

Mayor Poipoi left the room at 12:04pm.

Mayor Poipoi returned into the room at 12:05pm.

Resolution

That Council as Trustees:

1. Note the Report
2. Delegate to the Chief Executive Officer, pursuant to section 257(1)(b) of the Local Government Act 2009, power to negotiate and finalise on behalf of the Trustee (including by signing necessary documents on behalf of the Trustee), arrangements with Stephen Nawia on the basis of an Agreement to Grant Lease and Home Ownership Lease for Lot 190 on SP273359

Moved: Cr Elu

Seconded: Cr Gebadi

Vote: 5/0

Resolution: T8.3-22072024

CARRIED

Agenda Item 8.4. EOI for Lot 71 on SP273363

Cr Yoelu left the room at 12:12pm

Cr Yoelu returned into the room at 12:13pm.

Resolution

That Council as Trustees:

1. Note the Report
2. Defer the matter to the August Trustee Meeting

Moved: Cr Byrne

Seconded: Cr Elu

Vote: 5/0

Resolution: T8.4-22072024

CARRIED

Agenda Item 8.5. Home Ownership Application – Part of Lot 7 on SP273361

Resolution

That Council as Trustees:

1. Note the Report
2. Defer the matter to a future Trustee meeting pending further discussion with Mr Williams and Ms Ewart

Moved: Cr Gebadi

Seconded: Cr Byrne

Vote: 5/0

Resolution: T8.5-22072024

CARRIED



UNCONFIRMED

Meeting Minutes
TRUSTEE COUNCIL MEETING #4
Monday 22nd July 2024
Bamaga Boardroom

Agenda Item 8.6. Tenure arrangements for Lot 27 on SP279528

Having declared an interest for this agenda item, Cr Yoelu left the room at 12:39am

Mayor Poipoi left the room at 12:41pm

Mayor Poipoi returned into the room at 12:45pm

Resolution

That Council as Trustees:

1. Note the Report
2. Defer the matter to the August Trustee meeting

Moved: Cr Byrne

Vote: 4/0

Seconded: Cr Gebadi

Resolution: T8.6-22072024

CARRIED

Cr Yoelu returned to the meeting at 12.47pm.

Agenda Item 9. Other Business

Agenda Item 10. Close of Meeting

Meeting closed at 12:51pm with a prayer by Cr Yoelu.



Agenda Item 7
TRUSTEE COUNCIL MEETING #5
26th August 2024

7. Business arising from Previous Meeting

This matter is considered to be confidential under section 84(2) of the *Local Government Act 2009* and the Council is satisfied that the discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with legal advice obtained by the local government as trustee, including contracts proposed to be made by the trustee council for which a public discussion would be likely to prejudice the interests of the trustee (section 84(2)(a) and 84(3)(e) of the LG Act).

Title of Report: Tenure arrangements for Lot 27 on SP279528

Agenda Item: 8.1

Classification: For Decision

Author CEO

Attachments Nil

Officers Recommendation:

That Council:

1. Note the Report
2. Defer the matter to the August Council Meeting for decision regarding entering into management arrangements for the office portion of the lot

PURPOSE OF REPORT

To enable decision following further discussions for Lot 27 on SP279528

BACKGROUND AND CONTEXT

At the November 2023 Trustee meeting, the Trustee resolved

Resolution

That Council as Trustees:

1. **Note the Report**
2. Delegate to the Chief Executive Officer, pursuant to section 257(1)(b) of the Local Government Act 2009, power to negotiate and finalise on behalf of the Trustee (including by signing necessary documents on behalf of the Trustee), arrangements with Gudang Yadhaykenu Native Title Aboriginal Corporation on the basis of a Licence Agreement for 5 years at current market value subject to 4% annual increase, and on such other terms as the Chief Executive Officer considers appropriate for Lot 27 on SP279528

Moved: Cr Whap

Vote: 3/ 0

Seconded: Cr Getawan

Resolution: T8.7 – 20112023

CARRIED

A licence agreement was provided to Gudang Yadhaykenu Native Title Aboriginal Corporation in November 23. The matter was originally tabled at the July Trustee Meeting, before being deferred to this meeting. It should be noted in the period between these meetings GYNTAC has signed their licence agreement, but it has not been signed by Council Officers, pending discussions at this meeting. As GYNTAC were given advice that an agreement needed to be resolved by 30 June 2024 or the matter would be returned to the trustee, there is very limited legal risk to Council. GYNTAC has advised they



COUNCIL TRUSTEE MEETING # 5

Agenda Item 8.1

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have come to arrangements to purchase existing furniture and computers and to share the office with GYAC.

In the interim between when the decision was made and the agreement signed by GYNTAC the building has incurred damage by kids through break in.

The purpose of this report is to confirm whether the trustee wishes to continue these discussions or consider other options for the building.

For the benefit of the trustee, in 2023, a public EOI was undertaken for the building.

A total of 2 EOIs were received for this premise and attached to this report. They are summarised as follows

Party	Proposed Use	Term Conditions
Gudang Yadhaykenu Native Title Aboriginal Corporation	Office space and future growth as ranger base	10 years
Nai Beguta Agama Aboriginal Corporation	Youth Centre and programs	99 years

As Nai Beguta Agama Aboriginal Corporation already has existing structures within the Community, the trustee decided to proceed with the EOI from Gudang Yadhaykenu Native Title Aboriginal Corporation although both EOIs have merit.

It is Council Officer's understanding there is a desire to utilise the site as a Youth Centre. Infrastructure programs for youth centres are not currently aligned with the youth strategy. It took significant advocacy to access funds to refurbish the old HACC centre in Bamaga with funding ultimately provided under the restorative justice program by DATSIP, not Youth Justice. There are also concerns regarding the cost of repairs if the office is continually broken into.

There are options available to the trustee including

- Proceed with the current licence arrangements with GYNTAC
- Proceed with alternative arrangements with NBAAC
- Retain the facility and seek further funding. A management arrangement for the office could be entered into for a short term period while funds are sought. **Note: there would not be an alternative site for GYNTAC once their occupancy finished at the office

CRITICAL DATES

N/A

OTHER OPTIONS CONSIDERED

N/A

LEGAL AND LEGISLATION CONSIDERATIONS

Aboriginal Land Act

POLICY CONSIDERATIONS

N/A



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Agenda Item 8.1

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CORPORATE AND OPERATIONAL PLAN CONSIDERATIONS

N/A

FINANCIAL AND RESOURCE CONSIDERATIONS

N/A

CONSULTATION

N/A

Title of Report: Croc Tent Request for Variation

Agenda Item: 8.2

Classification: For Decision

Author: Chief Executive Officer

Attachments: Lease Extension Request
Signed Licence Agreement

Officer's Recommendation:

That Council (as Trustee) resolve:

1. pursuant to section 257(1)(b) of the *Local Government Act 2009*, to delegate to the Chief Executive Officer the power to negotiate, finalise and execute on behalf of the Trustee, Variation to the Licence Agreement with Dale and Lea-Ann Mears to give effect required to include option to renew for a further 2+5 years;

PURPOSE OF REPORT

To provide delegation to the Chief Executive Officer to enter into proposed Variation for part of Lot 30 on SP243594.

BACKGROUND AND CONTEXT

In November 2022 following public EOI, a licence agreement was entered into with Dale and Lea-Ann Mears for part of Lot 30 on SP243594 known as 'Croc Tent'.

This agreement was for a 3 year term with a fee of \$10,080.07 subject to 4% annual increase.

A request has been made by Dale and Lea-Ann Mears to include an option for renewal for a further 2+5 years in 2023. The matter was considered at the September 2023 Trustee meeting, where the trustee resolved

Resolution

That Council as Trustees:

1. Decline to vary the Licence Agreement with Dale and Lea-Ann Mears to include option to renew for a further 2+5 years;

Moved: Cr Cottis

Vote: 5/0

Seconded: Cr Nona

Resolution: T8.3 – 26092023

CARRIED

A further request has been made by Dale and Lea-Ann Mears to request an extension of 20 years. Licence Agreements as they grant use on a non-exclusive tenure are for short term arrangements. Entering into a licence agreement for a long term such as 20 years may place council at legal risk in terms of native title validation due to the length of occupancy.

If a long term of this nature is supported by the trustee, then a lease would be the appropriate agreement structure to ensure that native title interests are correctly validated. The costs of this should be fully met by the Dale and Lea-Ann Mears.

In the interim, a shorter extension could be granted for a further 2+5 years, which would result in similar terms as licence agreements at Tradesman Way and New Mapoon,. The request would be effected through a variation to the existing licence agreement.

Once the current backlog of leases have been addressed by the IIAC, Trustee could reconsider the matter.

Alternatively, the trustee could resolve to enter into a lease with the hope it is finalised prior to the expiry of the licence agreement in 2025.

CRITICAL DATES

NA

OTHER OPTIONS CONSIDERED

N/A

LEGAL AND LEGISLATION CONSIDERATIONS

NA

POLICY CONSIDERATIONS

N/A

CORPORATE AND OPERATIONAL PLAN CONSIDERATIONS

N/A

FINANCIAL AND RESOURCE CONSIDERATIONS

N/A

CONSULTATION

NA

Title of Report: Tenure arrangements for Lot 114 on SP273365 “New Mapoon Nursey”

Agenda Item: 8.3

Classification: For Decision

Author CEO

Attachments Nil

Officers Recommendation:

That Council:

1. Note the Report
2. Retain the property for council purposes

PURPOSE OF REPORT

To enable decision regarding tenure arrangements for New Mapoon Nursery

BACKGROUND AND CONTEXT

In August 2022, the Trustee undertook a formal Expression of Interest process for Lot 114 on SP273365 “New Mapoon Nursey”.

A total of 5 EOIs were received for this premise. They were as summarised below

Party	Proposed Use	Term Conditions
Brodie Yusia	Convenience store, snack bar, catering, equipment hire and vehicle hire	99 years
Francis Accom	Mowing business and nursery	10 years
Katrin Holmsten	Online travel guide business and dwelling	5-10 years
Laban & Dorelle Sambo	Commercial Nursery and sale of mowing equipment	99 years
New Mapoon Aboriginal Corporation	Social enterprise nursery	Perpetual and divested

Following this, at request of the trustee, Council Officers followed up consistently with Mr Yusia and Mr Accom to provide business plans for the leasing of the property. A business plan was not received by Mr Accom when the matter was discussed at the December 2022 Trustee Meeting, and the trustee elected not to extend the decision making timeframe any further.

In December 2022, the trustee resolved

Resolution:

That Council, as Trustees:

1. **Note the Report**
2. Require the applicant to incorporate the relevant business prior to entering into leasing arrangements
3. Delegate to the Chief Executive Officer, pursuant to section 257(1)(b) of the Local Government Act 2009, power to negotiate and finalise on behalf of the Trustee (including by signing necessary documents on behalf of the Trustee), arrangements with the relevant business controlled by Brodie Yusia, Leanna Henry and Rachel Yusia identified at point 2 on the basis of an Licence Agreement for 3+2 years at current market value subject to 4% annual increase to be operational within 12 months, and on such other terms as the Chief Executive Officer considers appropriate for Lot 114 on SP273365
4. Reconsider the EOI from Brodie Yusia for a Lease at the December 2023 Trustee Meeting

Moved: Cr Cottis

Vote: 4/0

Seconded: Cr Whap

Resolution: T8.2-13122022

CARRIED

Following this, a licence agreement was entered into with Mr Yusia but there was no meaningful action taken to establish the business consistently with the resolution and the licence agreement was terminated.

The property has remained vacant and is in need of minor repairs to ensure security. Currently toilet facilities are shared between the Nursery and the Art Centre. There has also been interest from Operational Staff in establishing a secondary depot at New Mapoon to better assist with servicing Seisia and New Mapoon communities.

Council Officers are seeking refreshed instructions from the Trustee to enable progression with the site. Options available to the trustee

1. Do nothing and leave the site vacant
2. Enter into leasing arrangements with a party that has previously submitted an EOI
3. Undertake a further public EOI for the site
4. Retain the site for council purposes with repairs undertaken using the existing R&M budget

CRITICAL DATES

N/A

OTHER OPTIONS CONSIDERED

N/A

LEGAL AND LEGISLATION CONSIDERATIONS

Aboriginal Land Act



COUNCIL TRUSTEE MEETING # 5

Agenda Item 8.3

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Bamaga Boardroom

POLICY CONSIDERATIONS

N/A

CORPORATE AND OPERATIONAL PLAN CONSIDERATIONS

N/A

FINANCIAL AND RESOURCE CONSIDERATIONS

N/A

CONSULTATION

N/A

Title of Report: Tenure Arrangements for Lot 337 on SP276661

Agenda Item: 8.4

Classification: For Decision

Author Chief Executive Officer

**Attachments Map
Building Report**

Officer's Recommendation:

That Council:

- Note the report

PURPOSE OF REPORT

To consider and enable a decision regarding the next steps in tenure arrangements for Lot 337 on SP276661 being the site known as St Stephen's Church.

BACKGROUND AND CONTEXT

In October 2022, the trustee resolved to enter into a new lease with the Roman Catholic Trust Corporation for the Diocese of Cairns as their previous lease was not registered properly. An extended negotiation process was undertaken with the Diocese who decided to vacate the premises. The fully vacated premise was handed back to Council in June 2024.

Following this the Executive Manager Building and Infrastructure undertook a building report, which is attached to this report. This report identified that there are no major structural issues at the premise but electrical work is needed to bring the building into standard for current standards regarding fire alarms.

The purpose of this report is obtain refreshed direction from trustee in this building. Options available to the trustee

- Enter into arrangements with a local congregation to utilise the building on an as need basis through a rental or management agreement basis (with council retaining control and ownership)
- Enter into a licence agreement or lease with a local congregation for the building
- Consider alternative uses of the building

Trustee could opt to undertake a public EOI to elicit interest from interested parties in utilising the building.

CRITICAL DATES

N/A



OTHER OPTIONS CONSIDERED

N/A

LEGAL AND LEGISLATION CONSIDERATIONS

Council is required to discharge its duties as trustee of Torres Strait Islander land pursuant to the *Torres Strait Islander Land Act 1991*.

POLICY CONSIDERATIONS

N/A

CORPORATE AND OPERATIONAL PLAN CONSIDERATIONS

N/A

FINANCIAL AND RESOURCE CONSIDERATIONS

N/A

CONSULTATION

Council's solicitors, Preston Law.

BUILDING REPORT OVERVIEW

LOCATION IDENTIFICATION

LOCATION: Bamaga

ASSET TYPE: Building Used As A Church

BUILDING DETAILS: Low Set/Steel Studded Building/Shed

GENERAL COMMENTS: Building is on the road to the Airport across from the Bamaga Servo and next to Bio Security Shed. The Building was once used as a Church.

BUILDING IN PERSPECTIVE

This is an Old Building of some 20yrs. Some of the systems of the building are aging and will require updating over time. Despite the older systems, the improvements that are recommended in this report are not unusual for a Building of this age and locations. Please remember that there is no such thing as a perfect Building.

IMPROVEMENT RECOMMENDATION

The following is a synopsis of the potentially significant improvements that should be budgeted for over the short term. Other significant improvements, outside of this scope of this inspection, may also be necessary.

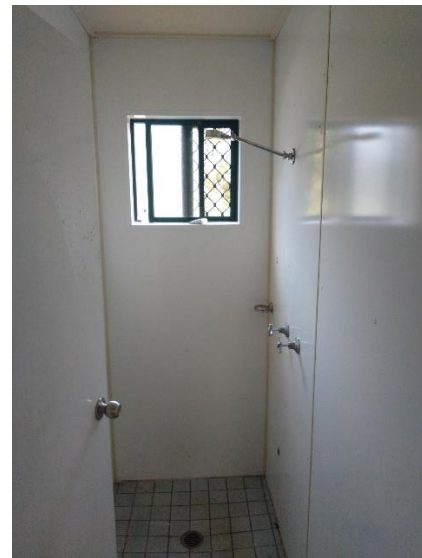
MAJOR / MINOR CONCERNS

- Major Concern: Some of the electrical will need to be replaced and brought up to Australian standards, Smoke Alarms, Lights, Fans.
- Minor Building works will need to be addressed like Security Screens on windows and Doors , ceiling repair due to water leaks
- Aircon
- Vinyl or Tiles throughout section of Building
- New Fencing around perimeter
- Painting Interior
- Lining of the Ceiling

RECOMMENDATION

With the age of the building being over 20yrs. I believe that the Electrical will be the first thing that works need to be carried out followed by Building works to secure the building. Rest of works are cosmetic that can be done to bring Building up to Standard.



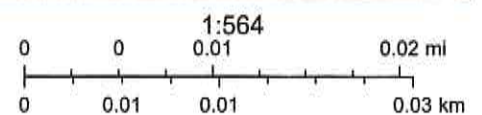




Digital Asset Management Mapping



6/7/2024, 8:20:53 AM



LOCATIONS_Labels

Roads

QLD Digital Cadastral DataBase

Base, Lot Type Parcel

Red: Band_1

Green: Band_2

Blue: Band_3

LatestStateProgram_AllUsers

Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

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Title of Report: Tenure Arrangements for Lots 286, 287, 288 and 289 on SP273361

Agenda Item: 8.5

Classification: For Decision

Author Chief Executive Officer

Attachments Nil

Officer's Recommendation:

That Council:

- Note the report
- Require the Anglican Diocese of North Queensland to engage and provide information of a satisfactory level by 30 September 2024
- Delegate to the Chief Executive Officer pursuant to section 257(1)(b) of the Local Government Act 2009, power to commence proceedings to terminate existing arrangements with Anglican Diocese of North Queensland over Lots 286, 287, 288 and 289 on SP273361 if there is nil further engagement by 30 September 2024

PURPOSE OF REPORT

To consider and enable a decision regarding the next steps in dealing with the Anglican Diocese of North Queensland's (ADNQ) expression of interest (EOI) over Lots 286 – 289 on SP 273361 at Bamaga.

BACKGROUND AND CONTEXT

At the May Trustee Meeting, the Trustee considered the EOI from ADNQ over Lots 286-289 on SP273361 at Bamaga.

At this meeting, the Trustee deferred the matter pending further information on their future aspirations and strategic vision. As well as the upkeep of the shop and donga. Preston Law on behalf of NPARC has followed up on the following occasions

- 04 June 2024
- 19 June 2024
- 24 June 2024
- 08 July 2024
- 24 July 2024

To date the only response was as below

The Diocese of North Queensland will continue to use the site for religious purposes, it is our intention to carry out further maintenance works on the Church and Priest house as required, a major project was undertaken a few years ago to renew the Church roof and we were extremely grateful to the Bamaga business community for their support . When we are able to a new Priest will be allocated to Bamaga.

The Church congregation has plans for the Old Shop to turn it into a Clothing Op shop.

The Donga is to be refitted and used by members of the Melanesian brotherhood, it is anticipated that instead of the weekend visits once a month, they will be able to be in the community for much longer periods.

Given that there has been ongoing issues where the Diocese does not provide contribution for past maintenance, noting the Roof Repair was funded by a local business, specific detail was requested regarding

- what past maintenance and capital repair expenditure the Diocese has committed to in respect of the Premises; and
- what specific future maintenance and capital repair programs the Diocese has in place for the Premises.

If the Trustee is satisfied with the information provided to it at date, as discussed in May, the options available to the trustee

- Progress negotiations with ADNQ consistently with the original EOI provided and the brief additional information that was provided
- Provide a short term agreement with the view of longer term tenure to be resolved following conversations between ADNQ and the local congregation that include a provision of sub-contractor arrangements
- carry out a public EOI process to determine the extent to which there is other interest in the community by other people or groups to use the same premises;
- reject ADNQ's EOI and take steps to remove them from the premises.

The lack of response to the request for additional information from ADNQ is disappointing. If further information is still sought, it would be Council Officer's recommendation for a firmer letter to be sent foreshadowing that if ADNQ continues to not participate, the trustee will commence processes to take back possession of the premises and terminate the implied tenancy that exists to allow their occupation now. This would be of greater weight, if it follows a Trustee resolution to a similar effect requiring satisfactory engagement by a particular date, failing which there is a delegation given to bring existing arrangements to an end.

CRITICAL DATES

N/A

OTHER OPTIONS CONSIDERED

N/A

LEGAL AND LEGISLATION CONSIDERATIONS

Council is required to discharge its duties as trustee of Torres Strait Islander land pursuant to the *Torres Strait Islander Land Act 1991*.

POLICY CONSIDERATIONS

N/A



COUNCIL TRUSTEE MEETING #5

Agenda Item 8.5

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Bamaga Boardroom

CORPORATE AND OPERATIONAL PLAN CONSIDERATIONS

N/A

FINANCIAL AND RESOURCE CONSIDERATIONS

N/A

CONSULTATION

Council's solicitors, Preston Law.

Title of Report: Tenure Arrangements for Lots 76 & 76B Lui St

Agenda Item: 8.6

Classification: For Decision

Author Chief Executive Officer

Attachments October 2017 Minutes (tabled)

June 2018 Minutes (tabled)

Historical Title Search (tabled)

Officer's Recommendation:

That Council:

- Note the report

PURPOSE OF REPORT

To consider and enable a decision regarding the next steps in dealing with the tenure arrangements over Lot 338 on SP273361 (76 Lui St) and Lot 76 on SP273361 (76B Lui St).

BACKGROUND AND CONTEXT

In October 2017, Council resolved to remove Lot 76 Lui St from the social housing register and to surrender the 40 year lease as this house is the residence used by visiting clergy and needs to be maintained for this purpose. The minutes from this meeting are attached to this report.

Resolution

That the Council resolve to request the Surrender of Social Housing Lease located 76A Lui Street Bamaga and that the house be removed from the social housing register.

Moved : Cr Adidi

Seconded : Cr Bond

Vote : 6/0

Resolution Number: 5.1 - 311017

At the June 2018 Council Meeting, it identified that the address in the resolution was incorrect. Unfortunately, the address for the property was erroneously identified as 76B Lui St instead of 76 Lui St and council further resolved as below.

Resolution :

That the Council resolve to request the surrender of Lease VM on Plan SP246904 located at 12 Charlie Street Umagico and that the house be removed from the social housing register.

Further

That the Council resolve to request the Surrender of Social Housing Lease located 76B Lui Street Bamaga and that the house be removed from the social housing register.

Moved : Cr Getawan

Seconded : Cr Nona

Vote : 5/0

Resolution Number : 5.2 - 260618

The confusion came from incorrectly labelled maps and using addresses instead of Lot Plans within the resolutions. From here, the social housing lease (dealing 716443496) was surrendered on 28/06/2019 as per the attached Historical Title Search.

It has resulted in a tenant still remaining in 76B Lui St (the lease that was surrendered) and also has been maintained by the department and that 76 Lui St (Lot 76 on SP273361) is still a 40 year lease.

Moving forward, there are two separate issues that need to be addressed by the trustee.

76B Lui St (Lot 338 on SP273361)

In regards to 76B Lui St (Lot 338 on SP273361), Trustee needs to determine if it would like to put 76B Lui St (Lot 338 on SP273361) back on a 40 year lease. The options available to the trustee include

- Do nothing – however this would not resolve the uncertainty or confusion regarding the property
- Resolve to enter into a 40 year lease to the property
- Retain the property as Council Social Housing property and request the property be added to the assistance agreement

Council officers would strongly recommend options 2 or 3 to prevent the confusion moving forward. In terms of option 3 to retain the property as Council Social Housing; there is a risk that Housing would agree to add the property to the assistance agreement. However, that being said, the Department has been receptive to ensure all social housing managed by Council is on the assistance agreement. Further, NPARC has identified within its NPA Local Housing Plan aspirations to regain ownership and management of social housing within the region. This has been agreed to by Department of Housing and is still in scoping stages, waiting on Department of Housing to approve the social housing provider registration. There are many factors to consider here including but not limited to financial considerations relating to insurance, depreciation and rent arrears, resourcing and greater control of allocation and wait list management.

Alternatively, the trustee could resolve to enter into a 40 year lease for the property and surrender the lease into the future as part of the social housing transition when finalised.

76 Lui St (Lot 76 on SP273361)

In regards to 76 Lui St (Lot 76 on SP273361), Trustee needs to determine if it would like to surrender the lease at 76 Lui St (Lot 76 on SP273361). As the previous clergyman was a local resident entitled to social housing, there has only recently been the issues concerned with the property raised following his retirement. The enquires have been made on separate occasions to Council Officers by two parties that are separate factions of the AOG Church. The tenancy previously has been management by

Department of Housing and in the interim, all enquires have been redirected to housing. The options available to the trustee include

- Do nothing and retain the 40 year lease on the property; with tenancy managed by Department of Housing
- Resolve to surrender the 40 year lease and then
 - Add the property to Council Social Housing and request the property be added to the assistance agreement – the property would then be subject to Councils Social Housing Policy and Allocation Process
 - Add the property to Council Staff Housing and enter into a Residential Tenancy Agreement with one of the interested parties
 - Resolve to enter into a lease or licence agreement for the property with one of the interested parties

The existing tenants have exited from the property and are staying with family until they relocate to another area.

The original decision made by Council to surrender the lease is not a valid decision, as it was not a correct property within the resolution and Council is not bound by that original decision to surrender the lease on the property.

If Trustee wishes to surrender the lease and retain as a clergy property, regardless of the options considered, Department of Housing should undertake a VACATE maintenance prior to the lease being surrendered. The previous tenants were paying rent to Department of Housing as per the lease arrangements and Council Officers would strongly recommend against taking back a property that could potentially be in poor condition, causing future maintenance liabilities.

It may occur that a future resident does not meet social housing policy. Similar financial considerations and resourcing challenges remain if the property is added to either Council Social Housing or Council Staff Housing, with maintenance costs if the property isn't added to the assistance agreement.

A fixed-term Residential Tenancy Agreement would give council the greatest control over the property in terms of determining tenancy and responding to changes in community dynamics and requirements. It would be associated with the highest management costs and there would be no real opportunity to divest responsibilities for insurance and maintenance. The rent amount set in the fees and charges is \$350 / week (\$18,200 pa).

Similarly, under a licence agreement, it would be unlikely a lessee would agree to the responsibilities of insurance and maintenance on what would be a shorter term unsecured tenure.

Potentially under a lease agreement, in exchange for a longer tenure, the insurance and maintenance responsibilities could be divested to another party. It may be challenging to change the lessee or leasing arrangements once agreed, if there are changes within the community dynamics.

Council Officers would note that there are likely to be challenges regardless of the decision made regarding this property due to the strong community dynamics regarding its legacy.

CRITICAL DATES

N/A



OTHER OPTIONS CONSIDERED

N/A

LEGAL AND LEGISLATION CONSIDERATIONS

Council is required to discharge its duties as trustee of Torres Strait Islander land pursuant to the *Torres Strait Islander Land Act 1991*.

POLICY CONSIDERATIONS

N/A

CORPORATE AND OPERATIONAL PLAN CONSIDERATIONS

N/A

FINANCIAL AND RESOURCE CONSIDERATIONS

N/A

CONSULTATION

Council's solicitors, Preston Law.
Department of Housing

Title of Report: EOI for Lot 71 on SP273363

Agenda Item: 8.7

Classification: For Decision

Author CEO

Attachments EOI from Titom and Michelle Tamwoy

Officers Recommendation:

That Council:

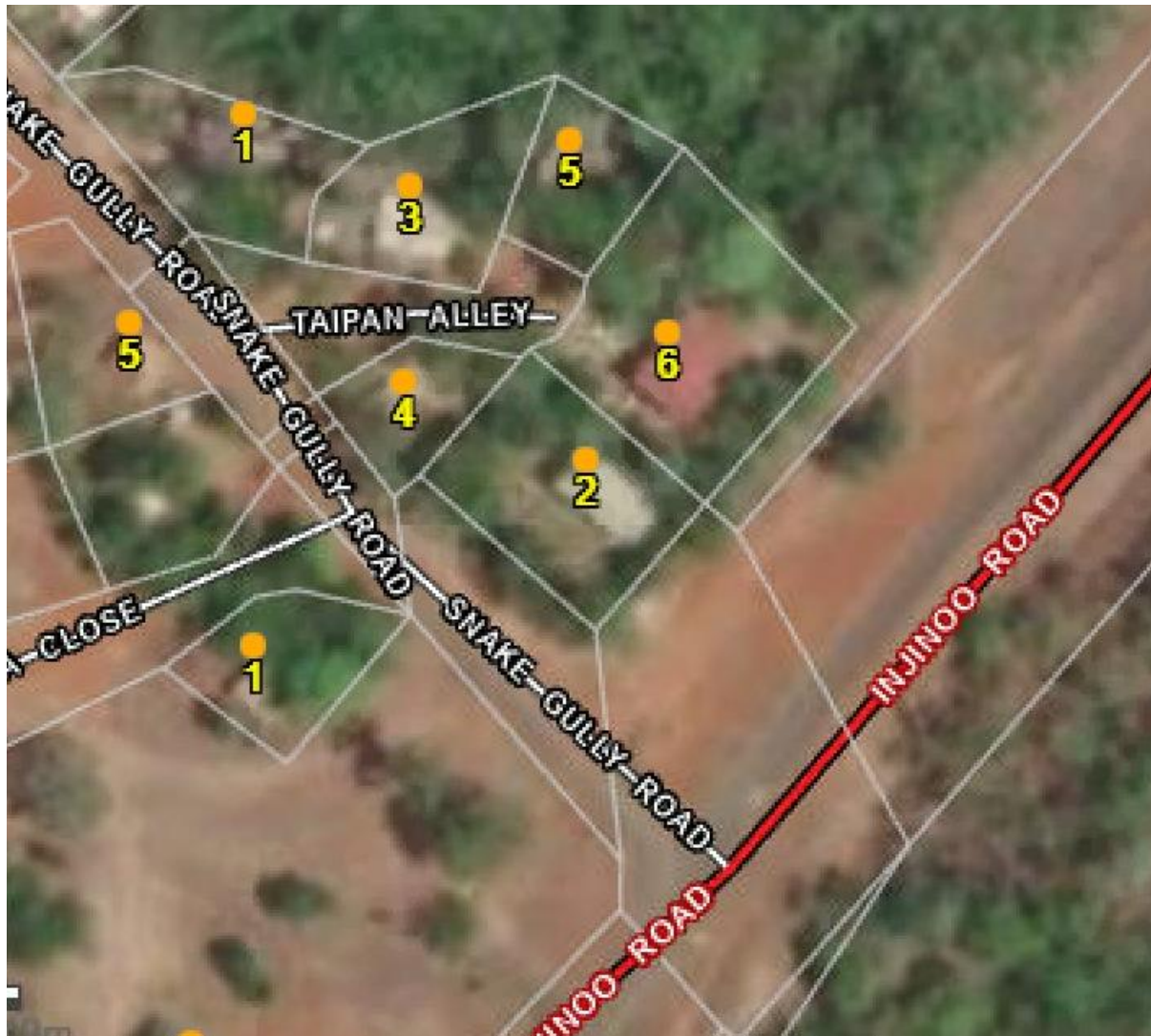
1. Note the Report
2. Delegate to the Chief Executive Officer, pursuant to section 257(1)(b) of the Local Government Act 2009, power to negotiate and finalise on behalf of the Trustee (including by signing necessary documents on behalf of the Trustee), arrangements with Michelle and Titom Tamwoy on the basis of an Agreement to Grant Lease and Lease at current commercial rates subject to 4% annual increase for 5+5+5+5 years for Lot 71 on SP273363

PURPOSE OF REPORT

To enable decision following an EOI from Titom and Michelle Tamwoy for Lot 71 n SP273363.

BACKGROUND AND CONTEXT

Titom and Michelle Tamwoy have submitted an EOI to Council to enter into a lease for lot 71 on SP273363, also known as 4 Taipan Ally. This is a small lot (549m²) that has an old building on site. Titom and Michelle Tamwoy advised they approached the trustee directly to discuss using the land for the storage of plant and vehicle associated with their business, renovate the old building to become an office space and small kitchen and install a perimeter fence.



There is no current purpose identified for the land on the Master Plan. In addition, there is likely to be little useable functions due to the small size of the lot.

CRITICAL DATES

N/A

OTHER OPTIONS CONSIDERED

Council could decline the EOI or propose an alternative site.

LEGAL AND LEGISLATION CONSIDERATIONS

Aboriginal Land Act

POLICY CONSIDERATIONS

N/A



COUNCIL TRUSTEE MEETING # 5

Agenda Item 8.7

Monday 26th August 2024

Bamaga Board Room

CORPORATE AND OPERATIONAL PLAN CONSIDERATIONS

N/A

FINANCIAL AND RESOURCE CONSIDERATIONS

N/A

CONSULTATION

Titom and Michelle Tamwoy

Title of Report: Home Ownership Application – Lot 22 on SP273359

Agenda Item: 8.8

Classification: For Decision

Author: Chief Executive Officer

Attachments: Attachment A. EOI from J Aniba
Attachment B. Preliminary Land Assessment Report
Attachment B. (a). RPS Plan
Attachment B. (b). Extract of SP273359
Attachment B. (c). DA Mapping

Officers Recommendation:

That Council, as Trustees:

- (1) Note the report
- (2) Delegate to the Chief Executive Officer, pursuant to section 257(1)(b) of the Local Government Act 2009, power to negotiate and finalise on behalf of the Trustee (including by signing necessary documents on behalf of the Trustee), arrangements with Jeffery Aniba on the basis of an Agreement to Grant Lease and Home Ownership Lease for Lot 22 on SP273359

PURPOSE OF REPORT

To provide the Trustee the information on the preliminary land assessment report for Lot 22 on SP273359.

BACKGROUND AND CONTEXT

On the 29th June 2024, an EOI was received from Jeffery Aniba to enter a home ownership lease for Lot 22 on SP273359 (7 Stephen Cl Seisia). This was forwarded to the Home Ownership Program of DTATSIPCA who undertook the necessary preliminary assessment to allow consideration by the Trustee and is attached to this EOI.

Below are the key steps for all 99- year home ownership leases including responsible party:

1. EOI submitted – applicant
2. Assess the EOI – trustee
 - a. EOI sent to DTATSIPCA to undergo preliminary assessment report
 - b. EOI presented to Trustee meeting following assessment
3. Notify applicant of outcome – Trustee

If EOI is approved



4. Notice of intent to lease sent to DCHE, if the EOI is over a social housing dwelling – Trustee
5. Response to the Notice of Intent to lease and confirmation sale price – DHLGPPW
6. Agreement to Lease (ATL) presented to the applicant - Trustee *(DTATSIPCA have confirmed they will prepare these on behalf of the Trustee at no cost)*
7. ATL signed by the applicant and Trustee

Conditions of the ATL to be met

8. Finance - applicant to present financial evidence to the Trustee they can cover the sale price – applicant
9. Building and pest inspection – applicant
10. Native Title – address Native Title to enable leasing – applicant *this will be a PAN under the ILUA)*
11. The exiting 40 yr social housing lease needs to be surrendered – DTATSIPCA will arrange

When all ATL conditions have been met

12. Deliver the maintenance with in the ATL agreement timeframe – DHLGPPW

When the maintenance delivery has been completed

13. Settlement – sale price payment made to the Trustee - applicant
14. Lease document is signed by the applicant and Trustee – Applicant and Trustee
15. ATL and lease document provided to Queensland Revenue Office for duty assessment and payment of any duty – applicant
16. Lease document is lodged with Titles officer for registration -applicant

NPARC has met with Ipima Ikaya a number of times to confirm their position. It appears there is agreement to the compensation arrangements offered following the last meeting and the relevant documents are being progressed.

CRITICAL DATES

Nil

OTHER OPTIONS CONSIDERED

The Trustee can decline the EOI

LEGAL AND LEGISLATION CONSIDERATIONS

Torres Strait Islander Land Act 1991

POLICY CONSIDERATIONS

NA

FINANCIAL AND RESOURCE CONSIDERATIONS

NA



COUNCIL TRUSTEE MEETING # 5

Agenda Item 8.8

Monday 26th August 2024

BAMAGA BOARDROOM

CONSULTATION

DATSIP

RPS

Title of Report: Home Ownership Application – Lot 23 on SP273359

Agenda Item: 8.9

Classification: For Decision

Author: Chief Executive Officer

Attachments: Attachment A. EOI from P Sunai
Attachment B. Preliminary Land Assessment Report
Attachment B. (a). RPS Plan
Attachment B. (b). Extract of SP273359
Attachment B. (c). DA Mapping

Officers Recommendation:

That Council, as Trustees:

- (1) Note the report
- (2) Delegate to the Chief Executive Officer, pursuant to section 257(1)(b) of the Local Government Act 2009, power to negotiate and finalise on behalf of the Trustee (including by signing necessary documents on behalf of the Trustee), arrangements with Peri Sunai on the basis of an Agreement to Grant Lease and Home Ownership Lease for Lot 23 on SP273359

PURPOSE OF REPORT

To provide the Trustee the information on the preliminary land assessment report for Lot 23 on SP273359.

BACKGROUND AND CONTEXT

On the 19th March 2024, an EOI was received from Peri Sunai to enter a home ownership lease for Lot 23 on SP273359 (5 Stephen Cl Seisia). This was forwarded to the Home Ownership Program of DTATSIPCA who undertook the necessary preliminary assessment to allow consideration by the Trustee and is attached to this EOI.

Below are the key steps for all 99- year home ownership leases including responsible party:

1. EOI submitted – applicant
2. Assess the EOI – trustee
 - a. EOI sent to DTATSIPCA to undergo preliminary assessment report
 - b. EOI presented to Trustee meeting following assessment
3. Notify applicant of outcome – Trustee

If EOI is approved

4. Notice of intent to lease sent to DCHE, if the EOI is over a social housing dwelling – Trustee
5. Response to the Notice of Intent to lease and confirmation sale price – DHLGPPW
6. Agreement to Lease (ATL) presented to the applicant - Trustee *(DTATSIPCA have confirmed they will prepare these on behalf of the Trustee at no cost)*
7. ATL signed by the applicant and Trustee

Conditions of the ATL to be met

8. Finance - applicant to present financial evidence to the Trustee they can cover the sale price – applicant
9. Building and pest inspection – applicant
10. Native Title – address Native Title to enable leasing – applicant *this will be a PAN under the ILUA)*
11. The exiting 40 yr social housing lease needs to be surrendered – DTATSIPCA will arrange

When all ATL conditions have been met

12. Deliver the maintenance with in the ATL agreement timeframe – DHLGPPW

When the maintenance delivery has been completed

13. Settlement – sale price payment made to the Trustee - applicant
14. Lease document is signed by the applicant and Trustee – Applicant and Trustee
15. ATL and lease document provided to Queensland Revenue Office for duty assessment and payment of any duty – applicant
16. Lease document is lodged with Titles officer for registration -applicant

NPARC has met with Ipima Ikaya a number of times to confirm their position. It appears there is agreement to the compensation arrangements offered following the last meeting and the relevant documents are being progressed.

CRITICAL DATES

Nil

OTHER OPTIONS CONSIDERED

The Trustee can decline the EOI

LEGAL AND LEGISLATION CONSIDERATIONS

Torres Strait Islander Land Act 1991

POLICY CONSIDERATIONS

NA

FINANCIAL AND RESOURCE CONSIDERATIONS

NA



COUNCIL TRUSTEE MEETING # 5

Agenda Item 8.9

Monday 26th August 2024

BAMAGA BOARDROOM

CONSULTATION

DATSIP

RPS

Title of Report: Home Ownership Application – Lot 219 on SP273361

Agenda Item: 8.10

Classification: For Decision

Author: Chief Executive Officer

Attachments: Attachment A. EOI from M & G Tamwoy

Attachment B. Preliminary Land Assessment Report

Attachment B. (a). RPS Plan

Attachment B. (b). Extract of SP273361

Attachment B. (c). DA Mapping

Officers Recommendation:

That Council, as Trustees:

- (1) Note the report
- (2) Delegate to the Chief Executive Officer, pursuant to section 257(1)(b) of the Local Government Act 2009, power to negotiate and finalise on behalf of the Trustee (including by signing necessary documents on behalf of the Trustee), arrangements with Mika Tamwoy on the basis of an Agreement to Grant Lease and Home Ownership Lease for Lot 219 on SP273361

PURPOSE OF REPORT

To provide the Trustee the information on the preliminary land assessment report for Lot 219 on SP273361.

BACKGROUND AND CONTEXT

On the 10th June 2024, an EOI was received from Gerald & Mika Tamwoy to enter a home ownership lease for Lot 219 on SP273361 (219 Adidi St Bamaga). This was forwarded to the Home Ownership Program of DTATSIPCA who undertook the necessary preliminary assessment to allow consideration by the Trustee and is attached to this EOI.

Below are the key steps for all 99- year home ownership leases including responsible party:

1. EOI submitted – applicant
2. Assess the EOI – trustee
 - a. EOI sent to DTATSIPCA to undergo preliminary assessment report
 - b. EOI presented to Trustee meeting following assessment
3. Notify applicant of outcome – Trustee

If EOI is approved

4. Notice of intent to lease sent to DCHE, if the EOI is over a social housing dwelling – Trustee
5. Response to the Notice of Intent to lease and confirmation sale price – DHLGPPW
6. Agreement to Lease (ATL) presented to the applicant - Trustee *(DTATSIPCA have confirmed they will prepare these on behalf of the Trustee at no cost)*
7. ATL signed by the applicant and Trustee

Conditions of the ATL to be met

8. Finance - applicant to present financial evidence to the Trustee they can cover the sale price – applicant
9. Building and pest inspection – applicant
10. Native Title – address Native Title to enable leasing – applicant *this will be a PAN under the ILUA)*
11. The exiting 40 yr social housing lease needs to be surrendered – DTATSIPCA will arrange

When all ATL conditions have been met

12. Deliver the maintenance with in the ATL agreement timeframe – DHLGPPW

When the maintenance delivery has been completed

13. Settlement – sale price payment made to the Trustee - applicant
14. Lease document is signed by the applicant and Trustee – Applicant and Trustee
15. ATL and lease document provided to Queensland Revenue Office for duty assessment and payment of any duty – applicant
16. Lease document is lodged with Titles officer for registration -applicant

NPARC has met with Ipima Ikaya a number of times to confirm their position. It appears there is agreement to the compensation arrangements offered following the last meeting and the relevant documents are being progressed.

It would be noted by Council Officers that the current tenant for the property is Mika Tamwoy but the EOI has been made by Mika & Gerald Tamwoy. Additional applicants make lease management a more complex avenue. In line with previous advice, it is Council Officer recommendation the Home Ownership Lease is entered into with the tenants, with future assignment managed under the Home Ownership Legislation framework.

Further Council Officers would note the previous aspirations for Adidi St to become a commercial area and the granting of a 99 year Home Ownership Lease may interfere with these aspirations.

CRITICAL DATES

Nil

OTHER OPTIONS CONSIDERED

The Trustee can decline the EOI



COUNCIL TRUSTEE MEETING # 5

Agenda Item 8.10

Monday 26th August 2024

BAMAGA BOARDROOM

LEGAL AND LEGISLATION CONSIDERATIONS

Torres Strait Islander Land Act 1991

POLICY CONSIDERATIONS

NA

FINANCIAL AND RESOURCE CONSIDERATIONS

NA

CONSULTATION

DATSIP

RPS

Title of Report: Home Ownership Application – Lot 53 on SP273363

Agenda Item: 8.11

Classification: For Decision

Author: Chief Executive Officer

Attachments: Attachment A. EOI from S & W Nona

Attachment B. Preliminary Land Assessment Report

Attachment B. (a). RPS Plan

Attachment B. (b). Extract of SP273363

Attachment B. (c). DA Mapping

Officers Recommendation:

That Council, as Trustees:

- (1) Note the report
- (2) Delegate to the Chief Executive Officer, pursuant to section 257(1)(b) of the Local Government Act 2009, power to negotiate and finalise on behalf of the Trustee (including by signing necessary documents on behalf of the Trustee), arrangements with Steven and Waisie Nona on the basis of an Agreement to Grant Lease and Home Ownership Lease for Lot 53 on SP273363

PURPOSE OF REPORT

To provide the Trustee the information on the preliminary land assessment report for Lot 53 on SP273363.

BACKGROUND AND CONTEXT

On the 14th March 2024, an EOI was received from Steven and Waisie Nona to enter a home ownership lease for Lot 53 on SP273363 (53 Bowie St Injinoo). This was forwarded to the Home Ownership Program of DTATSIPCA who undertook the necessary preliminary assessment to allow consideration by the Trustee and is attached to this EOI.

Below are the key steps for all 99- year home ownership leases including responsible party:

1. EOI submitted – applicant
2. Assess the EOI – trustee
 - a. EOI sent to DTATSIPCA to undergo preliminary assessment report
 - b. EOI presented to Trustee meeting following assessment
3. Notify applicant of outcome – Trustee

If EOI is approved



COUNCIL TRUSTEE MEETING # 5

Agenda Item 8.11

Monday 26th August 2024

BAMAGA BOARDROOM

4. Notice of intent to lease sent to DCHE, if the EOI is over a social housing dwelling – Trustee
5. Response to the Notice of Intent to lease and confirmation sale price – DHLGPPW
6. Agreement to Lease (ATL) presented to the applicant - Trustee *(DTATSIPCA have confirmed they will prepare these on behalf of the Trustee at no cost)*
7. ATL signed by the applicant and Trustee

Conditions of the ATL to be met

8. Finance - applicant to present financial evidence to the Trustee they can cover the sale price – applicant
9. Building and pest inspection – applicant
10. Native Title – address Native Title to enable leasing – applicant *this will be a PAN under the ILUA)*
11. The exiting 40 yr social housing lease needs to be surrendered – DTATSIPCA will arrange

When all ATL conditions have been met

12. Deliver the maintenance with in the ATL agreement timeframe – DHLGPPW

When the maintenance delivery has been completed

13. Settlement – sale price payment made to the Trustee - applicant
14. Lease document is signed by the applicant and Trustee – Applicant and Trustee
15. ATL and lease document provided to Queensland Revenue Office for duty assessment and payment of any duty – applicant
16. Lease document is lodged with Titles officer for registration -applicant

NPARC has met with Ipima Ikaya a number of times to confirm their position. It appears there is agreement to the compensation arrangements offered following the last meeting and the relevant documents are being progressed.

CRITICAL DATES

Nil

OTHER OPTIONS CONSIDERED

The Trustee can decline the EOI

LEGAL AND LEGISLATION CONSIDERATIONS

Aboriginal Land Act 1991

POLICY CONSIDERATIONS

NA

FINANCIAL AND RESOURCE CONSIDERATIONS

NA



COUNCIL TRUSTEE MEETING # 5

Agenda Item 8.11

Monday 26th August 2024

BAMAGA BOARDROOM

CONSULTATION

DATSIP

RPS



Agenda Item 9-10
TRUSTEE COUNCIL MEETING #5
26th August 2024

- 9. Other Business**
- 10. Close of Meeting**