



TRUSTEE MEETING BOOKLET

Northern Peninsula Area Regional Council

Trustees Council Meeting #8

to commence at 10:00am

on

Monday 25th November 2024

at

BAMAGA BOARDROOM

AGENDA

1. Welcome and Opening of Meeting
2. Acknowledgement of Traditional Land Owners
3. Present
4. Apologies
5. Declarations of Conflict of Interest
6. Confirmation of Minutes of Previous Meeting
October Trustee Meeting held 01/11/2024
7. Business Arising from Previous Meeting
8. Reports
 - 8.1 Tenure arrangements for Lot 27 on SP279528 “Old New Mapoon Youth Centre”
 - 8.2 Croc Tent Request for Variation
 - 8.3 Tenure arrangements for Lot 114 on SP273365 “New Mapoon Nursey”
 - 8.4 Tenure Arrangements for Lots 286, 287, 288 and 289 on SP273361 “St George’s Anglican Church and associated buildings”
 - 8.5 Home Ownership Application for Lot 219 on SP273361 “219 Adidi St, Bamaga”
 - 8.6 Home Ownership Application for Lot 305 on SP273359 “66 Ibuai St, Seisia”
 - 8.7 Home Ownership Application for Lot 247 on SP273364 “247 Nawia St, Seisia”
 - 8.8 Public EOI for Lot 337 on SP273361 “Old St Stephen’s Church”
 - 8.9 Tenure Arrangements for Seisia Fishing Club
 - 8.10 Seisia Community Torres Strait Islander Corporation – Divestment Matters
9. Other Business
10. Close of Meeting



Agenda Item 1 to 5
TRUSTEE COUNCIL MEETING #8
25th November 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 #7
Friday 1st November 2024
Bamaga Boardroom

Agenda Item 1. Welcome and Opening of Meeting

Mayor Poi Poi welcomed attendees and opened the meeting at 8:47am 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.

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 Marlene Bond | Division 4 |
| Cr Bradford Elu | Division 5 |

Other Attendees

| | |
|------------------|---|
| Kate Gallaway | CEO |
| Brett de Chastel | Advisor |
| Elimau Blarrey | Senior Executive Assistant (Minute Taker) |

Agenda Item 4. Apologies

Nil

Agenda Item 5. Declarations of Conflict of Interest

Cr Yoelu declared a declarable conflict of interest for agenda item 8.1 as a director of a corporation subject to this agenda item.



UNCONFIRMED

Meeting Minutes
TRUSTEE COUNCIL MEETING #7
Friday 1st November 2024
Bamaga Boardroom

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 23rd September 2024.

Moved: Cr Yoelu

Seconded: Cr Byrne

Vote: 5/0

Resolution: T6.1-01112024

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 Yoelu

Seconded: Cr Elu

Vote: 5/0

Resolution: T7.1-01112024

CARRIED

Action items were discussed as per the Action Task List
Cr Gebadi joined the meeting at 9:04am

Resolution

That Council as Trustees:

1. Resolve to open the meeting.

Moved: Cr Bond

Seconded: Cr Byrne

Vote: 6/0

Resolution: T7.2-01112024

CARRIED



UNCONFIRMED

Meeting Minutes
TRUSTEE COUNCIL MEETING #7
Friday 1st November 2024
Bamaga Boardroom

Agenda Item 8. Reports

Agenda Item 8.1. NPA Family and Community Services – Injinoo Clinic Lease Amendment

Having declared an interest for this agenda item at agenda item 5, Cr Yoelu left the room at 9:15am

Resolution

That Council as Trustees:

1. Defer the matter to the February 2025 Trustees meeting to allow the Division 1 Councillor to undertake further consultation.

Moved: Cr Byrne
Vote: 5/0

Seconded: Cr Elu

Resolution: T8.1-01112024

CARRIED

Cr Yoelu returned into the room at 9:51am

Agenda Item 8.2.

Owners Consent for proposed development at lot 335 on SP273361 "Lot 335 Airport Rd Bamaga"

Resolution

That Council as Trustees resolve:

1. Note the Report
2. Provide Owner's consent to the proposed development at lot 335 on SP273361
3. Delegate to the Chief Executive Officer, pursuant to section 257(1)(b) of the Local Government Act 2009, power to execute Owner's consent as Trustee for the proposed development

Moved: Cr Gebadi
Vote: 6/0

Seconded: Cr Byrne

Resolution: T8.2-01112024

CARRIED

Agenda Item 9. Other Business

Mayor Poipoi left the room at 10:00am

Mayor Poipoi returned into the room at 10:01am

Agenda Item 10. Close of Meeting

Meeting closed at 10:15am with a prayer by Cr Yoelu.



Agenda Item 7
TRUSTEE COUNCIL MEETING #8
25th November 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 “Old New Mapoon Youth Centre”

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 November Council Meeting for decision regarding potential management arrangement for use of part 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 an 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

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



COUNCIL TRUSTEE MEETING # 8

Agenda Item 8.1

Monday 25th November 2024

Bamaga Boardroom

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 (tabled)
Signed Licence Agreement (tabled)

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.

Enquiries was made with the lessee regarding the parties to the agreement. If a longer term lease was to be granted, it may be worth ensuring the agreement is with appropriate party as these are difficult to change into the future.

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 #8

Agenda Item 8.3

Monday 25th November 2024

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 Lots 286, 287, 288 and 289 on SP273361

Agenda Item: 8.4

Classification: For Decision

Author Chief Executive Officer

**Attachments EOI Email Chain (tabled)
Certificate of Gift (tabled)**

Officer's Recommendation:

That Council:

- Note the report
- 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 Anglican Diocese of North Queensland on the basis of a licence agreement for 1+1 years at current market value subject to 4% annual increase, and on such other terms as the Chief Executive Officer considers appropriate for Lots 286,287,288 and 289 on SP273361

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. After a lack of response from the ADNQ to enquiries made by council, a meeting was held with the local church council on 30 August. At this meeting, the local church council raised some concerns with leasing arrangements and it was agreed to attempt to hold a meeting between the local church council, NPARC and ADNQ which was held on the 11 September.

At this meeting, a number of matters were discussed including the maintenance and repairs works that are required into the future and current existing tenure arrangements.

Local Ownership

The purpose of the Bamaga DOGIT is held in trust for the local Torres Strait Islander people. There is strong desire for control and ownership to be as close to community as possible. At the meeting, it was discussed the current legal entity is the Anglican Diocese of North Queensland. There is current work to establish a local Council which can conduct as a legal entity but this work is in its infancy. It would be possible as part of the leasing arrangements to build in an assignment clause to transfer the lease to this entity when it finishes establishing. It would need some protections in favour of Trustee, so if the assignment isn't given effect consistently with Trustee's requests, Trustee can terminate the Lease so that a new Lease with the new entity can be entered into.

Parish Council

There is also opportunity to build provisions into the agreement to ensure consultation with the Parish Council to ensure they are included in decision making processes regarding the lease. but the difficulty with this will be in its enforcement. The lease can confirm that it is a breach of the lease if consultation does not occur, which gives rise to a right on the part of Trustee to terminate the lease, but those sorts of provisions can always be open to dispute, including:

- whether consultation is required for minor decisions;
- what constitutes sufficient consultation.

However, sometimes the outcome is achieved simply by creating the express obligation; it will give Trustee a basis during the lease term to insist on performance even if Trustee accepts it won't have a straightforward termination right in those circumstances.

Lease Charges

The practice of Trustee is to enter into leasing arrangements at current market value, to ensure we meet our relevant obligations under the Land Act. A concession is given to places of worship on their service charges. The collective size of these lots is quite large at 4260m². By comparison, the current lease in negotiation for the Green Church is 1770m². While a market valuation is yet to be completed for these sites, the valuation undertaken at the Green Church was \$3 per square metre noting this did not use accommodation which is leased to a government agency. At this valuation, the lease charge would be around \$12,780 pa.

The options available to the trustee

1. Progress negotiations with ADNQ consistently with the original EOI provided (attached to this report)
2. Provide a short term agreement with the view of longer term tenure to be resolved following the registration of the local Council entity
3. Progress negotiations with ADNQ consistently with the original EOI provided and include assignment and/or consultation provisions
4. 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;
5. reject ADNQ's EOI and take steps to remove them from the premises.

Given the previous work of the ADNQ in region, it is the opinion of Council Officers that protections need to be included for consultation provisions. While they may be difficult to enforce, it would place ADNQ on notice that the clear expectation is that the Parish Council is consulted with decision regarding leasing arrangements. As the local Council has not been established, it may be onerous on them for automatic assignment clauses if they lack the capacity or support from ADNQ to manage leasing affairs. If it is the desire of the Trustee that the agreement is eventually entered into with the new established Council entity, it may be prudent to add a review clause which gives the Council the power to compel the assignment if they are satisfied with the capacity of the new entity; or something to that effect.

For the information of Council, on 21/10/24, the diocese provided a copy of a Certificate of Gift from 1999 in response to some challenges with Bamaga Island Council at the time. Further advice was sought about the implications of this document. The certificate conveys an intention to dispose of the land to the Church from the elder's at the time. It is not legally effective in the sense of giving any



COUNCIL TRUSTEE MEETING #7

Agenda Item 8.4

Friday 1st November 2024

Bamaga Boardroom

tenure to the Church as it is not reflected in the relevant law, being the Torres Strait Islander Land Act 1991 and reservations of DOGIT land.

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.

St George's Anglican Church local Parish Council

ADNQ



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

Agenda Item: 8.5

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

Attachment C. NPARC Master Plan – Bamaga Community

Attachment D. NPARC Planning Scheme Zoning Plan: Bamaga

Officers Recommendation:

That Council, as Trustees:

- (1) Note the report
- (2) Decline the EOI pending further consultation with Bamaga Community on the master plan & planning scheme and specifically business zone aspirations for Adidi St

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 DWATSIPM 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 DWATSIPM 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 DHPW, if the EOI is over a social housing dwelling – Trustee
5. Response to the Notice of Intent to lease and confirmation sale price – DHPW
6. Agreement to Lease (ATL) presented to the applicant - Trustee *(DWATSIPM 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 – DWATSIPM will arrange

When all ATL conditions have been met

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

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. This is consistent with both the master plan and Zoning Plan for Bamaga as attached to this report.

CRITICAL DATES

Nil

OTHER OPTIONS CONSIDERED

The Trustee can decline the EOI



COUNCIL TRUSTEE MEETING # 8

Agenda Item 8.5

Monday 25th November 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 305 on SP273359 “66 Ibuai St Seisia”

Agenda Item: 8.6

Classification: For Decision

Author: Chief Executive Officer

Attachments: Attachment A. EOI from W, M & J Strevens

Attachment B. Preliminary Land Assessment Report

Attachment B. (a). RPS Plan

Attachment B. (b). Extract of SP273359

Attachment B. (c). DA Mapping

Attachment C. Cultural Heritage Database & Register Search

Officers Recommendation:

That Council, as Trustees:

- (1) Note the report
- (2) Undertake further consultation with Warren Strevens regarding the legal structure of the agreement

PURPOSE OF REPORT

To provide the Trustee the information on the preliminary land assessment report for Lot 66 on SP273359.

BACKGROUND AND CONTEXT

On the 15th October 2024, an EOI was received from Warren, Mark & Jack Strevens to enter a home ownership lease for Lot 305 on SP273359 (66 Ibuai St Seisia). This was forwarded to the Home Ownership Program of DWATSIPM 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 DWATSIPM 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 DHPW, if the EOI is over a social housing dwelling – Trustee

5. Response to the Notice of Intent to lease and confirmation sale price – DHPW
6. Agreement to Lease (ATL) presented to the applicant - Trustee *(DWATSIPM 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 – DWATSIPM will arrange

When all ATL conditions have been met

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

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.

For the information of the Council, the relevant provisions of the Torres Strait Islander Land Act (s85(2)) state a lease (including a home ownership lease) can be granted to any of the following

(a) a Torres Strait Islander;

(b) a person who is not a Torres Strait Islander if—

(i) the person is the spouse or former spouse of—

(A) a person mentioned in paragraph (a); or

(B) a person mentioned in paragraph (a) who is deceased; or

(ii) the lease supports another part 8 lease granted to the person.

While as part of the process, evidence would need to be provided to confirm the relationship between Mr Strevens and his late partner, he would qualify to be granted a home ownership lease. The trustee may wish to consider any potential precedence and whether it wishes to undertake further consultation in terms of the granting of this lease. It may also be a situation where the trustee wishes for the children to be included within the lease agreement. If this is the preference, it should be noted that one of the children is currently under 18 years of age. In terms of the minor, there are a couple of further restrictions

- A minor can essentially “opt out” of the lease within a reasonable time of them turning 18. Therefore, there is some uncertainty to Council in the sense that after the minor turns 18, and for a reasonable period after that (what is “reasonable” is not necessarily fixed, but I think Council can assume a period of at least a year will be affected), the person could exit the lease without consequence. This might affect Council’s ability to enforce breaches of the lease between when the child turns 18 and when they opt out.
- The lessee’s legal guardian must execute the lease.

Essential options available to the trustee

- Warren Strevens as sole lessee
- Warren Strevens, Mark Strevens and Jack Strevens as joint lessees (noting the child under 18 can opt out of the lease into the future which may cause issues)
- Warren Strevens & Mark Strevens as joint trustee with a provision that Council will consent to the transfer of Warren Strevens’ interests to Jack Strevens when he turns 18

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

CONSULTATION

DATSIP

RPS



Title of Report: Home Ownership Application – Lot 247 on SP273364 “247 Nawia St Seisia”

Agenda Item: 8.7

Classification: For Decision

Author: Chief Executive Officer

Attachments: Attachment A. EOI from M & A Wasiu

Attachment B. Preliminary Land Assessment Report

Attachment B. (a). RPS Plan

Attachment B. (b). Extract of SP273364

Attachment B. (c). DA Mapping

Officers Recommendation:

That Council, as Trustees:

- (1) Note the report
- (2) Decline the EOI and propose the applicants resubmit the EOI following the completion of the new Seisia Subdivision project

PURPOSE OF REPORT

To provide the Trustee the information on the preliminary land assessment report for Lot 247 on SP273364.

BACKGROUND AND CONTEXT

On the 1st October 2024, an EOI was received from McRonald & Alfreda Wasiu to enter a home ownership lease for Lot 247 on SP273364 (247 Nawia St Seisia). This was forwarded to the Home Ownership Program of DWATSIPM 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 DWATSIPM 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 DHPW, if the EOI is over a social housing dwelling – Trustee
5. Response to the Notice of Intent to lease and confirmation sale price – DHPW



6. Agreement to Lease (ATL) presented to the applicant - Trustee *(DWATSIPM 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 – DWATSIPM will arrange

When all ATL conditions have been met

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

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.

As noted in the Preliminary Land Assessment report, the land contains a partially demolished building (being the old piggery) and is zones as Environmental Management and Conservation Zone. As the block has legal frontage as well as access to water, sewer and electricity infrastructure it would be relatively straight forward to build a house on the lot, just requiring a separate planning approval.

However, it would be noted that currently the site has not been identified for any purpose on the Seisia Master Plan and Council Officers understand that are desired to retain the site for cultural purposes. Currently Council has been working on a 32 lot Social Housing sub-development within Seisia. It may be more practical to advise the applicant of this, and suggest they submit an EOI for one of the new sub-division lots when the planning works are completed.

CRITICAL DATES

Nil

OTHER OPTIONS CONSIDERED

The Trustee can decline the EOI



COUNCIL TRUSTEE MEETING # 8

Agenda Item 8.7

Monday 25th November 2024

BAMAGA BOARDROOM

LEGAL AND LEGISLATION CONSIDERATIONS

Torres Strait Islander Land Act 1991

POLICY CONSIDERATIONS

NA

FINANCIAL AND RESOURCE CONSIDERATIONS

NA

CONSULTATION

DWATSIPM

RPS

Title of Report: Public EOI for Lot 337 on SP273361 “Old St Stephens Church”

Agenda Item: 8.8

Classification: For Decision

Author CEO

Attachments EOI from Alexis Morseu & others (tabled)
EOI from Cassandra Sabatino (Adidi) (tabled)
EOI from Ebony Tamwoy (tabled)
EOI from Elizabeth Tamwoy (tabled)
EOI from Harriett Phineasa (tabled)
EOI from Lamont Transport (tabled)
EOI from Stanley & Petta Elu (tabled)
EOI from WMT (White Man Town) Community Group (tabled)

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 Alexandra Mandie on the basis of an Agreement to Grant Lease and Lease for 5+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 311 on SP273361

PURPOSE OF REPORT

To enable decision following Formal Expressions of Interest for Lot 337 on SP273361

BACKGROUND AND CONTEXT

At the Special September Trustee meeting, the trustee resolved

Resolution

That Council as Trustees resolve to:

1. Note the Report
2. Undertake a public EOI for Lot 337 on SP276661 previously known as “St Stephens Church”

Moved: Cr Gebadi

Vote: 5/0

Seconded: Cr Yoelu

Resolution: T6.4-09092024

CARRIED

Following this, a public EOI was run and published on Facebook, NPARC Website and Torres News.

A total of 8 EOIs were received for this premise and attached to this report. They are summarised as follows in no particular order

| Party | Proposed Use | Term Conditions |
|--------------------------------------|--|-----------------|
| Alexis Morseu & others | Establish a unique gift shop and arts & craft store and future expansion to a café | 20 years |
| Cassandra Sabatino (Adidi) | Outboard sales and mechanical operations services | 30 years |
| Ebony Tamwoy | Timmy's cafe | 1 year |
| Elizabeth Tamwoy | Coffee Shop, Café & Catering Equipment Hire | 30 years |
| Harriett Phineasa | Women's ministry work, second hand items, catering, private function, events hire | 10+10 years |
| Lamont Transport | Support transport business and delivery of goods to the region | 2-5 years |
| Stanley & Petta Elu | Coffee shop with further expansion | 10 years |
| WMT (White Man Town) Community Group | Youth Centre / Community Hub | **not stated |

Lot 337 on SP273361 (also referred to as 337 Lui St) is 2040 m2 on the Bamaga DOGIT, with no identified purpose under the Master Plan. The property is identified as a Community Facility under the masterplan on the township zone.

From the response for the EOI, it evident the strong need there is for further premises for local people to operate and commence businesses, and this is the strongest response we have received to an EOI. All EOIs have merit and contribute to the strategic growth and development of Bamaga Community and the NPA. There will evidently be disappointed parties regardless of the decision made.

Section 135(2) of the Torres Strait Islander Land Act states the Decision-Making requirements of the trustee. It states the trustee must

(a) have regard to—

- (i) if the Torres Strait Islanders for whom the trustee holds the land have agreed on a decision-making process for decisions of that kind—the process; or
- (ii) if subparagraph (i) does not apply—any Island custom, for decisions of that kind, of the Torres Strait Islanders for whom the trustee holds the land; or

(b) if there is no decision-making process mentioned in paragraph (a)(i) or relevant Island custom—make the decision under a process of decision-making agreed to and adopted by the trustee for the decision or for decisions of that kind.

Ultimately, it is up to the trustee to agree to the decision making process for the decision. There has been work done to draft a Trustee Leasing Policy to set consistent standards for this, which is part of the Council Workshop occurring in December with Preston Law. It may be that the trustee opts to have further representation or run some kind of community survey to support the decision making considering the high volume of EOIs that have been made.



CRITICAL DATES

N/A

OTHER OPTIONS CONSIDERED

N/A

LEGAL AND LEGISLATION CONSIDERATIONS

N/A

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 Seisia Fishing Club

Agenda Item: 8.9

Classification: For Decision

Author CEO

**Attachments Previous Council Correspondence
EOI from Seisia Community Torres Strait Islander Corporation**

Officers Recommendation:

That Council:

1. Note the Report
2. Provide notice to Seisia Fishing Association and other interested parties that a public EOI process will be undertaken and they are invited to apply

PURPOSE OF REPORT

To provide background and context to Tenure Arrangements for Seisia Fishing Club and resolve a process moving forward.

BACKGROUND AND CONTEXT

In 2014, NPARC attempted to regularise leasing arrangements with Seisia Fishing Association. These negotiations were never completed and there are no current tenure arrangements in place. An EOI was also received by Seisia Community Torres Strait Islander Corporation which was not considered by the trustee.

It is worth noting, that Seisia Fishing Association also has a large arrears with Council due to refusal to pay service fees for the premise.

In April 2023, the trustee resolved to enter into a Licence Agreement with the Seisia Fishing Association.

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 Seisia Fishing Association on the basis of a Licence Agreement for 2 years at current market value subject to 4% annual increase, and on such other terms as the Chief Executive Officer considers appropriate for Seisia Fishing Club

Moved: Cr Whap

Seconded: Cr Gebadi

Vote: 5/0

Resolution: T8.11-17042023

CARRIED

Multiple attempts were made to progress this agreement as well as discuss a process to resolve the issue regarding the outstanding arrears. There was no response from the Seisia Fishing Association apart from ongoing replies that they would reply shortly. It should be noted that this decision was made at the same time as other decisions from Tradesman Way which did detract the resolution of matters in Seisia for some time.

The Fishing Club has not operated in a meaningful way in recent times. There has been approaches made to Council by other entities wanting to operate the fishing club as there is good potential for community. As demonstrated by the EOI report considered earlier today, there is great community demand for infrastructure to operate commercial businesses. Advice provided by OLGR is that the licence is still current with the Fishing Association.

Moving forward options available to the trustee include

- Continue attempting to progress arrangements with Seisia Fishing Association
- Take control of the building and enter into arrangements with an alternative party
- Undertake a public EOI and invite Seisia Fishing Association to submit an EOI

CRITICAL DATES

N/A

OTHER OPTIONS CONSIDERED

N/A

LEGAL AND LEGISLATION CONSIDERATIONS

N/A

POLICY CONSIDERATIONS

N/A

CORPORATE AND OPERATIONAL PLAN CONSIDERATIONS

N/A

FINANCIAL AND RESOURCE CONSIDERATIONS

N/A

CONSULTATION

N/A



Agenda Item 8.10
TRUSTEE COUNCIL MEETING #8
25th November 2024

8.10. Seisia Community Torres Strait Islander Corporation – Divestment Matters

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).

The general nature of the matters to be discussed while the meeting is closed to the public are matters relating to the divestment of assets to Seisia Community Torres Strait Islander Corporation, including legal advice about the proposed divestment and existing and proposed contracts and other agreements relating to the divestment, and associated planning compliance and debt recovery matters.



Agenda Item 9-10
TRUSTEE COUNCIL MEETING #8
Monday 25th November 2024

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