



## **TRUSTEE MEETING BOOKLET**

**Northern Peninsula Area Regional Council**

**Trustees Council Meeting #6**

**to commence at 10:00am**

**on**

**Monday 23<sup>rd</sup> September 2024**

**at**

**BAMAGA BOARDROOM**

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**Agenda Item 1 to 5**  
**TRUSTEE COUNCIL MEETING #6**  
**23<sup>rd</sup> September 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 #5  
Monday 26<sup>th</sup> August 2024  
Bamaga Boardroom

### Agenda Item 1. Welcome and Opening of Meeting

Mayor Poi Poi welcomed attendees and opened the meeting at 10:16am 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	Arrived at 10.49am
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

#### Resolution

##### That Council:

Grants leave of absence for Cr Bond who is away on study commitments

Moved: Cr Elu

Vote: 4/0

Seconded: Cr Yoelu

Resolution: T4-26082024

CARRIED

### Agenda Item 5. Declarations of Conflict of Interest

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



## UNCONFIRMED

Meeting Minutes  
TRUSTEE COUNCIL MEETING #5  
Monday 26<sup>th</sup> August 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 22<sup>nd</sup> July 2024.

Moved: Cr Byrne

Vote: 4/0

Seconded: Cr Elu

Resolution: T6.1-26082024

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

Vote: 4/0

Seconded: Cr Elu

Resolution: T7.1-26082024

CARRIED

Action items were discussed as per the Action Task List

#### Resolution

##### That Council as Trustees:

1. Resolve to open the meeting.

Moved: Cr Yoelu

Vote: 4/0

Seconded: Cr Byrne

Resolution: T7.2-26082024

CARRIED



## UNCONFIRMED

Meeting Minutes  
TRUSTEE COUNCIL MEETING #5  
Monday 26<sup>th</sup> August 2024  
Bamaga Boardroom

### Agenda Item 8.

#### Reports

### Agenda Item 8.1.

#### Tenure arrangements for Lot 27 on SP279528

Having declared an interest for this agenda item, Cr Yoelu left the room at 10:38am

#### Resolution

**That Council as Trustees:**

1. Note the report
2. Defer the matter to a Special Trustees Meeting.

**Moved: Cr Elu**

**Vote: 3/0**

**Seconded: Cr Byrne**

**Resolution: T8.1-26082024**

**CARRIED**

Cr Yoelu returned to the meeting at 10:47am

### Agenda Item 8.2.

#### Croc Tent Request for Variation

Cr Gebadi joined the meeting at 10:49am

#### Resolution

**That Council as Trustees resolve:**

1. Defer the matter to a Special Trustees Meeting

**Moved: Cr Byrne**

**Vote: 5/0**

**Seconded: Cr Elu**

**Resolution: T8.2-26082024**

**CARRIED**

### Agenda Item 8.3.

#### Tenure arrangements for Lot 114 on SP273365 "New Mapoon Nursey"

#### Resolution

**That Council as Trustees:**

1. Defer the matter to a Special Trustees Meeting

**Moved: Cr Yoelu**

**Vote: 5/0**

**Seconded: Cr Byrne**

**Resolution: T8.3-26082024**

**CARRIED**



## UNCONFIRMED

Meeting Minutes  
TRUSTEE COUNCIL MEETING #5  
Monday 26<sup>th</sup> August 2024  
Bamaga Boardroom

### Agenda Item 8.4. Tenure Arrangements for Lot 337 on SP276661

#### Resolution

##### That Council as Trustees:

1. Defer the matter to a Special Trustees Meeting to enable Cr Gebadi to consult with relevant parties

Moved: Cr Gebadi

Vote: 5/0

Seconded: Cr Byrne

Resolution: T8.4-26082024

CARRIED

### Agenda Item 8.5. Tenure Arrangements for Lots 286, 287, 288 and 289 on SP273361

Cr Byrne left the room at 11:18am

Cr Byrne returned into the meeting at 11:21am

#### Resolution

##### That Council as Trustees:

1. Send correspondence to the St George's Church Council seeking an urgent meeting to discuss options moving forward regarding the tenure arrangements for lots 286, 287, 288, & 289 on SP273361

Moved: Cr Gebadi

Vote: 5/0

Seconded: Cr Byrne

Resolution: T8.5-26082024

CARRIED



## UNCONFIRMED

Meeting Minutes  
TRUSTEE COUNCIL MEETING #5  
Monday 26<sup>th</sup> August 2024  
Bamaga Boardroom

### Agenda Item 8.6. Tenure Arrangements for Lots 76 & 76B Lui St

Mayor Poipoi left the room at 11:31am

Mayor Poipoi returned into the room at 11:31am

#### 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 Department of Housing, Local Government, Planning and Public Works on the basis of a 40yr Social Housing lease for Lot 76 on SP273361 (76B Lui Street Bamaga)
3. Defer the matter regarding 76 Lui Street (Lot 338 on SP273361) to a Special Trustees Meeting to allow Cr Gebadi to consult with the previous tenant.

Moved: Cr Gebadi

Vote: 5/0

Seconded: Cr Byrne

Resolution: T8.6-26082024

**CARRIED**

Trustees Meeting break for lunch at 12:12pm

Moved: Cr Elu

Seconded: Cr Yoelu

5/0

Carried

Trustees Meeting open from lunch at 12:59pm

Moved: Cr Byrne

Seconded: Cr Elu

5/0

Carried





## UNCONFIRMED

Meeting Minutes  
TRUSTEE COUNCIL MEETING #5  
Monday 26<sup>th</sup> August 2024  
Bamaga Boardroom

### Agenda Item 8.7. EOI for Lot 71 on SP273363

#### Resolution

##### That Council as Trustees:

1. Note the Report
2. Decline the EOI on the bases of further legislative reform is required for Trustee Arrangements for Injinoo DOGIT

Moved: Cr Byrne

Vote: 2/3

Seconded: Cr Elu

Resolution: T8.7-26082024

NOT CARRIED

#### Resolution

##### That Council as Trustees:

1. Note the Report
2. Council as trustees resolve to take no further action on this matter at this time

Moved: Cr Byrne

Vote: 5/0

Seconded: Cr Gebadi

Resolution: T8.7.1-26082024

CARRIED

### Agenda Item 8.8. Home Ownership Application – Lot 22 on SP273359

#### 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 Jeffery Aniba on the basis of an Agreement to Grant Lease and Home Ownership Lease for Lot 22 on SP273359

Moved: Cr Elu

Vote: 5/0

Seconded: Cr Yoelu

Resolution: T8.8-26082024

CARRIED



## UNCONFIRMED

Meeting Minutes  
TRUSTEE COUNCIL MEETING #5  
Monday 26<sup>th</sup> August 2024  
Bamaga Boardroom

### Agenda Item 8.9. Home Ownership Application – Lot 23 on SP273359

#### 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 Peri Sunai on the basis of an Agreement to Grant Lease and Home Ownership Lease for Lot 23 on SP273359

Moved: Cr Elu

Vote: 5/0

Seconded: Cr Gebadi

Resolution: T8.9-26082024

CARRIED

### Agenda Item 8.10. Home Ownership Application – Lot 219 on SP273361

#### Resolution

##### That Council as Trustees:

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

Moved: Cr Gebadi

Vote: 5/0

Seconded: Cr Byrne

Resolution: T8.10-26082024

CARRIED

### Agenda Item 8.11. Home Ownership Application – Lot 53 on SP273363

#### 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 Steven and Waisie Nona on the basis of an Agreement to Grant Lease and Home Ownership Lease for Lot 53 on SP273363

Moved: Cr Yoelu

Vote: 5/0

Seconded: Cr Gebadi

Resolution: T8.11-26082024

CARRIED



**UNCONFIRMED**

**Meeting Minutes**  
**TRUSTEE COUNCIL MEETING #5**  
**Monday 26<sup>th</sup> August 2024**  
**Bamaga Boardroom**

**Agenda Item 9.**

**Other Business**

**Agenda Item 10.**

**Close of Meeting**

Meeting closed at 3:10pm with a prayer by Cr Yoelu.

DRAFT



**UNCONFIRMED**

**Meeting Minutes**  
**SPECIAL TRUSTEE MEETING**  
**Monday 9<sup>th</sup> September 2024**  
**Bamaga Boardroom**

## **Northern Peninsula Area Regional Council**

### **Special Trustee Meeting**

**To commence at 1.00pm**

**On**

**Monday 9<sup>th</sup> September 2024**

**Bamaga Boardroom**



## UNCONFIRMED

Meeting Minutes  
SPECIAL TRUSTEE MEETING  
Monday 9<sup>th</sup> September 2024  
Bamaga Boardroom

### Agenda Item 1. Welcome and Opening of Meeting

Mayor Poi Poi welcomed attendees and opened the meeting at 1:04pm with a prayer by Cr Yoelu.

### Agenda Item 2. Acknowledgement of Country

Mayor Poi Poi paid respects on behalf of the Council 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	Deputy Mayor / Division 2
Cr Kitty Gebadi	Division 3
Cr Bradford Elu	Division 5

#### Other Attendees

Kate Gallaway	Chief Executive Officer
Brett de Chastel	Advisor
Elimau Blarrey	Senior Executive Assistant (Minute Taker)

### Agenda Item 4. Apologies

#### Resolution

##### That Council:

Grants leave of absence for Cr Bond who is away on sorry business.

Moved: Cr Yoelu

Vote: 5/0

Seconded: Cr Gebadi

Resolution: T4-09092024

CARRIED

### Agenda Item 5. Declarations of Conflict of Interest

Cr Yoelu declared a declarable conflict of interest for agenda item 6.1 as a close associate is a director of a corporation subject to this agenda item.



## UNCONFIRMED

Meeting Minutes  
SPECIAL TRUSTEE MEETING  
Monday 9<sup>th</sup> September 2024  
Bamaga Boardroom

### Agenda Item 6.

### Other Business

#### Agenda Item 6.1

#### Tenure arrangements for Lot 27 on SP279528 “Old New Mapoon Youth Centre”

Having declared an interest for this agenda item, Cr Yoelu left the room at 1:07pm

##### Resolution

**That Council as Trustees resolve to:**

1. Defer the matter to the September Trustees Meeting

**Moved: Cr Gebadi**

**Vote: 4/0**

**Seconded: Cr Byrne**

**Resolution: T6.1-09092024**

**CARRIED**

Cr Yoelu returned to the meeting at 1:10pm

#### Agenda Item 6.2

#### Croc Tent Request for Variation

##### Resolution

**That Council as Trustees resolve to:**

1. Defer the matter to the September Trustees Meeting

**Moved: Cr Elu**

**Vote: 5/0**

**Seconded: Cr Byrne**

**Resolution: T6.2-09092024**

**CARRIED**

#### Agenda Item 6.3

#### Tenure arrangements for Lot 114 on SP273365 “New Mapoon Nursey”

##### Resolution

**That Council as Trustees resolve to:**

1. Defer the matter to the September Trustees Meeting

**Moved: Cr Byrne**

**Vote: 5/0**

**Seconded: Cr Gebadi**

**Resolution: T6.3-09092024**

**CARRIED**



## UNCONFIRMED

Meeting Minutes  
SPECIAL TRUSTEE MEETING  
Monday 9<sup>th</sup> September 2024  
Bamaga Boardroom

### Agenda Item 6.4 Tenure Arrangements for Lot 337 on SP276661 "St Stephens Church"

#### 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

### Agenda Item 6.5 Tenure Arrangements for Lot 338 on SP276631 (76 Lui St)

#### Resolution

That Council as Trustees resolve to:

1. Defer the matter regarding 76 Lui St (Lot 338 on SP273361) to the September Trustees Meeting to allow Cr Gebadi to consult with Department of Housing on potential implications regarding Social Housing

Moved: Cr Gebadi

Vote: 5/0

Seconded: Cr Byrne

Resolution: T6.5-09092024

CARRIED

### Agenda Item 7. Close of Meeting

Meeting closed at 1:38pm.



**Agenda Item 7**  
**TRUSTEE COUNCIL MEETING #6**  
**23<sup>rd</sup> September 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 September Council Meeting for decision regarding management arrangements

## 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 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



## COUNCIL TRUSTEE MEETING # 6

Agenda Item 8.1

Monday 23<sup>rd</sup> September 2024

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### POLICY CONSIDERATIONS

N/A

### 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.

## 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 #6

Agenda Item 8.3

Monday 23<sup>rd</sup> September 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)**

### **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 12 months 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 4260m<sup>2</sup>. By comparison, the current lease in negotiation for the Green Church is 1770m<sup>2</sup>. 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.

## 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:** Owners Consent for proposed development at Cape York Peninsula Lodge

**Agenda Item:** 8.5

**Classification:** For Decision

**Author:** Chief Executive Officer

**Attachments:** Cape York Peninsula Lodge Dining Expansion Site Plans (tabled)

## Officer's Recommendation:

### That Council (as Trustee):

1. Note the Report
2. Provide Owner's consent to the proposed development at Cape York Peninsula Lodge consistent with the terms of Lease A (dealing 711553809) and the existing Agreement to Grant Lease between Northern Peninsula Area Regional Council and Bamaga Enterprises Limited dated 26/10/2022
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

## PURPOSE OF REPORT

To provide delegation to the Chief Executive Officer to provide owners consent for proposed development at Cape York Peninsula Lodge.

## BACKGROUND AND CONTEXT

NPARC has an existing agreement with Bamaga Enterprises Limited for the front of the resort known as Lease A or dealing no 711553809. NPARC has also entered into an Agreement to Grant Lease with Bamaga Enterprises, which covers the existing leases but also new areas as negotiated which includes the DOGIT area of the lease being Lot 264 on SP273361 (sometimes referred to as lease K).

Under the terms of these two agreements, consent is required from NPARC as trustee for any alterations or improvements at the premises.

Bamaga Enterprises is seeking to extend the existing outside decking / dining area. While this does not constitute a Material Change of Use, owner's consent is required by the trustees. The proposed plans for development are attached to this report.

The development will also require building approval under the Building Act 1975. Further, the terms of the Agreement to Grant Lease require Bamaga Enterprises to

- Provide detailed plans if the works (attached to this report)
- Obtain all relevant Authority Approvals to the Works before commencing the works

- The works must be carried out in a proper and workmanlike manner, and at the cost of the Lessee, by contractors who have a current public liability insurance policy for at least \$20mil
- The Lessee indemnifies and key indemnified the Lessor against all claims, expense and losses incurred by the Lessor relating to the construction of the works

Any requirements under the Cultural Heritage Act will be the responsibility of Bamaga Enterprises to resolve, but there is no increase in Gross Floor Area and unlikely to be a material increase in the intensity of use of the premise for the existing resort.

## **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**

Bamaga Enterprises

RPS

Preston law



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

**Agenda Item: 8.6**

**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 10<sup>th</sup> 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. 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 # 6**

**Agenda Item 8.6**

**Monday 23<sup>rd</sup> September 2024**

**BAMAGA BOARDROOM**

### **LEGAL AND LEGISLATION CONSIDERATIONS**

Torres Strait Islander Land Act 1991

### **POLICY CONSIDERATIONS**

NA

### **FINANCIAL AND RESOURCE CONSIDERATIONS**

NA

### **CONSULTATION**

DATSIP

RPS





**Agenda Item 9-10**  
**TRUSTEE COUNCIL MEETING #6**  
**Monday 23<sup>rd</sup> September 2024**

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