

ORDINARY MEETING	2
8 NOVEMBER 2023	

TENURE ARRANGEMENT – RENEWAL OF FREEHOLD LEASE FOR SUGAR CANE PRODUCTION OVER PART OF LOT 19 ON RP887338 & LOT 22 ON SP302211 POLLARD ROAD BABINDA - DIVISION 1

19/28/153 | #7273994

RECOMMENDATION:

That Council:

1. Applies the exception in accordance with section 236(1)(c)(iii) of the *Local Government Regulation 2012* pursuant to section 236(2) for the purpose of renewing the lease of land to the existing tenant over Council freehold land described as lot 22 on SP302211 and part of lot 19 on RP887338, Pollard Road Babinda;
2. Approves to make a freehold lease renewal offer to Luke Calcagno for a term of 3 years for sugar cane production purposes under the same terms and conditions; and
3. Delegates authority to the Chief Executive Officer under section 257 of the *Local Government Act 2009* to negotiate and finalise any and all matters relating to the freehold lease arrangements.

INTERESTED PARTIES:

Applicants – Luke Calcagno

Note: The identification of interested parties is provided on a best endeavours basis by Council Officers and may not be exhaustive.

EXECUTIVE SUMMARY:

This report has been prepared to gain approval to renew the existing tenure arrangement over the subject areas with the current lessee for sugar cane production purposes for a term of three (3) years. The offer for a renewed lease will be subject to the same terms and conditions as the current lease. By applying an exception under the *Local Government Regulation 2012*, the local government can renew the lease of land to an existing tenant without the need to tender.

BACKGROUND:

The subject areas on Pollard Rd, Babinda make up approximately 31 hectares of Council freehold land with a current lease in place due to expire on 31 December 2023. The site has been leased by Council for sugar cane production purposes since at least 1996.

Council officers support the renewal of the freehold lease to Mr Calcagno for a further three (3) year term. The offer to renew the lease would be on the same terms and conditions as the current lease.

Mr Calcagno has expressed an interest in renewing the lease and is aware that if Council's plans for the site change, additional leases may not be supported in the future.

If the lease over the land is not renewed, Council would resume responsibility for the ongoing maintenance and upkeep of the land.

COMMENT:

Internal discussions have been held with Community Spaces, as the asset owner of the subject land. They are supportive of the lease being renewed for sugar cane production for a term of three (3) years as the site is not currently required for any other purpose.

Terms and conditions

The offer of a freehold lease to Luke Calcagno (lessee) is subject to the following terms and conditions:

- For sugar cane production purposes;
- over an area of approximately 31 hectares of Council freehold land, lot 22 on SP302211 and part of lot 19 on RP887338;
- for a term of three (3) years to commence from 1 January 2024;
- rental to be 10% of the gross sugar cane proceeds;
- lessee responsible for:
 - charges – sewerage / EML
 - water
 - utilities – electricity / phone / gas
 - public liability insurance noting Council as a party
- in accordance with Council's Tenure Arrangements and Disposal of Council Property General Policy, in particular Part 3 of the associated administrative instruction provides for commercial use, including primary production and government agencies; and
- should the negotiations become protracted and the tenure arrangement is not finalised within three (3) months of the date of this approval, Council reserves the right to withdraw its freehold lease offer.

OPTIONS:

Option 1: (Recommended)

That Council :

1. Applies the exception in accordance with section 236(1)(c)(iii) of the *Local Government Regulation 2012* pursuant to section 236(2) for the purpose of renewing the lease of land to the existing tenant over Council freehold land described as lot 22 on SP302211 and part of lot 19 on RP887338, Pollard Road Babinda;

2. Approves to make a freehold lease renewal offer to Luke Calcagno for a term of 3 years for sugar cane production purposes under the same terms and conditions; and
3. Delegates authority to the Chief Executive Officer under section 257 of the *Local Government Act 2009* to negotiate and finalise any and all matters relating to the freehold lease arrangements.

Option 2:

That Council does not provide approval to make a freehold lease offer to Mr Calcagno and the land remains vacant.

CONSIDERATIONS:

Council Finance and the Local Economy:

All costs associated with the lease of the property including, but not limited to legal costs, associated professional services and registration fees will be borne by the lessee.

The lessee is also responsible for general rates, including utility charges if applicable (i.e. fire levy, access to water and access to sewerage).

There are no outstanding rent, rates and water from the previous arrangement.

Corporate and Operational Plans:

This report aligns with Focus 1 of the Corporate Plan, Robust Economy, by supporting a diversified and resilient economy that backs business innovation, growth and jobs.

Statutory:

The disposal of an interest in land is in accordance with section 236(1)(c)(iii) of the *Local Government Regulation 2012*. The disposal is for the purpose of renewing a lease of land to the existing tenant. The lease will be prepared in accordance with the requirements of the *Land Title Act 1994*.

Policy:

The tenure arrangement will be prepared in accordance with Council's 'Tenure Arrangements and Disposal of Council Property General Policy', in particular part 3 of the associated administrative instruction which provides for commercial use, including primary production and government agencies.

CONSULTATION:

The current lessee, Luke Calcagno, has provided Council with confirmation that he would like to continue to the lease the land for a further 3 years for sugar cane production purposes. Mr Calcagno has also provided Council with a copy of his cane supply agreement.

ATTACHMENTS:

Attachment 1 – Aerial view of proposed lease area (red hatched area)

A handwritten signature in black ink that reads "Patterson". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Amy Patterson
Executive Manager Licensing and Compliance

A handwritten signature in black ink that reads "Ed Johnson". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Ed Johnson
Director – Planning, Growth and Sustainability

Attachment 1 – Aerial view of proposed lease area (red hatched area)

