

DISPOSAL OF VALUABLE NON-CURRENT ASSET BEING LOT 2 ON RP717642, BOULDERS ROAD, BABINDA – DIVISION 1

PGS | 55/2/3 | #7930147

RECOMMENDATION:

That Council:

- 1. Applies an exception in section 236(1)(c)(iv) of the *Local Government Regulation 2012* for the disposal of a valuable non-current asset being whole of Council freehold lot 2 on RP717642, Boulders Road, Babinda, other than by tender or auction, to an adjoining landowner of lot 2 on RP747240, 827R Boulders Road, Babinda; and**
- 2. Supports the disposal of land for the reasons outlined in Table 1 of this report which satisfy the following requirements:**
 - a. The land is not suitable to be offered for disposal by tender or auction;**
 - b. There is not another person who owns other adjoining land who wishes to acquire the land;**
 - c. It is in the public interest to dispose the land without tender or auction; and**
 - d. The disposal is otherwise in accordance with sound contracting principles; and**
- 3. Delegates authority to the Chief Executive Officer pursuant to section 257 of the *Local Government Act 2009*, to negotiate and finalise any and all matters associated with the land dealing subject but not limited to the terms and conditions of the report.**

INTERESTED PARTIES:

- Cairns Regional Council (Owner) – lot 2 on RP717642, Boulders Road, Babinda
- B & J Anderson – proposed purchaser and landowner(s) of lot 2 on RP747240, 827R Boulders Road, Babinda
- Mangosteen Orchard Pty Ltd (Tte) – landowner of lot 4 on RP717642, Stager Connection Road, Babinda
- Knight Frank Cairns

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 seeks a Council resolution to apply an exception under section 236(1)(c)(iv) of the *Local Government Regulation 2012* to dispose of Council freehold land described as lot 2 on RP717642, Boulders Road, Babinda, to an adjoining landowner being the owner of lot 2 on RP747240, 827R Boulders Road, Babinda, other than by tender or auction.

On 23 July 2025, Council resolved to acquire lot 2 on RP717642 for overdue rates. The land has since been deemed surplus to Council requirements. The land is an isolated, undeveloped parcel with no formed road access, limited services, flood constraints, poor marketability and low value.

Given the land's isolated location, lack of practical access and likely interest being confined to adjoining landowners, a tender or auction process is not considered appropriate. Disposal to an adjoining landowner is considered the most suitable option. This will reduce Council's ongoing obligations over the land and provide an opportunity for the parcel to be consolidated with adjoining land.

Council has written to all adjoining owners to gauge their interest in purchasing lot 2 on RP717642. The landowners were advised that the land was valued at \$2,500 (excl. GST) as of 9 May 2025 and that any disposal would be at no less than market value and subject to the purchaser meeting all costs associated with the transaction. The owners of lot 2 on RP747240, 827R Boulders Road, Babinda were the only party to express interest in purchasing the subject land and the application of an exception will enable the land disposal to proceed.

BACKGROUND:

On 23 July 2025 Council resolved to:

- '(a) acquire the land located at Lot 2 Boulders Road, Babinda (described as Lot 2 on Registered Plan 717642 ("the Land")) for overdue rates or charges pursuant to section 149(1) of the Local Government Regulation 2012; and*
- (b) delegate to the Chief Executive Officer its powers to give a Notice of Intention to Acquire the Land to all interested parties, and power to take all further steps required under sections 149, 150 and 151 of the Local Government Regulation 2012 to effect the acquisition of the Land.'*

Once acquired, Council officers progressed the intended next step of approaching neighbouring landowners to gauge interest in a potential sale. Correspondence was issued to the owners of both adjoining properties. The owners of lot 2 on RP747240, 827R Boulders Road, Babinda were the only party to express an interest in purchasing the subject land.

COMMENT:

Lot 2 on RP717642, Boulders Road, Babinda is a Council freehold parcel comprising approximately 1,047m² of vacant undeveloped land. The land is located to the rear of adjoining properties, near Babinda Creek, and has no formed road frontage or practical independent vehicular access.

The proposed disposal has been assessed against the requirements of section 236(1)(c)(iv) of the *Local Government Regulation 2012* in Table 1 below:

Table 1: Assessment against requirements of section 236(1)(c)(iv) of the Local Government Regulation 2012.

Requirement	Reasoning
1. "the land is not suitable to be offered for disposal by tender or auction for a particular reason, including, for example, the size of the land or the existence of particular infrastructure on the land."	The land is not suitable to be offered for disposal by tender or auction because it is an isolated 1,047m ² parcel with no formed road access, no services, flood constraints and limited practical utility as a standalone parcel. The valuation report identifies that marketability is exceptionally poor and that likely purchaser interest is limited to adjoining owners.
2. "there is not another person who owns other adjoining land who wishes to acquire the land."	Council has approached the owners of adjoining lot 2 on RP747240, 827R Boulders Road, Babinda to gauge interest. The only other adjoining property identified in this report is lot 4 on RP717642, Stager Connection Road, Babinda which have been provided a reasonable opportunity to express interest and has not responded. Based on the enquiries undertaken, Council officers are not aware of any other adjoining owner who wishes to acquire the land.
3. "it is in the public interest to dispose of the land without a tender or auction."	Disposal without tender or auction is considered to be in the public interest because a conventional tender or auction process is unlikely to produce a broader competitive market due to the lack of access, constrained development potential and limited utility except as an addition to adjoining land. The disposal will reduce Council's ongoing management and liability obligations for a parcel that has been deemed surplus to Council purposes and will enable the land to be consolidated with adjoining land where it may have practical utility. A direct disposal under the statutory exception is therefore considered more efficient and proportionate than tender or auction in the circumstances.
4. "the disposal is otherwise in accordance with sound contracting principles."	The sound contracting principles under section 104(3) of the <i>Local Government Act 2009</i> are as follows: • value for money; • open and effective competition; • development of competitive local business and industry; • environmental protection; and • ethical behaviour and fair dealing.

Requirement	Reasoning
	All land disposals are to be processed in accordance with Council's relevant property disposal policy and procedures, including consideration of the sound contracting principles. The proposed disposal process is considered to be in accordance with the sound contracting principles because: • a market valuation has been obtained assessing the land at \$2,500 excluding GST; • the disposal price must be not less than market value in accordance with section 236(3) of the <i>Local Government Regulation 2012</i>; • the purchaser will be responsible for all costs associated with the sale and transfer; • the land has limited independent market appeal and is likely to have practical value only to adjoining owners and a broader competitive market is unlikely to exist; • the land is surplus to Council requirements and disposal will reduce ongoing ownership and management obligations; • the land's environmental and planning constraints will continue to be managed through applicable planning and statutory requirements; and • the proposal avoids unnecessary tender or auction costs where a broader market is unlikely to result in an improved outcome.

Terms and Conditions

The offer of a contract of sale for the whole of Council freehold lot 2 on RP717642, Boulders Road, Babinda to the adjoining landowner being lot 2 on RP747240, 827R Boulders Road, Babinda will be subject, but not limited to, the following terms and conditions:

- provision of a Form 2 Sellers Disclosure Statement in accordance with section 99 of the *Property Law Act 2023*;
- the proponent is responsible for all costs relevant to the Contract of Sale;
- in accordance with Council's '*Tenure Arrangements and Disposal of Council Property Policy*', in particular part 5 of the associated Administrative Instruction which provides for disposal of Council property; and
- should the negotiations become protracted, and the disposal is not finalised within six (6) months of the date of this approval, Council reserves the right to withdraw the offer.

OPTIONS:

Option 1 (Recommended)

That Council:

1. Applies an exception in section 236(1)(c)(iv) of the *Local Government Regulation 2012* for the disposal of a valuable non-current asset being whole of Council freehold lot 2 on RP717642, Boulders Road, Babinda, other than by tender or auction, to an adjoining landowner of lot 2 on RP747240, 827R Boulders Road, Babinda; and
2. Supports the disposal of land for the reasons outlined in Table 1 of this report which satisfy the following requirements:
 - a. The land is not suitable to be offered for disposal by tender or auction;
 - b. There is not another person who owns other adjoining land who wishes to acquire the land;
 - c. It is in the public interest to dispose the land without tender or auction; and
 - d. The disposal is otherwise in accordance with sound contracting principles; and
3. Delegates authority to the Chief Executive Officer pursuant to section 257 of the *Local Government Act 2009*, to negotiate and finalise any and all matters associated with the land dealing subject but not limited to the terms and conditions of the report.

Option 2:

That Council does not support the application of an exception under section 236(1)(c)(iv) of the *Local Government Regulation 2012* for the disposal of a valuable non-current asset being whole of Council freehold lot 2 on RP717642, Boulders Road, Babinda.

CONSIDERATIONS:

Risk Management:

Risks associated with the disposal will be managed through the contract of sale and associated provisions including default clauses, dispute resolution and other relevant conditions.

A requirement of the sale will ensure that if negotiations become protracted and the sale is not finalised within six (6) months of the date of the Council Resolution, Council will reserve the right to withdraw the offer.

Council Finance and the Local Economy:

The proponent will be responsible for all costs associated with the sale including but not limited to:

- land sale costs;
- legal fees;

- bank fees;
- registration fees; and
- duty fees.

A valuation has been obtained for the subject land to inform the proposed disposal. Knight Frank assessed the market value of Lot 2 on RP717642 at \$2,500 (excluding GST) as of 9 May 2025. The valuation concluded that the land has very limited marketability and utility due to its isolated location, lack of legal and formed access, absence of services, flood constraints, and the likelihood that its highest and best use is as buffer land or in conjunction with an adjoining property. As comparable sales evidence was not available, the valuation adopted a qualitative assessment of the land's nominal value, having regard to its physical characteristics, planning constraints, and limited purchaser market.

Corporate and Operational Plans:

This report aligns with the Corporate Plan 2025-2030 with consideration to:

Focus 5: Focused Council - Delivering for community through strong governance and informed decision making. The recommendations in this report aim to ensure informed decision making that is collaborative, transparent and accountable.

Statutory:

Section 236(1)(c)(iv) of *the Local Government Regulation 2012* allows Council to apply an exception to dispose of land to an adjoining landowner without undertaking a tender or auction where certain requirements are satisfied as outlined in Table 1.

Council has delegated authority to the Chief Executive Officer to dispose of a valuable non-current asset where an exception has been applied by Council resolution under this provision. The Chief Executive Officer has sub-delegated this power to the Director Planning, Growth & Sustainability and the Executive Manager Licensing & Compliance.

Policy:

The disposal of the valuable non-current asset will be in accordance with Council's '*Tenure Arrangements and Disposal of Council Property General Policy*'.

CONSULTATION:

Discussions have occurred with all relevant internal stakeholders to seek direction on the use of this site which has been deemed surplus and suitable for disposal.

ATTACHMENTS:

Attachment 1 – Aerial image defining subject area

Attachment 2 – Smart Map of the subject site

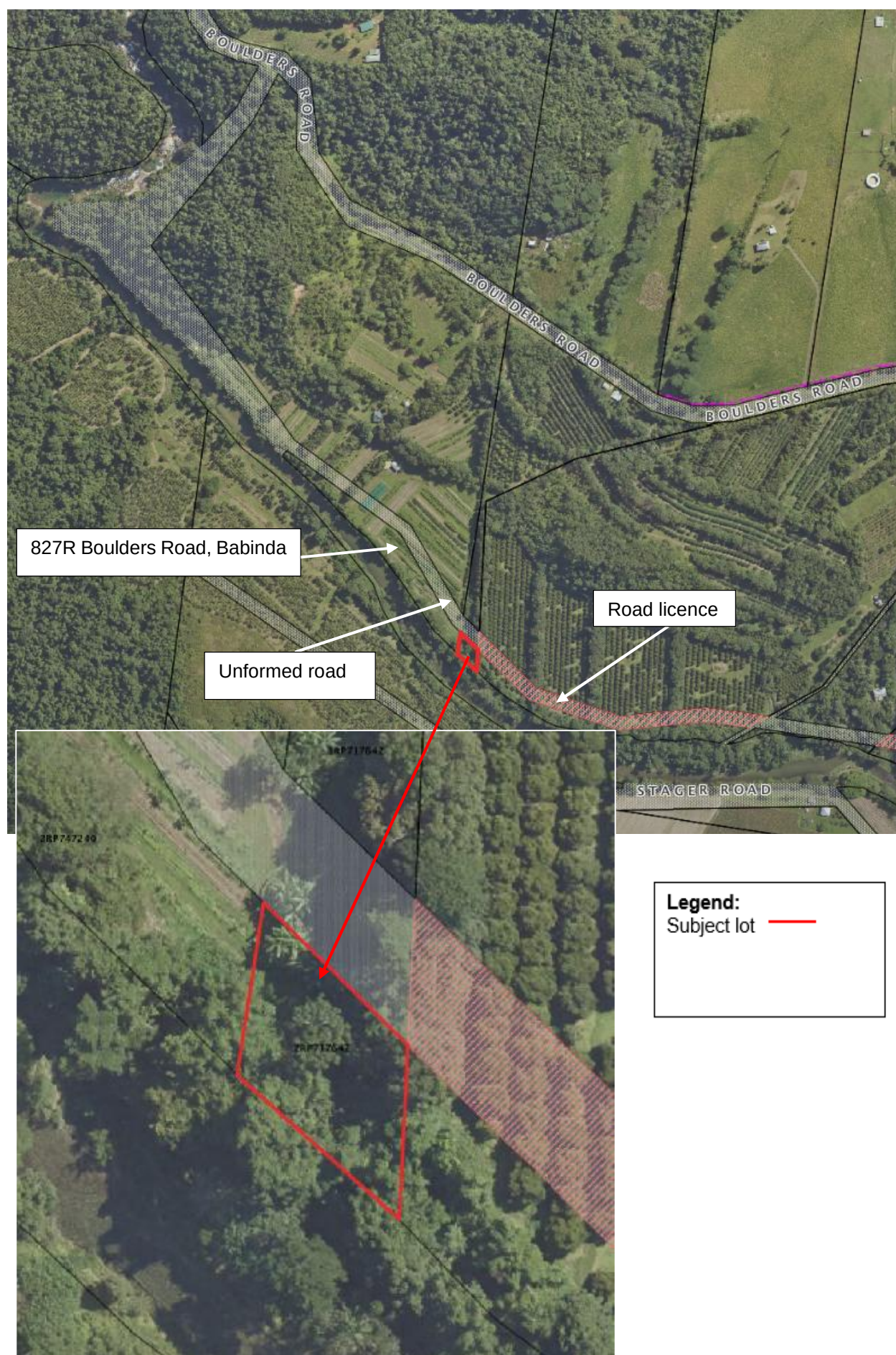
A handwritten signature in black ink, appearing to read 'CKellam-Stock'.

Claire Kellam-Stock
A/Executive Manager Licensing and Compliance

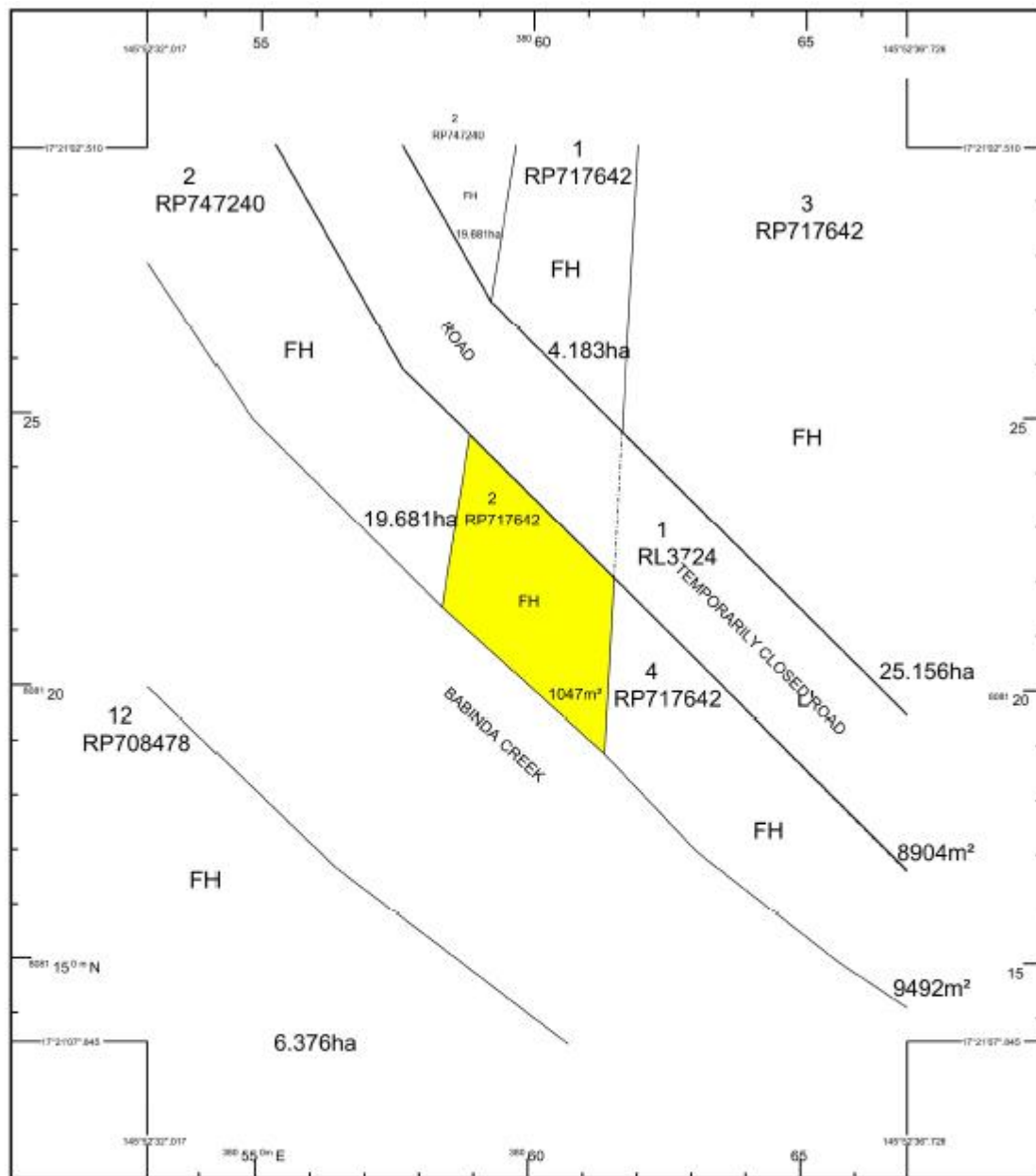
A handwritten signature in black ink, appearing to be a stylized 'SL'.

Sean Lisle
A/ Director Planning Growth and Sustainability

Attachment 1 – Aerial image of the subject lot



Attachment 2 – Smart Map of the subject site



STANDARD MAP NUMBER
8063-21334

MAP WINDOW POSITION &
NEAREST LOCATION



SUBJECT PARCEL DESCRIPTION

DCDB
Lot/Plan
Area/Volume
Tenure
Local Government
Locality
Segment/Parcel

280717542
1047m²
FREEHOLD
CARNS REGIONAL
BABINDA
218275

CLIENT SERVICE STANDARDS

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