ACQUISITION OF PART OF LOT 2 ON NR5559 FOR INFRASTRUCTURE PURPOSES – TIDMARSH ROAD, FISHERY FALLS – DIVISION 1

Cheryl Dean : 19/3/3-83: #2358437

RECOMMENDATION:

That Council delegates authority to the Mayor and Chief Executive Officer in accordance with Section 472 of the Local Government Act 1993 to negotiate and determine any and all matters associated with obtaining legal access to the area required from Lot 2 on NR5559, Tidmarsh Road, Fishery Falls, for the Fishery Falls 1ML water reservoir project.

INTRODUCTION:

Council considered this matter at the Ordinary Meeting on 22 January 2009 in conjunction with sites at White Rock and Miriwinni. Issues have arisen in relation to legal access to the area required from Lot 2 on NR5559 for the proposed water reservoir at Fishery Falls.

The area required for the Fishery Falls water reservoir has no dedicated access. Council intends to negotiate an easement over the existing track to provide for access, water, electricity and communications to the required area with the affected landholders.

The access issue is not considered to be covered by the delegation given at the Ordinary Meeting on 22 January 2009 and a further delegation is sought in this regard.

BACKGROUND:

Council considered this matter in conjunction with sites at White Rock and Miriwinni at its Ordinary Meeting on 22 January 2009 where it was resolved:

“That Council:

1. Acquire either by agreement under Section 15 of the Acquisition of Land Act 1967 or by private agreement:

   a) approximately 92m² of land being part of Lot 214 on NR1861, 37-51 Fretwell Road, White Rock from Stan and Joan Leszczewicz for the purpose of constructing a sewage pump station;
b) approximately 1440m² of land being part of Lot 2 on NR5559, Tidmarsh Road, Fishery Falls from Catherine Wienert and Bernard Triggs for the purpose of constructing a 1ML water reservoir; and

c) approximately 155m² of land being part of Lot 2 on SP167071, Greer Road, Miriwinni from Lorna Kelly for the purpose of constructing a chlorinator.

2. Delegate authority to the Mayor and Chief Executive Officer in accordance with Section 472 of the *Local Government Act 1993* to negotiate and determine any and all matters associated with the proposed acquisitions of land, including compensation, settlement and to execute any agreements.

3. Should the transfer of one or all of the above lots not be finalised or nearing completion within four (4) months of the date of this resolution, then, in accordance with the provisions of the *Acquisition of Land Act 1967*, Council commence the required action to resume the relevant lot/s for the purposes detailed above and for the following reasons as provided within this report:

   a) White Rock - topography, accessibility and compliance with setback;
   
   b) Fishery Falls - Minimising disturbance of vegetation and soil, geotechnical requirements, topography and incorporation into existing water supply schemes; and
   
   c) Miriwinni - accessibility to existing water reservoir.

4. Delegate authority to the Mayor and Chief Executive Officer in accordance with Section 472 of the *Local Government Act 1993* the power to sign and serve the necessary Notice of Intention to Resume on Council’s behalf and the power to conduct any objection hearing convened pursuant to Sections 7 and 8 of the *Acquisition of Land Act 1967*.”

**COMMENT:**

**Property Services**

Council’s current resolution does not provide for access to be obtained to the proposed reservoir site. In order to ensure legal access is provided a further delegation needs to be resolved.

**CONSIDERATIONS:**

**Corporate and Operational Plans:**

This report was prepared in accordance with Corporate Plan Goal 4 Delivering Services and Infrastructure.

**Statutory:**

Access requirements will be subject to the *Land Title Act 1994*. 

Policy:
N/A

Financial and Risk:
All costs in relation to provision of access will be met by Council and are within existing budget provisions.

Sustainability:
The proposed easement to provide access to Council’s water infrastructure ensures Council can provide a sustainable high quality water supply to meet current and future needs of the community.

CONSULTATION:
The affected landholders will be consulted in relation to the proposed easement.

OPTIONS:
Council has no option but to ensure that legal access is provided to the proposed reservoir site.

CONCLUSION:
That Council concurs with the recommendation subject of this report.

ATTACHMENTS:
Locality Map
Survey Drawing
Aerial Map

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Manager Corporate Performance

B. GROSSER
General Manager Corporate Services
Proposed Easement alignment for access, water, electricity and communications