

CONTRACT 2924 – REQUEST FOR AMENDMENT TO LEASE TERM AND FREEHOLD LEASE FOR LOT 11 ON SP346748, 271 GATTON ST, WESTCOURT- DIVISION 5

PG&S | 63/1/453-01 | #7863578

RECOMMENDATION:

That Council:

- 1. Approves and supports the proposed amendment to the Agreement to Grant Lease dated 12 September 2025 over part of lot 11 on SP346748, 271 Gatton Street, Westcourt, to Access Community Housing Company Ltd to:
 - a. include two (2) options for further freehold lease terms of ten (10) years each;****
- 2. Supports a freehold lease with Access Community Housing Company Ltd upon meeting the terms and conditions of the Agreement to Grant Lease conditions by applying an exception in accordance with section 236 of the *Local Government Regulation 2012* for the disposal of a valuable non-current asset other than by tender or auction pursuant to section 236(1)(b)(ii) of the *Local Government Regulation 2012*, over part of lot 11 on SP346748, 271 Gatton Street, Westcourt; 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 negotiation and finalisation of the land dealing with Access Community Housing Company Ltd subject to but not limited to the terms and conditions contained within.**

INTERESTED PARTIES:

- 1. Access Community Housing Company Ltd (ACHC)**
- 2. Cairns and District Senior Citizens Association Inc. (adjoining lessee)**
- 3. Cairns and District Family History Society Inc. (adjoining lessee)**

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

EXECUTIVE SUMMARY:

In early 2025 Council undertook a Request for Proposals process under Contract 2924 to identify opportunities for the development of land at 271 Gatton Street, Westcourt and 86–94 Tills Street, Westcourt. The opportunity was limited to community organisations able to demonstrate the capacity to develop and manage the sites for a community purpose. Following assessment of submissions, ACHC was selected as the preferred proponent and approved for a 25-year freehold lease.

In June 2025, ACHC requested an extension of the lease term from 25 years to 30 years, which was approved under delegated authority. An Agreement to Grant Lease (**AGL**) was subsequently entered into between Council and ACHC on 12 September 2025, providing for the grant of a 30-year freehold lease, subject to ACHC satisfying a range of conditions, including securing funding for the project.

Since entering into the AGL, ACHC has continued to progress the project, including obtaining Development Approval for the proposed development and advancing discussions with funding providers.

ACHC has since advised Council that State funding providers require longer term tenure certainty to support funding approval. To address this requirement, ACHC has requested an amendment to the AGL to provide for a 30-year freehold lease with two (2) additional option periods of ten (10) years each.

This report seeks Council's endorsement of the amended tenure arrangement prior to finalisation of the proposed amendment to the AGL.

BACKGROUND:

At Council's Ordinary Meeting held on 30 April 2025 the following resolution was passed:

That Council:

1. *Applies an exception in accordance with section 236(2) of the Local Government Regulation 2012 for the disposal of a valuable non-current asset, other than by tender or auction, pursuant to section 236(1)(b)(ii) to a community organisation;*
2. *Awards contract 2924 to Access Community Housing Company Ltd for part of lot 11 on SP346748, 271 Gatton Street, Westcourt (site 3) by making an offer for an Agreement to Grant Lease subject to terms and conditions;*
3. *Continues to engage with other proponents to advance their community projects; and*
4. *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 negotiation and finalisation of the land dealing with Access Community Housing Company Ltd.*

Following award of the contract, ACHC requested an increase in the proposed lease term from 25 years to 30 years. The amended lease term was approved under delegated authority in June 2025, consistent with Council's resolution of 30 April 2025, which delegated authority to the Chief Executive Officer pursuant to section 257 of the Local Government Act 2009 to negotiate and finalise the proposed land dealing.

ACHC subsequently entered into an Agreement to Grant Lease (AGL) with Council on 12 September 2025, providing for the grant of a 30-year freehold lease subject to ACHC satisfying the conditions of the AGL.

The AGL is conditioned to meet various time frames including but not limited to ACHC receiving funding approval as well as Development and Planning Approval within a period of 12 months from the signing of the AGL.

Following execution of the AGL, ACHC lodged a Development Application with Council for the proposed development on the subject site (DA Reference 8/30/878). The application was code assessable and, following completion of the required statutory planning assessment process, was approved with conditions under delegated authority on 14 April 2026 (Reference #7858788). ACHC continues to progress the project and associated funding opportunities required to facilitate delivery of the development.

COMMENT:

The request for amendment to the tenure framework is considered reasonable having regard to the nature of the proposed community housing development, the significant capital investment required by ACHC, and the funding requirements required by State funding providers. The proposed option periods remain conditional upon compliance with lease obligations and do not create an automatic entitlement to ongoing tenure.

The proposed inclusion of two additional option periods represents a material change to the tenure framework originally considered by Council. While the project has continued to progress under the authority previously delegated by Council, the amended tenure arrangement is presented to Council for consideration and endorsement prior to finalisation, having regard to the options for expanded tenure outcomes now proposed.

Amended Terms and Conditions for the Agreement to Grant Lease

The following clauses are to be included with the current terms and conditions (**Attachment 2**) as an amendment in the ACHC AGL, subject but not limited to:

- 1. Issue a freehold lease term of thirty (30) years from a date to be determined; with 2 x ten (10) year options;
- 2. Each option period is subject but not limited to the following conditions:
 - a. the Lessee having, in the Lessor's reasonable opinion, substantially complied with all terms and conditions of the Lease throughout the term, including (without limitation) payment of rent, rates, etc. when due and compliance with all maintenance and operational obligations;

- b. the Lessee not being in material breach of the Lease at the time of exercising the option or at the commencement of the Option Period;
- c. the Lessee is not in default of Funding agreements; and
- d. the Lessor, acting reasonably and in good faith, approving the exercise of the option having regard to the Lessee's performance and conduct during the **Term**.

Freehold lease - Terms and conditions subject but not limited to:

1. Over part of Council freehold land described as lot 11 on SP346748, 271 Gatton Street, Westcourt (and subject to amended into a sperate lot based on a reconfiguration of lot application);
2. For the purpose of Accommodation Activity, being a multi-storey accommodation facility and the subsequent use of such for social and affordable housing for vulnerable people, specifically targeting women over 55 years and seniors, and for no other purpose;
3. The Lessee shall be responsible for:
 - a. rates (general) – lessee may apply for rates based financial assistance
 - b. charges – sewerage / EML
 - c. water
 - d. utilities – electricity / phone / gas
 - e. public liability insurance noting Council as an interested party
 - f. bin/waste collection – to be met by lessee, ensure Council is no longer responsible;
4. Council may terminate the lease, in the event that ACHC fails to commence works/ construction on the premises, such that the land remains vacant, unused and unimproved or that ACHC has not applied to Council for improvement works under the lease, by 30 June 2028 (defined as "Operation Date")
5. ACHC shall only sublet / sublease the premises to vulnerable women over 55 years of age or senior citizens, and other vulnerable people that may be eligible for the type of accommodation offered by ACHC (defined as "eligible tenant"); and
6. In accordance with Council's "*Tenure Arrangements and Disposal of Council Property – General Policy*".

OPTIONS:

Option 1 (recommended):

That Council:

1. Approves and supports the proposed amendment to the Agreement to Grant Lease dated 12 September 2025 over part of lot 11 on SP346748, 271 Gatton Street, Westcourt, to Access Community Housing Company Ltd to:
 - a. include two (2) options for further freehold lease terms of ten (10) years each;

2. Supports a freehold lease with Access Community Housing Company Ltd upon meeting the terms and conditions of the Agreement to Grant Lease conditions by applying an exception in accordance with section 236 of the *Local Government Regulation 2012* for the disposal of a valuable non-current asset other than by tender or auction pursuant to section 236(1)(b)(ii) of the *Local Government Regulation 2012*, over part of lot 11 on SP346748, 271 Gatton Street, Westcourt; 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 negotiation and finalisation of the land dealing with Access Community Housing Company Ltd subject to but not limited to the terms and conditions contained within.

Option 2:

That Council does not support the proposed amendment to the Agreement to Grant Lease dated 12 September 2025, over part of lot 11 on SP346748, 271 Gatton Street, Westcourt, to Access Community Housing to include two (2) freehold lease options of ten (10) years each.

CONSIDERATIONS:

Risk Management:

The proposed amendment does not alter the intended community purpose of the project, Council's ownership of the land, or the requirement for ACHC to comply with all lease obligations throughout the term of the tenure arrangement.

The primary risk associated with the proposal is that, without the proposed extension options, ACHC may be unable to secure the external funding required to deliver the development. This may result in the project not proceeding and the associated community housing outcomes not being realised.

The proposed lease options do not guarantee ongoing tenure and remain subject to compliance with lease obligations and Council approval. The inclusion of option periods therefore provides greater certainty to funding bodies while maintaining Council's ability to manage performance and compliance risks through the lease provisions, should they arise.

Council Finance and the Local Economy:

Council's Standard Fees and Charges for Not-for-Profit organisations will apply to any future tenure arrangements. Charges for all other services remain the responsibility of the lessee.

The lessee is responsible for their own legal costs and may also be responsible for Council's legal costs following resolution of this report.

Council will bear the cost of lease registration and any associated fees.

There is no provision within Council's ten-year capital works program to provide funding or financial contributions towards the proposal. Council may support proponents in identifying and pursuing external funding opportunities.

Community and Cultural Heritage:

ACHC is a registered community housing provider that delivers affordable housing outcomes through a range of government-supported housing programs. Its model seeks to provide housing options for individuals and families who may otherwise experience difficulty accessing housing within the private rental market.

Women over 55 represent the fastest growing demographic of homelessness in Australia and seniors make up over 20% of social housing applicants waiting to be housed in Cairns. The Queensland Government's Social Housing Register shows 2,193 applications for housing in Cairns, with 455 applicants aged over 55. The ACHC proposal responds to a demonstrated and growing community need.

Natural Environment:

The land is currently vacant and predominantly cleared. The ACHC proposal is expected to incorporate sustainable building practices to minimise environmental impacts and may include features such as solar panels to assist in reducing long-term operating costs for residents. The proposal will be subject to a Development Approval that considers environmental impacts.

Corporate and Operational Plans:

The recommendation of this report aligns with the following Corporate Plan strategies:

- Focus 3: Design for liveability - A place-based approach that celebrates our community.
- Focus 4: Community & culture - Fostering a vibrant, healthy and inclusive community.
- Focus 5: Focused Council - Delivering for community through strong governance and informed decision making.

Statutory:

Section 236 of the LGR allows Council to apply an exception to dispose of a valuable non-current asset without the need to tender or auction. These provisions also enable Council to issue leases to community organisations for less than market value which would not apply in the absence of an exception. The Chief Executive Officer, Director Planning, Growth and Sustainability and Executive Manager Licensing and Compliance have delegated authority under this provision where an exception for the disposal has been applied by Council resolution.

All leases will be prepared in accordance with the requirements of the *Land Act 1994*, *Land Title Act 1994*, *Local Government Act 2009* and *Local Government Regulation 2012*.

Policy:

All tenure arrangements are processed under delegation and in accordance with Council's '*Tenure Arrangements and Disposal of Council Property General Policy*'.

CONSULTATION:

Internal consultation has been undertaken with relevant Council stakeholder regarding ACHC's request to amend the Agreement to Grant Lease to include two (2) additional option periods of ten (10) years each. Feedback received through this process has not identified any concerns with the proposed amendment.

Any proposal to develop Council land may be subject to public notification as part of the Development Application process. Organisations were required to demonstrate consultation with adjoining users in preparation of their proposals through the original Request for Proposals process.

ATTACHMENTS:

Attachment 1 – Locality Map

Attachment 2 – Terms and conditions of current AGL dated 12th September 2025



Amy Patterson
Executive Manager Licensing and Compliance



Mark Davey
Director Planning, Growth and Sustainability

Attachment 1 – Locality Map



Legend

1. Freehold lease to Cairns Meals on Wheels.
2. Freehold lease to Senior Citizens and Family History Society.
3. Subject site, Council freehold land ~1,800m².
4. Council reserve.

Attachment 2 - Terms and conditions of current AGL dated 12th September 2025:

1. Lease shall be issued to ACHC, if the following conditions are satisfied:
 - a. Funding must be secured by ACHC by the “Funding Approval Date” which is defined as 12 months from the signing of the AGL (dated 12 September 2025) prior to Council entering into a freehold lease;
 - b. ACHC procuring at its own costs the survey plan for the leased area within 12 months from the date of the AGL (which is defined as the “Approval Date”) and;
 - c. Subject to ACHC procuring, at its own cost, all requisite approvals which required to conduct the permitted use, which includes but is not limited to Development Approval under the planning act 2016, including approvals for reconfiguration of lots, material change of use and building development approvals, any environmental approvals required under the Environmental Protection Act 1994 and all approvals necessary for the construction and operation of the Accommodation Activity by the Approval Date.
2. Construction commencing within three years from the date of the agreement to grant lease; and
3. A lease shall be based on Council’s standard terms document for freehold leasing with amendment agreed to by both Council and ACHC (and if applicable, subject to any further amendments arising out of any negotiation between the parties in considering proposal refinement, funding and Development Approval);
4. Over part of Council freehold land described as lot 11 on SP346748, 271 Gatton Street, Westcourt (and subject to amended into a sperate lot based on a reconfiguration of lots application);
5. For the purpose of construction of the Accommodation Activity, being a multi- storey accommodation facility and the subsequent use of such for social and affordable housing for vulnerable people, specifically targeting women over 55 years and seniors, and for no other purpose;
6. The Lessee shall under the lease, be responsible for:
 - a. rates (general) – lessee may apply for rates based financial assistance
 - b. charges – sewerage / EML
 - c. water
 - d. utilities – electricity / phone / gas
 - e. public liability insurance noting Council as an interested party
 - f. bin/waste collection – to be met by lessee, ensure Council is no longer responsible;
7. A lease to be issued in accordance with Council's Tenure Arrangements and Disposal of Council Property – General Policy; and
8. Should the negotiations become protracted, and the tenure arrangement is not finalised within three (3) years from the date of signing the Agreement to Grant lease, Council reserves the right to withdraw its lease offer.