

ORDINARY MEETING	14
22 NOVEMBER 2023	

TENURE ARRANGEMENT - FREEHOLD LEASE WITH AMENDED LEASE AREA – REDLYNCH STRIKERS UNITED FC INC. – LEASE B ON SP173567 IN LOT 3 ON RP851436, 403-411 BRINSMEAD ROAD, REDLYNCH – DIVISION 6

19/28/133 | #7288955

RECOMMENDATION:

That Council:

1. Applies the exception in accordance with section 236(1)(b)(ii) of the *Local Government Regulation 2012* pursuant to section 236(2) for the disposal of valuable non-current assets, other than by tender or auction to community organisations, to allow a freehold lease offer to be made over part of lot 3 on RP851436 being 403-441 Brinsmead Road, Redlynch;
2. Approves to make a freehold lease offer, with an amended lease area, to Redlynch Strikers United FC Inc. over part of lot 3 on RP851436 subject to:
 - a. Surrender of the existing freehold lease to Redlynch Strikers United FC Inc;
 - b. Survey plan to confirm the amended lease area;
 - c. The dealings being at no cost to Council;
 - d. Shipping container storage removed within 12 months of the commencement of the lease; or relevant approvals secured;
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 negotiation and finalisation of the land dealings.

INTERESTED PARTIES:

Redlynch Strikers United FC Inc.
Freshwater Church Ltd

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 approval to renew the freehold lease to the Redlynch Strikers United FC Inc. with a ten (10) year term and amended (reduced) lease area, subject to the lessee surrendering their existing freehold lease and bearing the costs of a survey plan to confirm the amended lease area and lease registration fees.

BACKGROUND:

In 2021, The Redlynch Cyclones Football Club Inc. merged with JCU Strikers to form a new entity called the Redlynch Strikers United FC Inc.

A freehold lease was offered to the new entity:

- for sport and recreation and other purposes of the Redlynch Strikers United FC Inc.;
- over an area of approximately 2.138ha of part of Council's freehold land described as Lease B on SP173567 in Lot 3 on RP851436;
- for a term of ten (10) years commencing 1 March 2022;

The Club has held an informal arrangement with the adjoining Freshwater Church Ltd for some years to utilise part of the church grounds for club activities. The area is described as part of lot 2 on RP825835 and identified in Appendix 5.

The Club approached Council to advise they do not utilise the whole of the area leased from Council, and maintenance of the unused area had become an incumbrance. The Club requested Council reduce their leased area to formalise only that area utilised by the Club.

To enable the matter to progress, Officers requested that the Club provide a resolution of the Committee requesting a lease area amendment, and that a formal Licence Agreement with the Freshwater Church Ltd, detailing the agreed use of the Church's land, be executed to secure the Club's ongoing use of the land.

COMMENT:

Officers have received both the resolution from the Club together with a copy of the fully executed Licence Agreement, with a 10 year term, between the Freshwater Church Ltd and the Club.

The Club's request has been assessed and Officers are supportive of the proposal which will formalise and more accurately describe the actual area of Council's freehold land utilised and maintained by the Redlynch Strikers United FC Inc.

Whilst Council will become responsible for the maintenance of the excised grassed area and bitumen public car park and path, the arrangement is practical given the grassed area is used extensively by the public for outdoor activities, and the carpark and path are for public use and access.

The existing lease must be surrendered to allow for a new lease offer to be made with an amended lease area. The new lease will be on the same terms and conditions as the existing lease, but the lease will be over a reduced area as identified in Appendix 2 and Appendix 4.

Subject to section 236(1)(b)(ii) of the *Local Government Regulation 2012* (LGR), Council may dispose of an interest in land other than by tender or auction if the asset is disposed of to a community organisation; and if the local government has decided by resolution that the exception may apply (section 236(2)).

Section 236(3) of the LGR states that a local government may dispose of an interest in land under this section if the consideration for the disposal would be equal to, or more than, the market value of the land or the interest in land, unless the interest in land is disposed of to a community organisation (section 236(4)).

Redlynch Strikers United FC Inc. is an incorporated association and can be defined as a “community organisation”, thereby satisfying the requirements of section 236 of the LGR. Furthermore, Council’s Schedule of Fees and Charges for NFP organisations will apply to the tenure arrangement, which also satisfies the requirements of section 236(4) of the LGR.

As the lessee has met the conditions of their existing tenure arrangement, there have been no breaches, and the LGR permits renewal of leases to community organisations, Council has no reason not to consider the Club’s request for a new lease with an amended lease area.

OPTIONS:

Option 1 (recommended):

That Council:

1. Applies the exception in accordance with section 236(1)(b)(ii) of the *Local Government Regulation 2012* pursuant to section 236(2) for the disposal of valuable non-current assets, other than by tender or auction to community organisations, to allow a freehold lease offer to be made over part of lot 3 on RP851436 being 403-441 Brinsmead Road, Redlynch;
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 - a. Surrender of the existing freehold lease to Redlynch Strikers United FC Inc;
 - b. Survey plan to confirm the amended lease area;
 - c. The dealings to be at no cost to Council;
 - d. Shipping container storage to be removed within 12 months of the commencement of the lease; or relevant approvals secured;
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 negotiation and finalisation of the land dealings.

Option 2:

That Council does not support these recommendations and adopts an alternate course of action.

CONSIDERATIONS:

Risk Management:

There is minimal risk associated with the recommendation. The proposal more accurately describes the area utilised by the Club, and more fairly distributes responsibility for the maintenance of the public use areas.

A Licence Agreement between the Freshwater Church and the Club manages the risk of the Church retracting their agreement for the Club to use part of their grounds and provides formalised, long term tenure security to the Club.

Council Finance and the Local Economy:

Council will bear no financial costs relating to the lease amendment as the Club has resolved to bear all costs of the surrender and new lease registration fees, together with survey costs.

Council's Standard Fees and Charges for Not for Profit organisations will apply to the tenure arrangement and the organisation may apply for a concession for rates, water and sewerage charges in accordance with the Rates Based Financial Assistance Policy for Not for Profit Recreation, Sporting and Community Groups. Charges for all other services remain the responsibility of the lessee.

The grassed public area, formerly part of the Club's leased area, will be maintained by Council, providing a safe, well maintained open space for the community to utilise for outdoor pursuits. Costs for maintaining this additional area have been budgeted from the Community Spaces Operational Works budget.

Community and Cultural Heritage:

The sporting services offered by the Redlynch Strikers United FC Inc., will be unchanged as a result of this proposal.

Corporate and Operational Plans:

This report aligns with Council's Corporate Plan 2021 - 2026 with particular emphasis on:

Focus Three: Design for Liveability:

Strategy: Creating a safe, sustainable and connected place that supports a quality life; and

Focus Four: Community and Culture

Strategy: Fostering a vibrant and healthy community where everyone can feel they belong.

Statutory:

The leases will be renewed in accordance with the provisions of section 236(1)(b)(ii) and 236(4) of the *Local Government Regulation 2012* and will be issued in accordance with the *Land Title Act 1994*.

Policy:

The tenure arrangements will be prepared in accordance with Council's 'Tenure Arrangements and Disposal of Council Property' General Policy, in particular part 1 of the associated administrative instruction which provides for use by not for profit community groups.

CONSULTATION:

Council has consulted with the Club regarding the proposed reduction of the leased area.

The Club has consulted with the Freshwater Church to secure a Licence agreement formalising the Club's use of the Church's land.

ATTACHMENTS:

- Appendix 1 – Current lease area
- Appendix 2 – Proposed lease area
- Appendix 3 – Lease Plan B in Lot 3 on SP173567
- Appendix 4 – Proposed amended lease area with detail
- Appendix 5 – Freshwater Church Ltd – Licence area

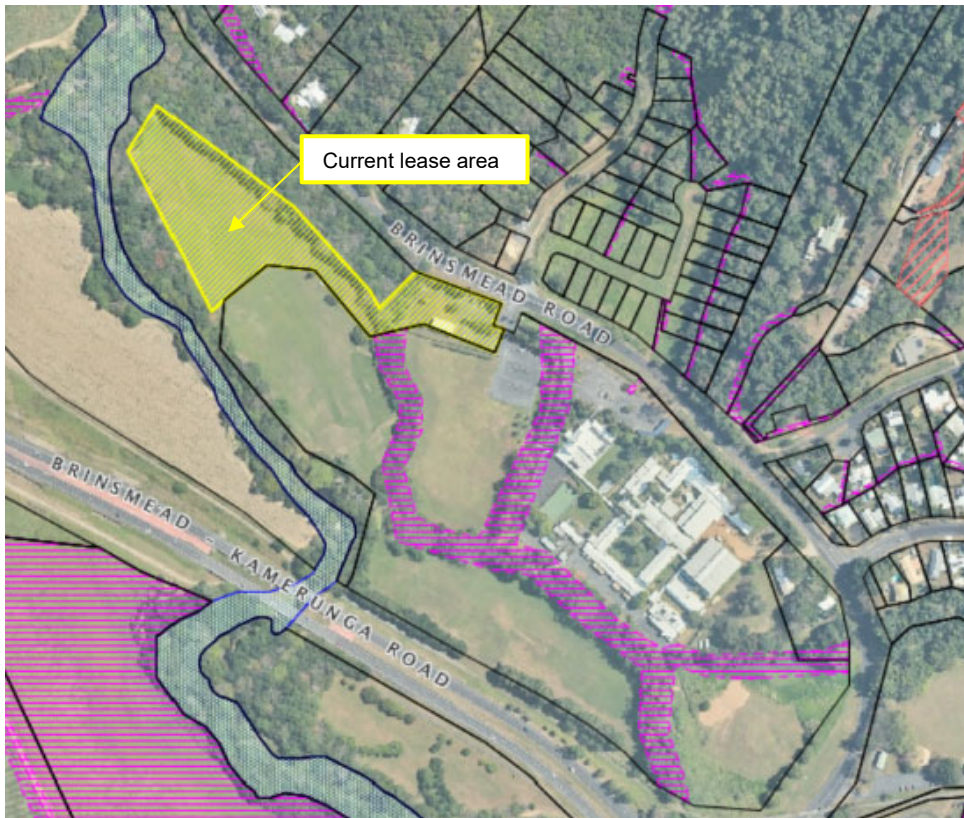


Amy Patterson
Executive Manager Licensing & Compliance

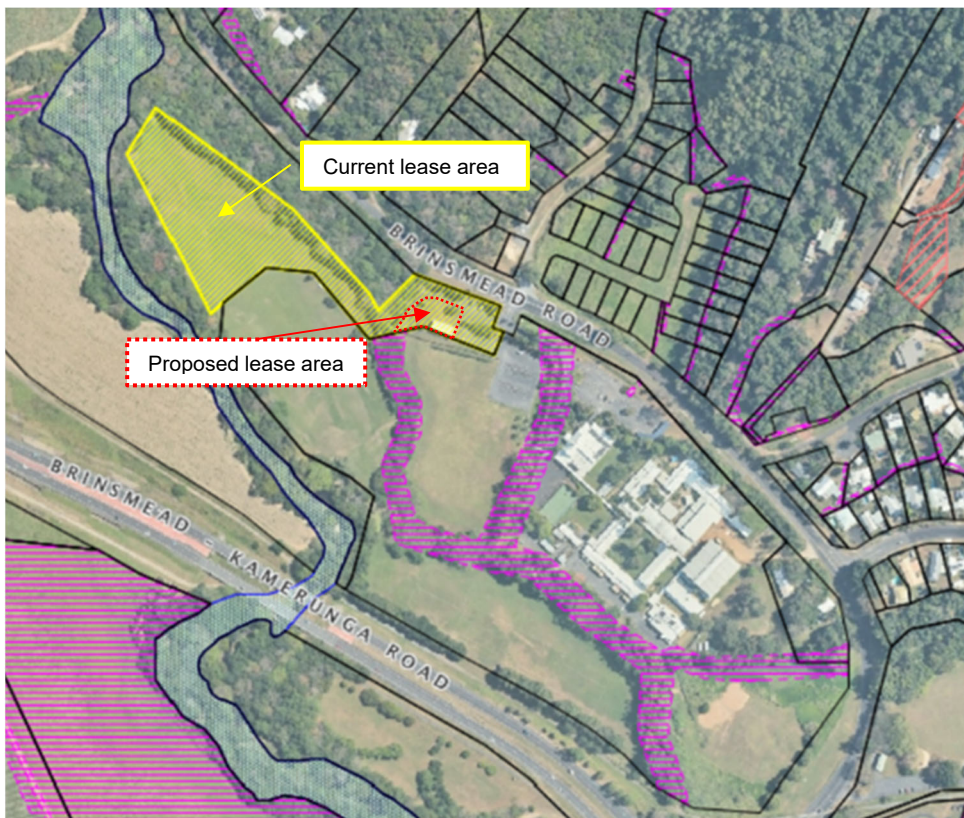


Ed Johnson
Director Planning, Growth & Sustainability

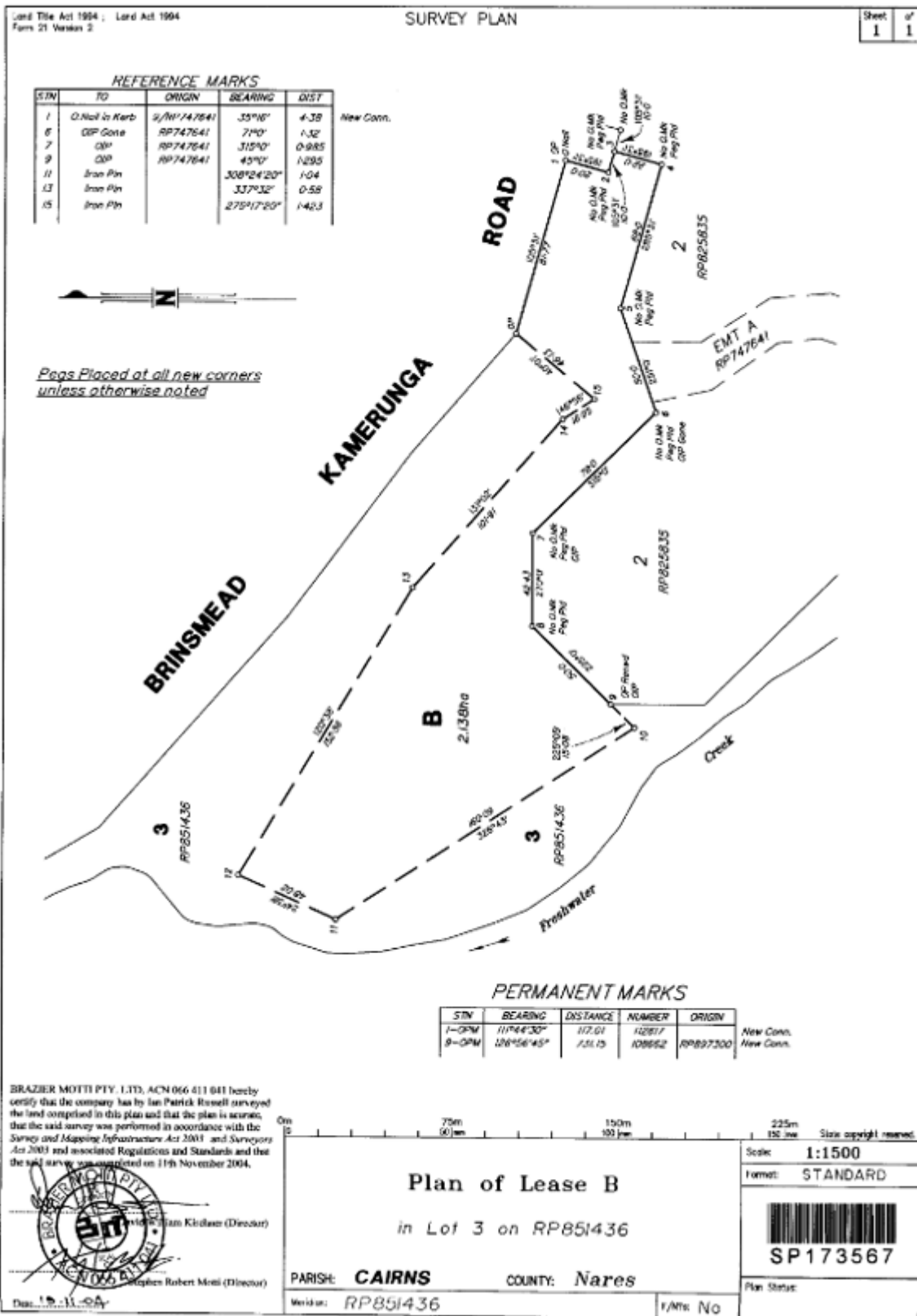
Appendix 1 - Aerial View – current lease area – Redlynch Strikers United FC



Appendix 2 - Aerial View – proposed lease area – Redlynch Strikers United FC



Appendix 3 – Lease Plan B in Lot 3 on SP173567



Appendix 4 - Proposed amended lease area with infrastructure detail



Appendix 5 - Freshwater Church Ltd – Licence area

