

ORDINARY MEETING

1 MAY 2024

9**TENURE ARRANGEMENT – OFFER OF FREEHOLD LEASE TO LIONS CLUB OF CAIRNS MARLIN COAST OVER PART OF LOT 191 ON NR6528, 85-93 OLEANDER STREET HOLLOWAYS BEACH – DIVISION 8**

19/28/352 | #7372971

RECOMMENDATION:

That Council:

1. Applies an exception in accordance with section 236(2) of the *Local Government Regulation 2012* for the disposal (via lease) of a valuable non-current asset other than by tender or auction pursuant to section 236(1)(b)(ii) being for the purpose of issuing a tenure arrangement to a community organisation;
2. Supports the offer of a freehold lease to the Lions Club of Cairns Marlin Coast over part of Council freehold land described as lot 191 on NR6528, 85-93 Oleander Street, Holloways Beach, subject but not limited to the terms and conditions herein;
3. Authorises the Executive Manager Licensing and Compliance to negotiate and finalise any and all matters relating to the freehold lease arrangement.

INTERESTED PARTIES:

Landowner – Cairns Regional Council

Applicant – Lions Club of Cairns Marlin Coast (LCCMC)

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 Council resolution to apply an exception under section 236(2) of the *Local Government Regulation 2012* and support the offer of a freehold lease for storage purposes to LCCMC over part of lot 191 on NR6528, described as 85-93 Oleander Street, Holloways Beach. By applying an exception, the local government can lease land to a community organisation without the need to tender and at below market value.

BACKGROUND:

LCCMC is a community service club consisting of 33 members from June 2019. The LCCMC supports the needs of the Cairns community, provides assistance to those in need and has raised and donated over \$60,000 towards local, national and international projects.

From November 2018 to October 2023, a shed located on part of lot 191 on NR6528, 85-93 Oleander Street, Holloways Beach (known as Syd and Jane Granville Park) was occupied by the Patriots Australia Cairns Chapter Inc ('PACC'). The PACC freehold lease was not renewed, and the group was required to vacate the premises.

The shed is currently being utilised as a donation hub following the January 2024 floods in the region and is expected to be vacant by the end of April 2024. The LCCMC are aware of this current arrangement and have expressed a strong desire to take on the premises under a lease agreement once the donation hub has vacated.

LCCMC intends to use the facility for storage purposes for their equipment used for community and disaster support (e.g., First aid equipment, BBQ equipment, signage, gazebos, bottled water, soft drinks, cooking equipment and eskies).

COMMENT:

Community Spaces as the asset owner of the subject land are responsible for supporting not for profit organisations and therefore support a freehold lease offer to LCCMC. LCCMC provides valuable support to the community, particularly in supporting emergency services and other agencies in periods of disaster and require a secure and accessible facility in which to store their equipment. LCCMC have been identified as the preferred and most suitable community group to take on the premises. They will ensure the highest and best use of the facility and the arrangement will provide positive community benefits. It should be noted that during the recent Cyclone Jasper and subsequent flooding event, Syd and Jane Granville Park remained relatively unaffected by flood water and was used as a staging area and hub during the emergency and following recovery period.

Terms and conditions

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

- for storage purposes;
- over part of Council's freehold land described as lot 191 on NR6528;
- over an area of approximately 185m² of part of Council's freehold land described as lot 19 on NR6528;
- for a term of five (5) years from a date to be determined;
- lessee responsible for:
 - rates (general) – lessee may apply for rates based financial assistance
 - charges – sewerage / EML
 - water
 - utilities – electricity / phone / gas
 - public liability insurance noting Council as an interested party
 - waste collection – to be met by lessee and ensure Council is no longer responsible
- Council's standard terms document for freehold leasing registered under dealing no 721071527;

- in accordance with Council's 'tenure and disposal policy', in particular part 1 of the associated administrative instruction which provides for use by not for profit community groups (refer to item 5 for terms and conditions); 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 lease offer.

OPTIONS:

Option 1: (Recommended)

That Council:

1. Applies an exception in accordance with section 236(2) of the *Local Government Regulation 2012* for the disposal (via lease) of a valuable non-current asset other than by tender or auction pursuant to section 236(1)(b)(ii) being for the purpose of issuing a tenure arrangement to a community organisation;
2. Supports the offer of a freehold lease to the Lions Club of Cairns Marlin Coast over part of Council freehold land described as lot 191 on NR6528, 85-93 Oleander Street, Holloways Beach, subject but not limited to the terms and conditions herein;
3. Authorises the Executive Manager Licensing and Compliance to negotiate and finalise any and all matters relating to the freehold lease arrangement.

Option 2:

That Council does not provide approval to make a freehold lease offer to LCCMC and instead invites submissions from interested not for profit organisations for the lease of the premises.

Option 3:

That Council does not provide approval to make a freehold lease offer to LCCMC and the premises remains vacant.

CONSIDERATIONS:

Risk Management:

There is minimal risk associated with the recommendations of this report. The offer of a 5-year term enables Council to ensure that LCCMC manages and maintains the premises in line with Council and community needs. LCCMC has a strong membership base and provides support and assistance to the Cairns community. It is therefore expected that the premises will be well maintained and of necessary use to the community.

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 Council.

The lessee is 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 Council's Corporate Plan 2021 – 2026, including:

1. Focus 4 – community and culture; by fostering a vibrant and healthy community where everyone feels they belong and providing spaces and programs for the wellbeing of the community;
2. Focus 3 – design for liveability; by creating a safe, sustainable and connected place the supports a quality life and enhancing community wellbeing, safety and natural disaster resilience; and
3. Focus 5 – focused council; by ensuring decision making is collaborative, transparent and accountable.

Statutory:

Section 236 of the *Local Government Regulation 2012* allows Council to apply an exception to dispose of a valuable non-current asset without the need to tender or auction. This section also allows Council to issue leases to community organisations for less than market value which would not apply in the absence of the exception.

The Executive Manager Licensing and Compliance has delegated authority under this provision where an exception has been applied.

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 1 of the associated administrative instruction which provides for use by not for profit community groups.

CONSULTATION:

Discussions have occurred with the asset owner (Community Spaces) and Property Services regarding the recommendation. Property Officers have been in consultation with LCCMC and have received a completed Application to Occupy Council Property.

ATTACHMENTS:

Attachment 1 – Aerial view of the proposed lease area

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

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 at the end.

Ed Johnson
Director – Planning, Growth and Sustainability

Attachment 1 – Aerial view of the proposed lease area (Vacant Shed)

