

ORDINARY MEETING**22 MAY 2024****15**

TENURE ARRANGEMENT – SURRENDER OF EXISTING FREEHOLD LEASES AND OFFER OF NEW FREEHOLD LEASE OVER PART OF LOT 312 ON SP318398 AND LOT 302 ON SP103359, WALKER ROAD EDMONTON - DIVISION 2

19/28/280 | #7407611

RECOMMENDATION:

That Council:

A. Approves the surrender of the:

- 1. Joint freehold lease by Cairns Junior Baseball League Inc and Softball FNQ Inc; and**
- 2. Freehold lease by Cairns Junior Baseball League Inc;**

Over part of lot 312 on SP318398 and lot 302 on SP103359, Walker Road Edmonton;

B. 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;

C. Supports the offer of a freehold lease to Softball FNQ Inc over part of lot 312 on SP318398 and lot 302 on SP103359, Walker Road Edmonton subject but not limited to:

- 1. The terms and conditions herein;**
- 2. entering into a user agreement with Cairns Junior Baseball League Inc for baseball sporting competitions, practice and ancillary uses over one (1) field; and**

D. Authorises the Chief Executive Officer to negotiate and finalise any and all matters relating to the surrender of the freehold leases and new freehold lease arrangement.

INTERESTED PARTIES:

- Applicants - Cairns Junior Baseball League Inc
 - Softball FNQ Inc

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 support:

- Cairns Junior Baseball League Inc (CJBL) and Softball FNQ Inc to surrender their joint freehold lease over part of Council land; and
- To apply an exception under section 236(2) of the Local Government Regulation 2012 to offer Softball FNQ Inc a lease for baseball and softball sporting competitions, practice, and ancillary purposes over the same area.

By applying an exception under the *Local Government Regulation 2012*, the local government can lease land to a community organisation without the need to tender and at below market value.

BACKGROUND:

CJBL and Softball FNQ have jointly leased an area (identified by red outline in Attachment 1) at the Walker Road Sporting Precinct since 2016.

CJBL also lease the area identified by the green outline in Attachment 1, in and of themselves. Both the joint lease and the sole leases are due to expire 31 March 2026.

Due to a low membership base and limited funds to meet maintenance obligations, CJBL approached Council seeking an alternative arrangement. CJBL requested to maintain a presence as they would still like to train and hold the occasional competition at the site however they advised officers that it is not financially viable for them to continue under a leasing arrangement at this time.

Following discussions with both clubs, Softball FNQ have indicated that they are happy to accept an offer of a freehold lease for a term of 5 years over both currently leased areas (identified in Attachment 2) and enter into a user agreement with CJBL for baseball sporting competitions, practice, and ancillary uses over one (1) field as CJBL's current lease area (identified in Attachment 1).

COMMENT:

Community Spaces have been aware of this proposal for some time and consider the recommendation contained within this report the most appropriate outcome for both of the clubs.

A lease with Softball FNQ for 5 years, allows the club the opportunity to ensure they continue to maintain and manage the facility to the current standard without the pressure of a longer-term lease.

TERMS AND CONDITIONS:

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

- For baseball and softball sporting competitions, practice and ancillary purposes;
- over part of Council's freehold land described as lot 312 on SP318398 and lot 302 on SP103359;
- 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
 - bin/waste collection – to be met by lessee, ensure Council is no longer responsible
- Lessee is to enter into a user agreement with Cairns Junior Baseball League Inc for the use of one (1) field for baseball sporting competitions, practice and ancillary purposes;
- Council's standard terms document for freehold leasing registered under dealing no 721071527;
- In accordance with Council's Tenure Arrangements and Disposal of Council Property – General Policy; 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:

A. Approves the surrender of the:

1. Joint freehold lease by Cairns Junior Baseball League Inc and Softball FNQ Inc; and
2. Freehold lease by Cairns Junior Baseball League Inc;

Over part of lot 312 on SP318398 and lot 302 on SP103359, Walker Road Edmonton;

- B. 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;
- C. Supports the offer of a freehold lease to Softball FNQ Inc over part of lot 312 on SP318398 and lot 302 on SP103359, Walker Road Edmonton subject but not limited to:
 - 1. The terms and conditions herein;
 - 2. entering into a user agreement with Cairns Junior Baseball League Inc for baseball sporting competitions, practice and ancillary uses over one (1) field; and
- D. Authorises the Chief Executive Officer to negotiate and finalise any and all matters relating to the surrender of the freehold leases and new freehold lease arrangement.

Option 2:

That Council:

- A. Provides approval to surrender the current freehold leases held by:
 - 1. Cairns Junior Baseball League Inc and Softball FNQ Inc and
 - 2. Softball FNQ Inc; and
- B. Does not provide approval to make a freehold lease offer to Softball FNQ Inc instead invites submissions from interested not for profit organisations for the lease of the premises.

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 Softball FNQ manages and maintains the premises in line with Council standards and community needs.

As Softball FNQ is an existing lessee, it is expected that the facility will continue to be well maintained and run.

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 that 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.

Both the Chief Executive Officer and Executive Manager Licensing and Compliance have delegated authority under this provision where an exception has been applied through Council resolution.

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:

Internal discussions have been held with the asset owner (Community Spaces), Property Services and both clubs regarding the recommendation. Both committees of the clubs are in agreement with the decision to surrender both leases and offer Softball FNQ a further tenure arrangement with a condition to enter into a user agreement with CJBL.

ATTACHMENTS:

Attachment 1 – Aerial view of current leased areas

Attachment 2 – Aerial view of proposed lease area (red hatched area)



Amy Patterson
Executive Manager - Licensing and Compliance



Ed Johnson
Director – Planning, Growth and Sustainability

Attachment 1 – Aerial view of current leased areas



Attachment 2 – Aerial view of proposed lease area (red hatched area)

