

TENURE ARRANGEMENT – NEW FREEHOLD LEASE OVER PART OF LOT 11 ON SP298401, 271 GATTON STREET, WESTCOURT – DIVISION 5

55/2/3 | #7425914

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 Cairns Meals on Wheels Incorporated over part of lot 11 on SP298401, 271 Gatton Street, Westcourt, subject but not limited to:**
 - a. the terms and conditions herein;**
 - b. Development Approval; and**
 - c. Cairns Meals on Wheels Incorporated securing funding to construct a new facility; and**
- 3. Authorises the Chief Executive Officer to negotiate and finalise any and all matters relating to the freehold lease arrangement.**

INTERESTED PARTIES:

Applicant - Cairns Meals on Wheels Incorporated (CMOW)

Adjoining stakeholders - Cairns & District Family History Society Inc and Cairns & District Senior Citizens Association Inc.

Note: Attachment 1 provides further details for committee member or point of contact.

*Note: Attachment 1 provides further details for committee members or point of contact. 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 the purpose outlined within the terms and conditions to Cairns Meals on Wheels Limited (CMOW) over part of lot 1 on SP298401, 271 Gatton Street, Westcourt.

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:

The whole of this site was acquired for community purposes in 2018 in freehold. As part of the negotiations, Council acquired the adjoining reserve for Sport and Recreation purposes (Attachment 2 – Council reserve being lot 6 on SP3015169, 84-94 Tills St and freehold being lot 1 on SP298401, 271 Gatton St, Westcourt). This additional adjacent land remains reserve land (i.e. not freehold).

Cairns Meals On Wheels Incorporated (CMOW) have operated from premises at Barlow Park under a Council tenure arrangement since 2009. The organisation has plans to grow operations and provide much needed support to other Meals on Wheels operations at Marlin Coast and Edmonton.

It is proposed that CMOW relocate to 271 Gatton St, Westcourt and construct a new fit for purpose facility. The opportunity to permanently relocate the organisation will achieve a mutually beneficial outcome for all parties (Council, State Government and CMOW). The subject site at 271 Gatton Street, Westcourt (Attachment 3 outlines the proposed area including relevant stakeholders) is centrally located and offers 1,851m² of land to construct a new facility (Attachment 4 – Conceptual plan) providing:

- A full commercial kitchen
- Staff/volunteer areas
- Cold and dry food storage
- Meal storage (in emergencies)
- Administration and amenities
- Vehicle storage
- Dispatch/collection area
- Support services
- 2 street frontages for drive through access

On 17 January 2024, a Councillor workshop was held for the Gatton Street land where it was identified that there is no requirement for future road connection between Tills Street and Lyons Street. The proposed use by CMOW does not diminish the existing and future use proposed for the balance of the site and will provide positive community benefits in the area.

The proposed relocation noted within this report is dependent on obtaining the necessary funding, and Council understands that CMOW is negotiating with other government entities around this aspect. This report seeks to apply an exception section 236(2) of the *Local Government Regulation 2012* to offer a freehold lease to CMOW once development approval and funding conditions are satisfied.

COMMENT:

The provision of a long term lease to facilitate the proposed construction of the new CMOW facility is recommended in recognition of the significant community contribution CMOW offer to the region. The proposed use by CMOW is commensurate with the surrounding uses and enables future development of the balance of the site.

The service CMOW provide is considered essential to the community by enabling people to continue to live independently by providing meals, social contact, supervision and services that support their well-being, health and safety. Members provide front-line, preventative, and early interventions in the home that reduces the risk vulnerable Queenslanders face with respect to malnutrition and social isolation.

The Cairns Meals on Wheels:

- is amongst the largest Meal on Wheels operations in Queensland;
- provides 5000 meals per week;
- In addition to Cairns, services Yarrabah, Trinity Beach, Support Mossman/Port and is in negotiations with Wujal;
- during the COVID-pandemic, partnered with the SES and Woolworths to deliver supplies to vulnerable; and
- after Tropical Cyclone Jasper, deployed their significant stock of pre-prepared meals to support impacted residents.

Discussions with all internal stakeholders have determined the following estimated time frames necessary to complete this project:

1. Relevant Development Approval/s (DA) – submit June, Council consideration August 2024;
2. Detailed design to occur concurrently and adjust for DA conditions;
3. Confirmation of funding conditions being met – estimated June:
 - a. Occupation of site September;
 - i. Includes finalisation of the freehold lease;
 - b. Commence construction in October; and
 - c. CMOW vacates existing premises at Barlow Park by May 2025

It is noted that the above timelines are contingent upon CMOW securing the necessary funding to enable construction of the proposed facility to proceed.

TERMS AND CONDITIONS:

The offer of a freehold lease to Cairns Meals on Wheels Incorporated (lessee) is subject to the following terms and conditions:

- For the permitted use being to provide meals and other food related services to eligible members of the public:
 - for the purpose of relieving poverty, sickness, suffering, distress, misfortune, destitution or helplessness
 - without discrimination, and
 - in accordance with relevant nutritional and dietary guidelines

- Over approximately 1,851m² of part of Council's freehold land described as lot 1 on SP298401 indicated in Attachment 2;
 - subject to all relevant Development Approval/s
- For a term of twenty (20) 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
- 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 Cairns Meals on Wheels Incorporated over part of lot 11 on SP298401, 271 Gatton Street, Westcourt, subject but not limited to:
 - a. the terms and conditions herein;
 - b. Development Approval; and
 - c. Cairns Meals on Wheels Incorporated securing funding to construct a new facility: and
3. Authorises the Chief Executive Officer to negotiate and finalise any and all matters relating to the freehold lease arrangement.

Option 2:

That Council applies an exception but does not make a freehold lease offer to CMOW and instead invites submissions from interested not for profit organisations for the lease of the area.

Option 3:

That Council does not apply an exemption to lease part of land and the area remains vacant.

CONSIDERATIONS:

Risk Management:

Through the offer of a twenty-year lease to CMOW over this new site, Council will ensure the organisation can continue to provide valuable services to the community of Cairns while also providing opportunities for expansion to meet the community needs.

CMOW currently leases another facility off Council at Barlow Park, and they are aware of their responsibilities to occupy a leased facility in accordance with the terms and conditions of a tenure agreement.

Should Council not wish to offer a freehold lease to Cairns Meals on Wheels Inc, the existing site at Barlow Park will be required to remain occupied until another suitable location is found for the relocation of the organisation.

Council Finance and the Local Economy:

All costs associated with the lease of the property including, but not limited to Council's 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). Due to CMOW not for profit status, the infrastructure charges may be waived in accordance with Council's 'Financial Assistance for Not for Profit Organisations – Fees & Charges General Policy'.

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:

Discussions have occurred with all relevant internal stakeholders to seek preliminary direction on the use of this site. There have been no objections to the proposal to construct the CMOW facility on the site.

ATTACHMENTS:

Attachment 1 - Committee member and/or point of contact.

Attachment 2 – Council reserve land being lot 6 on SP3015169, 84-94 Tills St, Westcourt and freehold land being lot 1 on SP298401, 271 Gatton St, Westcourt.

Attachment 3 – Proposed new CMOW leased area and adjacent stakeholders.

Attachment 4 – Conceptual site plan.



Nathan Mills
A/Executive Manager – Licensing and Compliance



Amy Patterson
A/Director – Planning, Growth and Sustainability

Attachment 1 - Committee member and/or point of contact

	Organisation Name	Committee Contact 1	Committee Contact 2	Committee Contact 3
1.	Applicant - Cairns Meals on Wheels Incorporated (CMOW)	Chris Van Dorsen – General Manager	Pat Bailey – President	John Cleary – Vice President
2.	Adjoining stakeholder - Cairns & District Family History Society Inc	Dell Deed - President	Margaret Culloty - Secretary	Pat Clark - Treasurer
3.	Adjoining stakeholder - Cairns & District Senior Citizens Association Inc.	Alison Worrell - President	Carole Logan - Secretary	Nancy Redman - Treasurer

Attachment 2 – Council reserve being lot 6 on SP3015169, 84-94 Tills St (green below) and freehold being lot 1 on SP298401, 271 Gatton St (yellow below).



Attachment 3 – Proposed new CMOW leased area and adjacent stakeholders



Proposed area for Cairns Meals on Wheel Incorporated new premises

Cairns & District Family History Society Inc
Cairns & District Senior Citizens Association Inc.

Attachment 4 – Conceptual site plan

Please note: the site will not impede on the adjoining leased premises.

