

<b>GOVERNANCE COMMITTEE</b>	<b>11</b>
<b>16 JULY 2014</b>	

PROPERTY MATTERS RESOLVED UNDER DELEGATIONS – JANUARY 2014 TO JUNE 2014

Kristy Nicolaou: 19/3/3-128: #4403758

**RECOMMENDATION:**

**It is recommended that Council notes the delegated authority property matters considered under various delegations in the six (6) months from 1 January 2014 to 30 June 2014.**

**EXECUTIVE SUMMARY:**

This report provides a summary of delegated property matters for the six month period 1 January 2014 to 30 June 2014. These matters are classified in four categories:

- Minor Property Matters (below \$25,000)
- Acquisitions for a public purpose (i.e for road closures/openings or easements)
- Telecommunication Leases
- Tenure Arrangements

Twenty-nine (29) minor property matters have been resolved under delegation during the period. No matters were referred to Council.

One (1) acquisition for a public purpose has been resolved under delegation during the period 1 January 2014 to 30 June 2014. No matters were referred to Council.

No telecommunications leases have been resolved under delegation during the period

Five (5) tenure arrangements in accordance with the policy have been resolved under delegation during the period 1 January 2014 to 30 June 2014. No matters were referred to Council.

**COMMENT:**

The following matters were resolved under the **minor property** matter delegation:

<b>DIVISION</b>	<b>MATTER</b>
1	Permanent Road Closure Application over Road Separating Lot 1 on RL2850 from Lot 2 on RP708751, Page Road, Edmonton
1	Proposed Licence and User Agreement to Edmonton Storm Junior Rugby League Club Inc over part of Petersen Park for the purpose of storage
1	Conversion to Freehold of Special Lease 9/47623 over Lot 88 on NR4917, Assman Road, Aloomba

DIVISION	MATTER
1	Proposed Revocation of part of Reserve for Park and Recreation purposes over Lot 214 on NR3793, Woopen Creek
1	Application for inclusion of Special Lease 9/51698 and Permit to Occupy 236042 into the adjoining perpetual Lease NCL3058, Fitzroy Island
1	Application for Permanent Road Closure over part of Road Adjoining the Rail Corridor described as Lot 211 on SP2453571, Bruce Highway, Babinda
1	Proposed sale of land to Council – Lot 4 on RP708282, Brays Road, Little Mulgrave
1	Application for Road Opening – Part of Lot 185 on NR6016, Cairns Road, Gordonvale
2	Proposed Permanent Road Closure over part of the corner of Mann Street and Mt Peter Road, adjacent to Lot 50 on RP706775, Edmonton
2	Proposed Road Opening for an Ergon Padmount Transformer located at Fretwell Park on Lot 994 on RP750086, 57-59 Robert Road, Bentley Park
4	Proposed Permanent Road Closure of the Pathway separating 54 and 56 Marti Street, being Lots 4 and 3 on RP712523, Bayview Heights
4	Proposed purchase of part of Council Reserve being Lot 318 on RP31282, Bayview Heights to formalise encroachments
4	Request to build fencing into Council Drainage Reserve, described as Lot 722 on NR5683, Mulgrave Road Bungalow
5	Trustee Permit Over Part of Barlow Park, Lot 768 on NR6238
5	Ergon Energy, Easement for Electricity Supply over part of Lot 22 on C198406, School of Arts Building, Lake Street
6	Application for Permanent Road Closure over part of Alander Payet Close, Redlynch adjoining Lot 1011 on SP230792
6	Transfer of an Access Restriction Strip adjoining The Greek Orthodox Church Kamerunga Road, Kamerunga
7	Proposed Purchase of Part of Council Reserve for Environmental Purposes, described as Lot 124 on SP136301, for inclusion into the adjoining Lot 9 on C198267, Manunda
7	Girl Guides – Special Lease 9/74924, Lot 7 on NR7383, Pease Street, Manoora
7	Offer to sell property to Council – 18 Hoare Street, Manunda
8	Application for Conversion to Freehold of parts of Special Leases over Lot 120 on CP857579 and Lot 115 on NR3359, Holloways Beach
8	Additional Information requested by Department of Natural Resources and Mines (DNRM) for application for permanent road closure over Part of Stewarts Road, shown as Lot 3 on AP12358
8	Surrender of Easement No. 601478585 over Lot 1 on SP173007, Kamerunga Road, Barron
8	Purchase of Reservation in Title within Lot 1 on RP800898, Yorkeys Knob Road, Yorkeys Knob
9	Application for Permanent Road Closure over part of Jarda Street adjoining Lot 34 on RP729937, Smithfield
9	Application for Surrender of Permit to Occupy 0/216958 and Issue of New Permit to Occupy over land described as Lot 1 on AP5893, Ellis Beach
9	Expression of Interest in the Purchase of part of Council Reserve, described as Lot 900 on SP181538, Palm cove
9	Proposed Permanent Road Closure of part of Vasey Esplanade adjoining Lot 1 on RP742848, Trinity Beach

DIVISION	MATTER
9	Proposal to relocate the rear boundary of 56 Leonard Street, Kewarra Beach into the adjoining Council Reserve
9	Expression of Interest in the purchase or lease of part of Council Freehold Land described as Lot 281 on RP736339, Smithfield

The following matters were resolved under the **acquisitions** for a public purpose delegation of Council:

DIVISION	MATTER
1	Easement for Water Purposes over Lot 4 on SP212579 and Lot 1 on RP34040, Anderson Road, Aloomba

The following matters were resolved under the **tenure arrangements** in accordance with the policy delegation of Council:

DIVISION	MATTER
1	Proposed Trustee Lease to Babinda Boxing Club over part of Lot 132 on SP246991, Bill Wakeham Park, Babinda Showgrounds
5	Trustee Permit over part of Barlow Park, Lot 768 on NR6238, Severin Street, Parramatta Park
7	Proposed Trustee Lease to Friends of Cominos House over Lot 13 on NR843558, 27-29 Greenslopes Street, Manunda
9	Proposed Freehold Sub-lease to Marlin Coast Menshed Inc. over part of Lot 2 on RP902180, Trinity Beach Road, Trinity Beach
9	Proposed temporary Management Agreement to Trinity Beach Community Church over the Trinity Beach Community Hall. Part of lot 363 on RP729082, 51-79 Trinity Beach Road, Trinity Beach/

The below table indicates the number of approved Minor Property Matters, Acquisitions for a Public Purpose, Telecommunications Leases and Tenure Arrangements in accordance with the Policy actioned from 1 January 2014 – 30 June 2014.

DIVISION	MINOR PROPERTY MATTERS	PUBLIC PURPOSE ACQUISITIONS	TELECOMMUNICATIONS LEASES	TENURE ARRANGEMENTS
1	8	1	0	1
2	2	0	0	0
3	0	0	0	0
4	3	0	0	0
5	2	0	0	1
6	2	0	0	0
7	3	0	0	1
8	4	0	0	0
9	6	0	0	2
<b>TOTAL</b>	<b>29</b>	<b>1</b>	<b>0</b>	<b>5</b>

**OPTIONS:**

It is recommended that Council notes the contents of this report.

**CONSIDERATIONS:****Risk Management:**

The Mayor and Divisional Councillor are still at liberty to refer any matter to Council should they consider that this is warranted.

**Financial**

All matters have been within approved budget provisions.

**Corporate and Operational Plans:**

This report was prepared in accordance with Corporate Plan Goal 4 – an efficient organisation providing best practice service delivery through leadership and policy making and the effective management of people, assets and finances.

**Statutory:**

All matters have been dealt with in accordance with the *Local Government Act 2009*, *Land Act 1994* and *Land Titles Act 1994*.

**Minor Property Matter Delegation**

Council officers regularly facilitate matters affecting Council owned or controlled land. These matters include *Land Act 1994* dealings and minor property matters arising from Council general business as outlined hereunder:

- *Land Act 1994* (Land Act) dealings, including but not limited to:
  - applications for renewal or surrender of a special/term lease, including requests to amend lease purpose and lease conditions
  - applications for permanent and/or temporary road closure
  - applications for road opening
  - applications for a road licence
  - applications for surrender and re-issue of a permit to occupy
  - applications for conversion of tenure to freehold
  - applications for purchase of reservations in title within freehold land
  - applications for a short term permit

The Department of Natural Resources and Mines (DNRM) administers the Land Act and facilitates applications for dealings under the Act. As part of the land dealing process, DNRM seeks comment from the local authority for its requirements and views. The decision on the application will be made by DNRM after considering all information. Should Council have an objection to an application, the basis of the objection is provided to DNRM and taken into consideration during the decision making process by DNRM.

- Minor property matters arising from Council general business:
  - assignment/transfer of lease
  - short term trustee permit/licence
  - deed of access and indemnity
  - request to amend reserve purpose
  - easements arising from adopted capital works projects
  - easements required for formalising access or infrastructure with minimal compensation payable
  - appointment of caretaker under 12 month agreement
  - formalising encroachments or illegal occupation of land

Usually the above matters can be rectified or formalised simply, and can be considered as operational rather than strategic.

### **Delegation for Acquisitions for a Public Purpose and Related Activities**

An acquisition of an area of land or easement for a public purpose is routine, operational business for Council in its function as a local government providing essential public infrastructure to its local government area.

The practice of gaining Council approval for acquisitions to facilitate implementation of capital works projects that have already been approved by Council and for acquisitions to formalise Council's existing and new infrastructure (i.e. water, sewerage and drainage) extends timeframes for completion of these matters.

### **Delegation for Telecommunications Leases**

New telecommunications leases will comply with the requirements of the *Local Government Act 2009* and the *Land Title Act 1994*.

These requirements are:

- The Local Government must resolve that this exception applies;
- The disposal must be equal to or greater than market valuation of the land or the interest in land (lease rental); and
- A written report provided by a registered valuer under the *Valuers Registration Act 1992* must determine the market value.

The requirements of the delegation are as follows:

- the State's Mandatory Standard Terms Document registered under dealing number 711932933 or any document which supersedes this (if applicable);
- Council's Standard Terms Document for Trustee Leasing registered under dealing number 713488911 or any document which supersedes this (if applicable);
- the terms and conditions of Council's Local Authority Standard Terms Document for Freehold Leasing registered under dealing number 713119030 or any document which supersedes this (if applicable);

Any of the above or a combination of Telstra's Standard Terms Document registered under dealing number 714180751 and any additional specific clauses required to mitigate risk to Council;

- the Lessee obtaining any necessary planning, building and engineering approvals prior to commencement of any work on the site;
- for a term of up to thirty (30) years from a date to be agreed;
- the Lessee being responsible for all rates and charges, including any costs of water usage;
- the Lessee being responsible for legal costs associated with the preparation, negotiation, execution and registration of the lease;
- The Lessee being responsible for the costs associated with survey, stamp duty and registration of the proposed trustee lease;
- The commencement annual rental being determined by a written report about the market value of the land or an interest in land from a valuer registered under the *Valuers Registration Act 1992* as evidence of the market value of the land;
- The base rental (commencement rent) to increase annually in accordance with the Brisbane All Groups Consumer Price Index (CPI);
- notes a valuation report will be obtained at a date closer to the expiry of the next lease renewal or any new lease;
- notes it is unlikely there will be any material change in market value over the next 12 – 24 months and therefore the valuation obtained at the next lease renewal or new lease will be the market value used to determine all lease rentals under this delegation for a 12 – 24 month period;
- notes at the end of each 24 month period at the time of a new matter, new market valuation report will be obtained to determine market rental for the following 12 – 24 month period.

### **Delegation for Issuing Tenure Arrangements in Accordance with the Policy**

Council's General Policy for Managing Tenure over Council Owned or Controlled Property.

The Policy covers the following tenure arrangements:

- Trustee Lease
- Trustee Permit
- Freehold Lease
- Licence
- General Tenancy Agreement

- Caretaker Agreement
- Management Agreement
- User Agreement

Furthermore, there are a number of administrative forms relating to residential tenancies which include:

- Entry condition report (general tenancies)
- Bond lodgement
- Transfer of bond
- Refund of bond
- Notice to remedy breach
- Notice to leave
- Exit condition report (general tenancies)
- Entry notice

The tenure arrangements outlined in the Policy form Council's suite of tenure arrangements and will be offered to all users to achieve a consistent approach across the region.

The Policy supports:

- a) a transparent, consistent, equitable and accountable process to follow when considering tenure arrangements over Council owned or controlled property;
- b) definition of the individual types of Tenure Arrangements including conditions and terms of tenure;
- c) tenure assessment categories being applied to classify users to determine the most appropriate fees and charges to be applied;
- d) relevant criteria being applied when considering applications for tenure arrangements to achieve the highest and best use of the facility;
- e) tenure arrangements which are capable of responding to unique social or demographic needs where applicable.

### **CONSULTATION:**

All Minor Property Matters have been considered by the "Commentary on Property" group. All other matters if not considered in the Commentary on Property group have been considered in consultation with the relevant area of Council holding asset ownership as well as with the Executive Team in consultation with the divisional Councillor.

### **ATTACHMENTS:**

Nil.



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