9.10 Perpetual Lease - Application to Purchase

REPORT BY THE PROPERTY OFFICER
TO 20 MAY 2020 ORDINARY MEETING
GOV400087, P0440711

RECOMMENDATION

That Council:

1. receive the report by the Property Officer on the Perpetual Lease - Application to Purchase;

2. submit an application to the Department of Planning, Industry & Environment – Crowns Lands to purchase Crown leasehold land identified as 46 White Street Gulgong, being Lot 13 Section 27 DP758482; and

3. if approved for purchase, submit a further report to Council for review of the purchase price and all associated costs once confirmed by Crown Lands.

Executive summary

The Department of Planning, Industry & Environment – Crown Lands (Crown Lands) has advised of changes relating to the conversion of Council's lease to freehold title as a result of the commencement of the Crown Lands Management Act, 2016 (CLMA).

This means that any land held by Council's under perpetual lease may be eligible for purchase through submission of an application for consideration by Crown Lands. The deadline for submissions is 30 June 2020, after which eligible leases lose this entitlement.

Council has one site that meets this criteria and this report seeks to obtain Council consent to lodge an application for consideration by Crown Lands in the first instance, and if approved for progression, a further report will be submitted to Council detailing all associated costs in purchasing the land once this is later confirmed by Crown Lands.

Disclosure of Interest

Nil

Detailed report

Council has held Perpetual Lease 76918 over a site known as the Old Gulgong Depot at 46 White Street Gulgong since 1986. The size of this site is 4047 m2 and accommodates a 10mtr x 30mtr shed which was originally utilised by Council as a Works Depot and workshop. The shed is no longer occupied by Council and is rented privately for a nominal weekly rental income. There is also an old mine shaft along the southern boundary which is fenced off from public access, and more recently a new bus and visitor carpark was constructed to accommodate actions identified in the Red Hill Master Plan. Please refer to attached aerial imagery depicting location of site within Gulgong Township and proximity to other Council owned and managed land and recent photos of the site.
As a result of the commencement of the CLMA Council has an opportunity to lodge a purchase application for consideration by Crown Lands to allow the land under lease to be converted to ‘freehold title’ and sold to Council.

The rental income generated from leasing the shed on site is nominal in comparison to the benefit to Council and Community in retaining this site in perpetuity under ‘freehold title’, with the newly developed bus and visitor carpark which not only allows for overflow from visitors to Red Hill but offers additional parking for the local community and within close proximity to the centre of town, the site is also large enough to afford future development of Council or Community infrastructure if expansion were ever identified in future strategies.

If Council proceeds with making an application to Crown Lands, is successful, and later decides to purchase the land, the conversion of leased land to free hold title would extinguish all native title interests as well as removing the risk and uncertainty surrounding the lease being cancelled at any point in the future and Council loses financial investments already made at this site.

It is therefore recommended that Council lodge an application in the first instance. Crown Lands will then determine if the application can be approved for sale, if approved, an assessment of the land value and costs will be issued for review by Council. At that time Council could either resolve to purchase or withdraw the purchase application.

Community Plan implications

<table>
<thead>
<tr>
<th>Theme</th>
<th>Looking After Our Community</th>
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</thead>
<tbody>
<tr>
<td>Goal</td>
<td>Effective and efficient delivery of infrastructure</td>
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<tr>
<td>Strategy</td>
<td>Provide infrastructure and services to cater for the current and future needs of our community</td>
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Strategic implications

**Council Strategies**
Red Hill Master Plan

**Council Policies**
Land Acquisition and Disposal Policy – deemed to satisfy policy requirements if Council were to proceed with purchase, land value would be determined through formal valuation process.

**Legislation**
Crown Lands Management Act, 2016

Financial implications

Application Fee - $549

Associated Risks

If Council does not lodge a purchase application by 30 June 2020, there are a number of risks to Council
• Council will continue under the same provisions of the current lease, however a consideration of this is that a condition of the lease stipulates that it can be terminated at any time by the Minister, with no less than 1 year's notice.

• Council will lose its right to ‘convert’ this lease to freehold land and any later decisions by Council to apply to purchase this land will need to be progressed under the Land Acquisition (Just Terms) Act 1991, which is a lengthy, costly process that does not guarantee Council success with their application.

• The site is exposed to a potential land claim. Advice from Crown Lands is that a Perpetual Special Lease does not solely extinguish Native Title interests as there are other sections of the Native Title Act that need to be satisfied before this could be determined.

Existing Mineshaft

There is an old mineshaft located on the parcel of land, which poses some risk to Council should the land be purchased. Mostly, the risk exists around rehabilitating the site, which the costs for are currently unknown. The site of the shaft is already fenced off and closed to access.

To mitigate this risk, Council will request the mineshaft be considered through valuation of the land.

KELLY BARNES       LEONIE JOHNSON
PROPERTY OFFICER    CHIEF FINANCIAL OFFICER

6 May 2020

Attachments:   1. Site Location Identification Map.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER
View facing west

View facing south west