

5.4. TENURE EVALUATION - PART OF ROAD, LOTS 1 AND 2 ON AP15771 AND PART OF LOT 39 SP129117 WANGETTI BEACH

REPORT AUTHOR(S): Robert Donovan, Property Officer
GENERAL MANAGER: Darryl Crees, General Manager Corporate Services
DEPARTMENT: Governance

RECOMMENDATION

Council resolves:

1. to advise the Department of Natural Resources and Mines (DNRM) that Council provides in principle support to include an area of Road Reserve, Lots 1 & 2 AP15771 and one hectare of land (to be excised from) Lot 39 SP129117 to be incorporated into Lot AP15771, which would then be available for transfer under the provisions of the *Aboriginal Land Act 1991*.
2. to delegate authority to the Mayor and Chief Executive Officer in accordance with section 257 of the *Local Government Act 2009* to finalise all matters associated with this matter.

EXECUTIVE SUMMARY

The Department of Natural Resources and Mines (DNRM) has undertaken a land planning evaluation in the vicinity of Wangetti, in response to an Expression of Interest to identify land that may be transferable under the provisions of the *Aboriginal Land Act 1991 (AL Act)*.

The land is described as Lot 1 and 2 AP15771, part of Lot 39 SP129117 and an area of road reserve comprising of about 800 square meters. Title searches show that the State of Queensland represented by DNRM are the owners of Lots 1 (area 1.1Ha) & 2 (area .54Ha) AP 15771 and Douglas Shire Council is Trustee to Lot 39 SP129117 (area 277Ha).

Based on recommendations made through the land evaluation process, this land or parts thereof may be proposed as transferable land. If the land becomes transferable land, it may be granted as freehold title under the *AL Act* for the benefit of Aboriginal persons.

BACKGROUND

In 1994, the Yirranydji people lodged a Native Title Claim over an area of land in Wangetti which included a parcel of Crown Land which was proposed to be included into the Hartley's Creek Crocodile Farm. Negotiations with the State Government resulted in the area being excluded from the Native Title Claim to allow the crocodile business to expand, there was provision for additional Aboriginal Freehold Land to be made available in the future.

In June 2012, the Yirrganydji lodged a further Expression of Interest (EOI) with DNRM for the transfer of Lots 1 and 2 on AP15771, an area of dedicated road and part of Lot 39 SP 129117 under the provisions of the *AL Act*.

DNRM has formally advised the Yarranydji People that Lot 50 CP 910509 is unable to be transferred, as dedicated access will not be provided via Quaid Road. In response to this advice the Yirrganydji people has lodged an EOI for the transfer under the *AL Act* of approximately 5 acres of Lot 39 on SP129117 to compensate for not being able to secure

Lot 50 CP 910509 as Aboriginal Freehold Land and in addition to their withdrawal from the Native Title Claim over the land proposed for inclusion in the crocodile park in 1995.

Recent advice from DNRM is that only one hectare is of land is requested to be excised from Lot 39 SP129117 which if approved will be incorporated into Lot AP15771.

PROPOSAL

To advise DNRM that Council will provide **in principle support to include the area of road reserve, Lots 1 & 2 AP15771 and one** hectare is of land excised from Lot 39 SP129117 to be incorporated into Lot AP15771.

FINANCIAL/RESOURCE IMPLICATIONS

There will be no loss of income or costs to Council associated with this proposal.

RISK MANAGEMENT IMPLICATIONS

If the permanent road closure proceeds, there would be a loss of future use and access to part of the current road reserve area. This is an acceptable risk as there is currently no perceived or future anticipated use of the subject road reserve.

SUSTAINABILITY IMPLICATIONS

Economic: No associated costs to Council.

Environmental: Nil.

Social: In October 2014 all three allotments become subject to Native Title Determination Application. The application QUD 602/2012 was lodged in the Federal Court on behalf of the Yirrganydji People. The outcome of this application will not be known for sometime.

CORPORATE/OPERATIONAL PLAN, POLICY REFERENCE

This report has been prepared in accordance with the following:

Corporate Plan 2014-2019 Initiatives:

Theme 5 – Governance

5.1.4 - Investigate opportunities for improved utilisation of Council's surplus assets by considering disposal where appropriate.

5.2.1 - Provide Councillors and community with accurate, unbiased and factual reporting to enable accountable and transparent decision-making.

COUNCIL'S ROLE

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

The following areas outline where Council has a clear responsibility to act:

Asset-Owner Meeting the responsibilities associated with owning or being the custodian of assets such as infrastructure.

CONSULTATION

Internal: Manager Development & Environment

Under the Douglas Shire Planning Scheme part of the proposed lots are in the Coastal Suburbs, Villages and Townships Locality and part of the World Heritage and Environs Locality. Under each of the localities all the proposed lots and road closure area are in a Conservation Planning Area. This Planning area does not support development, even for a house and it would be inappropriate to transfer the land into separate freehold lots.

Any part closure of the road should be included in the Conservation Planning Area and be subject to the Planning Scheme and be incorporated into lot 1 AP15771

Manager of Infrastructure

Appropriate that road and lots be included into adjacent parcels of land being recreation reserve. The closure of the road and inclusion into adjoining lots would have no effect on the road connectivity. The proposed land use and zoning would need to be consistent with the planning scheme.

External: DNRM



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