

5.5. PAWS AND CLAWS - YULE POINT

GENERAL MANAGER: Darryl Crees, General Manager Corporate Services
DEPARTMENT: Corporate Services

RECOMMENDATION

That Council:

- 1. notes this report detailing actions undertaken to date to purchase land from the State at Yule Point for the relocation of Paws and Claws and the preliminary position of the Department of Natural Resources and Mines dated 9 November 2016;**
- 2. Delegates authority under section 257 of the Local Government Act 2009 to the Mayor and Chief Executive Officer to negotiate, determine or resolve any and all matters associated with the application to purchase Lot 84 SP204459.**

EXECUTIVE SUMMARY

Council, after consultation with Paws and Claws, lodged applications with the Department of Natural Resources and Mines to purchase Lot 84 SP204459 and close an unnamed road in October 2015. After twelve months of deliberations the Department advised Council on 9 November 2016 that its preliminary view was that it could not support a favourable determination of the application to purchase.

This report details the actions that Council Staff have undertaken since October 2015 to procure this site for Paws and Claws and seeks delegated authority from Council to submit further representations to the Department prior to it deciding the matter.

BACKGROUND

For a considerable period of time, Paws and Claws in conjunction with Council have been examining sites appropriately situated within the Shire to determine a new location for their operations. A parcel of land, Lot 84 SP204459, situated at Yule Point, for which Council is trustee was identified as a potential site.

This site was deemed to be ideal to house the Paws and Claws facility as:

- This parcel of land has an area of 4.8Ha and is located approximately 5.3 kilometres south of Craiglie;
- This proposed location would result in the Paws and Claws facility being approximately 1.2 kilometres from the nearest residential dwelling;
- The site and surrounding land parcels are well vegetated; and
- An unformed all weather road allows access to all parts of the site.

Initial discussions were held with the Department of Natural Resources and Mines (DNRM) and Council was advised:

"that the Douglas Shire Council can make application to purchase all or part of the reserve for a public purpose, in this case, pound purposes. As the proposed purpose is a public purpose, the Douglas Shire Council will be dealt with in priority. Views for

other authorities will be required to be sought – namely Department of Main Roads and likely Environmental and Heritage Protection Agency."

A joint inspection of the site was undertaken by Councillors, Council Staff and Paws and Claws Representatives. Following this inspection, Paws and Claws officially requested that Council proceed to purchase this land. A report was subsequently presented to Council on 29 September 2015, at which time it was resolved:

That Council resolves to:

- 1. undertake a due diligence investigation into the purchase Lot 84 SP204459 County of SOLANDER Parish of MOWBRAY for the purpose of a homeless animal shelter;***
- 2. undertake a due diligence investigation into the road closure of an unnamed road separating Lot 84 SP204459 and Lot 1 SP204459 Yule Point;***
- 3. undertake a due diligence investigation to determine whether there is any Native Title claim in relation to Lot 84 above; and***
- 4. delegate authority to the Mayor and the Chief Executive Officer in accordance with section 257 of the Local Government Act 2009 to negotiate, determine or resolve any and all matters associated with the due diligence applications submitted with DNRM and the Native Title Tribunal.***

COMMENT

Council Staff proceeded to enact Council's resolution of 29 September 2015 and details of the sequence of events that followed are:

- October 2015 – Applications for road closure and the purchase Lot 84 SP 204459, in its entirety, were submitted to DNRM.
- December 2015 – Proposed road closure was advertised in the Queensland Government Gazette No. 80 and the Cairns Post. Relevant signage displayed on site.
 - During the advertising period of the proposed road closure only one objection was received. This objection was based on two arguments – that the road should not be closed as it would limit future development of the area and that Lot 84 SP 204459 was in a conservation area and as such should not be developed.
- April 2016 – Advice received that Native Title was extinguished over Lot 84 SP204459.
- May 2016 – DNRM had the site valued to determine purchase price. Additionally, DNRM sent to Council a plan of a partial road closure and the excising of 7,000m² of land from Lot 84 SP204459. Council advised DNRM that there were impediments under Council's Town Planning Scheme regarding sub-division of land parcels under 40Ha. Subsequently verbal advice was received from DNRM that the offer to purchase would include two options being the whole of Lot 84 SP 204459 or a part thereof.
- November 2016 – After many months of investigation by DNRM and constant follow up by Council Staff expressing concerns regarding the time delays, DNRM wrote to

Council advising that it held a preliminary view that it could not support a favourable determination on the purchase of Lot 84 SP204459 by Council.

A copy of DNRM's correspondence is attached to this report however in part its reasoning not to support a favourable determination for purchase includes:

"Lot 84 SP204459 contains significant and sensitive environmental values, incorporating wetlands, of concern regional ecosystems, and essential habitat for the endangered Southern Cassowary. The department believes these values are appropriately protected under a community reserve for environmental purposes.

The evaluation of lot 84 on SP204459 has taken into account the views received from relevant stakeholders, including Department of Environment and Heritage Protection who indicate the site has significant environmental values and recommends the site to remain as a reserve for environmental purposes."

In its letter DNRM extended an opportunity for Council to submit further representations regarding its reasons not to support a favourable determination for purchase which it will consider prior to formally deciding on Council's application. This period ended on 29 November 2016 however an extension of time has been granted to 20 December 2016.

PROPOSAL

This report details the actions undertaken to date to purchase the site at Yule Point for the relocation of Paws and Claws and updates the most recent advice received from DNRM. Due to the time constraints in submitting further representations to DNRM to support the purchase of Lot 84 SP204459, delegated authority to the Mayor and Chief Executive Officer is sought from Council.

FINANCIAL/RESOURCE IMPLICATIONS

This preliminary view of DNRM was not envisaged by Council and to adequately respond in the limited timeframes stipulated by DNRM there will be some financial and staff resource implications. Should these costs be unable to be absorbed within adopted budget, the pending budget review will detail relevant expenditure incurred.

RISK MANAGEMENT IMPLICATIONS

Paws and Claws provides an essential community service in housing and re-homing unwanted pets. Without this service there is the potential for these unwanted animals to increase feral animal numbers and subsequently endangering the wildlife which Council and the community are striving to protect.

SUSTAINABILITY IMPLICATIONS

Environmental: Native wildlife can be threatened if a suitable location for Paws and Claws cannot be found to enable them to adequately house unwanted pets. The Paws and Claws facility to be constructed will be a purpose built facility with sufficient security to ensure the housed animals do not escape therefore reducing any threat to native wildlife.

Social: The volunteers of Paws and Claws dedicate their time to the animals housed including the provision of veterinarian treatment (relevant vaccinations and desexing) to maximise the animal health until a new home is found.

CORPORATE/OPERATIONAL PLAN, POLICY REFERENCE

This report has been prepared in accordance with the following:

Corporate Plan 2014-2019 Initiatives:

Theme 1 - Celebrating Our Communities

1.1.5 - *Support local non-profit community, sporting and cultural organisations to build their capacity.*

1.2.3 - *Develop and support opportunities to build resilience and sustainability of community groups and agencies.*

Theme 4 - Engage, Plan, Partner

4.2.2 - *Provide leadership to secure beneficial social, environmental and economic outcomes for the Shire.*

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:

Advocate	Supporting communities and groups by advocating for certain actions from other organisations (usually other levels of government)
Part-Funder	Sharing the cost of a program or activity with other organisations.

CONSULTATION

Internal: Internal consultation across Council occurred in determining this Yule Point site was an appropriate location for Paws and Claws.

External: There has been considerable interaction between Council Staff and DNRM Staff from the lodgment of applications to the receipt of DNRM's preliminary view. Paws and Claws have been updated with all relevant advice during this period.

ATTACHMENTS

1. DNRM Advice of Preliminary Views 9 November 2016 **[5.5.1]**



Author Karen Lodge
File / Ref number 2015/006639 & 2015/006641
Directorate / Unit State Land Asset Management
Phone (07)40483705

Department of
Natural Resources and Mines

9 November 2016

The Chief Executive Officer
Douglas Shire Council
Sent via email: robert.donovan@douglas.qld.gov.au

Dear Robert,

Application to purchase State land described as Lot 84 on SP204459 being Reserve for environmental purposes

The Department of Natural Resources and Mines (the department) wishes to advise that investigations into the above mentioned application is in the process of being finalised.

When evaluating applications of this nature, the department is required under the *Land Act 1994* to undertake investigations into a range of matters including environmental, social and economic factors, as well as Native Title, cultural heritage, local planning schemes and the future needs of the community. This is to ensure that State land is allocated to the most appropriate use and tenure to derive the greatest benefits to meet the current and future needs of the people of Queensland. A component of this evaluation requires that State and local authorities, and community stakeholders with a potential interest in the land be consulted.

With consideration to all of the available information acquired through the assessment of your application to purchase Lot 84 on SP204459, it has been determined that you be advised the Department holds the preliminary view that it could not support a favourable determination on the following grounds:

Land Act 1994 - Section 16 Deciding appropriate tenure

Before land is allocated under this Act, the chief executive must evaluate the land to assess the most appropriate tenure and use for the land and evaluation must take into account State, regional and local planning strategies and policies of this Act.

Lot 84 on SP204459 contains significant and sensitive environmental values, incorporating wetlands, of concern regional ecosystems, and essential habitat for the endangered Southern Cassowary. The department believes these values are appropriately protected under a community reserve for environmental purposes.

The evaluation of lot 84 on SP204459 has taken into account the views received from relevant stakeholders, including Department of Environment and Heritage Protection who indicate the site has significant environmental values and recommends the site to remain as a reserve for environmental purposes.

Postal :
DNRM
PO Box 5318
Townsville Qld 4810

Telephone : (07)40483705
Fax: (07)4447 9199
Email: Townsville.SLAMS@dnrm.qld.gov.au

The department also notes that during the conversion of special lease 49572, council advised the department that lot 84 on SR16 (now Lot 84 on SP204459) should be set aside as an environmental reserve in consideration of the land's natural values and attributes. This advice, along with the views of the then Environmental Protection Agency, provided the basis for dedicating the land as an environmental reserve with council as trustee.

The department acknowledges lot 84 on SP204459 is currently contained within the rural zone in the Douglas Shire Planning scheme, however the proposed scheme has the land included in the conservation zone. The department notes that the purpose of this zone code is to provide for the protection, restoration and management of areas identified as supporting significant biological diversity and ecological integrity.

Natural Justice

Prior to endorsing a final decision on the matter, and with consideration to the principles of Natural Justice, the Department extends an opportunity for you to make further representation in response to the reasons outlined above and or/ any other relevant information to support your case within 20 days of the date of this letter.

At the expiration of this period, the Department will consider any further submission on your behalf and make a final decision in this matter.

In the event that the Department does not receive a response from you within twenty days from the date of this letter, then a decision will be made on your application and a formal notice of the decision will be forwarded to you.

If you wish to discuss this matter please contact the department on telephone no. 4048 3705. All future correspondence relative to this matter is to be referred to the contact Officer at the address mentioned or by email to Townsville.SLAMS@dnrm.qld.gov.au.

Please quote reference number 2015/006639 in any future correspondence.

Yours sincerely



Karen Lodge
A/Senior Land Officer
State Land Asset Management
North Region