

ENCL:
NO

2nd ORDINARY COUNCIL MEETING/CONF

AGENDA ITEM: C29.1.1

FANNIE BAY EQUESTRIAN CLUB LEASE AND DRAFT HEADS OF AGREEMENT

REPORT No.: 18CF0036 SG:nt

COMMON No.: 179115

DATE: 31/07/2018

Presenter: Acting General Manager City Futures, Shenagh Gamble

Approved: Acting General Manager City Performance, Liam Carroll

PURPOSE

The purpose of this report is to seek Council endorsement of the Heads of Agreement between Fannie Bay Equestrian Club and City of Darwin.

LINK TO STRATEGIC PLAN

The issues addressed in this Report are in accordance with the following Goals/Strategies as outlined in the 'Evolving Darwin Towards 2020 Strategic Plan':-

Goal

5 Effective and Responsible Governance

Outcome

5.5 Responsible financial and asset management

Key Strategies

5.5.1 Manage Council's business based on a sustainable financial and asset management strategy

KEY ISSUES

- The Royal Australian Artillery Association Northern Territory (RAAANT) has sought additional land from the Fannie Bay Equestrian Club (FBEC) Lease area
- Discussions between stakeholders has resulted in an amicable outcome whereby the FBEC may consider the subletting of a portion of their leased area to the RAAANT.
- A heads of agreement forms the basis of a lease negotiation.
- A heads of agreement has been developed in consultation with FBEC and incorporates Council's previous decision around provision of community facilities including a community garden.
- RAAANT has requested that Council make clear its intent for the future of East Point Reserve by way of a strategic plan or similar.

RECOMMENDATIONS

- A. THAT Report Number 18CF0036 SG:nt entitled Fannie Bay Equestrian Club Lease and Draft Heads Of Agreement, be received and noted.
- B. THAT Council endorse the Heads of Agreement with the Fannie Bay Equestrian Club and that the that pursuant to Section 32 (2) (d) of the Local Government Act, Council delegate to the Chief Executive Officer the power to negotiate the final terms and conditions of the lease for 20 years commencing in 2020.
- C. THAT pursuant to Section 26 (2) of the Local Government Act, Council authorises the affixing of the Common Seal to all documents associated with the lease of part Lot 5775 Town of Darwin to the Fannie Bay Equestrian Club and that this be attested by the signatures of the Chief Executive Officer and the Lord Mayor.
- D. THAT Council develop a long term strategy for the entire East Point Reserve.

BACKGROUND

At its meeting on 28 November 2017 Council resolved as follows:

DECISION NO.22\0288

- A. *THAT Report Number 17CF0023 LC:nt entitled Fannie Bay Equestrian Club Lease Update to Council and Draft Heads of Agreement, be received and noted.*
- B. *THAT Council note a further report will be brought back to Council to finalise the 'heads of agreement' and lease as soon as practicable pending the outcomes of discussions between the Royal Australian Artillery Association and the Northern Territory Government.*

DISCUSSION

A draft heads of agreement has been developed in consultation with the Fannie Bay Equestrian Club (FBEC). The terms include:

- **Property**
Part of Lot 5775 from plan(s) S 90/248D Town of Darwin comprising 15 hectares.
- **Permitted Use**
To be used as an equestrian club for the stabling of horses including riding of horses and any other associated activities concerning the advancement of equestrian husbandry, sporting and social activities within the Darwin

municipality. In addition the occupation of a caretaker residence on the Property.

The Lessee will work with Council to determine the feasibility of a community garden on site and the possible assistance in promotion of the community aspects of the Club's presence including open days.

- ***Lease Period***

A lease period of 20 years from October 2020 to October 2040.

It is noted for Council's information that the Club have requested a further option of 20 year term from 2040 to 2060.

- ***Rental***

A peppercorn rental of \$1.00 per annum will be charged.

- ***Structural Improvements***

All structural improvements on the land will require the prior written approval of the Lessor.

- ***Maintenance***

The Lessee is responsible for maintenance of all improvements on the property with ownership of the improvements vesting with the Lessor on termination of the lease at the Lessors discretion.

- ***National Trust***

The Lessor reserve a right to permit third parties to come on to the land so that structures subject to the National Trust of the Northern Territory can be maintained viewed or studied?

- ***Outgoings***

All outgoings in relation to the property are borne by the Lessee including municipal rates

- ***Tree Maintenance***

The Lessor reserves the right to enter to inspect and prune and remove trees at its discretion, the Lessee is required to maintain the property in accordance with the maintenance and weed management plan agreed with Council from time to time

- ***Animal Welfare***

The Lessee must comply with best practice standards and requirements in relation to the stabling and handling of horses in terms of animal welfare and best practice health standards.

- **Insurance**

The Lessee must maintain appropriate insurances including \$20 million public liability insurance

The FBEC lease area has the following structural improvements which are understood to be valued for insurance replacement purposes at \$750,000:

- 1 standard dressage arena and steel rail fence;
- 2 round yards;
- 1 quarantine bay;
- 30 Stables with tack/feed sheds ;
- 9 extended combo yards with tack/feed sheds with electrical;
- 8 day yards;
- 1 caretakers residence (demountable) with veranda carport and fence;
- 1 toilet/shower block;
- 1 utility shed;
- 1 medium lean-to;
- 1 wash bay;
- 1 septic system;
- Several kilometres of fencing

Approximately 30 horses are stabled at FBEC.

Royal Australian Artillery Association of the Northern Territory

The RAAANT has approached Council regarding extending their land holding into a portion of the FBEC lease area. RAAANT hold a lease with the Northern Territory Government. The need for additional land has come about as a result of the NTG decision to excise land from the RAAANT lease area to provide for the Defence of Darwin Military Museum.

Discussions between the various stakeholders including an exclusive of Council staff) have resulted in an amicable arrangement whereby the FBEC may consider subletting a portion of their leased area should the RAAANT have a particular project or initiative that requires the space.

A sublease will require Council consent and must not unreasonably be withheld or delayed, it is reasonable for Council to withhold consent if the proposed sublessee proposes to change the use to which the Premises is put.

RAAANT has also requested that Council make clear its strategic intent for East Point Reserve. Aside from the endorsed biodiversity management plan for the areas under Council control, Council does not have a stated vision or strategy for the broader management of east point reserve.

CONSULTATION PROCESS

In preparing this report, the following City of Darwin officers were consulted:

- Acting General Manager City Performance
- Property Officer

In preparing this report, the following External Parties were consulted:

- Members of the Fannie Bay Equestrian Club Management Committee
- Members of the Royal Australian Artillery Association
- Council's Legal Representative
- Northern Territory Government

POLICY IMPLICATIONS

City of Darwin Policy No. 083 Long Term Lease has implication for this lease as the lease period exceeds a period of ten years.

As a general rule, Council (as custodian of public assets) would provide a long term lease on all property through an open market format to ensure due probity of process and optimal financial return and minimal risk.

Council may undertake an alternative process for the long term lease where in Council's opinion, an alternative lease approach will achieve greater benefits to the ratepayers than could be achieved through a public process and will entertain direct negotiations to the exclusion of a public process.

In this instance the circumstances which give rise to an alternative approach include that Fannie Bay Equestrian Club's existing lease already provides for a further option of 20 years from 1st October 2020.

BUDGET AND RESOURCE IMPLICATIONS

Fannie Bay Equestrian Club Inc pays a peppercorn rental to Council in regard to this lease.

Annual Council municipal rates are levied on the property of \$4,699.78 per annum.

It is worth noting that the entire East Point Reserve area is valued at \$48M.

RISK/LEGAL/LEGISLATIVE IMPLICATIONS

This item is considered 'Confidential' pursuant to Section 65(2) of the Local Government Act and 8(c)(i) of the Local Government (Administration) Regulations, which states municipal council may close to the public only so much of its meeting as comprises the receipt or discussion of, or a motion or both relating to, information

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that would, if publicly disclosed, be likely to cause commercial prejudice to, or confer an unfair commercial advantage on, any person.

As the lease is for a period in excess of 12 years it will require a subdivision application under the NT Planning Act as it forms part of the greater allotment of East Point Lot 5775 Town of Darwin.

ENVIRONMENTAL IMPLICATIONS

The Fannie Bay Equestrian Club demonstrates good environmental stewardship over the lease area, and is welcoming of Council environmental initiatives at East Point Reserve, including weed removal and the introduction of the East Point Reserve Biodiversity Plan.

A management and weed management plan has been put in place with the current lease.

COUNCIL OFFICER CONFLICT OF INTEREST DECLARATION

We the Author and Approving Officers declare that we do not have a Conflict of Interest in relation to this matter.

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ACTING GENERAL MANAGER
CITY FUTURES

LIAM CARROLL
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