

G/4.4. LEASE OF A PORTION OF LOT 32 ON PL646 BYELLE WETLANDS TO YARALLA SPORTS CLUB

Responsible Officer: General Manager Assets and Environment

Prepared By: General Manager Assets and Environment

Council Meeting Date: 16 January 2024

File Ref: CP8.2

Purpose:

To allow Councillors to consider leasing a portion of Lot 32 on PL646 forming part of Byelle Wildlife Reserve to Clava Ltd trading as Yaralla Sports Club.

Officer's Recommendation:

That Council:

1. Resolves that s236(1)(b)(ii) of the *Local Government Regulation 2012* applies to the proposed lease of part of Lot 32 on PL646 to Clava Ltd trading as Yaralla Sports Club ("Yaralla") on the following terms and conditions:
 - (a) An initial term of five years;
 - (b) An option for a further term of five years;
 - (c) At a rental of \$1.00 per annum payable on demand;
 - (d) An option to Yaralla to purchase the lease area for market value during the lease term provided that:
 - i. Yaralla, subject to the satisfaction of Council, has substantially commenced development of a golf course on the land adjoining the Lease Area; and
 - ii. Yaralla has obtained development approval, on terms satisfactory to both Yaralla and Council, for the reconfiguration of the boundaries of Lots 5 on RP601549, 32 on CP PL646, 1 on RP602679 and 31 on PL646;
 - (e) Such other terms and conditions that the Chief Executive Officer deems appropriate in the circumstances; and
2. Resolves that s236(1)(b)(ii) applies to the sale of land to Yaralla for market value pursuant to the option to purchase the lease area contained in the Lease; and
3. Authorises the Chief Executive Officer to negotiate, finalise and execute any and all matters associated with or in relation to the Lease.

Summary:

Yaralla Sports Club have requested to purchase approximately seven hectares of Lot 32 on PL646 from Council to provide sufficient area to deliver a championship level golf course design.

Link to Corporate Plan:

Accountable Council - We are providing good stewardship built on a foundation of trust.
Connecting Communities - We work with you and for you, supporting the success of our communities.
Resilient Economy - We play our part in supporting the success of our region.

Background:

Officers have previously considered a request to dispose of all or part of freehold land described as Lots 32 on PL646 and 5 on RP601549 adjacent to Yaralla's proposed development and presented to Councillors in Information Sessions in August and September 2022. Councillors also had the benefit of additional information provided by Yaralla's consultants in November 2022.

Risk Management Summary:

Officers initially were not in favour of disposal, given the land's inclusion in the Byellee Wildlife Reserve, and the lack of clarity on the extent of development with consideration of risks associated with the two lots identified (Figure 1).



Figure 1 - lots 32 and 5 on PL64

The risks identified included:

- Risk to 58 bird species have been identified as using the wetlands and other habitats
- Significant loss of Council freehold land and loss or an area containing Reef regrowth vegetation; High-Value regrowth area containing endangered regional ecosystems; and loss of remnant vegetation containing "Of-concern regional ecosystems"
- Disposal of portion of this land reduces the overall potential benefits of "blue-carbon" sink (sequester carbon from the atmosphere)
- Nature of the proposed operation and potential to generate run-off of water high in nutrients and chemicals from fertilisers and pesticides into fish habitat and wetland areas.

The clarification that the request to the purchase was restricted to approximately 7 hectares of Lot 32 on PL646 (figure 2), lowers the risk of the disposal on the purpose and benefit of the Wildlife Reserve, which was the basis of officers' initial refusal.

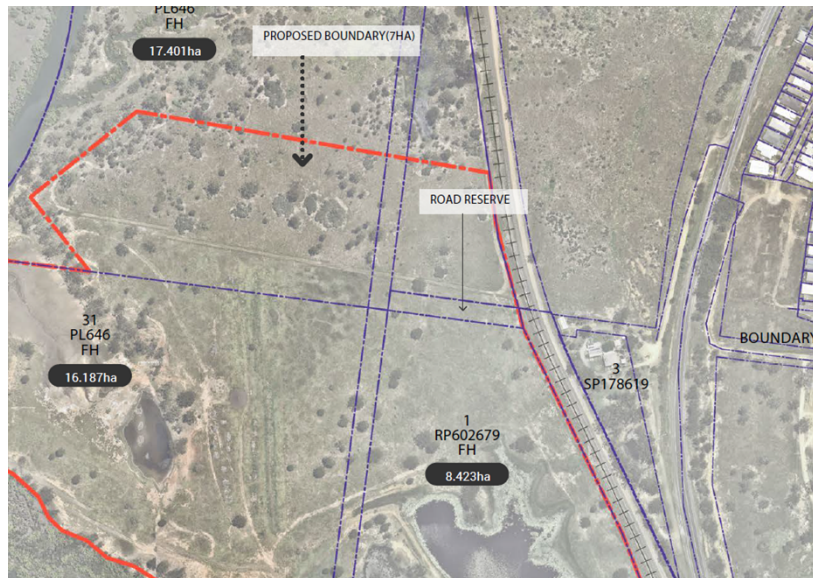


Figure 2 - Proposed acquisition

Information provided by Yaralla and their consultants regarding the nature of the operation and their proposed environmental stewardship of the land has further reduced the risk profile. The environmental impact and loss of amenity associated with the new proposal is reduced and the potential benefit to the community with the proponent able to optimise their project is considerable.

Options and Opportunity Analysis:

Option 1 – The Officer’s Recommendation

Council resolves to dispose of a portion of the land to Yaralla. For Council to enter a lease with an option to buy, Council must resolve that the exemption in s236(1)(b)(ii) of the *Local Government Regulation 2012* applies to the lease and option to purchase the land.

Option 2 – Reject the request

Council may elect to reject the request to lease and control the land which, according to Yaralla, would compromise the development, potentially reducing the viability and attractiveness of the development.

Stakeholder Engagement:

Strategic Property Management, Asset Planning, Environment and Conservation and Governance teams have been consulted and contributed to this recommendation. A draft lease has been negotiated with Yaralla and conditional Owner’s Consent provided to their consultants for the lodgement of a DA over a portion of Council land.

Legal and Regulatory Implications:

Under s227 of the *Local Government Regulation 2012* (“LGR”), Council cannot dispose of a valuable non-current asset contract (a contract for the lease or sale of freehold land) unless it first invites written tenders or offers the non-current asset for sale by auction. In this instance there are two applicable exceptions to s227 of the LGR:

- Section 236(1)(b)(ii), where the valuable non-current asset is disposed of to ... a community organisation; and
- Section 236(1)(c)(iv), where the valuable non-current asset is disposed of to an owner of adjoining land and the land is not suitable to be offered for disposal by tender or auction for a particular reason i.e. the location and size of the land.

Financial and Resource Implications:

The lease period is proposed to be at peppercorn rate of \$1.00 on demand, with the option for purchase of the land to be at market value.

Anticipated Resolution Completion Date:

The proposed start date of the lease, if resolved, is 1 July 2024.

Attachments:

Nil