



MOREE PLAINS SHIRE COUNCIL

19 SEPTEMBER 2019

**FINANCE AND GOVERNANCE
COMMITTEE MEETING**

PUBLIC BUSINESS PAPER

Monday, 16 September 2019

- TO:
- Councillors
 - General Manager
 - Director – Corporate Services
 - Director – Planning and Community Development
 - Director – Engineering Services
 - Manager – Executive Projects

Notice is hereby given that the **Finance and Governance Committee Meeting** will be held in the Council Chamber, the Max Centre, 30 Heber Street, Moree, on **Thursday, 19 September 2019** commencing at **2pm**.

Please note that all Council meetings are recorded.

Yours sincerely



Mitchell Johnson
DIRECTOR OF CORPORATE SERVICES

Agenda

1. Open Meeting
2. Apologies
3. Confirmation of Minutes
4. Leave of Absence requests
5. Declarations of Interest
6. Reports
 - a. Lease 40 Frome Street, Moree (former Lands Building)
 - b. Questions on Notice Responses
7. Standing agenda item: New Questions on Notice
8. Standing agenda item: Strategic Planning Proposals and Current Project Updates
9. Standing agenda item: Overseas Trade and Investment
10. Responses to Previous Questions on Notice
11. Closed Committee/Confidential
12. Close Meeting

Finance and Governance Committee Meeting Public Business Paper

19 September 2019

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Report Title	1. Lease – 40 Frome Street, Moree (former Lands Building)
Report by	Corporate Services
Contact	Mitchell Johnson, Director Corporate Services
Attachments	One (1) attachment; refer to Attachments section
File	FILE 18/1016

RECOMMENDATION

1. In accordance with section 31 of the Local Government Act 1993, the Council resolves to classify 40 Frome Street, Moree NSW, being Lot 4 Section 42 DP 758706, community for the purposes of Part 2 of Chapter 6 of the Local Government Act 1993.
2. That Council lease the property known as 40 Frome Street, Moree, being Lot 4 Section 42 DP 758706 to the Moree and District Historical Society for a period of 15 years.
3. That the initial rent on the property be an amount of \$501.00 plus GST, increasing by CPI annually.
4. That the annual rental amount maybe rebated back to the organisation, when evidence is provided that upgrade and/or maintenance works have been completed.
5. That the Moree and District Historical Society be responsible for all grounds maintenance, water and electricity charges for the property.

REPORT

ALIGNMENT WITH MOREE PLAINS 2027 – YOUR SHIRE. THE PLAN. OUR FUTURE

An Inclusive, Caring Community

C2.4 Encourage volunteering, community ownership of challenges and opportunities for community members to get actively involved in decision-making

Sustainable Spaces and Places

S4.1 Provide well maintained and suitable community buildings, facilities and spaces to foster participation in sports, increased recreational activities and promote arts and cultural opportunities

A Vibrant Regional Economy

Not applicable

A Leading Organisation

L1.3 Implement good practice in managing and maintaining our assets

BACKGROUND AND KEY ISSUES

On 11 November 2018, Moree Plains Shire Council (**Council**) was advised, via our Local Member, Adam Marshall MP, that approval had been granted for the transfer of 40 Frome Street, Moree to Council, for community purposes.

This report seeks to address the costs associated with Moree Historical Society leasing the property as provided for as part of the transfer arrangement from Property NSW.

Title Restrictions

As part of the transfer the restrictions have been registered on title, refer to attachment 1, they are outlined as follows:

- The land is to be classified as Community Land and used for Community Purposes Only.
- The land must be used for the primary purpose of being used by the Moree Historical Society as its office and administration venue and a Museum open to the public.
- The restrictions may not be removed for 15 years from the date of registration, unless modified by Property NSW.

Rental

In recent years, Council has made the decision to move away from providing properties rent free to Community Organisations. This has been bought about, in part, because the majority of the Council controlled properties, which are utilised by Community Groups, are Crown Land and they prescribe a set fee.

Pursuant to Crown Lands legislation, holders of leases, licences and permits to occupy Crown Land are required to pay rent. Both the Crown Lands Management Act 2016 and Council individual tenure agreements contain provisions for the periodic market redetermination of rent.

Council applies consistent, fair and transparent methods to the determination and redetermination of rents based on the type and purpose of the tenure.

Crown Lands Minimum annual rent and Consumer Price Index value are set out in the table below:

Date	Minimum rent	annual CPI value
31 July 2019	\$501.00	115.9
24 April 2019	\$498.00	115.1
30 Jan 2019	\$498.00	115.2
31 Oct 2018	\$496.00	114.7
25 July 2018	\$493.00	114

Council uses these rental amounts for transparency and consistency sake across most properties licenced or leased to community groups.

Rebate

In order to support the maintenance of the asset and the Community Groups, Council further provides a rebate clause in these agreements which, essentially allows for the rent to be waived, if the group can provide evidence that they have spent equal to or more than the set rent on maintenance or upgrades to the asset.

This initiative has worked very successfully with all the Community Groups, this year Council rebating rents to the following Organisations:

- Moree Friends of the Botanic Gardens - Improvements and beautification works on the Mehi River corridor.
- Moree Tennis Club - Upgrading lighting at the Taylor Oval Tennis courts.
- PCYC - Capital works to the Moree Basketball Stadium.
- Moree Scouts - Maintenance works to the former Ambulance building at 233 Balo Street.
- Moree Water Ski Club - Construction of shade shelters, planting of 2,000 trees and drip irrigation, construction of Mehi Beach.

Services and Charges

The payment of services and charges varies across out community leased/licensed properties, depend on the Group and activity. Most community groups do not pay rates on the properties leased or licenced from Council, however, a number pay charges such as water. All but 2 groups pay electricity, these two (2) groups have only become exempt because of shared space arrangements where power is integrated with other occupiers of the property or land and cannot be separated.

FINANCIAL IMPACT TO COUNCIL

The cost of the purchasing the property was \$1.

Asset maintenance costs have not been assessed or budgeted for at this time. However, these costs, and statutory requirements will need to be factored into Council's Building Maintenance budget.

Asset upgrades and additions will need to be included in Council's annual budget deliberations as projects.

STATUTORY AND POLICY IMPLICATIONS

Leasing

The recommendation provided for leasing 40 Frome Street Moree to the Moree and District Historical Society meets the criteria provided in Council's Leasing and Licensing policy.

Classification of Public Land

Council is required by Part 2 of Chapter 6 of the *Local Government Act 1993 NSW* (LGA) to classify all land vested in it as either 'community' or 'operational'. Land automatically becomes 'community' land if it is not otherwise classified within 3 months of being acquired by Council.

The main effect of classification is to restrict the alienation and use of the land. 'Operational' land has no special restrictions other than those that may apply to any piece of land. 'Community' land is different. Generally, 'community' land is intended for public access and use and being classified as 'community' will create a number of restrictions such as those listed below:

- The land cannot be sold.
- The land cannot be leased, licenced or any other estate granted over the land for more than 21 years.
- The land must have a plan of management prepared for it.

Further details in relation to 'community' land restrictions and management can be found within Part 2 of the LGA.

The underlying principle of classification is to identify land that is set aside, protected and managed for public use. The classification will also determine the ease or difficulty with which Council can have dealings in public land, including selling, leasing or licensing. The process provides transparency in Council dealings with public land and provides a platform for strategic asset management of these sites.

RISK IMPLICATIONS

The maintenance/upkeep obligations associated with this property that will be imposed on Council have not been budgeted for and are of risk and while the proposal is to pass all these costs, in addition to payment of services, rates and charges onto the Historical Society, consideration needs to be given to their ability to generate revenue enough to fund the operation of this property. Regardless, should Council become the owner of the building we have a legal obligation to ensure the premises is safe for the purpose it is being used.

Council needs to determine the level of service it is willing to provide towards maintaining this property.

Inspection Reports provided advise there are no 'Residual Current Devices' (RCD's) installed at this property and recommend the installation of 20 RCD's. Testing of the buildings electricity connections and switch boards should be conducted to ensure the properties y is safe.

A Hazardous Material Building Report completed in 2015 has identified some areas of Asbestos, however, these are noted as low risk and only require labelling and routine monitoring or long term replacement. The building does have some lead based paint present, it is prescribed to manage this with over painting with lead-free paint as part of ongoing maintenance. However, should the building require sanding to repair paintwork, then this needs to occur as per the relevant Australian Standard.

ASSET MANAGEMENT IMPLICATIONS

No maintenance assessment has been completed by Council staff. From documents received from PNSW assessments were completed on the structural integrity of the building in 2006, 2007 and 2012, no records have been provided as to works completed as a result of these reports. Without our own structural investigation and building inspection report we are unable to assess the asset management implications of the building. Further, there has previously been an issue with termites, no pest inspection reports have been provided.

The property is of historical significant so any renovations/upgrades would need to ensure they meet relevant heritage requirements.

PREVIOUS COUNCIL DECISIONS

Council, at its 24 January 2019 Ordinary Council Meeting resolved the following.

19/01/08 RESOLVED (TRAMBY/CASELLS)

That Council accepts the offer made by Property NSW acquire Lot 4 Section 42 DP 758706, known as 40 Frome Street, Moree, and that all documents associated with the transfer of this land be executed under Council Seal.

ATTACHMENTS

Attachment 1 Restriction of the use of Land Vested in Prescribed Authority

Form: 13RVP
 Release: 3-0

**RESTRICTION ON THE
 USE OF LAND VESTED IN
 PRESCRIBED AUTHORITY**

Leave this space clear. Affix additional pages to the top left-hand corner.

New South Wales
 Section 88D(3) Conveyancing Act 1919

PRIVACY NOTE: Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

(A) TORRENS TITLE	Polio Identifier 4/42/758706						
(B) LODGED BY	<table border="1" style="width: 100%;"> <tr> <td style="width: 15%;">Document Collection Box</td> <td style="width: 60%;">Name, Address or DX, Telephone, and Customer Account Number if any</td> <td style="width: 25%;">CODE</td> </tr> <tr> <td></td> <td>Reference:</td> <td style="text-align: center; font-size: 2em;">RV</td> </tr> </table>	Document Collection Box	Name, Address or DX, Telephone, and Customer Account Number if any	CODE		Reference:	RV
Document Collection Box	Name, Address or DX, Telephone, and Customer Account Number if any	CODE					
	Reference:	RV					
(C) PRESCRIBED AUTHORITY	Property NSW ABN 91 840 597 406						

(D) The prescribed authority, being the registered proprietor of the abovementioned land, applies to have a recording made in the Register of a restriction on the use of land affecting that land the terms of which are set out in a true copy of the relevant order dated _____ annexed hereto and marked A _____ and certifies that no person or corporation has acquired an interest in the land.

DATE _____

(E) I certify that I am an eligible witness and that an authorised officer of the prescribed authority signed this dealing in my presence. [See note* below].

Certified correct for the purposes of the Real Property Act 1900 by an authorised officer of the prescribed authority.

Signature of witness: _____

Signature of authorised officer: _____

Name of witness: _____

Name: _____

Address of witness: _____

Position: _____

Chief Executive Officer

Property NSW

* s117 RP Act requires that you must have known the signatory for more than 12 months or have sighted identifying documentation.
 ALL HANDWRITING MUST BE IN BLOCK CAPITALS Page 1 of 2 1111

Annexure A – 13 RVP Restriction on the Use of Land Vested in Prescribed Authority

Order for Restriction on the Use of Land

Pursuant to section 88D(3) of the Conveyancing Act, the Land vested in Property NSW, a prescribed authority under the Act, and hereby described as Lot 4 Section 42 in Deposited Plan 758706 is burdened by the restriction described in this Order.

The land burdened is hereby restricted in that the registered proprietor shall not use or permit the lot to be used for purposes other than Community Purposes.

The expression "Community Purposes" must include purposes which meet the current and future needs of the local community and of the wider public in relation to public recreation and the physical, cultural, social and intellectual welfare or development of individual members of the public. Ancillary uses are permissible where the use is subordinate or subservient, and not inconsistent, with the primary use of the land for "Community Purposes".

The Community Purpose for this land must be for the primary purpose of being used by the Moree Historical Society as its office and administration venue and a Museum open to the public.

The prescribed authority is Property NSW and no other person or corporation has an interest in the land.

Property NSW is the authority empowered to release, vary or modify this restriction. This restriction shall not be removed for 15 years from the date of registration

Ordered by the Chief Executive Officer, Property NSW

Name:

Dated

Witness Name:

Witness Signature:

Witness Address

Report Title	2. Questions on Notice Responses
Report by	Corporate Services
Contact	Mitchell Johnson, Director Corporate Services
Attachments	One (1) attachment; refer to Attachments section
File	FILE 12/2083

COMMITTEE RECOMMENDATION

That the Finance and Governance Committee receive the Questions on Notice responses for information.

REPORT

ALIGNMENT WITH MOREE PLAINS 2027 – YOUR SHIRE. THE PLAN. OUR FUTURE

An Inclusive, Caring Community

Not applicable

Sustainable Spaces and Places

Not applicable

A Vibrant Regional Economy

Not applicable

A Leading Organisation

L1.7 Be accountable and transparent in our affairs, operate with integrity, improve our responsiveness and pursue innovative solutions for organisational improvement

BACKGROUND AND KEY ISSUES

Questions on Notice (**QON**) provide an opportunity for Councillors to ask questions of the General Manager which are then recorded within the meeting minutes and the Council's Customer Request Management (**CRM**) system. A response to this question is either provided verbally at the meeting or taken on notice if the response requires further research.

In response to requests from Councillors, a QON response system has been implemented where all responses are made available to the public through a Standing Committee Meeting business paper (as per this report). This will ensure that the answers not provided at the meeting are publically available for review by members of the public and Council's transparency is enhanced.

FINANCIAL IMPACT TO COUNCIL

Review of the QON's has no significant financial implications.

STATUTORY AND POLICY IMPLICATIONS

Council's Code of Meeting Practice (2016) includes the provision for QON's as part of the Committee Meeting Standing Order of Business. The Code of Meeting Practice is consistent with the *Local Government Act 1993 (NSW)*, the Local Government (General) Regulation 2005 and the Model Code.

RISK IMPLICATIONS

There are no identified risk implications associated with QON responses.

ASSET MANAGEMENT IMPLICATIONS

No asset management implications have been identified.

PREVIOUS COUNCIL DECISIONS

QON responses are provided as part of a Standing Committee Meeting business paper on a regular basis to ensure all responses are made available to the public.

ATTACHMENTS

Attachment 2 Question on Notice responses

CRM 3266/2019 Question on Notice – June 2019 - QON F&G

7. Councillor Smith asked if Mr Probert can assess the budget impact on Council on putting solar on top of the MAAC and the Max building? Assess the structure and suitability.

A further response is required.

Response: Mr Witherby

Council has gone to procurement on the structural assessment of the MAX building. The MAAC building can also be assessed as part of a planned project variation, subject to funding being allocated by them. Council will be able to estimate those costs shortly following close of submissions on 9th September. Once those assessments are in hand Council will know the building upgrade costs (if any) needed to support solar. The staff Energy Group has reviewed options for an overall strategic approach to alternative energy and cost-free options for that overall review are being investigated. In terms of individual building solar installation, there is at least one option which would not involve any capital outlay on the part of Council, and where expenditures would be within the projected budget for electrical power over the next 2-3 years. After this time, Council would gain ownership of the solar panel assets and the power savings. A report is to be brought to Council once feasible strategic options have been identified, so that Council can select it's preferred strategic approach.

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