

14.2 LEASE TELECOMMUNICATION FACILITY - PART LOT 9 DP 703167 PRODUCTION AVENUE, WARRAGAMBA - AXICOM

File Number: 10619#563

EXECUTIVE SUMMARY

- The purpose of this report is to gain approval from Council to enter into a Lease with Axicom for construction of a Hut Shelter for equipment and feeder cables connecting into an existing adjoining lease area held by Crown Castle (plans attached).
 - It is recommended that Council's Acting Chief Executive Officer and Mayor be authorised to endorse all documents including those requiring Common Seal of Council in accordance with the terms and conditions outlined in this report.
 - That Council proceed to enter into negotiations to lease the area subject to the proponent agreeing to the conditions detailed in this report and review of the lease agreement by Council's Legal advisor.

REPORT

Council has received an application from Axicom to enter into a new lease for a Hut Shelter which includes cable feeding to an existing adjoining lease area currently held by Crown Castle. The applicant advises:

- The new facilities are Low Impact Classification under the Telecommunications Act and no Development Application is required.
- They provide an undertaking agreeing to pay all reasonable legal fees.
- The Government Radio Networks require extensive backup power in the event of an outage for emergency services.
- The network is used by over 40 public safety and emergency service agencies, such as NSW Ambulance, SES, Fire & Rescue NSW, Rural Fire Service, NSW Police Force, etc.
- Unlike a mobile phone carrier, this network is about improving public safety and not about commercial interest. Frontline responders rely on the network to coordinate responses to critical incidents to better protect communities, families and individuals such as health related emergencies, accidents around the home, heart attacks, road accidents, floods and fires.

In 2011 Council resolved to seek advice as to whether Telecommunication carriers can be charged a business rate as it was considered they were undertaking a commercial activity.

The applicant's representative advised that the estimated rental return is \$2,000 per annum. This facility is considered as a non-mobile phone communication site with cabins across Sydney attracting \$3,000 to \$4,000 per annum which are more commercially orientated than this proposal which is simply an emergency service site.

Research indicates Council's costs to implement and manage lease sites in its first year are approximately \$7,500.00 with costs reducing annually thereafter. Taking into account the service this facility will provide to the community, it is considered appropriate to provide a benefit and agree to a reduction in rent to \$5,000 per annum for the first year. Every year thereafter the CPI increase will apply as per calculations below.

The proposal provides best value to the community and communication services plus there is no other alternate use of the land. The area behind the facility is a controlled rehabilitated site which has been remediated. This proposal does not infringe on this area. The land is classified as "Community Land" controlled under a Plan of Management (POM) and the POM allows leases with a maximum duration of 10 years.

Dial Before You Dig enquiries reveal no services within the proposed development site. If services are found to be located within the site then relocation, repair or any other costs will be at the applicant's expense.

Heads of Agreement

Term: 10 years (2 x 5 year lease)

Area: 15.6m²

Rent: \$5,000 per annum

CPI: Adjusted on each anniversary of the commencing date during the term. The increase will be calculated as follows:-

$$\text{New rent} = \text{current rent} \times \frac{a}{b}$$

Where 'a' is the last published CPI before the Adjustment Date and 'b' is the last published CPI before the previous Adjustment Date (or, in the case of the first Adjustment Date, before the commencing Date).

CPI means the All Groups Consumer Price Index for the State capital city published by the Australian Bureau of Statistics.

Consultation

Manager Environmental Outcomes

Manager Governance

Investigation & Design Engineer

General Counsel

Financial Implications

Council has sought to maximise the income received for the lease of the premises from Axicom. The proponent has agreed to provide Council with \$5,000 per annum plus annual CPI increases. It is considered this financial contribution provides compensation for the area to be leased and Council's contribution towards increased communication amongst emergency services.

ATTACHMENTS

1. Attachment Report to Council

RECOMMENDATION

1. That Council's Acting Chief Executive Officer and Mayor be authorised to endorse all documents including those requiring the Common Seal of Council in accordance with the terms and conditions outlined in this report.
2. That in accordance with the Local Government Act Section 47, Council enter into negotiations to lease the area to Axicom subject to the proponent agreeing to the conditions detailed in this report and review of the lease agreement by Council's Legal advisor.