

Direct Sales Panel - Meeting Minutes
LDA Boardroom, Level 6 Transact House, Dickson
Minutes of Meeting – 2.00pm – 4 February 2016

Attendees	<ul style="list-style-type: none"> Liz Lopa (Chair); Christine Luchetti (ED – CMTEDD); Mike Quirk (EPD); Jeff Bell (TAMS); David Jones (ETD); Max Murdoch (CM - CMTEDD); Michael Pepperell (TD-CMTEDD); Leonie Branson (Health); Graham Mundy (LDA)
Apologies	Matthew Kennedy (CSD); Gabriel Joseph (TAMS)
Secretariat	

ITEM	DESCRIPTION	DISCUSSION/DECISION	ACTIONS
1.	Presentations by applicants:		
1.1		<ul style="list-style-type: none"> Somerset Rehabilitation Pty Ltd 	<ul style="list-style-type: none"> None
2.	Acceptance of minutes:		
2.1	Minutes of previous meeting	<ul style="list-style-type: none"> Minutes of 10 December 2015 were accepted. 	<ul style="list-style-type: none"> None
3.	Business arising from applications considered at previous meetings:		
3.1		<ul style="list-style-type: none"> █ ██████████ The Panel requested that CSD verify the information supplied by the applicant prior to the Submission being forwarded to Government. 	<ul style="list-style-type: none"> None
4.	Confirmation of Members Probity	No probity issues were identified by members.	
5.	New applications for consideration:		
5.1	DS -2015 – 217 – Somerset Rehabilitation Pty Ltd - Fyshwick	<ul style="list-style-type: none"> The Panel agreed that the applicant has met the eligibility criteria to progress with a direct sale. The Panel agreed that the sale should be subject to the proponent obtaining a development application approval and there being an access (easement) clause in the Crown lease to provide access for Block 13. The Panel suggested that a condition of sale should be that the lessee accepts the site 'as is' including any contamination. 	<ul style="list-style-type: none"> ED to prepare Brief to the Minister for Planning.
5.2	██████████ ██████████ ██████████	<ul style="list-style-type: none"> The Panel agreed that the applicant has met the eligibility criteria to progress with a direct sale. 	<ul style="list-style-type: none"> ED to prepare Brief to the Minister for Planning

6.	New applications received since last meeting – for information only:	[REDACTED]		
7.	Enquiries – for information only:		<ul style="list-style-type: none"> • None 	
8.	Other business:		<ul style="list-style-type: none"> • None 	
9.	Next meeting:		<ul style="list-style-type: none"> • 3 March 2016 	



ACT
Government

Chief Minister, Treasury and
Economic Development

DIRECT SALE PANEL

AGENDA ITEM 4.1

SUBJECT: 2015 –217 – Direct Sale Application by Somerset Rehabilitation Pty Ltd to acquire Block 11 Section 8 Fyshwick.

To: Direct Sale Panel

From: Chair, Direct Sale Panel

Date: January 2016

Purpose

To seek the Direct Sale Panel's (the Panel) agreement to Somerset Rehabilitation Pty Ltd's (Somerset) eligibility to receive a direct sale of a Crown lease over land.

Background

In October 2015, Somerset approached the government to acquire a Crown lease over Block 11 Section 8 Fyshwick for incorporation into the adjacent Block 9 (the former Shell fuel storage site) which it has just recently arranged to purchase.

Somerset is a subsidiary of Access Recycling Services (Access), a leading supplier of metal recycling services to the mining, rail and other heavy industries throughout the eastern states of Australia. Access recycling processes in excess of 85,000 tonnes of metal per annum across Australia. The existing Canberra facility has annual scrap volumes in excess of 40,000 tonnes, processing end-of-life cars, white goods and farm machinery produced in the region. It also caters for metal waste produced from Canberra's construction, demolition and manufacturing sectors.

Access has recently moved its transporting operation to rail, for which it currently uses the Kingston rail terminal under a 2 year licence agreement with John Holland Rail and Transport for NSW. This operation results in the region of 100 heavy duty truck movements per week between Fyshwick and Kingston to load its products onto a train.

The rail service currently ships between 50 and 60 shipping containers to Port Botany per week from where it is shipped to South East Asia. This freight transport route has also developed alternative low cost export opportunities for other regional producers that utilise the freight service run by Access.

During the recent wet winter the mainly earth and deteriorating bitumen surface of the Kingston site has caused significant delays due to the heavy duty forklifts that load the train getting stuck in mud, and despite Access claiming to have spent in excess of \$100,000 in an attempt to fix the drainage of the site it has not proved adequate.

The remaining term of the licence and the knowledge that the Kingston rail site has been earmarked for residential development in the future, means that Access cannot justify spending the level funding needed to repair the terminal's surface to a useable state.

The land

Block 11 is currently unleased territory land under the custodianship of TAMS, it has an area of approximately 12,090m² and is zoned as *IZZ: Industrial Mixed Use* under the Territory Plan. A map highlighting the land sought is at Attachment A.

The Development Proposal

Somerset/Access wishes to develop a concrete loading platform and freight hub on Block 11 to satisfy its needs and that of the other exporters wishing to use the Territory's only rail freight service. The value/cost of these works would be in the region of \$600,000 and would reduce the need for the above quoted number of trucks travelling between Fyshwick and Kingston throughout the week.

It is also anticipated that a move to the Fyshwick site would free up the Kingston site for potential redevelopment, allow larger freight trains to be utilised, and make the freight service more attractive to the industrial sector in Fyshwick.

Issues

The proposal was circulated through the Land Requests Advisory Committee (LRAC) and comments in relation to the site were provided by the various areas of Government.

Whilst there is general support of the proposal and the investment in a freight rail service for Canberra there are some issues specific with the land requested that need to be considered.

Existing Services

There are a number of services that cross the land at various points. There are two separate storm water culverts that discharge storm water from under the adjacent rail tracks into the site. ED has been advised by Icon Water that there is an existing water supply main located within the block which may need to be either relocated or have an acceptable engineering solution approved by Icon before a Development Application could be approved.

Town Planning Issues

There have been a number of comments received about the fact that the Government should not agree to the sale of the whole of Block 11, given that it also borders Block 13 and would effectively mean that Block 13 would be prevented from accessing the rail tracks in the future.

The current owner of Block 13 (Daeli Lithgow Pty Ltd part of the Cusack Group) is fully supportive of the proposed sale. It currently sub-leases its land to Somerset/Access on a long term basis, and has provided an email of support which is at [Attachment B](#).

These concerns have been highlighted to Somerset and despite looking at alternative purchase options where the separate owners of Blocks 9 and 13 could each potentially buy portions of Block 11 have requested to pursue the purchase of the whole of Block 11 itself, believing that it has sufficient political support to outweigh the agency concerns.

Potential Contamination

The proponent is aware that there could be significant contamination on the site as a result of its proximity to the rail track. Since the land is proposed to be used for rail based activity, the proponent is not concerned about its current state of contamination and is willing to accept the land as it currently is.

Financial

Under the existing direct sale charging policy Somerset would be required to pay full market value for the site and valuations will be sought after the approval of a direct sale has been granted by the Minister for Planning. Access Trading Company Pty Ltd will be the entity providing the funding for this project.

As the purchaser of a contiguous land parcel Somerset would be responsible for undertaking its own site investigation reports and other due diligence assessments that will be required for the DA. It will also be responsible for providing service connections for any part of the proposed development from within its existing block.

The sale of this site would move the maintenance responsibility from TAMS to the proponent and represent a minor saving for TAMS' budget.

Stakeholder Support

Both John Holland Rail and Transport NSW are supportive of the development of this freight rail service and have informally advised that funding will be arranged to be available to pay for the track infrastructure upgrade required to allow the reactivation of the former Shell site's connection to the main line for the proposal to go ahead. A letter of support is currently being drafted.

Eligibility Criteria

An assessment of the direct sale application against section 108 of the *Planning and Development Regulation 2008* is at [Attachment C](#). The proponent appears to meet the assessment criteria.

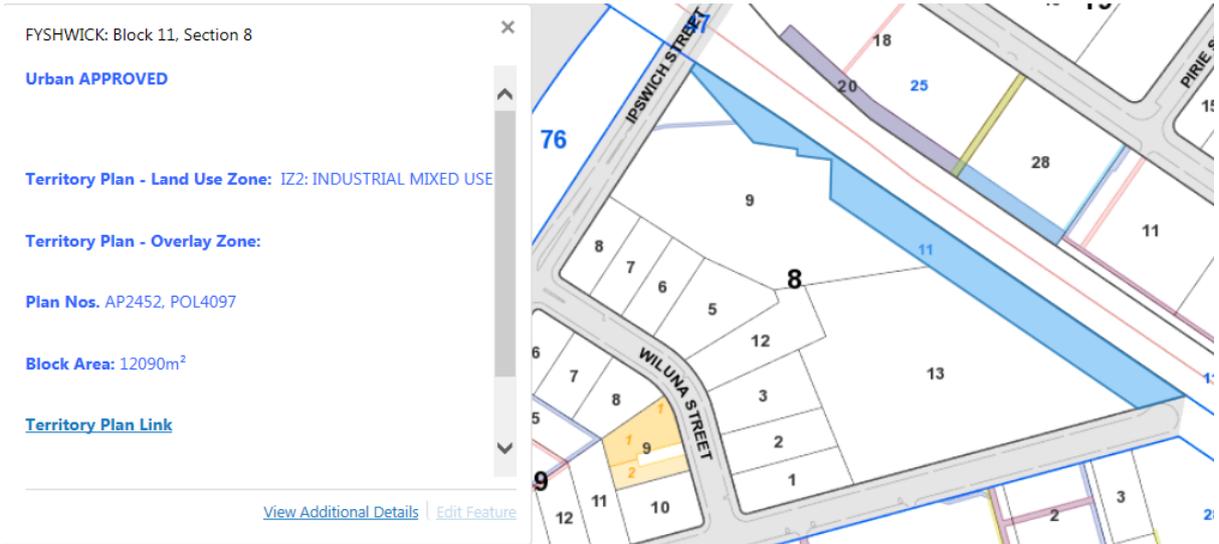
Recommendation

That the Panel agrees to recommend to the Minister for Planning that Somerset Rehabilitation Pty Ltd is eligible for a direct sale of a Crown lease as it has met the eligibility criteria for the direct sale in accordance with section 122 of the *Planning and Development Regulation 2008*.

AGREED/NOT AGREED

Liz Lopa

Action Officer: Chris Sparke
Extension: 52404



2015-217 - Direct Sale Application by Somerset Rehabilitation Pty Ltd
Block 11 Section 8 Fyshwick

Planning and Development Act 2007

**122 Direct sale criteria for leases of contiguous unleased land
other than public land—Act, s 240 (1) (b) (i)**

- (1) The criteria for the direct sale of a lease of unleased land other than public land (the **proposed lease**) to the lessee of a lease (the **existing lease**) that is contiguous with the proposed lease are that—
- (a) the grant of the proposed lease will—
 - (i) rectify an existing encroachment on the proposed lease by a building or structure on the existing lease for the purpose of consolidating the proposed and existing leases for subdivision under the *Unit Titles Act 2001*; or
 - (ii) facilitate the achievement of a good planning outcome; and

Response: The direct sale of the requested parcels will facilitate the achievement of a good planning outcome mentioned in (a) (ii) by allowing the development of a rail freight facility which will amongst other benefits, reduce the number of heavy goods vehicles travelling on public roads between Fyshwick and Kingston. The proposal also stands to provide a viable alternative to the Territory's exporters which will be able to export products by rail, a cheaper, safer and more environmentally friendly method of transportation.

- (b) the proposed use of the land is compatible with Territory or Commonwealth government policies applicable to the proposed use; and

Response: The proposed development of a rail facility on industrial land, adjacent to the existing rail line is consistent with the Territory's over arching policy to encourage economic development within the Territory.

- (c) because of the size, location or configuration of the proposed lease, it is not reasonable or viable to grant the proposed lease as a separate independent lease; and
- (d) the grant of the proposed lease—
 - (i) will not detract from the amenity of the surrounding area; and
 - (ii) will promote better land management; and
 - (iii) will not unreasonably restrict public access to other land.

Response: The parcel of land sought has an area of approximately 12,090m². However, the block is of a size and configuration that would prohibit a separate sale of an independent lease.

The proposed grant of a lease will not detract from the amenity of the surrounding area, unreasonably restrict public access to other land, and will promote a better land management solution for the surrounding land.

Harding, Barbara (ACTPLA)

From: Harding, Barbara (ACTPLA)
Sent: Tuesday, 27 October 2015 11:35 AM
To: Carmichael, Tony
Cc: Quirk, Mike; ESD, LRAC; McKeown, Brianna
Subject: Update and Notes from LRAC Meeting - October 2015

Hi Tony,

You may remember requesting I provide an update after Land Requests Advisory Committee (LRAC) meetings in relation to submissions and workloads. The September meeting was cancelled, so it has been two months since the last update.

Generally re workloads and resourcing – The workloads continue to exceed the resources (Me), which is resulting in slower response times, record-keeping issues, and many tasks not being able to be done, especially in relation to the Custodianship Map.

Notes from the Land Requests Advisory Committee (LRAC) meeting of 21 October 2015

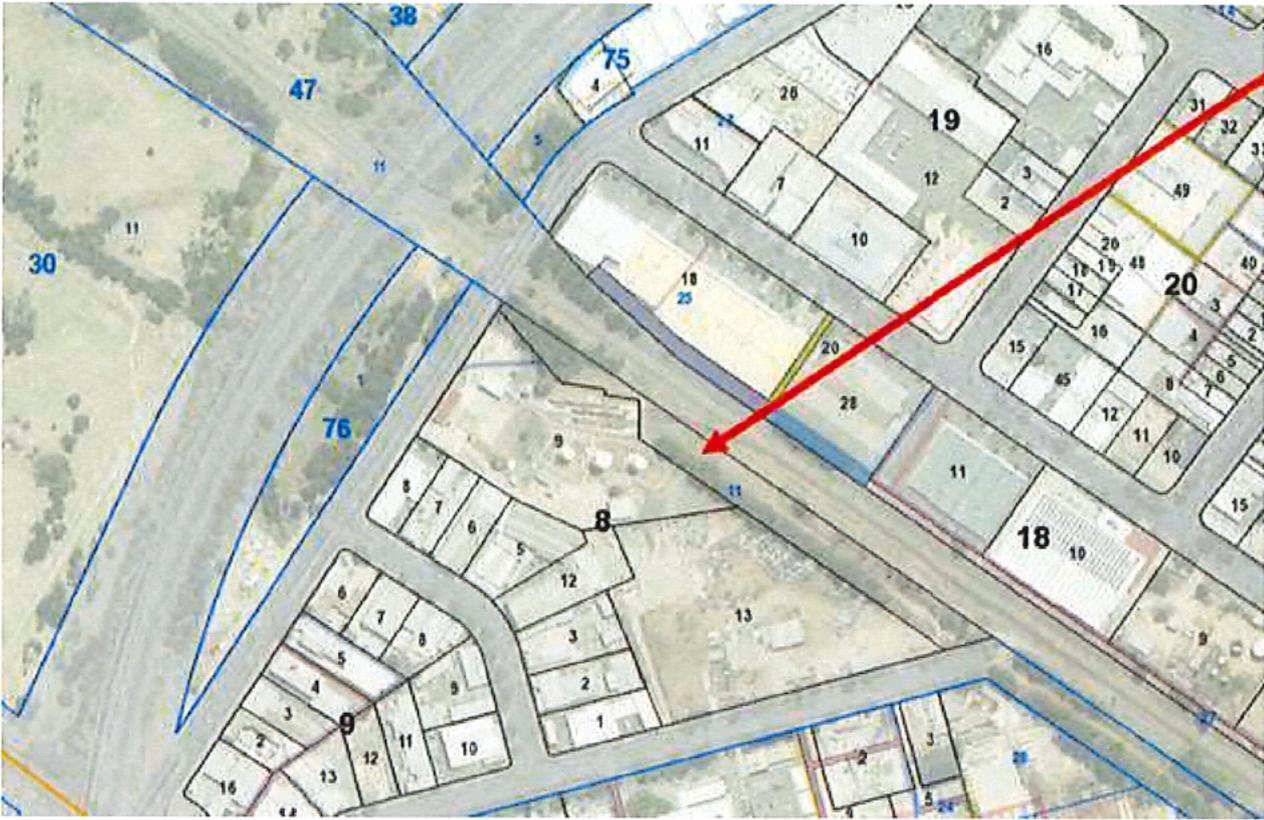
Three circulation items:

FYSHWICK Section 8 Block 11 – “Access Recycling Services”

CMTEDD Direct Sales advise “Access Recycling Services” are seeking the direct sale of Block 11 Section 8 Fyshwick to allow construction of a railway siding needed for the operations of their freight business.



Location



Access Recycling are in the process of purchasing Block 9 Section 8 from the Shell company. They already rent adjacent Block 13 Section 8, which is where they currently operate from. They propose to construct a long siding on Block 11 where they can load directly from their site/s onto a train. This would have the added benefit of not needing to have trucks moving between Fyshwick and the Kingston railway station. They propose to operate from both Block 9 and Block 13. The sale would be the whole of Block 11, to be added into the Block 9 lease.

Please note:

- The Environment Protection agency representative mentioned the "Polluter Pays" policy and noted there was potentially contamination on the site. While the Shell company may have the financial capacity to clean it up, a smaller operator purchasing it may not. He cited a previous case where this had occurred and the Territory ended up having to pay cleanup costs.

