From: PILLAY Anand [Anand.Pillay@npsr.qld.gov.au]
Sent: Tuesday, 13 December 2016 4:17 PM
To: SAXBY Jacqueline; BROUGHTON Aaron
CC: DUCLOS Candiece; BRIGHT Daniel; SULLIVAN Jessica; O'NEILL Jo
Subject: FW: Mackay Yacht Club Covenant
Attachments: SKMBT_C280 12080111040.pdf; SR_-_Mackay_Yacht_Club_update_14_08_2012.doc

Hi Jacqui and Aaron

The State through our Department previously had a covenant over the Mackay Yacht Club facility. The club petitioned the then Minister for Sport (Minister Dickson) for release of the covenant because it restricted their ability raise revenue to alleviate the financial stress they were experiencing. The attached Min brief and PPQ have the background to the issue.

The issue has been raised as Council are reviewing the planning scheme and the removal of the covenant appears to have raised some questions from local residents and the Council.

Regards
Anand

Anand Pillay
Regional Manager
Sport and Recreation Services I North Queensland Region
Department of National Parks, Sport and Racing

Tel: 07 4799 7010 Mbl: CTPI - Personal information
3-9 Redpath St, Northward, Townsville
PO Box 1468, Townsville, Qld 4810

31070 Join the Movement email footer 800px_V2_2 (002)

NPSR RTI DL Release

From: BRIGHT Daniel
Sent: Tuesday, 13 December 2016 2:35 PM
To: PILLAY Anand <Anand.Pillay@npsr.qld.gov.au>
Subject: Mackay Yacht Club Convenient

Anand

Following on from previous request for information by Grace from McBride legal.

I have now been called by the Mackay Regional Council Jaco Ackerman, Manager Strategic Planning within the Mackay Regional Council. Jaco advised me that through the recent call for submission in relation to changes to the planning scheme the council has received over 150 submissions in relation to the above covenant, Jaco advised that in the next couple of weeks he believed that the Council would be formally requesting some information in relation to the removal of the covenant to allow them to make a decision in relation how they structure the planning scheme for this site.

Jaco was also kind enough to inform me that the local media outlet (Daily Mercury) is looking for comments in relation to this topic and that they maybe calling the department for this comment.

Jess is sourcing the departmental media contact information for me so that I can quote this to anyone requesting this information.

Just wanted to keep you in the loop and I will provide update to you as they become available.

Regards

Daniel Bright
Advisor
North Qld Region | SRS - Regional Services Delivery
Department of National Parks, Sport and Racing

Phone - 4999 8520 or CTPI - Personal information
E-mail - daniel.bright@npsr.qld.gov.au
Website - www.npsr.qld.gov.au
Level 5, 44 Nelson Street, Mackay, Qld
PO Box 239, Mackay, QLD 4740

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ACKNOWLEDGEMENT LETTER DETAILS

Reply to Name: *Position:*

Reply To Org:

Reply to Address:

Regarding:

COMMENTS

Date Added	*Added By*	*COMMENT HISTORY*
27/07/12 11:25	LANDS\HallPhi	hard copy received BMU SRS, No hard copy of DG endorsed File copy letter uploaded or returned. Hard coy placed in tray for return to RSD for filing
27/07/12 10:29	LANDS\GrayS1	Finalised by Sandra Gray (who was acting for: NPRSR - Minister) BN and letter to Mr T Malone MP signed by Minister Dickson - Letter sent in today's mail 27 July 2012 and original paperwork returned to S&R
18/07/12 14:29	LANDS\PetersTo	Item was submitted for SignOff to NPRSR - Minister(Delegated NPRSR - Top Secret Clearance)
12/07/12 13:33	LANDS\HallPhi	Item submitted prior to completion of QA by BMU SRS
12/07/12 12:56	LANDS\skutenp	Item was submitted for SignOff to NPRSR - Minister(Delegated NPRSR - Top Secret Clearance)
12/07/12 12:56	LANDS\skutenp	Paula Skutenko (who was acting for: Peters Toni) (EC)Approved Workflow Item. DG endorsed letter and brief - DLO submitted to Min's office 12/07.
11/07/12 16:24	LANDS\HallPhi	returned to RSD awaiting discussion between RD and DDG SRS 12/7 re update to Briefing Note and Letter
09/07/12 17:07	LANDS\WatsonL	Approval applied for by Lisa Watson (who was acting for: Corro NPRSR Sport and REC) to Peters Toni.(Delegated NPRSR - Authorised Clearance) DDG SRS Ben Klaassen endorsed 9/7/12 - fwd to DLO to progress (emailed as well)
09/07/12 17:07	LANDS\WatsonL	Responsibility Accepted by Lisa Watson (who was acting for: Corro NPRSR Sport and REC) for Response for NPRSR - Minister.(Delegated NPRSR - Authorised Clearance)
09/07/12 16:07	LANDS\WatsonL	fwd to DDG SRS to endorse 9/7/12
06/07/12 09:38	LANDS\WatsonL	correction to BMU SRS Corro due date - 12noon Monday 9 July
05/07/12 17:22	LANDS\WatsonL	Fwd to RSD to action 5/7/12. DUe back to BMU COB 6/7/12
05/07/12 16:58	LANDS\PetersTo	Allocated to Corro NPRSR Sport and REC by Toni Peters (who was acting for: NPRSR - Minister) for Response for NPRSR - Minister.(Delegated NPRSR - Top Secret Clearance)
05/07/12 16:57	LANDS\PetersTo	Both NOrthern Region and Legal were already aware of this.
05/07/12 16:56	LANDS\PetersTo	URGENT: Due back to DLO by 10:00am Tuesday. BOth Northern region and
05/07/12 16:56	LANDS\PetersTo	Workflow was CCd to Green Melissa (Brisbane);Moore Sarah;Watson Lisa for Information by Toni Peters (who was acting for: NPRSR - Minister) with the following instructions: .(Delegated NPRSR - Top Secret Clearance)
05/07/12 16:40	LANDS\PetersTo	Item created by Toni Peters

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NPRSR Part DLO Release

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PRINT FILE COPY
(FINALISED)

CTS No: 08971/12 *Currently Assigned To:* NPRSR - Minister *DUE:* 11/07/12
Subject: Mr Ted Malone MP Mackay Yacht Club proposing changes to a Covenant on Mackay Yacht Club Land
Campaign: *Templates:*
Security Classification: NPRSR - In confidence / Secret *Ack Letter Template:*

CLIENTS

Role	*Name*	*Address*	*Client Type*	*Locality*	*Primary*
Original Correspondent	Mr Ted Malone MP	Member for Mirani PO Box 56 SARINA QLD 4737	MP - Member of Parliament		Yes

GENERAL DETAILS

External Reference No: *Thesaurus No:*
File No: *Contact Name:*
Classification: *Locality:*
Author (Requestor):
Author Type:

DATES

Created: 05/07/12 *Dated:*
Received: 05/07/12
Draft Due to NPRSR - Minister: 11/07/12 *Date Draft Received:* 12/07/12
Date Sent for Signoff: 18/07/12
Due Signatory: *Sent for Redraft:*
Signed: *Finalised:* 27/07/12
Completion Date:
YOUR DUE DATE: 11/07/12 *EC Officer Allocated:* 05/07/12

DEPARTMENTAL DETAILS

Business Area: NPRSR - Sport and Rec *Business Unit:* SR - RSD
Business Area Templates:
Action Type: Min - Request for Brief *Hard Copy Attachments:*
Further Details: *Transfer To:*
Redraft Reason:
Executive Contact: Corro NPRSR Sport and REC *Agency Author:* Corro NPRSR Sport and REC
Signing Officer:

INVOLVEMENT DETAILS

Role	*Name*	*Due Date*	*Received*	*Response*
Signatory	NPRSR - Minister		18/07/12	27/07/12
Signatory	NPRSR - Minister		12/07/12	18/07/12
Approval Officer	Toni Peters		09/07/12	12/07/12
Agency Author	Corro NPRSR Sport and REC	11/07/12	09/07/12	09/07/12
Executive Contact	Corro NPRSR Sport and REC	11/07/12	05/07/12	12/07/12
Information Officer	Melissa Green		05/07/12	
Information Officer	Moore Sarah		05/07/12	
Information Officer	Lisa Watson		05/07/12	
Creator	Toni Peters	05/07/12	05/07/12	

NPSR RTI DL Release

Finalised

CTS No. 08971/12

CTPI - Personal information

Chief of Staff OK
Dated 12/7/12
Approved Not Approved Noted
Further information required
Minister.....
Dated / /

Department of National Parks, Recreation, Sport and Racing
MINISTERIAL BRIEFING NOTE

TO: **Minister for National Parks, Recreation, Sport and Racing**
CC: **Assistant Minister for Sport and Racing**

SUBJECT: **Mackay Yacht Club – proposed amendments to a Covenant on land**

NFA

RECOMMENDATION

It is recommended that the Minister:

- **Note** the content of this brief and
- **sign** the letter to Mr Ted Malone MP, Member for Mirani notifying him that the Department is currently reviewing the existing and proposed amended covenant on land owned by the Mackay Yacht Club.

BACKGROUND

- On 4 July 2012 Mr Ted Malone MP, Member for Mirani wrote making representation on behalf of the Mackay Yacht Club (MYC). The MYC is seeking to make amendments to a Covenant on land owned by MYC put in place by the then Department of Innovation and Information Economy, Sport and Recreation Queensland in 2001.
- A redevelopment of Mackay Harbour marina by the Port Binnli Group was announced in 1998. As a result MYC was required to relocate to a new site on the marina. The club took a loan to purchase the land for their new clubhouse.
- The Port Binnli Group had concerns that any development on the marina by MYC would compete with their own proposed development and insisted on the height and building footprint covenants, as well as a right of first refusal if the club ever sold the land. A covenant was also established to specify that the land must only be used for the clubhouse of MYC or another yacht club.
- MYC funded construction of their clubhouse with a combination of State government funding and their own money.
- MYC currently has a two level clubhouse at Mackay Harbour marina. The top floor was used as a commercial restaurant which has now ceased to operate. The club cite increased staff costs and turnover as the main reasons for ceasing their commercial operations.
- The lower floor of the facility is still currently used by the yacht club for storage and conducting the club's sailing activities, including learn to sail for new members.
- The department provided MYC funding of $168,000 at a subsidy rate of 50% to construct the lower floor of the clubhouse including training rooms and storage for the junior dinghy division (Sport and Recreation Community Facilities Program in 2001).
- The Club successfully completed their project and finalised their grant, including financial acquittal on 21 August 2002.
- Under the most recent guidelines of the department's infrastructure program this amount would be considered a Minor Infrastructure project and current guidelines do not require covenants' over the facilities funded by the department.
- MYC has just under 1000 members.
- *Consultation*: Ms Candiece Duclos, Acting Principal Legal Officer. Mr Bob Critchley on behalf of the Mackay Yacht Club.

CURRENT ISSUES

- As the Club is currently experiencing financial hardship they are seeking a deed of forbearance from their financial institution in an attempt to gain more time to clear their debts.
- If they are unsuccessful in obtaining additional time to clear their debts the future of the clubhouse would be determined by their financial institution.

Author	Cleared by	Cleared by	Recommended:
Name: Anand Pillay Position: Regional Manager Tel No: 07 4799 7005 Date: 09/07/2012	Name: Lyndall Holz Position: Director Tel No: 07 3405 4615	Name: Ben Klaassen Position: A/DDG SRS Tel No: 07 3006 2606	Name: John Glaister Director-General, NPRSR Tel No: 07 3227 6126 Date: 12/7/12
	Name: Position: Tel No:	Name: Position: Tel No:	

16-282 File D

File Ref:

CTPI - Personal information

Non-RTI Release

- The Club have been advised by a property valuer, appointed by their bank, that the covenants on the land restrict the value of the clubhouse. This is expected to have a negative impact on securing a deed of forbearance because it restricts the clubs options to raise the revenue required to pay off their debts.
- The covenants restrict both the use of the entire clubhouse facility and the future development of the facility. These restrictions would be passed on to any future owner of the land if they remain unchanged.
- MYC have advised that their preference is retain use of the ground floor of the building for junior sailing programs and either clear their debts through a sale of their assets or achieve a regular income stream from leasing the upper floor of their clubhouse.
- MYC sought preliminary advice from the Titles Office of the former Department of Environment and Resource Management, which indicates that an amended covenant securing the ground floor of their clubhouse for exclusive use of a sporting club would be acceptable to them.
- The Club have provided a draft covenant that would remove all existing covenants and replace them with a single one that would ensure the sailing club continues to operate from the ground floor of the clubhouse. Sch.3(7) Legal professional privilege

Sch.3(7) Legal professional privilege

- As it is no longer departmental practice to seek covenants the option to remove the covenant will be explored.

MINISTER'S COMMENTS

NPSR RTI DL Release

From: NOLAN Charlotte [Charlotte.Nolan@ehp.qld.gov.au]
Sent: Wednesday, 14 December 2016 9:57 AM
To: PILLAY Anand
CC: ANDRADO Bianca; SAXBY Jacqueline; O'NEILL Jo
Subject: RE: Mackay Yacht Club Covenant

Hi Anand,

Thanks for providing this information. We've sent it on to the Minister's office however they have asked for some specific responses to the following. Would you be able to assist? They urgently require this information by 12pm today.

1. Why it's been changed
2. If the covenant expired? Lapsed? Has been removed?
3. What impact we expect this to have on neighbours?
4. Do neighbours have a legal claim again club or government - if they purchased their property on the understanding the covenant would hold and now their views could be obscured?

Please let me know if you require anything further from me and I apologise for the tight timeframe.

Kind regards,

Charlotte

Charlotte Nolan
Senior Communications Officer
Communication Services I Corporate Communications
Department of Environment and Heritage Protection
Department of National Parks, Sport and Racing

P 07 3339 5862
Level 27, 400 George Street, Brisbane QLD 4000
GPO Box 2454, Brisbane QLD 4001

From: PILLAY Anand
Sent: Tuesday, 13 December 2016 4:24 PM
To: ANDRADO Bianca
Cc: O'NEILL Jo; SAXBY Jacqueline
Subject: FW: Mackay Yacht Club Covenant

Hi Bianca

Attached is some advice on the Mackay Yacht Club and the covenant that the State held over their facility. Jo suggested you might need some of this information.

Regards
Anand

Anand Pillay
Regional Manager
Sport and Recreation Services I North Queensland Region

IPSR RTI DL Release

From: PILLAY Anand [Anand.Pillay@npsr.qld.gov.au]
Sent: Wednesday, 14 December 2016 11:04 AM
To: NOLAN Charlotte
CC: ANDRADO Bianca; SAXBY Jacqueline; O'NEILL Jo; DUCLOS Candiece
Subject: RE: Mackay Yacht Club Covenant

Hi Charlotte

I have copied Candiece in for her information and in case she has something to add.

1. Why it's been changed – The club, through a local member, petitioned the former Minister for Sport to have the covenant altered or removed. The former Minister for Sport approved the removal of the covenant.
2. If the covenant expired? Lapsed? Has been removed? The covenant was removed in 2012.
3. What impact we expect this to have on neighbours? This is not really a question I can answer other than to point out that the covenant was lifted around 4 years ago and this is first time I am aware of it being raised as an issue.
4. Do neighbours have a legal claim again club or government - if they purchased their property on the understanding the covenant would hold and now their views could be obscured? Definitely a question I'm not qualified to answer.

I hope this helps.

Regards
Anand

From: NOLAN Charlotte
Sent: Wednesday, 14 December 2016 9:58 AM
To: PILLAY Anand <Anand.Pillay@npsr.qld.gov.au>
Cc: ANDRADO Bianca <Bianca.Andrado@npsr.qld.gov.au>; SAXBY Jacqueline <Jacqueline.Saxby@npsr.qld.gov.au>; O'NEILL Jo <Jo.O'Neill@npsr.qld.gov.au>
Subject: RE: Mackay Yacht Club Covenant

Hi Anand,

Thanks for providing this information. We've sent it on to the Minister's office however they have asked for some specific responses to the following. Would you be able to assist? They urgently require this information by 12pm today.

1. Why it's been changed
2. If the covenant expired? Lapsed? Has been removed?
3. What impact we expect this to have on neighbours?
4. Do neighbours have a legal claim again club or government - if they purchased their property on the understanding the covenant would hold and now their views could be obscured?

Please let me know if you require anything further from me and I apologise for the tight timeframe.

Kind regards,

Charlotte

Charlotte Nolan
Senior Communications Officer

NPSR RTI DL Release

Queensland Government

Media Response

For

The Honourable Curtis Pitt MP

Treasurer
Minister for Aboriginal and Torres Strait Islander Partnerships
Minister for Sport

NPSR RTI DL Release

- The Mackay Yacht Club (MYC) was required to relocate to a new site in 1998 as a result of the redevelopment of Mackay harbour marina.
- MYC took out a loan to purchase the land and funded construction of a two level clubhouse using a combination of its own finance and State government funding ($168,000 under the Sport and Recreation Community Facilities Program 2001).
- The project was complete in 2002, with a restaurant on the top floor and the lower floor used by the yacht club storage and conducting the club's sailing activities, including learn to sail for new members.
- The top floor is currently vacant, with the lower floor still currently in use by the yacht club.
- The developer of the Mackay harbour marina had concerns that any development on the marina by MYC would compete with its development and insisted on a height and building footprint covenant and a right of first refusal if the club ever sold the land.
- The covenant also established that the land could only be used by MYC or another yacht club and restricted both the use of the entire clubhouse facility and the future development of the facility.
- These restrictions would be passed on to any future owner of the land if they remain unchanged.
- In 2012, local member Mr Ted Malone, MP petitioned the former Minister for Sport on behalf of Mackay Yacht Club, requesting amendments or release of the covenant due to increase the club's options to raise funds at a time of financial hardship.
- At the time of the request, the department's infrastructure program the project would have been considered a minor infrastructure project and land use

Comment [A1]: Is this still correct as at 2016?

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covenants over facilities funded by the department were not required.

Comment [A2]: Is this still the case?

- To support the Club by providing the flexibility to realise revenue raising options while retaining the Club's sailing activities, the then Minister for Sport removed the covenant.
- The Registrar of Titles notified the department of the completion of the Release of Covenant on 14 August 2012.
- Since the release in 2012, the department has not been made aware of any issues relating to this site.

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From: PILLAY Anand [Anand.Pillay@npsr.qld.gov.au]
Sent: Wednesday, 14 December 2016 11:25 AM
To: BRIGHT Daniel
Subject: FW: Mackay Yacht Club Covenant
Attachments: EDOCS - 5152111 - 161214 Media Response - Mackay Yacht Club Covenant - 1.DOCX

Daniel

Can you please check ASAP? I'm most interested about the current use of the club house (both floors).

Regards
Anand

From: NOLAN Charlotte
Sent: Wednesday, 14 December 2016 11:11 AM
To: PILLAY Anand <Anand.Pillay@npsr.qld.gov.au>
Cc: ANDRADO Bianca <Bianca.Andrado@npsr.qld.gov.au>; SAXBY Jacqueline <Jacqueline.Saxby@npsr.qld.gov.au>; O'NEILL Jo <Jo.O'Neill@npsr.qld.gov.au>; DUCLOS Candiece <Candiece.Duclos@dnrm.qld.gov.au>
Subject: RE: Mackay Yacht Club Covenant

HI Anand,

Thank you for your prompt response. I have drafted your background info and points below into the attached response.

Could you please review and update if required? I have highlighted to sections that I feel may require updates, however if the information is not easily accessible just let me know given the time frame.

If you could please get back to me as soon as possible, I will progress this through the necessary approvals.

Kind regards,

Charlotte

Charlotte Nolan
Senior Communications Officer
Communication Services I Corporate Communications
Department of Environment and Heritage Protection
Department of National Parks, Sport and Racing

P 07 3339 5862
Level 27, 400 George Street, Brisbane QLD 4000
GPO Box 2454, Brisbane QLD 4001

From: PILLAY Anand
Sent: Wednesday, 14 December 2016 11:05 AM
To: NOLAN Charlotte
Cc: ANDRADO Bianca; SAXBY Jacqueline; O'NEILL Jo; DUCLOS Candiece
Subject: RE: Mackay Yacht Club Covenant

Hi Charlotte

NPSR RTI DL Release