

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Transfer of Perpetual Lease - Estate of the Late W Woolnough

RECOMMENDATION

It is recommended that the Board seek the Minister's approval for the transfer of Perpetual lease 1975/06 by devolution under the will of the Late Wallace Henry Woolnough to Denise Cheryl Tokailagi.

BACKGROUND

An application has been received from the NSW Trustee and Guardian, as Executor of the Estate of the Late Mr Woolnough, to transfer the Deceased's Perpetual lease to Denise Tokailagi. Ms Tokailagi is the beneficiary of the lease under the Will, is an Islander and lives on the Island. A copy of a covering letter from the Executor of the Estate is attached at Tab A. A copy of the Grant of Probate of the Will of the Late Mr Woolnough is attached at Tab B.

CURRENT POSITION

Section 23 of the Lord Howe Island Act ("the Act") governs the transfer of perpetual leases, with subsections (10) to (13) dealing with the transfer of leases the subject of a will or intestacy.

Section 23(10)(a) provides that *"If a lease under this Act devolves under a will or intestacy upon any person, such person may hold the lease for such period after the death of the testator or intestate as the Minister on the recommendation of the Board may permit."*

Section 23(10)(d) provides that *"If such person does not within any such period obtain the certificate of the Minister as aforesaid, nor transfer the lease as aforesaid, the same together with any moneys paid to the Crown in respect thereof shall be liable to forfeiture."*

The NSW Trustee and Guardian has not sought approval to hold the lease under Section 23(10)(a) for any period and has, instead, applied to transfer the lease directly to the beneficiary. This is within the power of the Executor and effectively acquits the leasehold affairs of the Estate.

As Ms Tokailagi is an Islander, the application otherwise complies with the Board's "Transfer of Perpetual Lease Policy".

RECOMMENDATION

It is recommended that the Board seek the Minister's approval for the transfer of Perpetual lease 1975/06 by devolution under the will of the Late Wallace Henry Woolnough to Denise Cheryl Tokailagi.

Prepared: James Lonergan, Manager Environment & Community Services

Endorsed: Penny Holloway, Chief Executive Officer

Attachments:

Attachment A: Letter from NSW Trustee & Guardian dated 12 July 2017

Attachment B: Probate of the Will dated 17 January 2017 (CONFIDENTIAL)



Justice
NSW Trustee
& Guardian

12 July, 2017

Your ref: P-L305

Our ref: P3D

RECEIVED

18 JUL 2017

Lord Howe Island Board

Lord Howe Island Board
PO BOX 5
LORD HOWE ISLAND NSW 2898

Matter of : Wallace Henry Woolnough

Matter ID: 171260

Re: Perpetual Lease 1975/06

Dear Sir/Madam

I refer to your letter of the 12/05/2017.

Attached are the following:

1. Cheque in the amount of \$90.00 representing fees for Form 5 and Form 6 in total.
2. Form 5 Application
3. Declaration "A"
4. Declaration "B"

Would you please seek the necessary approval to transfer the realty into the name of the beneficiary Denise Cheryl Tokailagi.

Please advise when approval is held, so that we can send Form 6 to your office.

Yours sincerely

A handwritten signature in black ink, appearing to read "SL", written over a horizontal line.

Sherelle Littlebury
for NSW Trustee and Guardian

Encs