

LORD HOWE ISLAND BOARD

Business Paper

OPEN SESSION

ITEM

Application for consent to transfer PL1954.24 from the estate of the late Hazel Payten to Vicky Payten and Gayl Fisher.

RECOMMENDATION

The Board recommend to the Minister to consent to the transfer of Perpetual Lease 1954.24 held by the Estate of the late Hazel Amelia Payten to Vicky Suzanne Payten and Gayl Lynette Fisher in equal shares as tenants in common.

BACKGROUND

On 4 July 2018 the lease holder of Perpetual lease PL1954.24 Hazel Payten passed away. Probate was granted to Vicky Susanne Payten and Gayl Lynette Fisher with Biddulph and Salenger acting on behalf of the executor. The will states that the Perpetual lease devolve to Gayl Lynette Fisher and Vicky Susanne Payten in equal shares as tenants in common.

CURRENT POSITION

Lease transfers are governed under section 23 of the Lord Howe Island Act 1953. In considering an application the board must consider the following elements of the transfer request:

- The transfer application must be made in the prescribed form (Form 5)
- The recipients of the lease transfer must:
 - o be islanders as defined under the Act; or
 - o the recipient is a direct lineal descendant of the leaseholder (s23(11)); or
 - o the Board is satisfied that there are no islanders in a position to hold the Lease (s23(4))
- The leaseholder(s) must reside on the lease (s21(7))

Vicky Payten has supplied a statutory declaration stating that she is a ten year islander, and therefore meets the definition of an islander under s3(c) of the Act. She also currently resides on the lease, and as such will satisfy the residency on lease condition.

Gayl Fisher does not meet the definition of an islander under the Act definition detailed in s3. However she is the direct lineal descendant of an Islander who held the lease. Specifically she is the daughter of the late Hazel Payten. Section 23(11)(a) of the Act allows for a lineal descendant of a lease holder to be classified as an Islander if the lease is devolved to them by way of will. As such Gayl can be considered an Islander of the purpose of this transfer and is entitled to hold the lease.

For approximately the last 5 months Gayl has been residing on the lease, and as such she currently satisfies the requirement to reside on the lease.

Section 23(4) of the Act gives the Board the absolute discretion to recommend the granting or refusal of consent to a lease transfer. The proposed lease transfer meets all the requirements of the Act to allow the Board to recommend to the Minister to approve the lease transfer. This paper recommends that the lease transfer application be supported.

RECOMMENDATION

The Board recommend to the Minister to consent to the transfer of Perpetual Lease 1954.24 held by the Estate of the late Hazel Amelia Payten to Vicky Suzanne Payten and Gayl Lynette Fisher in equal shares as tenants in common.

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