



EXECUTIVE

Level 14, Mitchell Centre
55-59 Mitchell Street, Darwin
Postal address GPO Box 4821
DARWIN NT 0801
Tel (08) 8999 5857
Fax (08) 8999 3537
Ken.Davies@nt.gov.au

Our ref EDOC2014/16526
FILE2013/276

The Commissioner
Stella Maris Enquiry
Level 2, Stage 5, Cascom Centre
13-17 Scaturchio Street
DARWIN NT 0810

4 April 2014

Dear Commissioner

RE: SUMMONS TO PRODUCE DOCUMENTS TO THE INQUIRY INTO THE STELLA MARIS SITE (NOTICE NO. 2014/98-7~68)

As required by the Summons issued to me on 2 April 2014, a copy of which is attached (Attachment A), I now produce the documents listed in Schedule A to this letter.

In Schedule B to this letter, I list the other documents revealed in the search of the systems of the Department of Education as falling within the ambit of the summons but for which legal professional privilege is claimed. The documents constitute a chain of emails passing between the Solicitor for the Northern Territory, the Department of Lands, the Minister for Lands and the Solicitor-General's Chambers which were created for the sole purpose of seeking and providing legal advice. The Solicitor-General has reviewed the documents and a copy of his email to the Director of the Department's legal unit is attached for your reference (Attachment B).

I confirm that in order to compile the documents which fall within the ambit of the Summons, I directed that a search of the systems within the Department of Education be undertaken. Schedule C to this letter contains a summary of search strings and systems utilised. The results have been reviewed and only those documents detailed in Schedule A and Schedule B fall within the ambit of the Summons.

Please do not hesitate to contact me if further information is required.

Yours sincerely

Ken Davies
Chief Executive

Schedule A – Documents produced

- Email chain comprising emails from Ann-Marie Dooley (which includes as an attachment signed letter of offer dated 3 August 2012 for Lot 5260 Town of Darwin) to Craig Bradley at 5:05pm on 23 January 2013; from Craig Bradley to John Coleman at 5:14pm on 23 January 2013, and from John Coleman to Noelene Swanson and Tim Baldwin at 5:24pm on 23 January 2013.
- Email chain comprising of emails from Ann-Marie Dooley to Melissa Chudleigh, Craig Bradley and Olivia Schmidt at 4:30pm on 4 February 2013, and from Melissa Chudleigh to Ken Davies and Rica Graham at 5:50pm on 4 February 2013.

Shane Dexter

From: John Coleman
Sent: Wednesday, 23 January 2013 5:24 PM
To: Noelene Swanson; Tim Baldwin
Subject: FW: Stella Maris Site - Unions NT
Attachments: SIGNED LETTER OF OFFER - Unions NT - Lot 5260 Darwin.pdf

Importance: High

Hi Guys

Land Admin have just alerted me to this gift to Unions NT on the eve of the election. It will be contentious but the Minister is well within his rights to withdraw the offer. This is prime land and the then Government went against the agencies recommendation to go to a public process.

Just say the word and we'll have a submission prepared.....The unions are about to move on us for not finalising.

Regards

JC

John Coleman | Executive Director | Economic Development
Department of Lands, Planning and the Environment
Darwin Waterfront Corporation
Land Development Corporation
p: (08) 8924 7058 | f: (08) 8924 7044 | m: 0401 115 601
e: John.coleman@nt.gov.au | <http://www.nt.gov.au/dlpe>

Level 5, Energy House, 18-20 Cavenagh Street, Darwin
GPO Box 1680, Darwin, NT 0801



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From: Craig Bradley
Sent: Wednesday, 23 January 2013 5:14 PM
To: John Coleman
Subject: FW: Stella Maris Site - Unions NT

John

As discussed

Unions NT is now asking for consent to lodge a development application.

Regards

Craig Bradley | Director | Land Administration
Department of Lands and Planning
p... (08) 8999 6117 | f... (08) 8999 5404
e... craig.bradley@nt.gov.au | www.nt.gov.au/dlp

Level 2, Cavenagh House, 38 Cavenagh Street, Darwin
GPO Box 1680, Darwin NT 0801

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From: Ann-Marie Dooley
Sent: Wednesday, 23 January 2013 5:05 PM
To: Craig Bradley
Subject: Stella Maris Site - Unions NT

Craig,

Please find attached the signed letter of offer for Lot 5260 Town of Darwin. Unions NT accepted the offer on 3 August 2012. It has paid its deposit of \$442.

The following requirements are still outstanding:

- payment of any stamp duty of Lot 5260 (it will be nil but will still need to be assessed);
- obtaining all necessary development and building approval; and
- obtaining suitable approval from Heritage in relation to any proposed improvements or modifications to the Old Railway Residence.

A Crown lease term of ten years **will not** be issued until these requirements have been met.

Unions NT are now seeking authorisation to lodge the necessary development applications with DAS.

Kind Regards

Ann-Marie Dooley | Senior Project Officer | Land Administration
Department of Lands, Planning and the Environment
p... (08) 8999 6938 | f... (08) 8999 5404
e... ann-marie.dooley@nt.gov.au | www.nt.gov.au/dlpe
Level 1, Arnhemica House, 16 Parap Road, Parap
GPO Box 1680, Darwin NT 0801

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MINISTER FOR LANDS AND PLANNING

Parliament House
State Square
Darwin NT 0800
minister.gmccarthy@nt.gov.au

GPO Box 3146
Darwin NT 0801
Telephone: 08 8901 4102
Facsimile: 08 8901 4110

Mr Alan Paton
Secretary
Unions NT
GPO Box 1833
DARWIN NT 0801

Dear Mr Paton

I am pleased to offer Unions NT a Crown lease for a term of 10 years, at nil cost, over Lot 5260 Town of Darwin for the purposes of a community centre, meeting rooms and office space.

The area of Lot 5260 is approximately 2710m² and is shown on locality plan at Attachment A.


I have also determined that rent is not payable on the Crown lease.

This offer is subject to:

- a) Payment of \$442 (GST inclusive) being document preparation fees at the time of acceptance of this offer;
- b) Payment of any stamp duty of Lot 5260 as assessed by the Commissioner of Territory Revenue;
- c) Unions NT submitting a development proposal to the Department of Lands and Planning outlining all restoration and development work proposed on site to determine Development and Building Permit requirements; and
- d) Unions NT obtaining suitable approval from the Department of Natural Resources, Environment, the Arts and Sports in relation to any proposed improvements or modifications to the Old Railway Residence in accordance with the *Heritage Conservation Act*.
- e) The site being offered 'as is where is' and that there will be no additional financial support provided for building works or other infrastructure located on the site.



 Northern Territory
Government


3/8/12

Should Unions NT wish to accept this offer on the terms outlined above, please sign the enclosed copy of this letter, locality plan at Attachment A and the schedule of lease conditions at Attachment B, **on each page under seal** and return the endorsed documents together with remittance of \$442 within 28 days of the date of this letter to:

Ms Ann-Marie Dooley
Land Administration
Department of Lands and Planning
GPO Box 1680
DARWIN NT 0801

Once the above requirements have been met a Crown lease for a term of 10 years will be issued subject to:

- the statutory requirements of the *Crown Lands Act*; and
- the terms and conditions contained in the Schedule at Attachment B.

In the event that Unions NT cannot accept the offer within the timeframe specified, this offer will automatically lapse unless Unions NT has sought and been granted an extension in writing prior to the expiry period by the Director, Land Administration.


Should you require any further information regarding this matter, please contact Ms Dooley of the Department of Lands and Planning on telephone (08) 8999 6938.

Yours sincerely

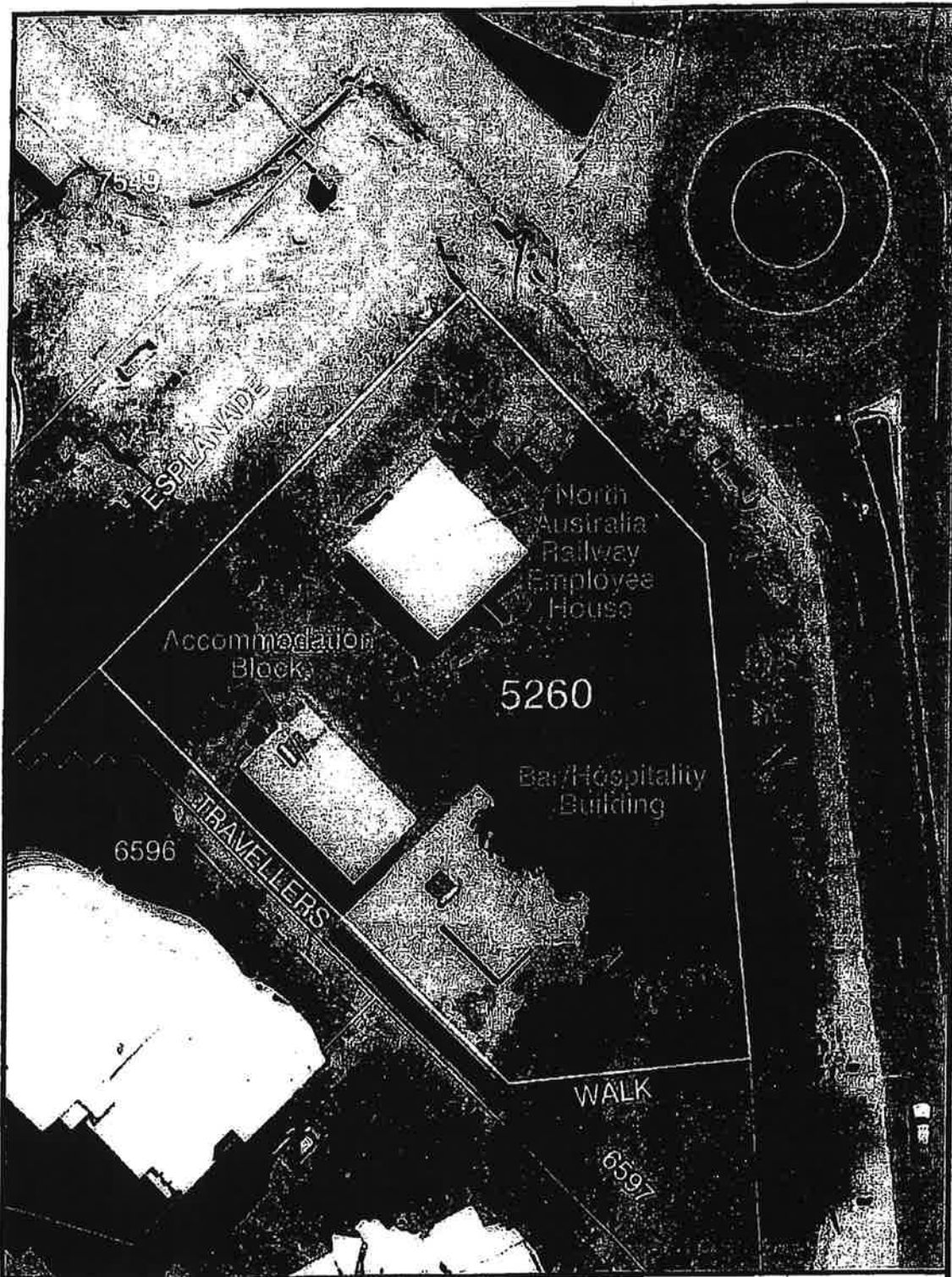


GERRY MCCARTHY

3 AUG 2012



3/8/12



Lot 5260
Town of Darwin



Northern Territory Government

Department of Lands & Planning

0 5 10 15 20 25m

Scale: 500 @ A4



Image 2011

Date: 23 July 2011

Drawing Name: 5260 Accommodation



Alan Pent
3/8/12

Lease Conditions for CLT 2413 – Unions NT

Commencement Date:

This lease shall commence on the day it is registered at the Registrar-General's Office.

Expiry Date:

This lease shall be for a term of ten (10) years from the date of registration.

Reservations:

1. Reservation of a right of entry and inspection.
2. Reservation of all minerals, mineral substances and ores in or upon the leased land, including gems, stones, valuable earths and fossil fuels.
3. Reservation of a power of resumption.

Provisions:

1. The purpose of the lease ('the lease purpose') is community centre, meeting rooms, office space and ancillary uses.
2. The annual rent for the lease (called the rent) will be nil.
3. This lease is granted under and subject to the Crown Lands Act and the Regulations, and is conditional upon compliance by the Lessee with the covenants and conditions and will, subject to the Crown Lands Act and the Regulations, be liable to be forfeited for non-compliance with any such lease condition.
4. The Lessee may at any time surrender the lease in the manner prescribed under the Crown Lands Act.
5. For the purpose of section 58 of the Crown Lands Act the Lessee agrees that the Minister may at his absolute discretion determine the Lessee's rights in improvements.

Lease Conditions:

1. Subject to the *Crown Lands Act* the Lessee must only use the Leased Land for the Lease Purpose.
2. Any development of the Leased Land must be in accordance with any Development Permit, if required, under the *Planning Act* affecting the Leased Land and responsibility for obtaining such permit, and the costs thereof, will be borne by the Lessee.



Alan Pelt
3/8/12

3. The Lessee must pay all rates, taxes and any other outgoings which may at any time become due in respect of the Leased Land.
4. The Lessee is responsible for the cost of the provision and connection of all services, including access to the Leased Land to the satisfaction of the relevant authorities.
5. The Lessee must provide any easements required by the relevant service authorities at no cost to the Territory.
6. The Lessee must ensure that at all times and to the satisfaction of the Minister, the Leased Land is kept clean, tidy and free of weeds, debris, dry herbage, rubbish, carcasses of animals and other unsightly or offensive matter and harbour for insects, pests or the breeding of mosquitoes and, must leave the Leased Land in a clean and tidy condition at the Expiry Date.
7. The Lessee will at all times maintain and repair and keep in repair all improvements, buildings and infrastructure on the Leased Land and maintain the Leased Land to the satisfaction of the Minister.
8. If the Lessee fails to observe and carry out or to cause to be observed or carried out Lease Conditions 6 and 7 above, the Territory may enter onto the Leased Land and do all things necessary to that end and the expense and cost thereof will be borne and payable by the Lessee on demand and may be recovered by the Territory as a debt due to the Territory.
9. The Lessee releases and indemnifies the Territory from and against any loss or claim that may arise out of or in connection with the activities conducted by the Lessee on the Leased Land, including any breach or failure to comply with any condition of this Crown Lease Term.
10. Upon surrender, termination or forfeiture of this lease, if requested by the Minister, the Lessee must without delay remove the Lessee's improvements upon the leased land.
11. In relation to that part of the leased land from which improvements are removed, the Lessee must restore the leased land to its original state to the satisfaction of the Minister. The Lessee is responsible for all costs of the removal of improvements and restoration of the leased land.
12. The Lessee shall not, without the consent of the Minister:
 - (a) transfer its lease;
 - (b) sub-let the leased land; or
 - (c) otherwise part with possession of the land or part of the land.
13. The Lessee will ensure that all building plans have the necessary approvals prior to commencement and/or occupancy of building.
14. The Lessee acknowledges that the Old Railway Residence building is a declared Heritage Place and that any use, maintenance or improvements



Alan Pat
3/8/12

to the building must be in accordance with the Heritage Conservation Act and will require approvals from the relevant authorities.

15. The Lessee acknowledges that the power supply for Lot 6597 also known as "Travellers Walk" is located on Lot 5260 and should not be altered in any way without prior consent from the Minister and/or Power and Water Corporation.
16. The Lessee may, no later than twelve months prior to the expiry of the lease, apply in writing for an extension of the term of the lease for an additional ten (10) years, subject to payment of any administrative costs or lodgement fees.



Alan Pat
3/8/12

Shane Dexter

From: Melissa Chudleigh
Sent: Monday, 4 February 2013 5:50 PM
To: Ken Davies
Cc: Rica Graham
Subject: FW: STELLA MARIS - Unions NT

Hi Ken,

FYI – it appears the Unions are now starting to place some pressure on the Department to progress this matter so that they can lodge their Development Application.

I have asked the Department to provide the market value of the site; to clarify whether the Unions NT approached the former Government about leasing this site or if the former Government simply offered it to Unions NT; and if the Department has seen any proposed development plans for the site. I'll let you know as soon as I receive a response.

Thanks
Melissa

From: Ann-Marie Dooley
Sent: Monday, 4 February 2013 4:30 PM
To: Melissa Chudleigh
Cc: Craig Bradley; Olivia Schmidt
Subject: STELLA MARIS - Unions NT

Afternoon Melissa,

Please be aware that Peter Shepherd (Unions NT) is chasing his letter of authorisation to lodge his Development Application with DAS.

He is querying why the process is taking so long.

Kind Regards

Ann-Marie Dooley | Senior Project Officer | Land Administration
Department of Lands, Planning and the Environment
p... (08) 8999 6938 | f... (08) 8999 5404
e... ann-marie.dooley@nt.gov.au | www.nt.gov.au/dlpe
Level 1, Arnhemica House, 16 Parap Road, Parap
GPO Box 1680, Darwin NT 0801



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Schedule B – Documents not produced (Legal Professional Privilege claimed)

- Email from Karen Christopher (SFNT lawyer) to Ken Davies at 6.42pm on 12 February 2013;
- Email from Ken Davies to Karen Christopher at 6.51pm on 12 February 2013;
- Email from Karen Christopher to Ken Davies at 6.56pm on 12 February 2013;
- Email from Sarah Wilkie (SFNT lawyer) to Craig Bradley at 5.33pm on 26 February 2013;
- Email from Craig Bradley to Sharon Jones at 6.31pm on 27 February 2013;
- Email from Sharon Jones to Sarah Wilkie at 4.27pm on 28 February 2013;
- Email from Sarah Wilkie to Michael Grant (Solicitor General) at 10.30am on 1 March 2013;
- Email from Michael Grant to Sarah Wilkie at 11.22am on 1 March 2013;
- Email from Sarah Wilkie to Ken Davies at 11.30am on 1 March 2013;
- Email from Ken Davies to Minister Chandler at 11.34am on 26 February 2013;
- Email from Minister Chandler to Ken Davies at 8.23pm on 28 February 2013.

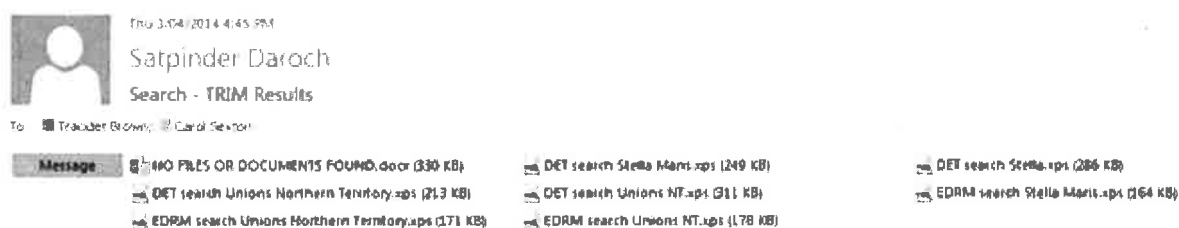
Schedule C – Search strings and systems utilised

→Collection of records related to following search strings was conducted by IT:

- Stella
- Stella Maris
- Apostleship of the Sea
- Unions NT
- Harold Nelson Holdings
- Lease one Lot 5260 Town of Darwin

→Following Systems were searched

1. TRIM - All records associated with Physical files, application built in process was used for searching
2. TRIM – All Electronic records – application built in process was used for searching.



3. Business Network Drive All documents - Operating system built in searches was used (File Results.csv)
4. Email Messages log for all staff accounts – scripting used for searching the logs and output was produced to spreadsheets (Exchange Logs.zip)



5. SharePoint – All Records – SharePoint actual string match search was used and PDF of the results provided. (Search.zip)



Inquiry into Stella Maris

Notice No: 2014/98-7~68

**SUMMONS TO PRODUCE
DOCUMENTS TO THE INQUIRY INTO THE STELLA MARIS SITE**

To: Mr Ken Davies
Chief Executive Officer
Department of Education
GPO Box 4821
Darwin NT 0801

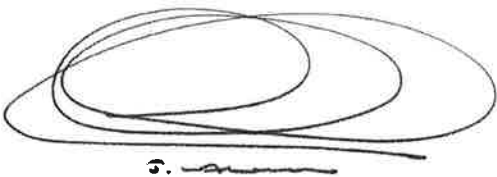
(via email) ken.davies@nt.gov.au

YOU ARE SUMMONED:

To produce this summons or a copy of it and the documents or things specified in the Schedule at 5:00pm on the 4th day of April 2014 at Stage 5 Cascom Centre, 13-17 Scaturchio Street, Casuarina in the Northern Territory of Australia (otherwise known as the Metcom building). You must comply with this summons by attending to produce the documents or things specified in the Schedule to this Summons at the date, time and place specified for attendance and production unless you receive notice of a later date or time from the Commissioner, in which case the later date or time is substituted.

Failure to comply with this summons without lawful excuse is an offence against section 11 of the *Inquiries Act* (NT) and may result in your prosecution.

Date of issue: 2 April 2014



John Adrian Lawler AM APM
Commissioner
Stella Maris Inquiry

Issued under section 9(1) of the *Inquiries Act* (NT)

Contact officer:
Christopher Stewart
Level 2, Stage 5, Cascom Centre
13-17 Scaturchio Street Darwin NT 0810
Tel: 08 8999 6009
Christopher.Stewart@nt.gov.au

Inquiry into Stella Maris

Notice No: 2014/98-7~68

SCHEDULE

Provide all related information as contained in my letter and annexure 1 of 16 January 2014 to Mr Gary Barnes (attached to this schedule).

A handwritten signature in black ink, consisting of several overlapping loops and a horizontal line at the bottom.

John Adrian Lawler AM APM
Commissioner
Stella Maris Inquiry

NOTES

Addressee a corporation

If this summons is addressed to a corporation, the corporation must comply with the summons by its appropriate or proper officer.

Conduct money

Upon request to the Contact Officer, the Inquiry will pay you an allowance in accordance with the Inquiries (Witnesses' Expenses) Regulations for your costs in attending.

Production of a number of documents or things

If you produce more than one document or thing, you must produce a list of the documents or things produced.

Production of copy instead of original

If the summons requires you to produce a document, you may produce a copy of the document unless the summons specifically requires you to produce the original. A copy of a document may be a photocopy or a PDF file on a CD-ROM.

Application in relation to summons

You may apply to the Commissioner to set aside the summons, or to make a claim for legal professional privilege, public interest immunity or confidentiality in relation to any document or thing the subject of the subpoena.

Legal representation

It is not necessary but you may consult a lawyer about the summons. If you decide to do so, section 7 of the *Inquiries Act* provides that witnesses may be represented by a legal practitioner or agent.

Compliance

If you refuse, or fail, to comply with this summons you may be charged and found guilty of an offence punishable upon conviction by a fine not exceeding 100 penalty units (\$17,000).

Carol Sexton

Subject: FW: Department of Education - Production of Documents in Response to Summons Issued by the Inquiry into Stella Maris

From: Michael Grant <Michael.Grant@nt.gov.au>

Date: 2 April 2014 4:18:14 PM ACST

To: Carol Sexton <Carol.Sexton@nt.gov.au>

Cc: John Lawler <John.Lawler@nt.gov.au>

Subject: Department of Education - Production of Documents in Response to Summons Issued by the Inquiry into Stella Maris

Dear Ms Sexton

I have inspected the documents you have provided which are in the possession, custody or control of the Department of Education and which fall within the ambit of the summons issued by the Inquiry.

I confirm that the documents for which legal professional privilege is claimed constitute a chain of emails passing between the Solicitor for the Northern Territory, the Department of Lands, the Minister for Lands and the Solicitor-General's Chambers which were created for the sole purpose of seeking and providing legal advice concerning whether there had been compliance with ss 11 and 12 of the *Crown Lands Act*. I understand that these documents are only in the possession of the Department of Education because when Mr Davies transferred from the position of Chief Executive of the Department of Lands to Chief Executive of the Department of Education they remained in his email account archives.

I also confirm that these email transmissions are documents which have previously been the subject of a claim for privilege by the Department of Lands, and which the Commissioner has previously accepted properly attract a claim for legal professional privilege.

Regards

Michael Grant

Michael Grant QC

Solicitor-General for the Northern Territory

GPO Box 1722, Darwin NT 0801

T 08 8999 6682 F 08 8999 5513 M 0418 106 279

michael.grant@nt.gov.au