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Fw: LEX 20664 Request to Draft a Deed - Broken Hill, NSW [DLM=Sensitive-Legal]

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05/06/2013 15:23

Cc: s22

Sensitive Legal

This email contains information that is subject to legal professional privilege.

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regards,

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s22 | Director | Capital Works Section | Office for Aboriginal and Torres Strait Islander Health
| Department of Health and Ageing | Phone: s22 | Fax: s22 | Email:

s22

Forwarded by s22 /OATSIH/Health on 05/06/2013 15:16

From: s22 /LGCD/Health
To: s22 /OATSIH/Health@Health.gov.au,
Cc: s22 /LGCD/Health@Health.gov.au, Pat Var
s22 /LGCD/Health@Health.gov.au
Date: 04/06/2013 13:18
Subject: LEX 20664 Request to Draft a Deed - Broken Hill, NSW [DLM=Sensitive Legal]

Hi s22

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In relation to the specific issues raised in your email:

- Clause 36 of the proposed Funding Agreement deals with termination of the Narooma Funding Agreement and the use of those funds for the Broken Hill Project;

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Regards,

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Lawyer on secondment



OATSIH Funding Agreement - HAC (Broken Hill and termination provisions for Narooma).doc



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Hi s22 - here is the deed of termination and entr...

03/06/2013 10:05:23

From: s22 /OATSIH/Health
 To: s22 LGCD/Health@Health.gov.au
 Cc: s22 OATSIH/Health@Health.gov.au, s22
 s22 OATSIH/Health@Health.gov.au
 Date: 22/05/2013 10:04
 Subject: Request to Draft a Deed - Broken Hill, NSW [SEC=UNCLASSIFIED]

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Background:

On 30 June 2010 the Commonwealth executed an OATSIH Capital Works Funding Agreement (refer attached) with Health Administration Corporation (NSW Health) to provide a funding contribution of \$2 million (GST exclusive) towards the construction of a new primary health care facility in Narooma, NSW (the Narooma project). It was intended that the new facility, once completed, would be owned and operated by Katungul Aboriginal Corporation Community & Medical Services (Katungul). The Funding Agreement granted consent from the Commonwealth to the sale of the existing property owned by Katungul as this had previously been purchased using funds from ATSIC. The Commonwealth's consent was conditional upon the proceeds of the sale of the existing property contributing to the overall project funds. Further, the Funding Agreement required the State and Katungul to enter into a three-way Purposes Deed with the Commonwealth. Payment of \$2 million was made upon execution of the Funding Agreement. The Project Period expired on 30 June 2012 and no

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variations have been entered into to date. No Commonwealth funds have been expended by NSW Health.

The initial progress of the health clinic was slow due to the lack of suitable sites in and around Narooma and complexities negotiating land tenure with the local land council. Due to subsequent concerns with Katungul's governance and financial administration practices a special administrator was appointed by the Office of the Registrar of Indigenous Corporations to Katungul in December 2011. The capital works project was subsequently put on hold to mitigate further risk. The period of special administration ceased in September 2012, and while services from the existing property are currently being provided, both NSW Health and OATSIH do not consider the organisation currently has the capacity to proceed with managing a significant capital works project.

NSW Health has written to OATSIH seeking agreement to the redirection of \$2 million from the Narooma project towards a capital works project in Broken Hill. The project is estimated to cost \$5.2 million with NSW Health providing \$2 million towards the total funding. As yet, a source for the remaining balance of funds has not been confirmed.

A decision regarding the transfer of the funding amount from the Narooma project to the proposed Broken Hill project is currently under consideration by the Minister. Should the Minister agree to the change in purpose it is proposed to terminate the current Funding Agreement and enter into a new Funding Agreement with NSW Health. s22

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s22 | Director | Capital Works Section | Office for Aboriginal and Torres Strait Islander Health
| Department of Health and Ageing | Phone: s22 | Fax: s22 | Email:
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