

19.5 REDLAND AQUATIC AND EMERGENCY PRECINCT LAND EXCHANGE

Objective Reference:

Authorising Officer: Peter Best, General Manager Infrastructure & Operations

Responsible Officer: Bradley Salton, Group Manager City Infrastructure

Report Author: Sven Ljungberg, Program Manager Aquatic & Emergency Precinct

Attachments:

1. 61 McMillan Road, Alexandra Hills
2. 37 Wellington Street, Cleveland

The Council is satisfied that, pursuant to Section 275(1) of the *Local Government Regulation 2012*, the information to be received, discussed or considered in relation to this agenda item is:

- (h) *other business for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage.*

PURPOSE

To seek a resolution from Redland City Council (Council) to direct Redland Investment Corporation to exchange their freehold land holding Lot 1 on RP810161, 61 McMillan Road, Alexandra Hills (Attachment 1), for Queensland State (State) Reserve Lot 1 CP910606, 37 Wellington Street, Cleveland (Attachment 2), into Council freehold. Further, for Council to seek a payment waiver from the State for any differential in the land valuations and if not successful in securing the waiver, pay the State \$ [REDACTED] being the differential in the land valuations.

BACKGROUND

Council and Surf Life Saving Queensland (SLSQ) have negotiated to relocate SLSQ's State headquarters to Cleveland, adjacent to the Cleveland Aquatic Centre (CAC), to create the Redland Aquatic & Emergency Precinct.

In order to facilitate this move, SLSQ requires certainty over land tenure to justify its investment decision. A minimum of a 60 year lease is required by SLSQ. The maximum operational lease the State allows for land managed in trust is 30 years and for this reason Council undertook to investigate freehold acquisition of the CAC land from the State.

The precinct site is an amalgam of 4 separate lots, occupied by CAC, Queensland Fire and Emergency Services (QFES), Queensland Ambulance Service (QAS), State Emergency Services (SES) and Cleveland Ramp Park.

The land that encompasses the CAC, SES and Ramp Park is State owned reserve for the purpose of sport and recreation, with RCC managing the land as trustee.

- The Cleveland Aquatic Centre is located on Lot 2 SL806449, 222-230 Russell Street, Cleveland, zoned Community Facilities 2; and
- The State Emergency Services and Ramp Park is located on Lot 1 CP910606, 37 Wellington Street, Cleveland, is zoned Community Facilities 2 and Conservation.

Following lengthy negotiations and due diligence investigations, the State has agreed in principle to a land exchange for the land known as Lot 1 CP910606.

ISSUES

- Council and SLSQ signed a Memorandum of Understanding on the 11 October 2017 to jointly redevelop the Redland Aquatic & Emergency Precinct.
- Redland Investment Corporation (RIC) assisted by proposing sites identified as being surplus to Council's requirements and were investigated as potential exchange lots.
 - Lot 1 RP810161, 61 McMillan Road, Alexandra Hills was identified as meeting DNRME requirements.
 - Consultation was held with the Division 8 Councillor in September 2017 and agreement reached to offer Lot 1 RP810161 in exchange for Lot 1 CP910606.
- RIC procured a valuation for the McMillan Road property from Savills in September 2017.
 - Savills returned a market value assessment in September 2017 of [REDACTED] for the McMillan Road property, based on the proposed Medium Density zoning in the then draft CITY PLAN.
 - The State Valuation Service (SVS) was asked by DNRME to value the CAC land parcels for the purpose of the exchange and provided a market value assessment of [REDACTED] for Lot 1 CP910606.
 - The SVS responded to DNRME in October 2018, accepting a valuation of [REDACTED] for the McMillan Road property, resulting in a differential (shortfall) of [REDACTED] between Lot 1 RP810161 and Lot 1 CP910606.
- SLSQ may be offered a lease footprint over part of Lot 1 CP910606, the details of which will be subject to further detailed planning and a subsequent Council report to endorse the lease footprint and commercial terms.
- Anticipated Council benefits funded by SLSQ include:
 - 25 metre, 6 lane outdoor deep water rescue pool with movable floor and wave maker, available to the public, subject to SLSQ operational requirements
 - Commercial office space of approximately 600m² Gross Floor Area (GFA) for State Emergency Services Cleveland and Council Local Disaster Coordination Centre
 - Secure parking, warehousing and storage of approximately 600m² GFA for SES
 - Gymnasium, wellbeing consulting suites and crèche facilities available to the public

Lot 1 on RP810161 described as 61 McMillan Road Alexandra Hills

- Council's current policy intent is to protect the environmental values on this land by rezoning to Conservation and returning the land into its administrative control. The new zoning took effect when the new Redland City Plan commenced on 8 October 2018.
- Redland Investment Corporation, (the current owner) confirm it intends to transfer Lot 1 RP810161, 61 McMillan Road, Alexandra Hills back to Council ownership, in accordance with Council general meeting resolution 13.1.1 clause 2 dated 27 January 2016.
- To expedite this transaction, this report seeks to repeal clause 2 of resolution 13.1.1 dated 27 January 2016 and direct RIC to transfer the land directly to the State.
- Item 13 (4) of the Redland City Council Meeting Standing Orders POL – 3127 states:

Where a resolution (a later resolution) of the local government relates to a matter the subject of a previous resolution (a previous resolution) passed more than 3 months previous, the previous resolution is amended or repealed to the extent that it is inconsistent with the later resolution.

- This report also seeks a resolution for Council to pay [REDACTED] to the State being the differential in land valuations between Lot 1 RP810161 and Lot 1 CP910606, should a waiver not be accepted by the State. For clarity Lot 1 CP910606 will be transferred into Council freehold ownership as a result of this exchange.

Local Government Regulation 2012

Section 227 of the *Local Government Regulation 2012* (LGR) provides that Council cannot enter into a contract for valuable non-current assets (including land) unless such disposal is by auction or tender, or other exceptions apply. If Council were to dispose of land directly to the State, an exception to the restriction imposed by section 227 of the LGR would have to apply.

RIC is not subject to section 227 of the LGR, therefore RIC may dispose of the McMillan Road property directly to the State without the need for Council to satisfy additional exception criteria. This action will reduce the administration associated with the land transfer and create a more efficient process.

If Council were to transfer the land to the State, section 236 of the LGR would provide an exception to the need to dispose of the land via tender or auction. This section provides at s236(1)(c)(v):

(1) Subject to subsections (2) to (4), a local government may dispose of a valuable non-current asset other than by tender or auction if—

(c) for the disposal of land or an interest in land—

(v) all or some of the consideration for the disposal is consideration other than money, for example, other land given in exchange for the disposal, if—

(A) it is in the public interest to dispose of the land without a tender or auction; and

(B) the disposal is otherwise in accordance with sound contracting principles;[sic]

Furthermore, s236(2) provides:

An exception mentioned in subsection (1)(a) to (d) applies to a local government disposing of a valuable non-current asset only if, before the disposal, the local government has decided, by resolution, that the exception may apply to the local government on the disposal of a valuable non-current asset other than by tender or auction. [sic]

Section 236(1)(c)(v) would apply if Council were the transferor of the land, as the land exchange to facilitate the partnership with SLSQ demonstrates both substantial community benefit through the delivery of additional assets, enhanced levels of service and financial sustainability over and above the Council develop and operate alone model; meeting both Section 236(1)(c)(v), (A) and (B).

Section 104 (3) of the *Local Government Act 2009* details sound contracting principles, specifically this transaction satisfies s104 (3) (a) *value for money; and (c) the development of competitive local business and industry [sic]* through the financial sustainability and substantial community benefit the project will deliver in replacing an aged underperforming asset, with new and enhanced assets and higher levels of service.

STRATEGIC IMPLICATIONS

Legislative Requirements

Local Government Act 2009

Local Government Regulation 2012

Land Act 1994

Native Title Act 1993

Risk Management

- DNRME requires “A letter from SLSQ confirming its commitment to the project and that the site and area Lot 1 CP910606, 37 Wellington Street, Cleveland is sufficient for its purposes.” [sic] To date the letter remains outstanding, and will be required to progress the application and land transfer transaction.
- The valuations are valid for a period of 3 months in accordance with departmental policy (Valuations for Dealings under the Land 1994. PUX/901/656, SLM/2013/488). If the date of the valuation is older than 3 months, before deciding on the action a review of the valuation is to be sought and obtained to ensure that the valuation is current and reflects any movement in market values.
- Land valuations were valid until 31 January 2019. Accordingly, it will be necessary for these valuations to be reviewed by the SVS and adjusted if required. Verbal advice from DNRME in January 2019 suggests that the valuations are unlikely to change if reviewed by April 2019.
- Acquisition of the Cleveland Aquatic Centre land presents an opportunity for Council to acquire land in close proximity to Cleveland CBD.
- Freehold tenure provides SLSQ and other potential project partners with investment certainty in their commercial decision making.
- The return of the McMillan Road property to State ownership may ensure the community use and environmental values of the land is protected in perpetuity.

Financial

Stamp duty is estimated at [REDACTED], and can be funded from the FY 2018/2019 CAPEX budget for this project. These costs do not include legal or conveyance fees. Such costs will be covered out of existing project budget allocations in FY 2018/2019.

The land exchange with DNRME is an unbudgeted CAPEX shortfall of [REDACTED] in FY 2018/2019.

Advice from Finance Business Partnering Unit (FBPU) is that this unbudgeted shortfall can be addressed by using savings from other FY 2018/2019 budgeted Capital Projects, to ensure Council’s total Capital program remains within the adopted Capital budget.

Payment of the [REDACTED] can be made from the “Land for Community Facilities Trunk Infrastructure Reserve”, as the intended use of the land meets the criteria defined for the purpose of the Reserve. This has been confirmed by FBPU, after consultation with officers from Infrastructure Planning & Charging and Community and Economic Development.

People

The transaction will be progressed with existing project and legal staff.

Environmental

The State's intent following the exchange is to return the McMillan Road site to Council to manage as reserve trustee for a community purpose. The transition to Conservation zoning occurred upon commencement of City Plan, thereby further protecting community and environmental values.

Social

The exchange of land stands to benefit the community by ensuring no net loss of land set aside for community purposes, and protects McMillan Road from future development by virtue of State Government ownership. The values and use of the land remain with the community and align strongly with Council's intent for this lot.

Alignment with Council's Policy and Plans

Redlands 2030 Community Plan, which outlines the Council vision outcome goals, including Strong and Connected Communities:

- Our health, wellbeing and strong community spirit will be supported by a full range of services, programs, organisations and facilities, and our values of caring and respect will extend to people of all ages, cultures, abilities and needs.

CONSULTATION

Consulted	Consultation Date	Comments/Actions
Mayor	Ongoing	Continuing consultation to enable the actioning and implementation of the RCC/SLSQ Agreement
Division 2 Councillor	Ongoing	Project status briefings.
Division 8 Councillor	September 2017	Offer to exchange Lot 1 on RP810161 for Lot 1 CP910606 discussed and agreed.
General Manager Infrastructure & Operations	Ongoing	Project status briefings and matters pertaining to project agreement with SLSQ, scope and land exchange.
Redland Investment Corporation (RIC)	Ongoing	RIC engaged to assist with valuations, progress negotiations with DNRME, and identify suitable properties for exchange.
Department Natural Resource Mines and Environment (DNRME)	Ongoing	DNRME consulted to identify requirements to be satisfied for Native Title extinguishment, site selection and criteria for identifying suitable exchange property. DNRME confirm suitability of Lot 1 on RP810161, and advise accepted valuation amount [REDACTED]
Surf Life Saving Queensland (SLSQ)	Ongoing	SLSQ consulted on terms of agreement, sign Memorandum of Understanding and confirm suitability of lease footprint over part of Lot 1 CP 910606.
Legal Counsel (RCC)	Ongoing	Assistance and advice provided on Native Title Extinguishment, Memorandum of Understanding and exceptions to procurement required under <i>Local Government Regulation 2012</i> . Review and approval of legal aspects of this report.
Business Partnering	Ongoing	Review and approval of financial and budget sections of this report.

Consulted	Consultation Date	Comments/Actions
Finance		
Business Partnering Finance	21/01/2019	Amendment to financial section to reflect budget allocations and options if waiver is not accepted by State.
Legal Counsel RCC	04/12/2018	Agreement to recommend rescinding previous resolution of the 27 December 2016 directing RIC to transfer land back to Council, and amend resolution to direct RIC to transfer land directly to State.
Legal Counsel RIC	04/12/2018	Agreement to recommend rescinding previous resolution of the 27 December 2016 directing RIC to transfer land back to Council, and amend resolution to direct RIC to transfer land directly to State.

OPTIONS

Option One

Noting that this transfer is contingent upon SLSQ providing a letter to DNRME “*confirming its commitment to the project and that the site and area Lot 1 CP910606, 37 Wellington Street, Cleveland is sufficient for its purposes.*”, Council resolves to:

1. repeal clause 2 of Council resolution 13.1.1 dated 27 January 2016 directing Redland Investment Corporation to transfer Lot 1 RP810161, 61 McMillan Road, Alexandra Hills back to Council;
2. direct the Redland Investment Corporation to transfer Lot 1 RP810161, 61 McMillan Road, Alexandra Hills to the State in exchange for Lot 1 CP910606, 37 Wellington Street, Cleveland being transferred by the State to Council as freehold; and
3. seek a waiver of [REDACTED] from the State, being the differential in land valuations between Lot 1 RP810161 and Lot 1 CP910606, and if not successful, Council pay [REDACTED] to the State, being the differential in land valuations between Lot 1 RP810161 and Lot 1 CP910606.
4. This report is to remain confidential until all transactions associate with the land transfer have been completed.

Option Two

Noting that this transfer is contingent upon SLSQ providing a letter to DNRME “*confirming its commitment to the project and that the site and area Lot 1 CP910606, 37 Wellington Street, Cleveland is sufficient for its purposes.*”, Council resolves as follows:

1. To not to repeal clause 2 of resolution 13.1.1 dated 27 January 2016 directing Redland Investment Corporation to transfer Lot 1 RP810161, 61 McMillan Road, Alexandra Hills back to Council;
2. That the exception in subsection 236(1)(c)(v) of the *Local Government Regulation 2012* applies to the disposal of the land to the State without tender or auction, having satisfied itself that the public interest and sound contracting principles apply;
3. For Council to transfer Lot 1 RP810161 61 McMillan Road Alexandra Hills to the State in exchange for Lot 1 CP910606, 37 Wellington Street, Cleveland being transferred by the State to Council as freehold; and

4. That Council seek a waiver of [REDACTED] from the State, being the differential in land valuations between Lot 1 RP810161 and Lot 1 CP910606, and if not successful, Council pay [REDACTED] to the State, being the differential in land valuations between Lot 1 RP810161 and Lot 1 CP910606.

Option Three

That Council resolves to defer this decision to a later date.

OFFICER'S RECOMMENDATION

Noting that this transfer is contingent upon SLSQ providing a letter to DNRME *"confirming its commitment to the project and that the site and area Lot 1 CP910606, 37 Wellington Street, Cleveland is sufficient for its purposes."*, Council resolves to:

1. repeal clause 2 of Council resolution 13.1.1 dated 27 January 2016 directing Redland Investment Corporation to transfer Lot 1 RP810161, 61 McMillan Road, Alexandra Hills back to Council;
2. direct the Redland Investment Corporation to transfer Lot 1 RP810161, 61 McMillan Road, Alexandra Hills to the State in exchange for Lot 1 CP910606, 37 Wellington Street, Cleveland being transferred by the State to Council as freehold; and
3. seek a waiver of [REDACTED] from the State, being the differential in land valuations between Lot 1 RP810161 and Lot 1 CP910606, and if not successful, Council pay [REDACTED] to the State, being the differential in land valuations between Lot 1 RP810161 and Lot 1 CP910606.
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Lot 1 RP810161
61 McMillan
Road Alexandra
Hills

DRAFT

Attachment 1: Proposed
exchange property
Lot 1 RP810161
61 McMillan Road
Alexandra Hills



Lot 1 CP910606
37 Wellington
Street,
Cleveland

Proposed
SLSQ Lease
Footprint
6000m²

Attachment 2: Proposed
exchange property
Lot 1 CP910606
37 Wellington Street,
Cleveland