

19.1 TELECOMMUNICATION FACILITY LEASES

Objective Reference:

Authorising Officer: Louise Rusan, General Manager Community & Customer Services

Responsible Officer: Graham Simpson, Group Manager Environment & Regulation

Report Author: Damien Jolley, Senior Property Officer

Attachments:

1. Locality map - 23 Moreton Outlook Russell Island
2. Locality map - 193-195 Fitzroy Street Cleveland
3. Locality map - 762 Redland Bay Road Redland Bay
4. Locality map - 190-262 Redland Bay Road Thornlands

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

The purpose of this report is to recommend that Council resolve to grant four (4) leases for telecommunication facilities on Council freehold or trust land located at:

- a) 23 Moreton Outlook Russell Island, described as Lot 344 on RP 123989;
- b) 193-195 Fitzroy Street Cleveland described as Lot 1 on CP857140;
- c) 762 Redland Bay Road Redland Bay described as Lot 1 on RP17352543;
- d) 190-262 Redland Bay Road Thornlands described as Lot 2 on SL5716.

BACKGROUND

Council has been approached by various telecommunication carriers with a view to:

- installing two (2) new telecommunication facilities;
- installing a new telecommunication facility that shares an existing facility's monopole with a new ground lease adjacent to the existing facility (co-location);
- renewal of an existing telecommunication facility lease.

This report provides relevant details to each request to enable a decision on granting leases for the facilities.

ISSUES

25 Moreton Outlook Russell Island – New Facility

It has been proposed by [REDACTED] that a new telecommunications facility be installed at this location under the Commonwealth Government Mobile Black Spot Program to improve mobile phone coverage and competition in regional and remote Australia.

The proposed facility will require a ground area of approximately 80m² and a 37.5m monopole. The land is zoned Community Facility and a telecommunication facility is considered accepted development not requiring approval under the City Plan.

The land is not developed and there are no current plans to develop the land for other infrastructure such as wastewater treatment plants, waste disposal facilities, pumping stations or

a Council depot. However the facility is considered high priority in light of improving communications on the southern end of Russell Island and aligns with recommendations from the Bushfire Review Report 2017 prepared by Queensland Fire and Emergency Services.

Adjoining land is not developed and is zoned Community Facility to the north for approximately 80 metres and zoned Character Residential to the south.

Commercial terms are yet to be agreed on and will be negotiated pending resolution to grant a lease.

193-195 Fitzroy Street Cleveland (Henry Ziegenfusz Park) – New Facility

It has been proposed that a new telecommunications facility be installed at this location. The proposed facility will require a ground area of approximately 80m² and a 25m monopole. The land is zoned Community Facility and a telecommunication facility is considered accepted development not requiring approval under the City Plan.

However, the land is State reserve held in trust by Council and use of the land, for a telecommunication facility is considered an inconsistent secondary use of trust land under the Department of Natural Resources, Mines and Energy's (DNRME) Policy PUX901/209 SLM/2013/493.

An in principal approval has been obtained from DNRME pending a land management plan (LMP) being prepared and approved by DNRME. The telecommunications carrier [REDACTED] will be carrying out community consultation to be included in the LMP which will include:

- Three (3) week consultation period;
- a notice to be placed in the local newspaper;
- copies of the Draft LMP to be put on public display at Cleveland Customer Service Centre.

The LMP will then be lodged with DNRME by Council for consideration after appropriate consideration of any submissions received. Council could elect not to lodge lease documentation with DNRME based on the merits of submissions. DNRME can also refuse to grant the lease should the public submissions and/or LMP not be considered appropriate.

The market value for the lease, based on a written report from a registered valuer, has been agreed on and will apply upon registration of the lease.

762 Redland Bay Road Redland Bay (Charlie Buckler Sports field) – Co-location

It has been proposed that a new telecommunication facility will be co-located with an existing Telstra facility at the above location. The facility will require a ground area of approximately 30m² utilising the existing monopole.

The land is zoned Recreation and Open Space and a telecommunication facility is considered accepted development not requiring approval under the City Plan.

The existing facility is screened by mature vegetation and the proposed leased ground area will not require removal of vegetation or impinge on existing activities on the land.

The market value for the lease, based on a written report from a registered valuer, has been agreed on and will apply upon registration of the lease.

190-262 Redland Bay Road Thornlands (Pinklands Sporting Complex) - Renewal

The existing sub lease between the Redlands Rugby League Club (RRLC) and the telecommunications carrier [REDACTED] expires 6 May 2019 at the above location.

Axicom have advised that they wish to maintain the Facility and have requested a new lease.

In order to facilitate a new lease between Council and [REDACTED] there cannot be two leases for the same land area, therefore there is a requirement for the RRLC to surrender their existing community lease to enable a new lease to be made between Council and [REDACTED] for the telecommunications facility.

The RRLC have indicated a willingness to do this and enter into a new community lease with Council for an amended lease area that does not include the telecommunications facility. There is no cost to the RRLC to undertake this process.

The market value for the lease, based on a written report from a registered valuer, has been agreed on.

STRATEGIC IMPLICATIONS

Legislative Requirements

The *Local Government Regulation 2012* describes land as a “Valuable Non-Current Asset” and disposal includes the disposal of all or any part of an interest in the asset such as a lease. Sale by tender or auction is the prescribed method of disposing of land, unless exceptions under the Regulation apply.

In particular reference is made to sub paragraph 236(1)(c)(vi) of the *Local Government Regulation 2012* which states the following exception can apply:-

The disposal is for the purpose of a lease for a telecommunication tower.

Accordingly Council can dispose of the land by entering into a lease and trustee lease for telecommunication facilities without the need to go to tender or auction.

In relation to the trustee lease at Henry Ziegenfusz Park, in accordance with the *Land Act 1994*, Ministerial approval is required for a trustee lease for a use that is not consistent with the purpose of the trust land. Approval is being sought and if not given a trustee lease will not be entered into.

Risk Management

Issues such as electromagnetic radiation will be addressed in the new lease documentation which requires the carriers to provide electromagnetic radiation testing as required under the *Telecommunications Act 1997*. In addition, the carriers will be required to maintain public liability insurance in relation to the facilities.

Financial

Council will not incur any costs with the proposed leases as the carriers will construct and/or maintain the facility and pay for lease preparation and registration in the Queensland Titles Registry.

Council will receive equal to or above market value rent for the duration of the leases. The commercial rent received for the leases contributes to Council revenue.

The Australian Accounting Standard on Leases (AASB 16 Leases) comes into effect for Council on 1 July 2019. Council will be a lessor for the aforementioned leases and no material changes are expected to occur from an accounting perspective. Of note, the leases will be reviewed in full detail by Financial Services to ensure appropriate treatment and disclosures in Council's Annual Reports from 2019-20 onwards.

People

There are no staff implications.

Environmental

Periodic electromagnetic radiation testing and compliance is the responsibility of the carriers and will be incorporated in new lease documentation. Use of the various premises is regulated by planning or environmental approvals that may apply to the land and activity.

Social

There are no social implications identified. Continuation of an up to date telecommunications network provides significant advantages to the community.

Alignment with Council's Policy and Plans

The telecommunication leases support Council's financial sustainability and digital connectivity objectives.

CONSULTATION

Consulted	Position Consulted	Date
Councillor	Councillor - Division 3	12 February 2019
Councillor	Councillor – Division 5	12 February 2019
Councillor	Councillor – Division 6	12 February 2019
City Infrastructure	Senior Advisor Civic and Open Space Asset Management	December 2018
Water and Waste Infrastructure	Principal Engineer	December 2018
City Sport and Venues	Senior Sport & Recreation Officer	May 2018
Water and Waste Operations	Service Manager RedWaste	December 2018
Water and Waste Operations	Service Manager Network Operations	December 2018
City Infrastructure	Principal Engineer	December 2018
City Planning and Assessment	Strategic Planner	December 2018
City Operations	Service Manager Roads, Drainage and Marine	December 2018
City Operations	Parks & Conservation Service Manager	May and June 2018
City Planning and Assessment	Principal Planner	May 2018
City Sport and Venues	A/Service Manager	June 2018

OPTIONS

Option One

That Council resolves to:

- apply the exception to dispose of land or an interest in land, other than by tender or auction, under sub paragraph 236(1)(c)(vi) of the *Local Government Regulation 2012 Act*, for granting of new telecommunication leases or sub lease to telecommunication carriers for the properties listed as follows:
 - 25 Moreton Outlook Russell Island, described as Lot 344 on RP 123989;
 - 193-195 Fitzroy Street Cleveland described as Lot 1 on CP857140;
 - 762 Redland Bay Road Redland Bay described as Lot 1 on RP17352543; and
 - 190-262 Redland Bay Road Thornlands Lot 2 described as on SL5716.
- delegate the Chief Executive Officer under s.257(1)(b) of the *Local Government Act 2009* to make, vary, negotiate and discharge the telecommunication leases at fair market value.
- maintain this report and attachments as confidential, until the leases are finalised, subject to maintaining the confidentiality of legally privileged, private and commercial in confidence information.

Option Two

That Council resolves as follows:

1. The exception under sub paragraph 236(1)(c)(vi) of the *Local Government Regulation 2012* should not apply; and
2. Leases are not granted and if required facilities removed from Council land.

OFFICER'S RECOMMENDATION

That Council resolves to:

1. apply the exception to dispose of land or an interest in land, other than by tender or auction, under sub paragraph 236(1)(c)(vi) of the *Local Government Regulation 2012 Act*, for granting of new telecommunication leases or sub lease to telecommunication carriers for the properties listed as follows:
 - e) 25 Moreton Outlook Russell Island, described as Lot 344 on RP 123989;
 - f) 193-195 Fitzroy Street Cleveland described as Lot 1 on CP857140;
 - g) 762 Redland Bay Road Redland Bay described as Lot 1 on RP17352543;
 - h) 190-262 Redland Bay Road Thornlands Lot 2 described as on SL5716.
2. delegate the Chief Executive Officer under s.257(1)(b) of the *Local Government Act 2009* to make, vary, negotiate and discharge the telecommunication leases at fair market value.
3. maintain this report and attachments as confidential, until the leases are finalised, subject to maintaining the confidentiality of legally privileged, private and commercial in confidence information.



Red-e-map Plot

Legend


Land

Current Land

Current Lot

Scale: 1:4500

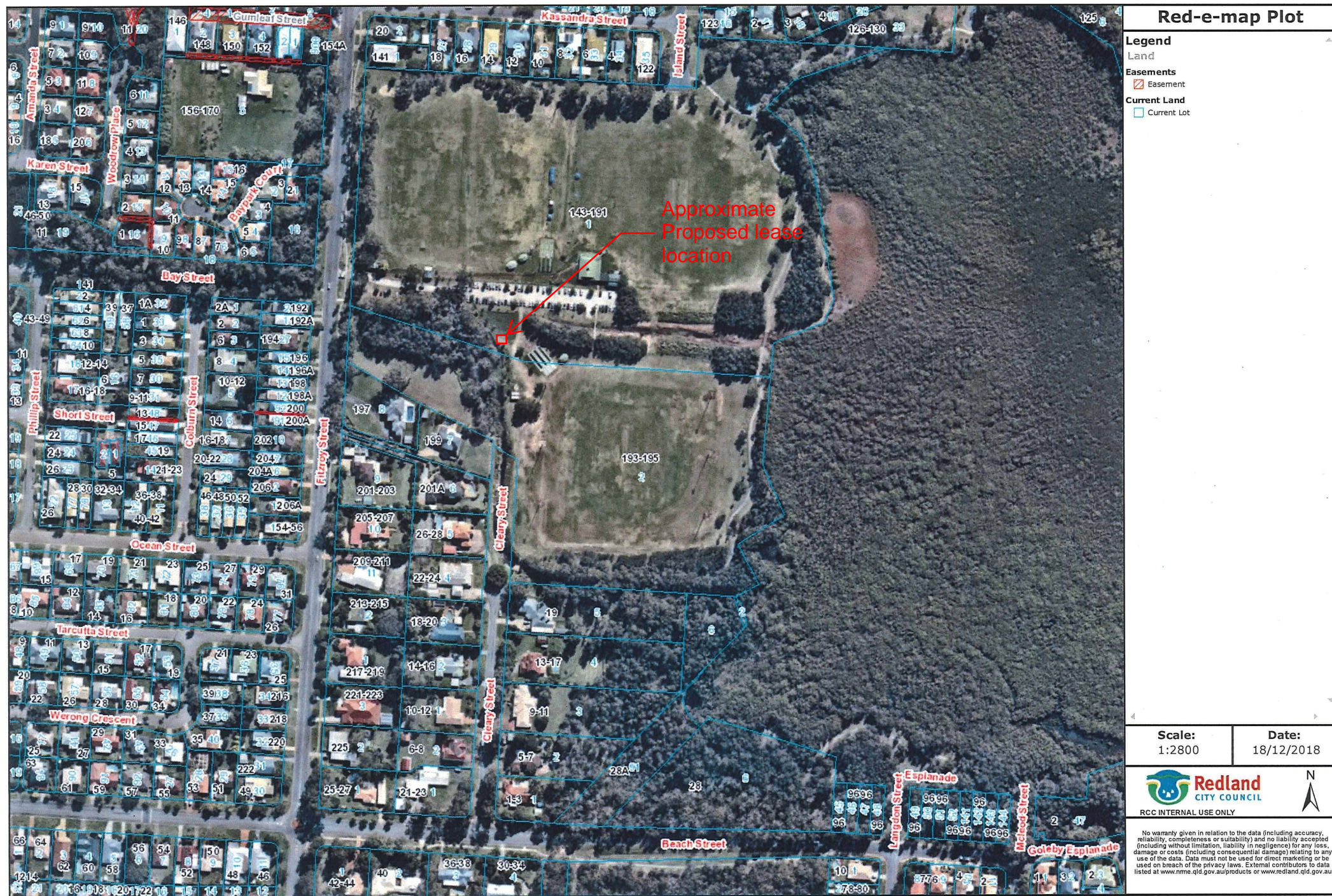
Date: 11/02/2019

 **Redland CITY COUNCIL**

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Red-e-map Plot

- Legend**
- Land
 - Easements
 - Easement
 - Current Land
 - Current Lot

Scale: 1:2200
Date: 18/12/2018



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Red-e-map Plot

Legend

Land

Easements

- Easement

Current Land

- Current Lot

Scale:
1:2000

Date:
18/12/2018

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