

AMALGAMATION OF COUNCIL OWNED LAND ON THE SOUTHERN MORETON BAY ISLAND

Datworks Filename: Southern Russell Island Conservation Park

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PURPOSE

The purpose of this report is to:

- To provide Council with an update on representations made to the State Government to reduce Council's costs associated with the Emergency Management and Fire Rescue Levy [EMFRL] levied on Council land on the Southern Moreton Bay Islands [SMBIs] from 1 January 2014;
- Seek Council resolution to commence the amalgamation of all adjoining Council owned Conservation Sub-Area CN1 [CN1] zoned land and Open Space zoned land where practical on the Southern Moreton Bay Islands [SMBIs]; and
- Inform Council of the intention to advise the owners of prescribed land under the *Southern Moreton Bay Islands Development Entitlements Protection Act* [SMBIDEPA] that the Act is due to expire in March 2016 and that under Council's *SMBIs Land Exchange Policy 3100* a land exchange with Council remains an option.

BACKGROUND

1. SMBIs subdivision and Council land ownership

- The original subdivision of the SMBIs was undertaken in accordance with the Land Act during the 1960's/1970's while under the administrative control of the Queensland State Government without any local government planning controls. The subdivision had little regard to the suitability of land for development and established residential sized allotments across the SMBIs including within significant wetland areas.
- Since the transfer of administration responsibility for the SMBIs, Council has progressively brought into public ownership approximately 5,600 lots that contain significant environmental values and/or are located in areas subject to tidal inundation and/or overland flooding. These lots have been acquired

through a range of mechanisms including the conservation acquisition strategy, land exchange programs, voluntary purchase scheme, voluntary transfer of land and acquisitions as valueless land.

- All constrained Council lots are included within the Conservation Sub-Area CN1 zone [CN1 zone] of the Redland Planning Scheme [RPS] to recognise that the lots are affected by major drainage constraints and/or contain conservation values that make them unsuitable for residential development. Within the CN1 zone uses and other development, including dwelling houses, are highly restricted. There are also a number of SMBI Residential zoned lots that have been acquired by Council through the last land exchange program for conservation purposes and are proposed to be included within the CN1 zone.

2. Southern Russell Island Conservation Park

- 2007 - At its General Meeting on 31 October 2007 Council resolved to commence investigation into the amalgamation of Council owned lots included within the CN1 zone of the RPS.
- 2010 - In responding to a 'call upon ideas from Local Government' from the State to ensure 50% more land is protected for nature conservation and public recreation, Council at its General Meeting on 17 November 2010 resolved to prepare and submit a proposal to create the Southern Russell Island Conservation Park. The proposal sought a partnership with the State Government and involved the transfer of Council land within the proposed conservation areas to the State to facilitate:
 - State acquisition of the remaining private lots within the proposed conservation park;
 - State lot amalgamations, road closures and any other work to establish the proposed park; and
 - Council would accept trusteeship and management responsibility for the established conservation parks.
- 2011 - The former Minister for Environment and Resource Management responded to Council's proposal acknowledging the conservation values on Russell Island but that State acquisition funding is committed to higher priority conservation areas in the State. The former DERM did however advise that they would assist with tenure transfers for the creation of conservation parks where practical management boundaries could be established and appoint RCC as the trustee.
- 2011 – At its General Meeting on 14 December 2011 Council resolved to adopt the SMBI 2030: A community plan to guide future planning by Redland City Council for the SMBIs [SMBI 2030]. A key initiative identified in the SMBI 2030 is the establishment of formal conservation parks on the SMBIs.

3. Emergency Management and Fire Rescue Levy

- On the 1 July 2013, the State Government announced that it would be extending the scope and application of the existing Urban Fire and Rescue Levy to assist with funding emergency management. As part of the changes, the existing levy was renamed to the Emergency Management and Fire Rescue Levy [EMFRL] and from the 1 of January 2014 the levy has been extended to include all properties in Queensland.
- The EMFRL now applies to all Council owned land; including Council owned Conservation zoned land on the SMBIs. It is estimated that the total cost of the EMFRL on Council conservation land on the SMBIs is in excess of \$125,000 per annum.
- In October 2013, Council wrote to the Minister for Police and Community Safety detailing grounds to support an exemption to the EMFRL being levied on Council owned conservation land on the SMBIs. The basis of this request was that the Council ownership of approximately 5,600 lots affected by major drainage constraints and/or containing significant environmental values was the direct result of Council's long term efforts to address the initial inappropriate subdivision of the SMBIs while under the administrative control of the State Government in the 1960's and 1970's.
- In December 2013, the Minister for Police, Fire and Emergency Services responded to Council's request advising that it was not possible to grant an exemption to the EMFRL and that the Council conservation land on the SMBIs was required to be levied. However, the correspondence also advised that Council may wish to submit an appeal to the Commissioner of the Queensland Fire and Emergency Services for a remission of the amounts levied on conservation land.
- In March 2014, Council wrote to the Commissioner of the Queensland Fire and Emergency Services requesting remission of the amounts levied for Council property that has significant drainage constraints and/or high environmental values on the SMBIs.
- In July 2014 officers in the Public Safety Business Agency [PSBA] informally advised that they expected the Commissioner of the Queensland Fire and Emergency Services would support Council's remittance requests. At the same time, officers in the PSBA requested some additional details be included in the existing request and resubmitted to the Commissioner of the Queensland Fire and Emergency Services. Advice was also provided that a further remittance request was able to be submitted in line with Council's quarterly rating return. The changes to the existing request and submission of a further remittance requests were being processed by Council's Financial Services Group.
- While State PSBA officers have provided informal advice that Council's remittance requests will be supported, at the time of writing this report the

Commissioner of the Queensland Fire and Emergency Service's had not formally supported any of Council's requests and no EMFRL levies collected on Council conservation land on the SMBIs had been refunded.

- Council's remittance requests need to be submitted quarterly approximately one month prior to Council's rating return period.

4. Southern Moreton Bay Island Development Entitlements Protection Act

- Prior to the commencement of the RPS in 2006 the State Government enacted the *SMBI Development Entitlements Protection Act 2004* [SMBIDEPA]. The SMBIDEPA protects the development entitlements that existed on privately owned lots listed by the Act prior to the commencement of the RPS. These properties have identified conservation values and are located within broader conservation areas that are largely in Council ownership [see Map 1: Conservation Management and Protection Lots].
- All land protected by the SMBIDEPA was identified for Council acquisition in the 2002 Conservation Acquisition Strategy. All of these properties are included within the CN1 zone of the RPS which highly restricts all forms of development including a dwelling house. The SMBIDEPA however enables an eligible owner of prescribed land to lodge a development application to build a dwelling house and direct Council to assess the application under the previous Transitional Planning Scheme (generally a Residential A zone) for a period of 10 years from the commencements of the RPS. This entitlement is due to expire in March 2016.
- The SMBIDEPA prevents Council from regulating residential development to protect the documented conservation values and the integrity of broader conservation areas through the RPS. Through a number of land exchange programs Council has acquired a significant number of these properties. There are approximately 75 properties that remain in private ownership where the owner/s are protected by the Act.
- At its General Meeting on the 15 December 2011, Council adopted the *SMBI Land Exchange Policy*. Council's land exchange policy supports the undertaking of a land exchange with owners of properties protected by the SMBIDEPA. This policy has recently been reviewed with no changes made to the circumstances in which a land exchange request will be supported by Council.

ISSUES

1. Amalgamation of Council owned Conservation and Open Space zoned land

- At this stage, a key impediment to establishing conservation parks on the SMBIs is remaining privately owned land located within conservation areas. Details on the private ownership of land within the conservation areas of the SMBIs are provided in the following section of this report and are identified on Map 1.
- Despite continuing private ownership of land within conservation areas, the amalgamation of adjoining Council owned CN1 zoned land and Council owned Open Space zoned land would provide a significant step in establishing conservation parks on the SMBIs. It would also significantly reduce the total number of Council owned lots on the SMBIs and potentially the amount Council is required to pay towards the EMFRL.
- Council currently owns approximately 5,600 CN1 zoned lots on the SMBIs. The amalgamation of all adjoining Council owned CN1 zoned land has the potential to reduce the total number of Council owned CN1 zoned lots from 5,600 to approximately 550. Map 2 identifies adjoining Council owned lots that could be amalgamated with a purple boundary around them.
- The total number of amalgamated lots could be reduced further if State Government support is provided for lots being created that consists of multiple parts. For example, with State Government approval it may be possible for each of the 4 wetlands on Russell Island to be considered as 1 lot but with multiple parts to it. If this approach is approved by the State it will significantly reduce the total number of Council owned CN1 zoned lots on the SMBIs. It should be noted that the amalgamated total of CN1 zoned lots (approx. 550) does not include the individual Council owned CN1 zoned lots that are unable to be amalgamated with an adjoining property of which there are approximately 220.
- Council also owns a small number of SMBI Residential zoned lots that have recently been acquired through land exchange and are proposed to be included within the CN1 zone [approx. 40]. These properties are proposed to be included in the amalgamations. In addition, a small number of the larger Council owned CN1 zoned properties are partially included within the Community Purpose zone. Where possible these properties will also be included in the amalgamations.
- It is proposed that amalgamations would occur in a staged manner. Based on current analysis, the most practical staging of the amalgamations would align with each of the four wetlands on Russell Island, the remainder of Russell Island and then each of the remaining Islands. The analysis of Council land ownership and mapping of proposed amalgamation will need to be re-run prior to each stage of the amalgamations occurring. This is to ensure that any

additional properties acquired by Council are incorporated before the amalgamations actually occur.

- In regard to the potential amalgamation of Council owned Open Space zoned land on the SMBIs, in some cases there are additional privately owned lots needing to be acquired by Council to complete ownership of proposed parks. The amalgamation of Council owned Open Space zoned land will only occur in circumstances where Council has already completed ownership of a park identified in the Redland Open Space Strategy.
- Currently the EMFRL on Council owned CN1 and Open Space zoned lots on the SMBIs is over \$125,000 per annum. The proposed amalgamation of adjoining CN1 and Open Space zoned lots will reduce the number of lots to approximately 770 CN1 zoned lots. Under this scenario Council's requirements under the EMFRL would reduce to approximately \$18,000 per annum.
- As mentioned in the background section, State PSBA officers have provided informal advice that it is expected that the Commissioner of the Queensland Fire and Emergency Services will support Council's remittance requests, however at the time of preparing this report no Council remittance requests had been formally supported by the Commissioner.
- If the remittance requests are formally supported by the State Government, a reduced number of lots on the SMBIs will make administrative processes associated with these request much simpler. The amalgamation of Council owned land on the SMBIs will also reduce Council's requirements under the EMFRL should the State Government decide to no longer support Council's remittance requests.
- While potentially providing significant financial savings for Council, the amalgamation of adjoining Council owned CN1 and Open Space zoned land also provides a significant step towards the establishment of conservation areas on the SMBIs and demonstrates to the community that Council is committed to delivering on this long standing initiative.

2. Privately owned land within conservation areas

It has been a long term intention of Council's to acquire the remaining privately owned land and close road reserves within the CN1 zone to establish conservation parks. The amalgamation of adjoining Council owned land provides a significant step towards this and a longer term opportunity may arise to incorporate the small number of remaining privately owned lots into the conservation areas.

The remaining privately owned land within the conservation areas is identified below along with how these properties are currently progressively coming into public ownership.

i) SMBI Development Entitlements Protection Act Properties

- There are currently 75 CN1 zoned lots where the owners are protected by the SMBIDEPA [see Map 1: Conservation Management and Protection Lots]. It is important that these remaining properties are brought into public ownership to ensure the long-term protection and integrity of the identified conservation values of these lots and the broader conservation areas in which these lots are located. Public ownership of these lots also provides a more sustainable settlement pattern and assists with reducing the overall infrastructure requirements of the SMBIs.
- Council's SMI Land Exchange Policy has recently been reviewed and supports the undertaking of a land exchange with the owners of these properties. Recognising the protection provided by the SMBIDEPA is due to expire in March 2016 it is recommended that Council write to the owners of these properties advising of this and that under current Council policy a land exchange is an option that is still available to them.
- Closer to the date that the SMBIDEPA is currently due to expire, Council will need to consider whether it continues to make the option of land exchange available to the owner/s of these properties once the Act has expired for a period of time.

ii) Parcels targeted for acquisition through voluntary land exchange

- There are approximately 214 privately owned lots that have been targeted for public acquisition through previous land exchange programs by Council [see Map 1: All other land exchange category lots]. These properties are generally located within or on the edge of conservation areas. The public ownership of these properties would provide benefits for bushfire management, stormwater management and residential settlement pattern consolidation purposes.
- Council's SMI Land Exchange Policy supports a land exchange with the owner/s of properties that have previously been made a voluntary land exchange offer by Council. These properties are a lower priority for acquisition compared to the SMBIDEPA properties. At this stage it is not recommended that any further action is taken by Council to try and actively acquire these properties, however should the owners of any of these properties write to Council requesting a land exchange, the request would be supported under the current policy.

iii) Drainage constrained land

- There are currently approximately 560 privately owned CN1 zoned lots on the SMBIs that are affected by major drainage constraints (see Map 1: Privately Owned Drainage Constrained Land).

- Council currently provides a voluntary transfer program whereby Council accepts the transfer of a lot with major drainage constraints and bears the costs of making the transfer transaction. The incentive for a land owner to take part in this program is removing their need to pay rates on a lot that does not have any development potential.
- Council also has the ability to acquire land as valueless land under the Local Government Act when there are significant outstanding rates owing on a property. Often properties on the SMBIs that are affected by major drainage constraints are acquired by Council in this manner.
- Over the last 3 years approximately 60 privately owned drainage constrained properties have been voluntary transferred into Council ownership or acquired by Council as valueless land.

3. Establishment of conservation areas on the SMBIs

Council will need to resolve the private ownership of land within the conservation areas before Council would be in a position to consider establishing formal conservation areas on the SMBIs. The proposed amalgamations may encourage the owners of some land within the conservation areas to consider their options regarding their properties, however depending on the take up of land exchanges, the rate of voluntary transfer and acquisitions as valueless land it may be necessary for Council to consider additional options to acquire the remaining privately owned land that will be located within the amalgamated conservation areas.

Once the remaining privately owned land within conservation areas has been resolved, Council will then need to commence a process to formally close road reserves and amalgamate all lands within the conservation areas.

4. Potential amalgamation of other Council owned land in the City

During the drafting of this report, Council's Financial Services Group advised that there is potential for a similar exercise to be undertaken for Council owned land on the mainland to reduce Council's expenses related to State Government levies, fees and charges.

At this stage no investigation has been undertaken into this, however recognising Council owns and manages a significant amount of land in the City it is recommended that the feasibility of undertaking this as well as the potential costs and savings for Council be investigated.

STRATEGIC IMPLICATIONS

Legislative Requirements

Council' Survey Service's Unit has advised that the amalgamation of adjoining Council owned CN1 zoned parcels would require the drafting of amalgamation plans and submission of applications to the Queensland Government to amalgamate land under the *Land Titles Act 1994*.

Risk Management

Some landowners on the SMBIs may be concerned that their property will be included within the amalgamated conservation areas and that Council may try to compulsorily acquire their property. To address this, it should be clearly articulated to the community that Council is not compulsorily acquiring any land on the SMBIs for conservation purposes and that any land included in the amalgamations needs to already be in public ownership.

Financial

Council's Survey Services Unit have estimated that the amalgamation plans and applications to the State Government will cost approximately \$50,000.

This project is not currently included in the 2014/2015 budget. As the amalgamations will occur progressively and in a staged manner, it will be necessary that any budget and funding allocated for this project is able to be carried over into the next financial year.

The amalgamation of Council owned CN1 and Open Space zoned land on the SMBIs will reduce the number of Council assets however Council's Financial Management Unit has advised that there are no implications for Council as a result of doing this.

People

The proposed amalgamations will be managed by Council's Environment and Regulation Group and Council's Survey Service's Unit. The amalgamations will create additional work tasks for these areas, however both areas have advised that given the amalgamations will occur in a staged manner the additional tasks can be managed within existing workloads.

Environmental

The amalgamation of adjoining Council owned CN1 and Open Space zoned land will provide a significant step towards to the establishment of conservation areas on the SMBIs which is a key initiative of SMBI 2030 and has been a long term intent of Council's.

Social

The amalgamation of public conservation land supports the long term protection of the SMBIs significant conservation values which contributes to island residential amenity and the character of the SMBIs

The amalgamation and formalisation of conservation areas will also support the provision of additional walking trails and tracks within conservation areas.

Alignment with Council's Policy and Plans

The recommendations of this report primarily support Council's Redland 2030 vision outcomes of Healthy Natural Environment.

The recommendations also support a key initiative of the SMBI 2030 to amalgamate Council owned land and establish formal conservation parks on the SMBIs.

CONSULTATION

The community has been consulted on this proposal through the drafting of the SMBI 2030 and the proposal to create the Southern Russell Island Conservation Park. The community has also been advised of the intention to amalgamate public conservation areas through a number of land exchange programs.

Officers from Council's Survey Service's Unit, Financial Management Unit, Environment and Regulation Group, City Space's Group and Rating Service's Group have been consulted in the drafting of this report.

OPTIONS

1. Council resolves to:

1. Undertake necessary work to amalgamate in a staged manner:

- i. all adjoining Council owned Conservation Sub - Area 1 zoned land on the Southern Moreton Bay Islands;
 - ii. all Council owned SMBI Residential zoned land that has been acquired through land exchange and intended to be included in the Conservation zone Sub-Area 1;
 - iii. all Council owned Open Space zoned land on the SMBIs where Council ownership of an identified park is complete.
2. Allocate \$50,000 in future budgets for the preparation of amalgamation plans and submission of amalgamation applications to the State Government.
3. That the Chief Executive Officer be delegated authority (under s.257(1) (b) of the Local Government Act 2009) to sign all necessary documentation associated with the amalgamations.
4. Write to the State Government seeking a waiver of amalgamation application fees and its support to significantly reduce the number of lots on the SMBIs.
5. That Council write to the owners of properties protected by the *Southern Moreton Bay Islands Development Entitlements Protection Act* advising that the protections provided by the Act are due to expire in March 2016 and that under Council's current Land Exchange Policy the option of a land exchange is still available.
6. Continue to make the option of a land exchange available to SMBI landowners who are protected by the *Southern Moreton Bay Islands Development Entitlements Protection Act* until such time as the Act has expired.

7. Investigate the feasibility and potential costs and savings associated with undertaking the amalgamation of Council owned land on the mainland.
2. That Council resolves not to proceed with the amalgamation of adjoining Council owned Conservation Sub-Area 1 and Open Space zoned land on the SMBIs.

OFFICER'S RECOMMENDATION

That Council resolve as follows:

1. **To undertake necessary work to amalgamate in a staged manner:**
 - i. **all adjoining Council owned Conservation Sub - Area 1 zoned land on the Southern Moreton Bay Islands;**
 - ii. **all Council owned SMBI Residential zoned land that has been acquired through land exchange and intended to be included in the Conservation zone Sub-Area 1;**
 - iii. **all Council owned Open Space zoned land on the SMBIs where Council ownership of an identified park is complete.**
2. **Allocate \$50,000 in future budgets for the preparation of amalgamation plans and submission of amalgamation applications to the State Government.**
3. **That the Chief Executive Officer be delegated authority (under s.257(1) (b) of the Local Government Act 2009 to sign all necessary documentation associated with the amalgamations.**
4. **Write to the State Government seeking a waiver of amalgamation application fees and its support to significantly reduce the number of lots on the SMBIs.**
5. **That Council write to the owners of properties protected by the *Southern Moreton Bay Islands Development Entitlements Protection Act* advising that the protections provided by the Act are due to expire in March 2016 and that under Council's current Land Exchange Policy the option of a land exchange is still available.**
6. **Continue to make the option of a land exchange available to SMBI landowners who are protected by the *Southern Moreton Bay Islands Development Entitlements Protection Act* until such time as the Act has expired.**
7. **Investigate the feasibility and potential costs and savings associated with undertaking the amalgamation of Council owned land on the mainland.**