

## 19.7 SOUTHERN MORETON BAY ISLAND FERRY TERMINAL UPGRADE - FUNDING COLLABORATION AGREEMENT

### 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. DNRME Director General Response SMBI Ferry Terminals Tenure - Confidential

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:

(e) *contracts proposed to be made by it.*

### PURPOSE

To confirm the negotiated terms of the Funding Collaboration Agreement (FCA) (Attachment 1) on the Southern Moreton Bay Island (SMBI) ferry terminals upgrade project, and delegate authority to the Chief Executive Officer (CEO) to sign the FCA.

### BACKGROUND

The SMBI Ferry Terminal Upgrade project aims to deliver new ferry terminals (new facilities) to Russell, Macleay, Lamb and Karragarra Islands over the financial years 2020-2023. The upgrades address key issues concerning end of asset life (Russell Island) and disability access compliance to meet the legislated requirements set out in the *Disability Discrimination Act 1992 (DDA)* and *Disability Standards for Accessible Public Transport 2002*.

Department of Transport and Main Roads (DTMR) leads the project delivery with Council and TransLink acting as client (Senior Users). Central to the project is the negotiation of a FCA to outline funding, ownership, tenure, insurances, liability, approval gateways and dispute resolution between parties.

On the 19 June 2019 Council resolved as follows:

1. *To accept the Queensland State Government's (the State's) Southern Moreton Bay Island passenger ferry terminal upgrade funding offer and future ownership proposal, made by letter dated 28 March 2019, by the State Minister for Transport and Main Roads to the Mayor of Redland City Council.*
2. *To request the Mayor and Chief Executive Officer to write to the State Minister for Transport and Main Roads and the Director General Department of Transport and Main Roads respectively, confirming Council's acceptance of the State's offer. (Completed)*
3. *To bring back to Council for approval, a Deed of Agreement between the Department of Transport and Main Roads and Council, for the upgrade of the Southern Moreton Bay Island passenger ferry terminals, which may include, but not be limited to, passenger ferry terminal upgrade funding arrangements, post upgrade ownership and tenure arrangements and post upgrade commercial and development opportunities.*

4. *That this report and attachments remain confidential until a Deed of Agreement for the upgrade of the Southern Moreton Bay Island passenger ferry terminals between the State and Council has been executed, subject to maintaining the confidentiality of legally privileged, private and commercial in confidence information.*

Officers have progressed negotiations and resolved all outstanding matters referenced in the 19 July resolution, and now wish to ratify the FCA with DTMR by seeking a resolution from Council to delegate authority to the CEO to sign the FCA.

## ISSUES

### Governance

The FCA creates a Project Leadership Team (PLT) consisting of members of Council and State in equal proportion to collaboratively manage, govern and otherwise oversee the day-to-day delivery of the project.

The PLT will meet monthly until the expiry of the final defects liability period. The PLT does not have authority to amend the project budget or approve cost overruns, however it does act as the approval gateway for key project milestones including design, tender, construction, progress claims and variations.

Should a dispute arise and parties cannot resolve the issue, the dispute is to be referred via written notice to the PLT for resolution. Parties are to undertake in good faith all reasonable endeavours to resolve the dispute and record and execute terms of settlement.

### Funding Arrangements

The new facilities are proposed to be jointly funded by Council and TransLink. The existing facilities are to be repurposed as recreational pontoons, funded separately by DTMR Marine Division. The funding split has been defined and incorporated into the FCA as a schedule to the agreement as shown in the table below.

Term	Description	Total Budget	RCC Contribution
2019/20	Design all terminals	\$2,066,668	No RCC funds required
2020/21	Russell Island	\$12,720,536	\$3,533,766
2021/22	Macleay Island	\$7,082,804	\$3,772,683
2022/23	Lamb/Karragarra	\$12,193,990	\$6,491,599
<b>TOTAL</b>		<b>\$34,063,998</b>	<b>\$13,798,048</b>

Cost savings and/or overruns are to be calculated based on the funding ratio for each terminal, noting that any cost overrun would require either party to source the excess through their respective budget process. This would progress through the PLT for consideration at the time any budget overrun is anticipated, i.e. tender response, variation requests.

Funds will need to be allocated for each financial year available from 1 July and disbursed in accordance with the funding schedule subject to Council's written agreement to progress payments under the construction payment schedule. Failure to agree will trigger the FCA dispute resolution clause.

### Post Upgrade Ownership

The post upgrade ownership structure sought by DTMR is as follows;

- New Facilities (ferry terminals)- Council owned, operated and maintained
- Existing Facilities (Recreational Pontoons)- TMR owned, Council managed and maintained

Current ownership of the existing facilities is with Council, with the exception of Russell Island jetty. Council will transfer ownership of the existing facilities that will be repurposed as recreational pontoons to DTMR but retain management responsibility.

### **Tenure Arrangements**

Councillors requested prior to ownership, tenure be secured to enable Council to explore future commercial opportunities on the new facilities. Negotiations with DTMR and DNRME ensued to find the most appropriate mechanism to provide this tenure.

DNRME advise DTMR seek a development lease to enable development to take place, which when construction is complete Council will apply for a term lease following practical completion of each of the assets.

The FCA allows for the Contractor to submit final as constructed information three (3) months from practical completion. DNRME have advised the term lease will take six (6) to nine (9) months to process. It is noted that a development lease and term lease cannot run concurrently, therefore DTMR need to surrender the development lease prior to the term lease being granted to Council.

The FCA is structured in such a way that Council will not accept ownership until the defects liability period has ended (12 months from practical completion) for each ferry terminal, which will allow for the final 'as constructed' survey to be received and the term lease application processed with DNRME.

In seeking the development lease DNRME have advised that Native Title, marine permits and any other referral matters may be dealt with by DTMR during the development lease application stage, thereby relieving Council of these potentially onerous issues.

Council instructed the CEO to write to the Director General DNRME to seek assurances that the applications will be dealt with in a timely manner. Return correspondence received on the 20 November 2019 (Attachment 2) provided an assurance that DNRME are supportive of the proposal and confirmed the required lease process outlined above.

Lease footprints were prepared by Council and indicative valuations sought by DNRME to estimate the future lease costs payable by Council. The lease footprints provide a buffer around the assets to allow for future maintenance and commercial opportunities to fall within the lease boundary and not trigger requirements for approvals such a marine permits to undertake future work.

Costs for the lease footprint are tabled below.

Location	Lease Area (m2)	Valuation	Lease Cost (6%) Per annum (p.a.)
Russell Island	3562	\$175,000	\$10,500 p.a.
Macleay Island	1650	\$100,000	\$6,000 p.a.
Lamb Island	1642	\$100,000	\$6,000 p.a.
Karragarra Island	1316	\$80,000	\$4,800 p.a.
<b>Total</b>			<b>\$27,300 p.a.</b>

### **Commercial Opportunities**

Consultation with Economic Development, City Infrastructure Marine division and Information Management identified a number of commercial opportunities that were appropriate to the function of the facility, i.e. passenger transport.

These include;

- Sub lease ferry terminals to operator (SeaLink)
  - Replace the current landing fee regime for a sub-lease fee.
  - Transfer operational and maintenance obligations to operator.
  - Transfer Council costs such as the annual lease fee payable to DNRME, administration and regular compliance inspections to the operator sub-lease.
- Information/ Advertising Kiosk- Advertising Revenue
  - Digital advertising boards are a cost effective source of revenue.
  - Customer service enhancements such as real time ferry updates and other transport information can be incorporated remotely.
  - Emergency Services and Disaster management messaging possible.
  - Cross promoting Council and other Community events.
  - Captive audience with exposure to upwards of 750,000 passenger movements per annum.

Other Commercial uses such as coffee cart, food service, convenience store or restaurant were identified as being best placed on the landside due to spatial limitations, servicing requirements (water, power, sewer) and the primary purpose of ferry terminals being for passenger transport.

The proposed tenure arrangement outlined under the FCA will allow Council to deliver these outcomes.

### **Other Matters**

Other matters covered under the FCA include:

- Hold points at Design, Tender, Construction (progress claims, variations contractual disputes) that require Council to provide concurrent approval within a 5 day turnaround.
- Dispute clause that requires a predetermined dispute resolution process be followed should any contractual, variation, quality or cost overrun dispute occur.
- Insurances and liabilities- Transfer of all liabilities following ownership transfer to be under Council reinsurance scheme and not a separate policy.
- Post upgrade asset management, maintenance and replacement.

### **STRATEGIC IMPLICATIONS**

#### **Legislative Requirements**

*Land Act 1994*- Lease and tenure requirements

*Disability Discrimination Act 1992 (DDA)*- Obligations for accessibility in public places

*Disability Standards for Accessible Public Transport 2002*- Obligations for accessibility on public transport infrastructure.

Under this Act, all public transport waiting points and associated infrastructure must establish minimum accessibility requirements by December 2022. This means that existing public transport infrastructure across the bus, rail and ferry networks in the Redlands will require various levels of upgrade by December 2022.

The SMBI ferry terminals require upgrade to meet DDA compliance.

### **Risk Management**

The SMBI Ferry terminal upgrade project supported by the Funding Collaboration Agreement presents an opportunity to improve public transport infrastructure across all four Southern Moreton Bay Islands, rather than just replace the end of life Russell Island terminal.

Project delivery by DTMR is also an opportunity for Council to benefit from a delivery manager with the systems, expertise and track record of delivering major infrastructure projects. The construction delivery risk to Council is mitigated through this project approach.

Hold and approval points are incorporated into the agreement to mitigate the risk of Council losing control at key milestones in the project. Final acceptance and ownership transfer is contingent upon the defects liability period being closed out and tenure granted by DNRME.

Upgrade of the SMBI passenger ferry terminals will mitigate current SMBI ferry terminal risks and issues, in particular structural integrity, DDA compliance, public use, and congestion associated with future SMBI community and visitation growth.

### **Financial**

Under the Funding Collaboration Agreement Council would need to commit to CAPEX budget for each financial year to be prioritised above the line as per the details below.

Year	RCC Contribution
2019/20	No RCC funds required
2020/21	\$3,533,766
2021/22	\$3,772,683
2022/23	\$6,491,599
TOTAL	\$13,798,048

### **People**

Upgrade of the SMBI passenger ferry terminals will enhance commuter safety and amenity.

Council officers will work with the State to develop and execute the SMBI passenger ferry terminal upgrade project activity.

The DTMR led project delivery utilises existing Council staff positions and represents the most efficient resource method of delivery for Council.

### **Environmental**

All environmental requirements and approvals will be obtained as part of the SMBI passenger ferry terminal upgrade project design, planning and delivery activities.

### **Social**

Upgrade of the SMBI ferry terminals will:

- Provide amenities in accordance with the Public Transport Infrastructure Manual (PTIM);

- Address terminal overcrowding on some existing services and congestion for community terminal access;
- Accommodate future passenger growth by providing increased vessel berthing capacity and increased passenger waiting and circulation areas; and
- Ensure all ferry terminals comply with the requirements of the (DDA) and meet the Disability Standards for Accessible Public Transport 2002 targets (DSAPT).

### Alignment with Council's Policy and Plans

The SMBI ferry terminal upgrade project is consistent with Council's Corporate, Operational and Redlands 2030 Community Plans.

### CONSULTATION

Consulted	Consultation Date	Comments/Actions
Councillors	29/11/2019 03/12/2019	Workshop Presentation. Directive to ensure tenure and ownership are transferred concurrently.
Cr Mark Edwards	Multiple	Briefings, supportive of proposed approach.
Service Manager Legal Counsel	Multiple	FCA consistent with Councillors instructions and previous resolutions.
Senior Adviser- Strategic Economic Development	Multiple	Commercial opportunities identified
Service Manager City Infrastructure Marine division	Multiple	FCA provides adequate quality and project control to deliver expected outcomes.
Solutions Architect- Information Management	Multiple	Integration of Security and IT infrastructure consistent with Council policy.

### OPTIONS

#### Option One

That Council resolves as follows:

1. To note the contents of this Report, and attached Financial Collaboration Agreement (Attachment 1).
2. To delegate authority to the Chief Executive Officer, under s.257(b) *Local Government Act 2009* to sign the Financial Collaboration Agreement subject to the agreement reflecting the terms outlined in this report.
3. That the report and attachments remain confidential until the contract is executed, subject to maintaining the confidentiality of legally privileged, private and commercial in confidence information.

#### Option Two

That Council resolves as follows:

1. To note the contents of this Report, and attached Financial Collaboration Agreement (Attachment 1).
2. To request Officers return to negotiate terms that reflect acknowledgement of tenure within the agreement.

3. That the report and attachments remain confidential until the contract is executed, subject to maintaining the confidentiality of legally privileged, private and commercial in confidence information.

### **Option Three**

That Council resolves as follows:

1. To not note the contents of this Report, and attached Financial Collaboration Agreement (Attachment 1).
2. To not delegate authority to the Chief Executive Officer to sign the Financial Collaboration Agreement subject to the agreement reflecting the terms outlined in this report.
3. That the report and attachments remain confidential until the contract is executed, subject to maintaining the confidentiality of legally privileged, private and commercial in confidence information.

### **OFFICER'S RECOMMENDATION**

That Council resolves as follows:

1. **To note the contents of this Report, and attached Financial Collaboration Agreement (Attachment 1).**
2. **To delegate authority to the Chief Executive Officer, under s.257(b) *Local Government Act 2009* to sign the Financial Collaboration Agreement subject to the agreement reflecting the terms outlined in this report.**
3. **That the report and attachments remain confidential until the contract is executed, subject to maintaining the confidentiality of legally privileged, private and commercial in confidence information.**



Department of  
Natural Resources,  
Mines and Energy

20 NOV 2019

Mr Andrew Chesterman  
Chief Executive Officer  
Redland City Council  
PO Box 21  
CLEVELAND QLD 4163

*Andrew,*  
Dear Mr Chesterman,

Thank you for your letter of 13 November 2019 concerning the proposed upgrade of the Southern Moreton Bay Island Ferry terminals.

Officers of the Department of Natural Resources, Mines and Energy (DNRME) have been in attendance at recent meetings between the Department of Transport and Main Roads (TMR), Redland City Council (RCC) and the Department of State Development, Manufacturing, Infrastructure and Planning regarding the proposed upgrades.

I understand that this project is being funded by TMR, working collaboratively with RCC, to improve the maritime passenger transport infrastructure by upgrading the ferry terminals. I can advise that DNRME is supportive of the proposal.

Prior to the issue of term leases to RCC, TMR must apply for term leases for the proposed development of the new infrastructure for the period of construction. Once constructed, TMR will be required to surrender the development leases and RCC can apply for term leases for the ongoing operations of the marine facility.

DNRME officers have encouraged TMR to apply for the term leases for development as soon as possible as I understand the construction is proposed to commence in June 2020.

Addressing Native Title will be a critical step in allocating tenure. TMR has advised that Native Title assessments are currently being undertaken for each site. DNRME has requested these assessments form part of TMR's applications for the development leases to fast track the processing.

DNRME officers provided RCC officers with a preliminary draft of the proposed term lease conditions via email on 6 November 2019. These draft conditions are for the term lease for RCC for the ongoing operations. In assessing the applications, the views of other state agencies will be required and DNRME will take those views into consideration which may result in the alteration of some of the draft conditions.

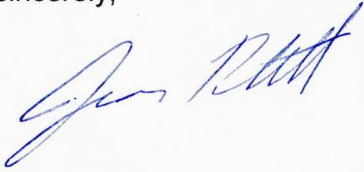
The State Valuation Service, DNRME has undertaken a desktop assessment for indicative valuations for the rental component for each site. This information was provided to RCC officers on 13 November 2019. Information was also provided at that time advising that the rent for the rental period is six per cent of the rental valuation.



Should you have any further enquiries, please contact Mrs Diane McQuade, Senior Land Officer, South Region, Department of Natural Resources, Mines and Energy on telephone 5626 6826.

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Yours sincerely,

A handwritten signature in blue ink, appearing to read 'James Purtil', written in a cursive style.

**James Purtil**  
**Director-General**