

19.6 MARINE INFRASTRUCTURE AGREEMENTS

Objective Reference:

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

Responsible Officer: Graham Simpson, Group Manager Environment & Regulation

Report Author: Rod Baxter, Strategic Property Manager

Attachments: 1. Marine Lease Map

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 inform Council of a proposed marine leasing arrangement with SeaLink Travel Group (SeaLink) to facilitate the upgrade of services and infrastructure at the Weinam Creek vehicle ferry terminal, Redland Bay.

BACKGROUND

SeaLink operate a vehicular ferry terminal from its existing loading facilities at Weinam Creek for servicing the Southern Moreton Bay Islands (SMBI). Occupation of that site is through various tenure agreements with the Department of Natural Resources, Mines and Energy (DNRME). An aerial plan showing the separate lots is contained in **Attachment 1**.

In 2015 SeaLink purchased Stradbroke Ferries and, since that time, have identified the opportunity to improve services to the islands through the upgrading of its vehicle ferries. The new vessels will not be able to use the existing stern loading facility on Lot 186.

As such, SeaLink's future plans are to develop the adjoining lease areas at 252 and 254 Esplanade, Redland Bay being Lots 1 and 2 on SP 261696 (the Property), which is the land that is the subject of this report.

A new development lease on the subject Property, while continuing to use the stern loader on Lot 186, will ultimately allow SeaLink to refurbish, develop and operate landside infrastructure and new vessels from both areas.

It is understood that DNRME have extended SeaLink's term lease on Lot 186 to February 2040, with the Permit to Occupy on Lot 1 on AP1696 having no termination date.

SeaLink has held a Development Lease over the Property since 2014, which expires in January 2021. They have approached Council to secure a 20-year sub-lease over the Property on the basis that Council enter into a direct lease with DNRME for the same period. DNRME has provided in principle support for the proposal and Council Officers have continued to work with DNRME to develop a draft application, and process going forward.

ISSUES

Council is not in a position to commit to a sub-lease as it currently has no tenure over the Property. The proposed lease (for marine infrastructure purposes) with DNRME will include a set of Prescribed Terms (mandatory terms and conditions) that are somewhat onerous and will need to be passed onto the sub-lessee.

Therefore, to provide a clear understanding of expectations going forward, a formal agreement is being developed with SeaLink on the following basis:

SeaLink has agreed to these principles and negotiations will continue with a view to establishing a Memorandum of Understanding (MOU) between parties.

If Council agrees to formally apply to the State for this lease/sub-lease arrangement, both agreements require Ministerial approval. Therefore timing for finalising the process may be impacted by the State election and associated caretaker period.**STRATEGIC IMPLICATIONS**

Legislative Requirements

Weinam Creek has been declared a Priority Development Area (PDA) under the *Economic Development Act 2012* and the northern side of the jetty falls within the northern extent of the PDA boundary. The master plan is consistent with the Weinam Creek PDA Development Scheme in relation to the vehicular ferry service.

The Weinam Creek PDA Development Scheme states:

Vehicle Ferry Services

Vehicle ferry services will continue to operate in their current location and development will protect the opportunity for at least two ferry operators and associated facilities and parking to be located within the precinct. The location of the vehicle ferries in the

north of the PDA will assist in minimising conflicts between car ferry movements and other boating activities, as well as between pedestrians and vehicles seeking to access the ferry services.

The *Local Government Regulation 2012* (LGR 2012) describes land as a “Valuable Non-Current Asset” and prescribes a number of options available to enter into a contract to dispose of the land including granting of a lease. Council may enter into a sub-lease with SeaLink, other than by tender or auction, provided the Minister exempts Council from complying with section 227 of the LGR 2012.

Alternatively, under the LGR 2012 Council may also resolve to enter into a lease agreement with DNRME but complete an open tender process for a sub-lease inclusive of development and service obligations. This carries reputational and timing risk with both SeaLink and the SMBI community and therefore is not recommended.

Risk Management

Should this agreement be implemented, the upgraded facilities and vehicle fleet will have:

- an increased passenger payload
- a greater maximum speed, achieving a potential reduction in future trip times

Based on these improvements, SeaLink has advised it is considering timetable changes.

DNRME has written to the Quandamooka Yoolooburrabee Aboriginal Corporation (QYAC) as part of their preliminary due diligence and the response included QYAC “reserving its rights” to potential compensation for Native Title should a significant works/development occur.

It is also noted that existing infrastructure on the Property was previously abandoned and requires significant investment to bring up to a contemporary, operational standard.

Financial

A new valuation will be provided at the time of application by Council for a lease which may alter this figure. Council will recover the final annual lease fee from SeaLink and a calculated administration fee to cover costs to Council, as a minimum in the final commercial arrangement that may be agreed as part of a sub-lease.

In the 2019/20 financial year the introduction of a new accounting standard AASB16 Leases will have an impact on the way Council will report on the lease with DRNME (where Council is lessee). Council acknowledges, however, that there will be no change to the current accounting treatment for the 20 year sub-lease to SeaLink (where Council is lessor). This position is supported by the Queensland Audit Office.

People

There are no staff implications.

Environmental

There are no identified environmental implications. Conditions for future development will be managed through the PDA assessment process.

Social

It is anticipated that a future sub-lease that addresses the issues identified in this report will deliver social benefits from improved transport connections to the SMBI.

Human Rights

There are no known human rights implications associated with this report.

Alignment with Council's Policy and Plans

No non-alignment with Council Policy and Plans has been identified.

CONSULTATION

Consulted	Consultation Date	Comments/Actions
Officers across City Planning and Assessment Group and Property Services Group	June to November 2019	Issue identification and in principle support
Redland Investment Corporation	June to November 2019	Issue identification and in principle support
Group Manager City Infrastructure	Ongoing	In principle support
Senior Engineer Marine Water Assets	Ongoing	In principle support
Service Manager Legal Services	Ongoing	Advice and review of report
General Manager Infrastructure and Operations	February 2020	In principle support
Chief Executive Officer	February 2020 and ongoing	In principle support
Councillor Mark Edwards – Division 5	August 2020	No concerns with the proposal
Land Services, Department of Natural Resources, Mines and Energy	June 2019 to present	Property owner - advice and referral with regard to formal process for lease/sub-lease
Planning and Urban Design, Economic Development Queensland	June 2020	PDA managers – referral and advice with regard to term of proposed sub-lease

OPTIONS

Option One

That Council resolves as follows:

1. To note this report in regard to future marine leasing arrangements for the subject Property.
2. To delegate authority to the Chief Executive Officer under s.257(1)(b) of the *Local Government Act 2009* to negotiate, make, vary and discharge a Memorandum of Understanding in regards to marine leasing arrangements for the subject Property.

3. That this report and attachment remain 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. To enter into a lease agreement with DNRME for the subject Property, but complete an open tender process for a sub-lease inclusive of development and service obligations.
2. That this report and attachment remain confidential, until the tender process and any subsequent leases are finalised, subject to maintaining the confidentiality of legally privileged, private and commercial in confidence information.

Option Three

That Council resolves as follows:

1. To not agree to apply for a marine infrastructure lease from DNRME and subsequent sub-lease for the subject Property.
2. That elements of this report and attachment remain confidential where necessary to maintain the confidentiality of legally privileged, private and commercial in confidence information.

OFFICER'S RECOMMENDATION

That Council resolves as follows:

1. To note this report in regard to future marine leasing arrangements for the subject Property.
2. To delegate authority to the Chief Executive Officer under s.257(1)(b) of the *Local Government Act 2009* to negotiate, make, vary and discharge a Memorandum of Understanding in regards to marine leasing arrangements for the subject Property.
3. That this report and attachment remain confidential, until the leases are finalised, subject to maintaining the confidentiality of legally privileged, private and commercial in confidence information.

Attachment 1: Marine Lease Map

Subject Property – Potential Marine Lease

