

## 19.5 REDLAND AQUATIC AND EMERGENCY PRECINCT LAND EXCHANGE ADMINISTRATIVE AMENDMENT

### 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:** Nil

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 minimise land holding costs (land tax) to Redland City Council (Council) for Lot 1 RP810161 at 61 McMillan Road Alexandra Hills that will accrue on 1 July, 2019 if the property remains in ownership with Redland Investment Corporation (RIC).

### BACKGROUND

Council resolved on the 20 February 2019 to:

- 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;*
- 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*
- 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.*
- This report is to remain confidential until all transactions associate with the land transfer have been completed.*

Consultation with Redland Investment Corporation (RIC) and General Counsel Redland City Council on the 4 December 2018 advised officers that the direct exchange from the RIC to the Queensland State Government (the State) would be the most efficient administrative process.

RIC has subsequently advised Council that Lot 1 RP810161 61 McMillan Road Alexandra Hills will incur land tax liability of approximately [REDACTED] on 1 July 2019, if it is still in RIC's ownership at this time.

This report seeks to repeal clause 1 and 2 of resolution 19.5 dated 20 February 2019 to enable Council to manage the administrative actions and progress the transaction with the State without the risk of holding costs being payable by the RIC.

**ISSUES**

- RIC has advised Council that Lot 1 RP810161 at 61 McMillan Road Alexandra Hills will incur land tax liability of approximately [REDACTED] on 1 July 2019, if it is still in RIC's ownership at this time.
- The process to complete the land exchange with Department Natural Resources Mines and Energy (DNRME) has been delayed by State Government interdepartmental referrals and is estimated to take four to six months. It is highly likely to be outstanding by 1 July 2019.
  - Land valuations were valid until 31 January 2019. Accordingly, it is necessary for these valuations to be reviewed by the State Valuation Service (SVS) and adjusted if required. DNRME have advised six to eight week timeframe to receive valuation advice from the SVS.
  - Resolution 19.5.3 requires officers seek a waiver from Queensland Treasury (QT) for the differential in land valuations. It is expected that a minimum six to eight week timeframe will apply to this action.
  - A briefing and application for land exchange will then be put to the Minister Department Natural Resources Mines and Energy. It is expected that a minimum six to eight week timeframe will apply to this action.
- To reduce the risk of holding costs falling due, it is proposed that RIC will seek a stamp duty exemption from the State and hand the property back to Council.
- Council can then progress the land exchange with the State without the risk of land tax duties being applied, as Local Government is exempt from these charges.

**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 s227 of the LGR would have to apply.

For Council to transfer the land to the State, a resolution is sought under s236 of the LGR that 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*

### **Risk Management**

The proposed action will mitigate the risk of land tax being applied to Lot 1 RP810161 at 61 McMillan Road, Alexandra Hills and impacting the operating budget of RIC, hence Council and ratepayers.

### **Financial**

- To reduce the risk of holding costs falling due, RIC will seek a stamp duty exemption and hand the property back to Council prior to 30 June 2019.
- Council will seek a waiver from Queensland Treasury for any differential in land valuations and if unsuccessful pay the differential as a result of land valuations received from the State Valuation Service consistent with the previous resolution 19.5.3.

### **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
Chief Financial Officer	11/04/2019	To avoid imposition of land tax at end of financial year, previous resolution to be repealed and ownership transferred to Council.
Redland Investment Corporation	29/04/2019	RIC to lodge stamp duty exemption 30/04. Estimated four week process for approval by Queensland Treasury. RIC to then transfer back to Council before EOFY.
General Counsel	30/04/2019	Clarify purpose of report, checked and confirmed procedural matters including timeframes, payment of differential in valuations to be noted body of report

**OPTIONS****Option One**

That Council resolves as follows:

1. To repeal clause 1 and 2 of resolution 19.5 dated 20 February 2019, and for clarity reinstate clause 2 of Council resolution 13.1.1 dated 27 January 2016 directing Redland Investment Corporation to transfer Lot 1 RP810161 located at 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. That Council transfer Lot 1 RP810161 located at 61 McMillan Road Alexandra Hills to the State in exchange for Lot 1 CP910606 located at 37 Wellington Street, Cleveland being transferred by the State to Council as freehold; and
4. That this report is to remain confidential until all transactions associated with the land transfer have been completed, subject to maintaining the confidentiality of legally privileged, private and commercial in confidence information.

**Option Two**

That Council resolves as follows:

1. To defer this decision to a later date; and
2. That this report is to remain confidential until all transactions associated with the land transfer have been completed, subject to maintaining the confidentiality of legally privileged, private and commercial in confidence information.

**OFFICER'S RECOMMENDATION**

That Council resolves as follows:

1. To repeal clause 1 and 2 of resolution 19.5 dated 20 February 2019, and for clarity reinstate clause 2 of Council resolution 13.1.1 dated 27 January 2016 directing Redland Investment Corporation to transfer Lot 1 RP810161 located at 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. That Council transfer Lot 1 RP810161 located at 61 McMillan Road Alexandra Hills to the State in exchange for Lot 1 CP910606 located at 37 Wellington Street, Cleveland being transferred by the State to Council as freehold; and
4. That this report is to remain confidential until all transactions associated with the land transfer have been completed, subject to maintaining the confidentiality of legally privileged, private and commercial in confidence information.