



Redland
CITY COUNCIL

AGENDA

SPECIAL MEETING

Monday, 23 May 2022
commencing at 9:00am

The Council Chambers
91 - 93 Bloomfield Street
CLEVELAND QLD

The audio/video of each Statutory Meeting of Council will be available on Council's website as soon as possible after the conclusion of each meeting.

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1 DECLARATION OF OPENING

On establishing there is a quorum, the Mayor will declare the meeting open.

Recognition of the Traditional Owners

Council acknowledges the Quandamooka people who are the traditional custodians of the land on which we meet. Council also pays respect to their elders, past and present, and extend that respect to other indigenous Australians who are present.

2 RECORD OF ATTENDANCE AND LEAVE OF ABSENCE

Motion is required to approve leave of absence for any Councillor absent from today's meeting.

3 DECLARATION OF PRESCRIBED CONFLICT OF INTERESTS AND DECLARABLE CONFLICT OF INTERESTS

Councillors are reminded of their responsibilities in relation to a Councillor's Prescribed Conflict of Interest and Declarable Conflict of Interest at a meeting. For full details see Chapter 5B of the *Local Government Act 2009*.

In summary:

Obligation of Councillor with Prescribed Conflict of Interest

Section 150EL of the *Local Government Act 2009* requires Councillors to declare a Prescribed Conflict of Interest in a matter as soon as they become aware of their interest in the matter, either:

- (1) *at a local government meeting, or*
- (2) *as soon as practicable, by giving the Chief Executive Officer written notice of the prescribed conflict of interest.*
- (3) The declaration must include the following particulars:
 - (a) *For a gift, loan or contract – the value of the gift, loan or contract;*
 - (b) *For an application for which a submission has been made – the matters the subject of the application and submission;*
 - (c) *The name of any entity, other than the Councillor, that has an interest in the matter;*
 - (d) *The nature of the Councillor's relationship with the entity mentioned in (c) above;*
 - (e) *Details of the Councillor's, and any other entity's, interest in the matter.*

Dealing with Prescribed Conflict of Interest at a Meeting

Pursuant to Section 150EM of the *Local Government Act 2009*, if a Councillor declares a Prescribed Conflict of Interest in a matter, ***the Councillor must leave the place at which the meeting is being held, including any area set aside for the public, and stay away from the place while the matter is discussed and voted on.***

Obligation of Councillor with Declarable Conflict of Interest

Section 150EQ of the *Local Government Act 2009* requires Councillors to declare a Declarable Conflict of Interest in a matter as soon as they become aware of their interest in the matter, either:

- (1) *at a local government meeting, or*
- (2) *as soon as practicable, by giving the Chief Executive Officer written notice of the declarable conflict of interest.*
- (3) The declaration must include the following particulars:
 - (a) *The nature of the declarable conflict of interest;*
 - (b) *If the declarable conflict of interest arises because of the councillor's relationship with a related party:*
 - (i) *The name of the related party; and*
 - (ii) *The nature of the relationship of the related party to the Councillor; and*
 - (iii) *The nature of the related party's interests in the matter;*

- (c) *If the Councillor's or related party's personal interests arise because of the receipt of a gift or loan from another person:*
- (i) *The name of the other person; and*
 - (ii) *The nature of the relationship of the other person to the Councillor or related party; and*
 - (iii) *The nature of the other person's interests in the matter; and*
 - (iv) *The value of the gift or loan, and the date the gift was given or loan was made.*

Procedure if Councillor has Declarable Conflict of Interest

Pursuant to Section 150ES of the *Local Government Act 2009*, eligible Councillors at the meeting must, by resolution, decide whether the Councillor who has declared the interest:

- (1) *May participate in a decision about the matter at the meeting, including by voting on the matter; or*
- (2) *Must leave the place at which the meeting is being held, including any area set aside for the public, and stay away from the place while the eligible Councillors discuss and vote on the matter.*

Duty to report another Councillor's Prescribed Conflict of Interest or Declarable Conflict of Interest

Pursuant to section 150EW of the *Local Government Act 2009*, a Councillor who reasonably believes or reasonably suspects another Councillor has a Prescribed Conflict of Interest or a Declarable Conflict of Interest in a matter must:

- (1) *Immediately inform the person who is presiding at the meeting about the belief or suspicion; or*
- (2) *As soon as practicable, inform the Chief Executive Officer of the belief or suspicion.*

The Councillor must also inform the person presiding, or the Chief Executive Officer, of the facts and circumstances forming the basis of the belief or suspicion.

Record of Prescribed and Declarable Conflicts of Interest

Where a Councillor informs the meeting of a Prescribed or Declarable Conflict of Interest, section 150FA of the *Local Government Act 2009* requires the following information to be recorded in the minutes of the meeting:

- (1) The name of the Councillor who may have a prescribed or declarable conflict of interest in the matter;
- (2) The particulars of the prescribed or declarable conflict of interest;
- (3) If another Councillor informs the meeting of a belief of suspicion, about another Councillor's Conflict of Interest:
 - (a) The action the Councillor takes;
 - (b) Any decision by eligible Councillors; and
 - (c) The name of each eligible Councillor who voted in relation to whether the Councillor has a declarable conflict of Interest, and how each eligible Councillor voted.
- (4) Whether the Councillor participated in deciding the matter, or was present for deciding the matter;
- (5) For a matter to which the Prescribed or Declarable Conflict of Interest relates:
 - (a) *The name of the Councillor who has declared the conflict of interest;*

- (b) The nature of the personal interest, as described by the Councillor;*
 - (c) The decision made;*
 - (d) Whether the Councillor participated in the meeting under an approval by the Minister;*
 - (e) If the Councillor voted on the matter, how they voted; and*
 - (f) How the majority of Councillors voted on the matter.*
- (6) If the Councillor has a Declarable Conflict of Interest, in addition to the information above, the following information must be recorded in the minutes:
- (a) The decision and reasons for the decision as to whether the Councillor with the Declarable Conflict of Interest may participate in the decision, or must not participate in the decision; and
 - (b) The name of each eligible Councillor who voted on the decision, and how the eligible Councillor voted.

4 REPORTS FROM ORGANISATIONAL SERVICES

4.1 MINJERRIBAH COMMUNITY LEASE

Objective Reference: A6656800

Authorising Officer: Amanda Pafumi, General Manager Organisational Services

Responsible Officer: Amanda Pafumi, General Manager Organisational Services

Report Author: Andrew Ross, General Counsel

Attachments: Nil

PURPOSE

For Council to enter a lease with Minjerriabah-Moorgumpin Elders-in-Council Aboriginal Corporation (MMEIC) to regularise their continued management of Terra Bulla Leumeah Conservation Area, for environmental, historical, cultural and community purposes.

BACKGROUND

Terra Bulla Leumeah is located 2.5 kilometres north of Goompi Minjerriabah at 151 Dickson Way, Dunwich occupying approximately 1.56 hectares of conservation zoned land. The site has a long history as a traditional gathering place for the Quandamooka people, prior to being proclaimed as part of the Myora Mission site and then an Aboriginal Reserve which closed in 1896; thereafter transferred to the Benevolent Institution in the 1940s and subsequently into private ownership.

The history of the area is recorded in various documents where Quandamooka elders recall stories of their grandparents living on the land in the area, which they knew as Moongalba, meaning 'sitting down place'. The Myora Aboriginal mission was established in the area in 1892 and closed in 1943, and some of the remnants of the mission are still evident in the area. The MMEIC Elders decided on the name Terra Bulla Leumeah, which means 'a beautiful place, here I rest'.

The Myora region is environmentally significant as adjoining the Moreton Bay Marine Park and provides habitat for a variety of flora and fauna including rare and threatened species such as the swamp orchid *Phaius tancarvilleae*, the Water Mouse *Xeromys myoides* and the Wallum Froglet *Crinia tinnula*. The site is utilised by the koala and the echidna, both of which also have cultural significance under the *Nature Conservation Act 1999*.

In 2001 Council resolved to compulsorily acquire the site using the community's environmental reserve fund and thereafter developed the 2004 Land Management Plan and co-management arrangements via a Memorandum of Understanding with MMEIC. The site has a bush tucker garden trail, carpark, wheelchair access and various structures and seating for cultural exchange programs, such as cultural talks and dance performances. The Elder's vision for Terra Bulla Leumeah is to continue to use the site as a historical, cultural place for cultural knowledge, education and awareness programs. For almost 20 years the co-management arrangements with MMEIC have been supported by local community groups, businesses and volunteers.

The proposed lease is to regularise the historical and existing use by MMEIC management and care of the site by providing security of tenure, risk management and increased opportunity for third party grants and funding to continue to strengthen and deliver the site objectives. A standard form long term community lease up to 30 years is proposed to ensure the environmental, historical, cultural and community values are retained and enhanced for current and future generations.

ISSUES

Standardise Tenure Term

A review of Council's community leasing process, has identified 10 year renewal periods for some community leases that divide large land areas. In these circumstances a lease over 10 years dividing land area into separate parts requires a reconfiguration approval under the *Planning Act 2009*. This limitation does not apply to Terra Bulla Leumeah as the proposed lease does not divide and is over the entire site. The proposed lease is distinguishable from other community and sporting activities that can occur on sporting fields and halls; whereas this proposal is to enhance the inherent value of the land itself which exists in perpetuity for the whole community.

Transfer or Lease

The land was acquired by using funds from the community environmental levy for current and future environmental purposes that on balance is considered to align to a long term community lease rather than a complete land transfer, due to its broad community values.

Native Title and Lease

Native Title has been extinguished over the site as being freehold land however the site continues to have broad historical, environmental and cultural heritage values as an individual site and its connection to the broader area.

Legislative Requirements

The *Local Government Regulation 2012* (the Regulation) s.236 (1)(b)(ii) requires that Council agree by resolution that it is appropriate to dispose of an interest in land to a community organisation, other than by tender or auction. The MMEIC meets the Regulation's definition of a community organisation, as it is an entity that carries on activities for a public purpose and whose primary object is not directed at making a profit.

Risk Management

All new leases require the lessee to maintain full building and public liability insurance. Council's services conducts inspections to ensure compliance regarding safety and building conditions. The lease will contain provisions to identify risks and clarify roles and responsibilities for public and private infrastructure and uses.

Financial

The proposed lease is not based on annual rental fee however the lessee bears all costs associated with the preparation and registration of the lease. The lessee also bears utility costs associated to water, sewage and electricity. Maintenance of the premises is a shared responsibility between Council and the Lessee in accordance with the relevant terms in the lease tenure.

People

This recommendation does not have any direct staff implications.

Environmental

This lease proposal is aligned to continue the land management plan and actions for retaining and enhancing the environmental, cultural, historical and community values of the site.

Social

The MMEIC website refers to them being founded in 1993 and plays a key role in the preservation and maintenance of Aboriginal First Nations Quandamooka cultural heritage, and cultural and educational services to local and international visitors from around the globe. The lease proposal is aligned to continue the land management plan and actions as a historical, cultural place for cultural knowledge, education and awareness programs for community and visitors.

Human Rights

The recommendation aligns to section 28 of the *Human Rights Act 2019* for the Cultural Rights of Aboriginal and Torres Strait Islander peoples.

Alignment with Council's Policy and Plans

Our Future Redlands – A Corporate Plan to 2026 and Beyond, particularly:

GOAL 2. Strong Communities

2.1 Enhance the health, safety and wellbeing of our community through the delivery of inclusive and responsive services focused on preserving and improving our naturally wonderful lifestyle by leveraging partnerships, networks, facilities and infrastructure.

2.4 Enhance community inclusion where people of all locations, ages, abilities and cultures can participate and have access to the necessary services and facilities.

GOAL 5. Liveable Neighbourhoods

5.1 Enhance the unique character and liveability of our city for its communities through coordinated planning, place making, and management of community assets.

CDV-001-P Community Leasing Policy supports leases to not-for-profit community organisations.

CONSULTATION

Consulted	Consultation Date	Comments/Actions
Councillors	May 2022	Site Visit
Minjerrabah-Moorgumpin Elders-in-Council	Various	Review of existing tenure arrangements
Officers	Various	Review of existing tenure arrangements

OPTIONS

Option One

That Council resolves as follows:

1. To approve a new community lease with Minjerribah-Moorgumpin Elders-in-Council Aboriginal Corporation on lot 35 on SL4267 at 151 Dickson Way, Dunwich with a lease term of 30 years.
2. To agree in accordance with s.236(2) of the *Local Government Regulation 2012* that s.236(1)(b)(ii) of the *Local Government Regulation 2012* applies allowing the proposed lease to a community organisation, other than by tender or auction.
3. To authorise the Chief Executive Officer to negotiate, make, vary, discharge and execute all documents in regard to this matter.

Option Two

That Council does not approve a new lease and request further information.

OFFICER'S RECOMMENDATION

That Council resolves as follows:

1. To approve a new community lease with Minjerribah-Moorgumpin Elders-in-Council Aboriginal Corporation on lot 35 on SL4267 at 151 Dickson Way, Dunwich with a lease term of 30 years.
2. To agree in accordance with s.236(2) of the *Local Government Regulation 2012* that s.236(1)(b)(ii) of the *Local Government Regulation 2012* applies allowing the proposed lease to a community organisation, other than by tender or auction.
3. To authorise the Chief Executive Officer to negotiate, make, vary, discharge and execute all documents in regard to this matter.

5 REPORTS FROM COMMUNITY & CUSTOMER SERVICES

5.1 PROPOSED PUBLIC CONSULTATION ON 03/21 - MAJOR AMENDMENT - MINJERRIBAH (SITE SPECIFIC LAND USES)

Objective Reference: A6652223

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

Responsible Officer: David Jeanes, Group Manager, City Planning & Assessment

Report Author: Dean Butcher, Acting Principal Strategic Planner

Attachments:

1. Chief Executive Notice [↓](#)
2. State Planner Approval to Proceed to Consultation [↓](#)
3. State Planner Conditions [↓](#)

PURPOSE

To seek Council approval to proceed to public consultation on 03/21 – Major Amendment – Minjerribah (Site specific land uses).

BACKGROUND

On 4 July 2011, the Federal Court of Australia made two native title consent determinations recognising the Quandamooka people's native title rights and interests over land and waters on North Stradbroke Island and Moreton Bay.

The Quandamooka Yoolooburrabee Aboriginal Corporation (QYAC) is the prescribed body corporate created under the *Native Title Act 1993* to manage the recognised native title rights and interests of the Quandamooka people.

Following the consent determinations, Council and the State Government finalised separate confidential Indigenous Land Use Agreements (ILUAs) with QYAC.

In this context, it is the State/QYAC ILUA that is of relevance, because it is from this agreement that Temporary Local Planning Instrument No. 2 of 2020 (Quandamooka Land Aspirations Area) and 03/21 – Major Amendment – Minjerribah (Site specific land uses) originated.

Further background information on the native title determination is available on the Queensland Government Department of Tourism Innovation and Sport's website at: www.dtis.qld.gov.au/our-work/minjerribah-futures/native-title.

On 14 September 2020, the Planning Minister gazetted the Minjerribah (North Stradbroke Island) Temporary Local Planning Instrument (TLPI).

The TLPI applies to 25 land parcels covering 94 hectares on Minjerribah and suspends and affects the operation of the City Plan over these parcels of land. The TLPI:

- Provides an interim policy response to facilitate development on land within the Quandamooka Land Aspirations Area on Minjerribah.
- Recognises the current zoning of the Quandamooka Land Aspirations Area does not facilitate development consistent with the aspirations of the Quandamooka People.
- Recognises the cultural, economic and social wellbeing of the Quandamooka People who are the traditional Native Title owners of the land and waters that make up Minjerribah.

- Facilitates development on land within the Quandamooka Land Aspirations Area in accordance with the zones identified in the TLPI.
- Has effect as if the land in the Quandamooka Land Aspirations Area was in the zone identified in the TLPI for the purposes of the City Plan.
- Identifies development and assessment categories and additional assessment benchmarks that apply to the zones identified in the TLPI.

Through a letter dated 11 September 2020, the former Planning Minister also advised Council that in accordance with section 26 of the *Planning Act 2016*, he was considering exercising his Ministerial powers to require Council to amend its City Plan to reflect the TLPI.

A chronology of events that have occurred since the TLPI commenced are summarised below:

7 October 2020 – A report on the TLPI was presented to Council at its General Meeting (Item 14.5). In response, Council resolved to authorise the Chief Executive Officer to send a copy of the report to the State Government and to seek a response on the issues raised with regard to:

- Ensuring opportunity for community consultation on the proposed zone changes.
- Addressing potential conflicts between TLPI zoning and documented land constraints.
- Coordinating strategic planning and infrastructure planning and delivery to support the island's future.

27 July 2021 – Council received a Ministerial Direction from the Deputy Premier and Minister for State Development, Local Government, Infrastructure and Planning directing Council to amend its City Plan to incorporate the TLPI land zonings.

18 August 2021 – A report on the Ministerial Direction was presented to Council at its General Meeting (Item 14.2). Council resolved to proceed with an amendment and to submit a draft amendment to the Chief Executive administering the *Planning Act 2016* within three months.

18 November 2021 – Council submitted a draft amendment to the State Government for review.

November 2021 to March 2022 – Council continued to liaise with the State Government to refine the draft amendment.

18 March 2022 – Council received a Chief Executive Notice (CE Notice), issued under section 18 of the *Planning Act 2016*. The notice set out the key steps and timeframes for completing the amendment process, with a target amendment commencement date of 13 January 2023.

A copy of this notice has been provided (Attachment 1).

21 March 2022 – Council formally submitted the proposed amendment for State Interest Review in accordance with the CE Notice.

28 April 2022 – The State Government issued Council with an approval from the State Planner to proceed to public consultation subject to conditions. In addition, an associated information package to support public consultation activities was also provided. Council is required to satisfy the State Planner conditions prior to commencing the public consultation period.

5 May 2022 – The State Government provided outstanding material to be included in the information package supporting public consultation.

ISSUES

Approval to proceed to public consultation and conditions

On 28 April 2022, the State Government provided Council with an approval from the State Planner to proceed to public consultation (Attachment 2), subject to conditions (Attachment 3).

The conditions have been reviewed by officers and are considered appropriate, requiring Council to undertake the following prior to commencing public consultation:

- Provide a copy of the proposed amendment, with the necessary changes required by the State Planner to the South East Queensland South Manager for endorsement.
- Clearly identify and annotate the Asset Protection Buffers for each relevant allotment in the associated overlay map.
- Remove references to the Southern Moreton Bay Islands in the overlay map.
- Rename the amendment, including references within the relevant titles, overlays and codes as Minjerribah (Site specific land uses).

Information package

As referenced in the CE Notice, the State Government also committed to providing an information package to assist Council in undertaking public consultation on the proposed amendment. A final version of this material was provided to Council on 5 May 2022.

Officers are satisfied the information package is consistent with the CE Notice and will assist with the public consultation exercise.

Public consultation

In accordance with the State Government endorsed communication strategy, the following consultation activities are proposed to be undertaken:

- Placing a public notice on Council's Your Say site and in Council's customer service centres in Cleveland, Capalaba and the Victoria Point Library.
- Placing copies of the co-branded public notice in Minjerribah shops, Post Office and on public infrastructure.
- Adding a project webpage to the Your Say site with initial information to include a summary of amendments, background and project process. All key consultation documents will be co-branded with Council and State Government logos.
- Providing opportunities for key stakeholders to contact the planning team via online platforms if required due to social distancing requirements.
- Establishing a Talk to a Planner phone hotline supported by the department where key stakeholders can discuss the background associated with the ministerial direction.
- Placing a notice in the local newspaper (*Redland City Bulletin*).
- Promoting consultation in the *Friendly Bay Islander* (schedule permitting).
- Promoting the consultation period through Council and State Government social media channels.
- Placing a notice in the Queensland Government Gazette.

In collaboration with Council's Communication, Engagement and Tourism Group, the Strategic Planning Unit will project manage public consultation activities.

As outlined in the CE Notice, the consultation period is proposed to run for 30 business days from 31 May 2022 to 11 July 2022. The consultation period proposed exceeds the minimum statutory requirement of 20 business days, as outlined in the Minister's Guidelines and Rules.

STRATEGIC IMPLICATIONS

Legislative Requirements

The CE Notice issued to Council on 18 March 2022 sets out the agreed process for amending City Plan under section 18 of the *Planning Act 2016*. However, Council may, at any of the decision points, decide not to proceed with the proposed amendment.

As outlined in the background section of this report, the major amendment process was initiated by a Ministerial Direction issued to Council on 27 July 2021. While Part 6, Division 2, Subdivision 1, Section 93, Part 2 of the *Planning Act 2016* states that the recipient of a direction must comply with the direction, the Minister's powers provide recourse for dealing with non-compliance. In this regard, Part 3, Division 3, Section 26, Part 7 (a) and (b) enables the Minister to take the action (stated in the notice) and to recover any expense reasonably incurred in taking the action from the local government as a debt.

Risk Management

Decision to proceed with the proposed amendment

Council is administering the amendment at the instruction of the Planning Minister, who issued Council with a Ministerial Direction on 27 July 2021. In good faith, Council has agreed to give effect to the amendment process on the State Government's behalf, recognising that the amendment will provide a number of important social, cultural, housing and economic opportunities for the Quandamooka People.

Deciding not to proceed with the proposed amendment.

There is a risk that the Minister could give effect to the amendment and recover any cost incurred, should Council decide not to proceed with the amendment.

Public perception risks

Council should be mindful that if it makes a decision not to proceed to public consultation, this may be perceived by some community stakeholders to be an action that undermines the timely provision of housing, economic, social and cultural opportunities for the Quandamooka people.

Public consultation

Council officers will be responsible for coordinating all public consultation activities.

In preparing for the anticipated public consultation period, Council officers have sought to obtain an information package from the State Government that clarifies, to the greatest extent practicable, the State and Council's role in the project to date. The State Government has also committed to providing a 24-hour turnaround for questions posed by members of the public during the consultation period.

Financial

The processing of the amendment to City Plan will be funded through existing operating budget and there are no additional financial implications resulting from this report.

People

Officers from Council's Strategic Planning and Communication and Community Engagement units will be responsible for managing public consultation activities.

Environmental

A number of sites are identified as being affected by a range of constraints including environmental values, flooding constraints and other hazards. Despite repeated requests, the State Government has to date not provided further information to Council beyond preliminary studies completed in 2014, outlining details of further planning investigations it has completed to support the proposed zone changes.

Given Council has not sighted studies demonstrating that land parcels proposed for rezoning are suitable for urban development, officers have significant concerns that the constraints present on some sites may render the land unsuitable for development.

Despite this, if the amendment is approved any proposed future development on the affected lots will require lodgement of a development application and assessment of any relevant constraints including environmental values, flooding constraints and other hazards.

Social

The amendment provides an opportunity to improve social and community outcomes across Minjerriabah.

Human Rights

The recommendation aligns with section 23 of the *Human Rights Act 2019* taking part in public life.

Alignment with Council's Policy and Plans

The amendment is being undertaken to address a Ministerial Direction and as such does not necessarily align with Council's policies and plans. Through the amendment process, Council can continue to advocate to the State Government to coordinate strategic planning and infrastructure planning, funding and service delivery to enhance social, cultural, environmental and economic outcomes for Minjerriabah, consistent with *Our Future Redlands – A Corporate Plan to 2026 and Beyond*.

CONSULTATION

Consulted	Consultation Date	Comments/Actions
Councillors	16 May 2022	Councillor briefing held.
Executive Officer – Office of the Mayor	April – May 2022	Email correspondence to provide updates on the status of the proposed major amendment.
Communication, Engagement and Tourism Group	July 2021 – May 2022	A number of briefings and updates have been provided to ensure public consultation activities are undertaken in accordance with statutory requirements and the agreed Communication Strategy.

OPTIONS**Option One**

That Council resolves to commence public consultation on 03/21 – Major Amendment – Minjerribah (Site specific land uses), in accordance with the State Planner conditions, commencing on 31 May 2022 until 11 July 2022.

Option Two

That Council resolves to advise the Planning Minister that it does not intend to amend its City Plan to align with Temporary Local Planning Instrument (TLPI) No. 2 of 2020 (Quandamooka Land Aspirations Area) as indicated in the Ministers Direction notice dated 27 July 2021.

Option Three

That Council resolves to defer its decision on proceeding to public consultation pending further discussions with the State Government on the State Planner conditions.

OFFICER'S RECOMMENDATION

That Council resolves to commence public consultation on 03/21 – Major Amendment – Minjerribah (Site specific land uses), in accordance with the State Planner conditions, commencing on 31 May 2022 until 11 July 2022.

6 MEETING CLOSURE