

**ORDINARY MEETING OF COUNCIL
23 NOVEMBER 2009**

12	TENANT REQUEST FOR LEASE EXTENSION
LOCATION/ADDRESS:	174 NOTT STREET, PORT MELBOURNE
GENERAL MANAGER:	MARK BRADY, GENERAL MANAGER CORPORATE SERVICES
PREPARED BY:	DAVID GRAFFEN, PROPERTY COORDINATOR
FILE NO.:	4320/174-02
ATTACHMENTS:	LOCATION PLAN

1. EXECUTIVE SUMMARY

- 1.1 The tenant at 174 Nott Street, Port Melbourne has requested a lease extension for a further 9 years to 9 September 2022
- 1.2 Council granted a 3 year lease of the property to Teifal Pty Ltd for use as a retail and wholesale liquor store. The lease commenced on 10 September 2001 and contains 3 further options of 3 years each until 9 September 2013.
- 1.3 While the lease is freehold and not subject to the State Government Guidelines for leasing of crown land, it is considered that future leasing of the property should be subject to an open and competitive process in the same way that Council determines leasing for crown land where it is the Committee of Management.
- 1.4 There are other options for the use of the site including a Council operational purpose.

2. RECOMMENDATION

That Council:

- 2.1 Advises Teifal Proprietary Limited, the current tenant at 174 Nott Street, Port Melbourne, that a lease extension, as requested, from 9 September 2013 to 9 September 2022 will not be granted.
- 2.2 Further considers the potential future uses for the property by June 2010.

3. BACKGROUND AND CONTEXT

3.1 This matter is being reported to Council due to a resolution made at the meeting held on 23 February 2009.

3.2 Information regarding this property is shown in the table below:

Item	Details
Tenant	Teifal Pty Ltd
Property Address	174 Nott Street, Port Melbourne
Land Status	Council freehold land
Current Permitted Use	Retail and wholesale of liquor and associated products and services
Lease Area	367 square metres approximately
Value of Land and Buildings	\$870,000
Current Lease Details	Current option expires 9 September 2010. One further option of 3 years.
Current Rental	\$76,500 (ex GST) per annum (8.8% yield)
Market Rent Reviews	Every second year

3.3 On 4 November 2008, Teifal Pty Ltd formally requested a lease extension of 9 years through to 9 September 2022, broken up into 3 further options of 3 years each. The extension is required for the implementation of a new financial strategy for the business which includes a share buy out between the current business partners.

3.4 Officers recommended to the Council in February 2009, a five year lease extension through to September 2018 as there was no requirement for an EOI at the time, it would assist the tenant and was thought to add value to the property.

3.5 On 23 February 2009 Council resolved:

“That consideration of this item be deferred for a period of six months while council finishes its council planning process and provide space for council to consider other options or consider its property strategy longer term.”

3.6 The revised draft Property Policy is also being presented at this Council meeting on 23 November 2009. Relevant excerpts from the Property Policy are below.

- Commercially occupied properties

- Purpose

Council holds commercial properties in order to:

- (a) Hold an asset for future strategic use; and/or
- (b) Carry out its responsibilities as committee of management, as appointed by the State Government; and/or
- (c) Provide services and facilities to the public (such as restaurant, kiosk); and/or
- (d) Preserve culture, history and heritage.

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- Review & Use

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- (c) Commercial properties would usually be the subject of an open advertisement, EOI or tender process, in accordance with State Government policy in relation to Crown Land.

4 CONSULTATION AND STAKEHOLDERS

4.1 Below is a table that indicates the relevant departments of Council that have been consulted in relation to this matter and commenting on possible alternative uses (other than commercial) for the site.

Possible use	Comments
Park / open space	There is adequate open space within this vicinity. Edwards Park, Hester Reserve and Turner Reserve are located within 400metres and therefore complies with the Open Space Strategy.
Social housing	The site is ideally located for community housing. It is close to the Bay Street Shopping Centre and Port Melbourne light rail line, and civic services such as the Port Melbourne Town Hall, library and Liardet Community Centre and Neighbourhood House.
Car park	There is not an urgent need for additional parking in the area. The immediate area is under some parking pressure only during 11am to 5pm on Wednesdays to Fridays. There is also concern with the dimensions of the property. To get full utilisation the parking layout would need to be at 90° angle to Pool Street, which would mean having to extensively widen the crossover, in turn losing existing on-street parking and the footpath.
Community organisation use	The Port Melbourne Neighbourhood House is very close to this site and has requested more space. Use by other community groups or for storage for community groups is viable.
Art & heritage collection storage	The Port Phillip City Collection, valued at over \$10million, is a significant and valuable community asset consisting of artworks and heritage items. Storage is not currently adequate. The site fulfils the criteria for a collection store.

- 4.2 In summary, alternative uses for the site include social housing, use by community groups and as storage for the Port Phillip Collection.
- 4.3 The property could also continue to be used for commercial purposes or sold. The revenue generated by either of these options could be used for another Council purpose.

5 DISCUSSION

5.1 OPTIONS

- 5.1.1 The option recommended in this report is to decline the request for a lease extension based on Property Policy which is to be considered by Council at its meeting on 23 November 2009. The policy as drafted generally requires that leasing be the subject of an open advertisement, EOI or tender process, in accordance with State Government policy in relation to crown land.

Aside from policy there are alternative uses for the property identified in the CONSULTATION AND STAKEHOLDERS section of this report, more specifically, community housing, storage and display of Council's artworks and heritage items or use by community organisations. In addition, Council could conduct an expression of interest for continued commercial use of the property upon expiry of the current lease or the property could be sold and Council could use the proceeds from sale for another Council purpose.

- 5.1.2 The alternative option is to grant a lease extension which is inconsistent with the way Council deals with other properties in the commercial category of its portfolio.

5.2 ALIGNMENT TO COUNCIL PLAN

- 5.2.1 The Council Plan 2009-2013 commits the Council to responsibly managing community assets and resources now and into the future.

5.3 POLICY IMPLICATIONS

- 5.3.1 The recommendation is based on a new Property Policy which is to be considered by Council at its meeting on 23 November 2009.

5.4 FINANCE / RESOURCE IMPLICATIONS

5.4.1 There is no immediate financial or resourcing risk associated with the recommendation. However there is a risk depending on what transpires from a decision to reject a lease extension. The risk is described in the table below:

Council Decision	Possible Action	Financial / Resourcing Implication
To grant a lease extension	Tenant implements financial business strategy and continues as a tenant for the extended period.	<p>The property represents a good return on investment and future revenue is assured for the extended term.</p> <p>Alternative uses are deferred.</p> <p>The value of the property is affected which is relevant if Council decides to sell it. If the property is attractive to an investor, a longer lease would be preferred and therefore add value to the property at sale. If the property is more attractive to a developer a longer lease would have an adverse affect on the value of the property at sale.</p>
Reject a lease extension	Tenant decides to relocate at the end of the current option (9 September 2010).	<p>Income through rent will cease. Council may have little time to conduct an EOI for a commercial use and little time to plan and prepare for an alternative use.</p> <p>The value of the property is affected as above.</p>
Reject a lease extension	Tenant decides to exercise the final lease option.	<p>Rental income is guaranteed for a further three years.</p> <p>Council has time to plan for the future use of the property.</p> <p>The value of the property is affected as above.</p>

5.5 LEGAL & RISK IMPLICATIONS

5.5.1 There are no legal implications associated with the recommendation as Council and the tenant have a legally binding agreement in the form of a lease.

5.5.2 The risks associated with the option relate are considered in the FINANCE / RESOURCE IMPLICATIONS section of this report.

6. IMPLEMENTATION STRATEGY

6.1 TIMELINE

6.1.1 The tenant will be advised immediately by letter.

6.2 COMMUNICATION

6.2.1 The decision is based on property policy and Council's commitments to openness and transparency when making decisions.

7. OFFICER DIRECT OR INDIRECT INTEREST

7.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.