

**ORDINARY MEETING OF COUNCIL
23 NOVEMBER 2009**

13	PROPOSED LEASE AGREEMENT TO SOUTH MELBOURNE COMMUNITY CHEST INC.
LOCATION/ADDRESS:	GROUND FLOOR 200-202 BANK STREET, SOUTH MELBOURNE
GENERAL MANAGER:	MARK BRADY, GENERAL MANAGER CORPORATE SERVICES
PREPARED BY:	JEANENE SIMMONS, SENIOR PROPERTY ADVISOR
FILE NO.:	0380/200-03
ATTACHMENTS:	1) LOCATION PLAN 2) PROPOSED LEASE AREA

1. EXECUTIVE SUMMARY

- 1.1 Council is the freehold owner of the property known as 200-202 Bank Street, South Melbourne. This property comprises a double storey building with 3 rear car parks.
- 1.2 The South Melbourne Community Chest Inc (“SMCC”) currently operates an opportunity shop from the ground floor of the property and utilises 2 of the 3 rear car parks.
- 1.3 SMCC’s lease agreement for the property with the City of South Melbourne expired in October 1999. SMCC would like to change their monthly over-holding arrangement into a 5 year lease agreement to assist with business planning and to ensure ongoing service provision to the local community.
- 1.4 This report recommends that Council commence procedures under the Local Government Act 1989 with respect to the grant of a lease to SMCC for use of the ground floor at 200-202 Bank Street South Melbourne for a period of 5 years.

2. RECOMMENDATIONS

That Council:

- 2.1 Resolves to commence the statutory procedures under Section 190 and 223 of the Local Government Act 1989 (“the Act”) and publish a notice in local newspapers advising of Council’s intention to grant a lease and inviting interested persons to make a submission under Section 223 of the Act for the proposed lease of Ground Floor, 200-202 Bank Street, South Melbourne to the South Melbourne Community Chest Inc on the following terms:

Area: Ground floor, approximately 250 square metres.

Permitted use: Office and shop for charitable purposes.

Term: 5 years.

Rental: \$104.00 per annum plus GST.

- 2.2 Resolves to hear and consider any submissions received at an Ordinary Meeting of Council on 8 February 2010.

3. BACKGROUND AND CONTEXT

- 3.1 SMCC has a long history of service provision in the South Melbourne area being in existence to generate funds for charitable purposes.
- 3.2 Further information regarding the property is shown in the following table:

Table 1: Summary Details: Ground Floor, 200-202 Bank Street, South Melbourne.

Item	Details
Property Address	Ground Floor, 200-202 Bank Street, South Melbourne (Refer to Attachment 1)
Land Status	Council Freehold - (Part of Certificate of Title Volume 01671, Folio 129)
Current Permitted Use	Office and shop for charitable purposes associated with SMCC.
Area	Approximately 250 square metres, including 2 car parks at the rear of the building. (Refer to Attachment 2)
Value of Land and Buildings	Site value - \$380,000. Capital improved value - \$840,000.

Expired Lease Details for SMCC	Commencement date: 31 October 1983. Expiry date: 30 October 1999. Rental: \$1.00 per annum.
Tenant's Performance	SMCC's rent account is up to date and the property is being well maintained.

3.3 On 19 January 2009, SMCC wrote to Council requesting a new 5 year lease for the ground floor and 2 car parks on similar terms to their expired agreement. This request was acknowledged by Council Officers and included in the 2009/2010 property portfolio review.

3.4 The first floor of 202 Bank Street South Melbourne is currently occupied by Think OTS Pty Ltd. Their commercial lease agreement for office space and one rear car park is due to expire on 31 May 2010. It is anticipated that the first floor will remain designated for commercial use and any further leases will be aligned to ensure all agreements for the ground and first floor areas expire at the same time.

4 CONSULTATION AND STAKEHOLDERS

4.1 Discussions have been held with SMCC and Think OTS Pty Ltd with respect to the future use of the property.

5 DISCUSSION

5.1 OPTIONS

5.1.1 The preferred option is to issue a new 5 year lease agreement to SMCC for the ground floor of the property and 2 rear car parks. By providing SMCC with security of tenure, Council will be effectively supporting a local charitable business.

5.1.2 Council could elect to leave SMCC in a monthly over-holding arrangement or run an Expression of Interest process for the lease of the ground floor area. These alternatives would not particularly address SMCC's immediate needs and may cause undue community concern as SMCC is a much loved and respected organisation.

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 proposed lease aligns with Council's strategic direction to provide property that meets current and future community needs. A revised Draft Property Policy is expected to be presented to the Council meeting on 23 November 2009. Relevant excerpts from the current draft are listed below:

5.3.1.1 The basis for calculating rent charged to community groups will be the standard Department of Sustainability and Environment (DSE) charge (\$104.00 per annum in 2009) plus GST and outgoings.

5.3.1.2 New arrangements for community properties would usually be the subject of an open Expression of Interest or tender process. Exceptions may be made due to:

5.3.1.2.1 the type of use, for instance the nature of the service provided;

5.3.1.2.2 capital investment by the tenant; or

5.3.1.2.3 any other relevant matter.

5.3.2 As the current market value of the land exceeds \$50,000 per annum, Council is required to undertake the consultation process described in sections 190 and 223 of the Local Government Act 1989 for the proposed lease. These Sections include the requirement to publish a notice regarding the intention to enter into a lease agreement with SMCC and receive submissions on the matter.

5.4 FINANCE / RESOURCE IMPLICATIONS

5.4.1 The proposed rental of \$104.00 per annum plus GST is consistent with other community use tenancies within the municipality and DSE's community rental guidelines.

5.4.2 There are no special resourcing requirements associated with the preferred option.

5.5 LEGAL & RISK IMPLICATIONS

5.5.1 The proposed lease will formalise SMCC's occupation and provide security of tenure for their future business endeavours. It will also address risk implications by providing certainty about the respective rights and obligations of each party.

6. IMPLEMENTATION STRATEGY

6.1 TIMELINE

6.1.1 Indicative timelines are shown below, if Council adopts the recommendations in this report:

Table 2: Indicative Timeline

Date	Event
23 November 2009	Council resolves to commence the statutory procedures under Sections 190 and 223 of the Local Government Act 1989 with respect to a 5 year lease agreement to SMCC.
1 December 2009	Notice of intention to lease land advertised in local newspapers.
15 January 2010	Advertising period closes.
8 February 2010	Council hears and considers any submissions received.
22 February 2010	Council makes a decision with respect to the proposed lease.
March 2010	Lease agreement executed.

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.