

**ORDINARY MEETING OF COUNCIL  
22 JUNE 2009**

**ORDER OF THE DAY**

<b>ORDER 4</b>	<b>PROPOSED EXPRESSION OF INTEREST PROCESS – LEASE OF 129 BEACONSFIELD PARADE, ALBERT PARK</b>
<b>LOCATION/ADDRESS:</b>	<b>129 BEACONSFIELD PARADE, ALBERT PARK</b>
<b>RESPONSIBLE EXECUTIVE DIRECTOR:</b>	<b>SALLY CALDER, EXECUTIVE DIRECTOR ORGANISATION SYSTEMS AND SUPPORT</b>
<b>AUTHOR:</b>	<b>JEANENE SIMMONS, SENIOR PROPERTY ADVISOR</b>
<b>FILE NOS.:</b>	<b>0514/129-04</b>
<b>ATTACHMENT:</b>	<b>1 – LOCATION PLAN, 129 BEACONSFIELD PARADE, ALBERT PARK</b>

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**1. EXECUTIVE SUMMARY**

- 1.1 To inform Council of the upcoming expiry of the commercial lease agreement for Belucci's Restaurant at 129 Beaconsfield Parade Albert Park. This agreement is due to expire on 30 November 2009.
- 1.2 As the site is Crown Land managed by Council on behalf of the Department of Sustainability and Environment ("DSE"), Council is required to comply with DSE's "Commercial Leasing Principles for Crown Land" and run a competitive expression of interest and or tender process to select a future tenant.
- 1.3 This report seeks Council's endorsement to the proposed approach and sets out an indicative timeline for the Expression of Interest process.

**2. RECOMMENDATION**

That Council resolves to:

- 2.1 Undertake an Expression of Interest process for the future lease of 129 Beaconsfield Parade, Albert Park; and
- 2.2 Advertise this opportunity for commercial or community use in The Age, The Port Phillip Leader and the Emerald Hill Weekly newspapers.

### 3. DISCUSSION

Council is the appointed Committee of Management under the provisions of the Crown Land (Reserves) Act 1978 (“CLRA”) for the subject property. The lease agreement for this site is due to expire on 30 November 2009.

In line with DSE’s “Commercial Leasing Principles for Crown Land”, Council is required to run a competitive, open process such as an expression of interest or tender to allocate any future lease agreement.

The maximum lease term available under the provisions of the CLRA is 21 years and the proposed future use should be consistent with the DSE land reservation.

Further information regarding the property is shown in the following table:

Table 1: Summary Details – Belucci’s Restaurant

Item	Details
Tenant	Billy Murelli.
Property Address	129 Beaconsfield Parade, Albert Park. (Refer to Attachment 1 – Location Plan).
Land Status	Crown Land – Council is the appointed Committee of Management.
Land Reservation	Temporarily reserved for Public Recreation.
Current Permitted Use	A quality low cost restaurant.
Lease Area	Approximately 279 square metres.
Value of Land and Buildings (prior to construction)	\$1.33 million.
Yield	2.8%.
Lease Details (ie commencement, expiry etc)	Lease commencement date – 1 December 2000 Lease expiry date – 30 November 2009 No further options are provided under the lease.
Current Rental	\$37,520.40 (agreed rental amount - this represents 50% of the assessed market rent. This rent relief has enabled the current tenant to sustain a business at the site).
Market Rent Reviews	7% per annum fixed increase. Market rent reviews in Years 4 and 7.
Additional Information	<ul style="list-style-type: none"> <li>• The current tenant purchased the business nearly two years ago.</li> <li>• The current and previous tenants claim that the lack of car parking in the vicinity inhibits the ability of the restaurant to flourish.</li> <li>• Medium to low interest is anticipated in the future lease of this property.</li> </ul>

3.5 The Property Advisory Board considered the future use of this property at its meeting held on 9 April 2009.

3.5.1 It was noted that:

3.5.1.1 The site has not proven to be a viable proposition for a restaurant to date.

3.5.1.2 Alternative uses could include art storage, artist studio or community use.

3.5.1.3 As medium to low interest is anticipated in this property an Expression of Interest process is deemed appropriate.

3.5.1.4 The Expression of Interest document is to include standard provisions pertaining to the reservation of Council's rights.

3.6 Council is required to comply with the provisions of the Retail Tenancies Reform Act 1998 and serve a "Notice of Landlord's Intention Not to Offer a Renewal of Lease" on the current tenant. This Notice was duly served on 6 May 2009.

3.7 In issuing any new lease agreement for the property, Council is also required to comply with Sections 190 and 223 of the Local Government Act 1989. These Sections include the requirement to publish a notice regarding the intention to enter into a lease agreement and receive submissions on the matter.

3.8 An indicative project timeline is shown below:

Table 2: Project Timeline

Council resolution to commence proposed Expression of Interest Process	22 June 2009
Advertise Expression of Interest	July 2009
Evaluation Submissions	September 2009
Council Decision on New Occupant / Tenant	October 2009