

STRATEGY AND POLICY REVIEW COMMITTEE
6 JUNE 2005 **GOVERNANCE AND COMPLIANCE**

A16	ELWOOD BEACH HOUSE - INTENTION TO LEASE
LOCATION/ADDRESS:	63A ORMOND ESPLANADE, ELWOOD.
RESPONSIBLE EXECUTIVE DIRECTOR:	DAVID GRAHAM, EXECUTIVE DIRECTOR CORPORATE MANAGEMENT
AUTHOR:	DON REITER, PROPERTY SERVICES COORDINATOR
FILE NO.:	4930/063A-09
ATTACHMENTS:	NIL.

1. KEY ISSUES

- 1.1. Elwood Beach House has operated under a Crown Land Lease for the past ten years and this report recommends the commencement of the Statutory procedures under Sections 190 & 223 of the Local Government Act 1989 of Council intention to enter into a new lease with the present operator, subject to the obligations in the tenancy agreement being met.

2. CONTEXT

- 2.1. The obligations in part refer to a Planning Permit Application No 968/2004 issued on the 6 January 2005 for building and works to the existing premises including the relocation of the entry, the enclosure of terraces and internal and external renovations.
- 2.2. Advice has been received from the Manager, Crown Land Management Department of Sustainability and Environment approving the grant of a lease of part of the Elwood Foreshore Reserve to S Zeneldin for the purpose of café/tearooms.

3. PROPOSAL

- 3.1. That Council commences statutory procedures to enter into a lease with S Zeneldin for the purpose of operating a café/tearooms at Elwood beach House, in accordance with Sections 190 & 223 of the Local Government Act 1989.

4. OPTIONS

- 4.1. That Council proceeds under Sections 190 & 223 of the Local Government Act 1989 of its intention to enter into a 15-year lease of the Elwood Beach House with S Zeneldin subject to the obligations in the tenancy agreement.
- 4.2. If S Zeneldin defaults or does not proceed with the renovations as per the obligations in the tenancy agreement the present occupation be terminated and public tenders be called for Expressions of Interest to operate a café/tearooms for the Elwood Beach House.

5. POLICY IMPLICATIONS

- 5.1. The Crown Land (Reserves) Act 1978 is the principal Act for the management of Crown Land.
- 5.2. The provisions of the Local Government Act 1989 for the restriction on power to lease land.

6. SUSTAINABILITY IMPLICATIONS

6.1. Social Equity

The proposal to inter into a lease with S Zeneldin to operate the premises ensures that a well-accepted café/ restaurant business would be available to the local community and the visitors to the Elwood Foreshore Reserve.

To have a diverse and successful business operating in a refurbished building helps to support the existing social fabric of the Elwood residents who use this premises on a regular basis.

Refurbished premises will provide a safer, more compliant and comfortable building for the community to use.

6.2. Economic Viability

The economic benefit is that Council will as custodian and committee of management for the restaurant, receive an appropriate market rental return for the premises, at an agreed amount for the period of the lease.

The proposal requires no further contribution of Council toward the initial setting up and fitting out of the building, however Council will be required to provide ongoing maintenance of the building.

6.3. Environmental

No particular Environmental issues can be directly attributed by the appointment of an operator to this premises.

Environmental compliance issues have been addressed during the refurbishment works:

- Upgrading the amenities to handle all waste discharges from the premises, and certifications will be obtained from the various authorities.
- The mechanical ventilation of the building has been upgraded to meet the standards required by health and building authorities.
- The electrical and fire compliance wiring and amenities have been replaced which will ensure safety of patrons and staff using the premises.

6.4. Cultural

There are no sustainability implications in terms of cultural vitality.

A lease of the premises with S Zeneldin will ensure a certain degree of diversity in the area and will return the café/tearooms business to as close as possible to cultural milieu that which existed prior to the refurbishment works commencing.

7. RESOURCE IMPLICATIONS

- 7.1. The resource implications will primarily be limited to officers' time seeking various approvals and to liaise with Solicitors during the preparation of the standard Lease documents.

8. INTERNAL CONSULTATION

- 8.1. David Graham, Executive Director Corporate Management
- 8.2. Murray Chick, Acting Manager Governance & External Relations
- 8.3. Frank Carbone, Contract City Valuer.
- 8.4. Sue Wilkinson, Manager Planning & Building
- 8.5. Don Reiter Property Services Coordinator

9. EXTERNAL CONSULTATION

- 9.1. Mr. Wayne Malone, Manager Port Phillip Region, Department of Sustainability and Environment
- 9.2. Charter Keck Cramer – Commercial Valuers
- 9.3. Independent legal advice.

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10. IMPLEMENTATION

- 10.1. Council is required to give public notice of its intention to enter into a lease and to call for public submissions. At the conclusion of the submissions process a further report will be presented to Council.

11. CONCLUSION

- 11.1. The proposal as presented achieves the following:
- A sustainable market rental being received over the term of the lease.
 - Maintains and ensure diversity for the Elwood Foreshore Area.
 - The renovations will ensure long-term marketable-conditioned premises.
 - The shortest time available to Council to obtain approval to enter into a Lease for the premises.

12. COMMUNICATION

- 12.1. There is a statutory requirement for advertising the proposed lease under the provisions of the Local Government Act 1989.

13. RECOMMENDATION

- 13.1. That Council proceeds under Sections 190 & 223 of the Local Government Act 1989 and gives public notice of its intention to enter into a 15-year lease of the Elwood Beach House with S Zeneldin subject to the obligations in the tenancy agreement.
- 13.2. That if S Zeneldin defaults or does not proceed with the renovations as per the obligations in the tenancy agreement the present occupation be terminated and public tenders be called for Expressions of Interest to operate a café/tearooms for the Elwood Beach House.
- 13.3. That Murray Chick Acting Manager Governance and External Relations, and Don Reiter Property Services Coordinator, be appointed to consider and hear submissions on this matter under Section 223 of the Local Government Act 1989.