



8.4 **PROPOSED LEASE - ROYAL MELBOURNE YACHT SQUADRON**

WARD: **LAKE**

GENERAL MANAGER: **CHRIS CARROLL, ORGANISATIONAL PERFORMANCE**

PREPARED BY: **DAVID GRAFFEN, COORDINATOR PROPERTY MANAGEMENT**

TRIM FILE NO: **2860/002-04**

ATTACHMENTS:

- 1. Proposed Lease RMYS**
- 2. Lease plan**

PURPOSE

To seek Council's approval to complete the statutory procedures and to enter into a new lease with the Royal Melbourne Yacht Squadron (RMYS) for premises at 2 Jacka Boulevard, St Kilda.

I. RECOMMENDATION

That Council:

- I.1 Having received no submission in response to a notice of intention to lease the premises at 2 Jacka Boulevard, St Kilda to the Royal Melbourne Yacht Squadron, resolves to conclude the statutory procedures under Sections 190 and 223 of the Local Government Act 1989 and to enter into a new lease.
- I.2 Authorises the Chief Executive Officer or delegate to execute a new lease agreement on the terms outlined in Attachment 1, including but not limited to the following terms outlined below:
 - I.2.1 Proposed Tenant: Royal Melbourne Yacht Squadron
 - I.2.2 Demised Premises: 2 Jacka Boulevard St Kilda
 - I.2.3 Permitted Use: Sail club and associated activities
 - I.2.4 Commencement Date: 1 March 2017
 - I.2.5 Term: 21 Years
 - I.2.6 Rent: \$40K per annum plus GST at commencement representing a commercial valuation of ground rent
 - I.2.7 Capital investment: \$1.1M within the first 5 years



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|-------|--------------------|--|
| 1.2.8 | Maintenance | All maintenance and asset renewal to be undertaken by the tenant |
| 1.2.9 | Community benefits | Annual reporting on Community benefits including <ul style="list-style-type: none">- making the slip and boatyard available to all community members- provision of three days per year of at cost community use of facilities- provision of a low/no cost opportunity for schools, people with disabilities and general community to participate in sailing including the number of events and participation |

2. BACKGROUND

Context

- 2.1 RMYS occupies Crown land at 2 Jacka Boulevard near the entrance to St Kilda Pier.
- 2.2 Council is the appointed Committee of Management under the Crown Land (Reserves) Act 1978 (CLRA). This enables Council to lease the land as landlord. The maximum term for a lease under the CRLA is 21 years.
- 2.3 To lease a property for any period greater 10 years, Council must first follow the procedures set out in Sections 190 and 223 of the Local Government Act 1989. The procedures allows for any person to make a submission and for any submissions to be considered by Council before a lease can be granted.

Current Lease

- 2.4 A 21 year lease expired on 9 February 2016. The expired lease requires RMYS to pay \$35,000 in rent with the tenant being responsible for all outgoings, repairs and maintenance. A short term lease to cover the period from expiry to now was agreed but not executed. The current amount is for the ground rental only.
- 2.5 RMYS has a separate seabed Crown lease negotiated with Parks Victoria expiring 28 February 2035. As part of its seabed lease RMYS has completed Stage 1 of the 2010 St Kilda Harbour Concept Plan with construction, at its expense, of the new 250 berth floating marina precinct and removal of the existing marina.

Proposed Lease

- 2.6 RMYS provided a proposal to CoPP for a new 21 year lease where they propose to pay rent of \$36,000 p.a. increasing by CPI annually and continue to be responsible for maintenance of the building.
- 2.7 RMYS has requested a new 21 year lease to provide security of tenure for the squadron, its investment made in the harbour and the investment proposed to be made in the building and site.

West Beach Agreement

- 2.8 In 2004, Council and RMYS entered into an agreement that was largely about removing junior sailing from the West Beach Bathers Pavilion and encouraging a new sail training academy to be developed at the 2 Jacka Boulevard site.



- 2.9 One of the objectives of the new lease is to deal with outstanding items from the West Beach agreement and incorporate those into a new lease where appropriate so that there is only one relevant legal document relating to the site.
- 2.10 The proposed capital works includes a new building for a junior Sail Training Academy within the site and improved boundary fencing. The boundary fencing will extend around the car park area to enclose this land which remains part of the lease. The car park was not used by the club but will be used in the future for the storage of masted junior sail vessels.

3. KEY INFORMATION

- 3.1 At its meeting held on 13 September 2016, Council resolved to commence the statutory procedures by publishing a notice in a local newspaper inviting interested persons to make a submission about the proposed new lease.
- 3.2 A notice was published in the Port Phillip Leader on 22 November 2016. No submission was received. Council may now decide to enter into a new lease.
- 3.3 The negotiated position agreed by RMYS is assessed below. The assessment is aligned with State Government Policy for leasing of Crown land. The assessment is consistent with the assessment used for other recent leases.

Tenant

- 3.4 RMYS has been in existence for 140 years and located at the current site since 1895. The existing building on the site was erected in 1926.
- 3.5 The St Kilda harbour was built in the mid 1950's to cater for sailing events during the 1956 Olympic Games. In 2013/14 RMYS funded (\$6.5M) an extension of the breakwater and the creation of a new 250 berth floating marina facility. The marina is permitted under a 21 year seabed lease with Parks Victoria.

Term of Lease

- 3.6 Key principles:
- The term of the lease needs to be appropriate to the tenant and use of the premises and allow for consideration of alternative uses.
 - A longer term lease may be warranted to support capital investment in the premises and provide security for financing or future planning
- 3.7 Assessment:
- RMYS is seeking a 21 year lease term and propose to contribute capital expenditure of \$1.146 M in the first 5 years of the lease.
 - The capital expenditure will be part of an Asset Management Plan which includes building maintenance and renewal and the establishment of a Junior Sail Training Academy within the grounds.
 - The proposed term is considered appropriate to support the associated capital investment in the property.



Rent

3.8 Key principles:

- A market rent is desirable but Council accepts lower than market rent to help support community based organisations that provide community benefits or services on behalf of Council.
- Council will also consider the tenant's ability to pay rent and the effect rent would have on its programs and community benefit.

3.9 Assessment:

- The proposed rent (\$40K pa) is slightly greater than the current rent and is based on a market valuation assessed by a contract valuer for a ground rental. A ground rental is considered appropriate in circumstances where the club has established and maintained the facilities on the site.\
- Also ground rental is defined as being the market value for the land only with no structural improvements this is considered to be appropriate as the RMYS constructed the improvements themselves.
- Rent is to be adjusted annually to CPI.

Outgoings

3.10 Key principles:

- It is desirable that tenants pay the running costs (outgoings) of the premises that are associated with their tenancy.

3.11 Assessment:

- RMYS propose to pay all outgoings associated with their tenancy, which is considered appropriate.

Community benefit

3.12 Key Principles:

- Council leases should deliver direct and indirect benefits to the community. This can be achieved either by:
 - promotion of health and wellbeing, supporting service provision, cultural or recreational opportunities, or economic benefits; or
 - full market rent so that the funds can be used to support council activities
 - a combination of i) and ii).

3.13 Assessment:

- RMYS will be required to report annually on community benefits conducted in the previous year of the lease as well as plans for the year ahead. Community benefits will include the following:
 - providing social sailing opportunities for all community members, throughout the year, at minimal cost to the participant. RMYS previously conducted a yearly Discover Sailing Day, where a sailing experience is available free of charge to all members of the community. RMYS also conducts interclub,



- interstate and national sailing championships sailing regattas which are open to all, and which promote good health, leadership, discipline and inclusiveness
- Several local schools attend RMYS for sailing lessons as part of their sports and leadership curriculum. RMYS is the host club of the Victorian school team racing championship each year. Sailing lessons, powerboat handling, and other marine courses are also available to the community through RMYS' Sail Training Academy.
 - The RMYS slipway and boatyard are available for use by all boat owners in the community to service their boats
 - RMYS has extended the existing marina breakwater at a cost of about \$6.5M which ownership it transferred to the Crown. This marina breakwater provides a safe home to a large colony of little penguins and native rakali. This is also a popular tourist attraction.
 - At cost hire of club facilities to be made available for Council/community use three times per year if requested.

Environmental Sustainability

3.14 Key principles:

- Leases should contain sustainability measures including adapting to climate change and using resources more efficiently to reduce everyday environmental impacts.

3.15 Assessment:

- RMYS will over the term of the lease improve the efficiency of water and energy usage. In particular, RMYS agrees to:
 - Reduce or minimise greenhouse gas emissions;
 - Maximise the use of renewable or recyclable materials;
 - Reduce waste from operations; and
 - Implement best-practice stormwater management.
- Energy saving efficiencies will be introduced through the Asset Management Plan works in the new lease and reported on annually.

Maintenance and Renewal

3.16 Key Principles:

- Leases should clearly articulate tenant and landlord responsibilities for maintenance and renewal.

3.17 Assessment:

- All maintenance renewal and capital expenditure will be undertaken by the tenant. The initial works and Asset Management Plan will be part of the annual reporting.

Other

- #### **3.18**
- The lease will contain provisions to support the development of a Junior Sail Training Academy and to end any ongoing arrangements from the 2004 West Beach Agreement.



FURTHER SUPPORTING INFORMATION

4. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 4.1 This report aligns to the following key strategic direction in the Council Plan 2017-2027:
- 3 We have smart solutions for a sustainable future
 - 4 We are growing and keeping our character.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 The leasing process invites submissions from interested persons but no submission was received.
- 5.2 The proposed lease is subject to approval by the Minister for Environment, Climate Change and Water. The Department of Environment, Land, Water and Planning (DELWP) has been consulted for consent to the lease under section 17D of the Crown Land (Reserves) Act 1978.
- 5.3 There has been a significant period of engagement and negotiation involving officers and representatives of RMYS particularly in 2016.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 Documenting the respective property responsibilities and obligations through legally binding leasing which conforms to legislative requirements, mitigates risk.
- 6.2 The proposed key terms including restrictions on assignment and tenant responsibility for building maintenance require exemption from the *Retail Leases Act 2003*. It is considered that the level of investment proposed and substantial maintenance and repair obligations, together with the length of term, enables the use of the “15 year Ministerial determination” which exempts the lease from the *Retail Leases Act 2003*.
- 6.3 The proposed lease is subject to approval by the Minister for Environment, Climate Change and Water. The Minister may decide to modify aspects of the proposal if considered appropriate.

7. SUSTAINABILITY – Triple Bottom Line

7.1 ENVIRONMENTAL IMPLICATIONS

- 7.1.1 It is proposed that the capital works included in the proposed new lease will include sustainability elements that reduce the environmental impact of the buildings operations.

7.2 SOCIAL & CULTURAL IMPLICATIONS

- 7.2.1 RMYS provides an active sailing club to members with a variety of high quality facilities and services.
- 7.2.2 RMYS seeks to improve its facilities in order to attract a greater number of juniors to its sailing programs.
- 7.2.3 RMYS is also open to visitors.



7.3 ECONOMIC IMPLICATIONS

7.3.1 The proposed lease will contribute to the local economy through:

- Employment of staff, use of local services and products and providing business opportunities related to sailing
- Support of the sailing community
- Contributing to the tourism appeal of the area as a popular destination.

7.4 FINANCIAL IMPLICATIONS

7.4.1 The proposed rent is based on a market rent as determined by valuation.

7.4.2 The income aligns with Council's budget projections and will provide revenue to support Council services.

8. IMPLEMENTATION STRATEGY

8.1 TIMELINE

8.1.1 The lease can be executed immediately.

8.2 COMMUNICATION

8.2.1 Council's decision will be communicated to RMYS.

9. OFFICER DIRECT OR INDIRECT INTEREST

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