



**14.4** **PROPOSED TENANCY AGREEMENT - SOUTH MELBOURNE LIFE SAVING CLUB**

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**1. PURPOSE**

- 1.1 To seek a decision from Councillors on the proposed approach for a new tenancy agreement with the South Melbourne Life Saving Club (SMLSC) for the newly completed facility located at 72B Beaconsfield Parade, Albert Park.

**2. EXECUTIVE SUMMARY**

- 2.1 Redevelopment of the existing lifesaving club facilities is nearing completion, with the new facility, which cost \$ 7.6M (Council \$5.36M, LSV \$2M, DELWP \$0.2M), to address concerns in relation to public toilets, foreshore land, bike black spot and community shade.
- 2.2 The construction of the building has been completed, with occupancy anticipated to be achieved in August 2019. The new premises will include dedicated lifesaving facilities, public amenities, accessible public toilets, multipurpose space and kiosk.
- 2.3 The SMLSC has occupied the buildings at 72B Beaconsfield Parade, Albert Park since 1957. In the past, the SMLSC had a tenancy agreement for the whole facility, including the community room for \$381.92 per annum plus GST, excluding the kiosk, which was leased by Council to a commercial operator.
- 2.4 In developing the approach to a new tenancy agreement for the club for the new facilities, Officers took into consideration the scale of the new development, the dedicated lifesaving club and multipurpose facilities, and learnings from other, relevant, examples.
- 2.5 The recommendation from Officers to Councillors at the start of the leasing process, was that, given all of the relevant considerations, a different tenancy arrangement to what had previously been in place was appropriate to best manage the new facility and deliver the benefits to the community. What was proposed was an exclusive use tenancy arrangement for the club specific areas of the building, and a shared use tenancy agreement for the multipurpose room.
- 2.6 This centralised management model responded to the learnings from the approach taken to the tenancy arrangements for similar clubs and recognised the complexity involved in undertaking the full facilities management responsibilities for this significant building.



- 2.7 In discussions with the SMLSC, the club have raised concern with this approach, with the primary concern being that a shared use agreement for the multipurpose room would not best support them to deliver lifesaving services.
- 2.8 Given the SMLSC's concerns, Officers have considered an alternative to this centralised model, to allow the SMLSC to have a lease for the whole building, but with certain conditions in the lease to help support the outcomes that Council and the SMLSC want to achieve from the building.
- 2.9 Both approaches have benefits and drawbacks, which have been summarised in this report. Given the resistance by the SMLSC for the new model, and that the centralised model is untested, Officers recommend Councillors consider the alternative model, which is preferred by the SMLSC and is more aligned with what the SMLSC had previously.
- 2.10 Either approach requires:
- That the approach is trialled for a limited period - five years is proposed.
  - Council undertakes the maintenance responsibilities at the SMLSC's cost – cost to club is based on usage, with full cost of maintenance being allocated to the club under a lease agreement (exclusive use).
  - Outgoings are the responsibility of the SMLSC – cost to SMLSC based on usage, with full outgoings for the building allocated to the club under a lease agreement (exclusive use)
  - Allowed uses are clearly defined, including the proportion of allowed non-club related events under a lease, and that the SMLSC is able to apply for a planning permit to support non-club related use of the multipurpose room.
  - Community benefits and reporting requirements are clearly defined, including setting and monitoring key performance measures for the trial arrangements.
- 2.11 Officers are still in negotiations with Albert Park College (APC) regarding the use of the multipurpose space who have expressed an interest in 5 days a week access rather than the 3-day maximum previously considered by Councillors.
- 2.12 The Kiosk will go through an Expression of Interest process once a planning permit has been confirmed. Councillors will be updated separately regarding these agreements.



### 3. RECOMMENDATION

That Council:

- 3.1 Authorises Officers to commence negotiations with the South Melbourne Life Saving Club for an exclusive use occupancy agreement over the new facility, excluding the kiosk and public toilets, at 72B Beaconsfield Parade, Albert Park.
- 3.2 Resolves that the new tenancy agreement must provide for:
  - Full cost recovery for the general life cycle maintenance of the facility and all outgoing attributable to the lease.
  - Defined club and facility specific community benefits, including maximum school use of up to 3 days per week.
  - Annual reporting regarding compliance with the lease, including financial and utilisation data.
  - A defined Asset Management Plan.
  - An agreed level of non-club related activities.
  - Agreed environmental sustainability targets and initiatives.
- 3.3 Notes that Officers will need to enter into temporary arrangements in line with current discussions to allow the SMLSC to commence operations from the new facility while the alternative agreement is negotiated.

### 4. KEY POINTS/ISSUES

#### Redevelopment

- 4.1 Redevelopment of the existing Life Saving Club facilities is nearing completion, with the new facility to address concerns in relation to public toilets, foreshore land, bike black spot and community shade. The construction of the building is anticipated to be completed in July with occupancy anticipated to be achieved in August 2019.
- 4.2 The new premises will include dedicated lifesaving facilities, public amenities, accessible public toilets, multipurpose space and kiosk which are described below:
  - Lifesaving facilities - the SMLSC core facilities of approximately 377 square metres and includes all the facilities required to support the day to day function of the SMLSC in their provision of lifesaving.
  - Multipurpose space - a multipurpose space of approximately 120 square metres (excluding storage and amenities), designed to provide a flexible space for use by the SMLSC and other users for a range of activities. The room includes a multipurpose room, shower/toilet, public toilets and kitchen facilities.
  - Kiosk - the kiosk is separate from the SMLSC building and is a space of approximately 30 square metres which will be a fully compliant, and modern facility, that is used for a commercial enterprise expected to generate a commercial level of cashflow for Council. This will provide a funding source to assist with ongoing maintenance and renewal of the facility. The hours of



operation are no later than 10pm, with no liquor to be served on the premises. Council will undertake a separate expression of interest process for this space.

#### **Permitted Use**

- 4.3 The site is zoned Public Park & Recreation (PPRZ) under the Port Phillip Planning Scheme and for the purposes of the Port Phillip Scheme, Council is the public land manager.
- 4.4 Council obtained *Coastal Act* consent in October 2016 from DELWP for the SMLSC premises redevelopment for the building only. Additional consent has been obtained from DELWP for the centralised management model and associated tenancy agreements with SMLSC.
- 4.5 A planning permit is not required for the SMLSC to use the facilities for core lifesaving activities or the direct SMLSC associated uses that would be considered ancillary to the group. Permits will be required if SMLSC delivers services outside their permitted use such as weddings or other commercial activities.
- 4.6 To operate as a kiosk, a planning permit is required for the use of this space. The permit application has been publicly exhibited and we expect to review submissions shortly. Any future permits will “run with the land” meaning that it will continue for the life of the operation as a kiosk.

#### **Centralised Management Model**

- 4.7 An exclusive use tenancy agreement (lease) for the new facility, including club specific facilities and the multipurpose space was considered early on, which is aligned with the tenancy and building management model in place for the St Kilda Life Saving Club. Considering the principles of best practice and continuous improvement, a centralised management model was proposed as an alternative for the new building.
- 4.8 This model, which proposed that the SMLSC have a lease (exclusive use) for the club facilities, and a licence (shared use) of the multipurpose room, was thought to best support the SMLSC and facilitate the benefits realisation for the DELWP (\$0.2M), LSV (\$2.0M), and Council (\$5.36M) investment in the new facility.
- 4.9 This centralised management model responds to the learnings from the approach taken to other tenancy arrangements and recognises the complexity involved in undertaking the full facilities management responsibilities for this significant building.
- 4.10 Under this model, it was proposed that the SMLSC receive:
  - Non-exclusive access to the multipurpose room at defined times (to be defined in consultation with the SMLSC) to support lifesaving club activities and ancillary activities such as fundraising activities and supporting the SMLSC relationship with community groups at an agreed hire arrangement. All access to be booked through Council.
  - Any other use of the multipurpose facilities proposed by the SMLSC was to be booked through Council, pending availability, and charged at the regular community rate that is applied to all other community bookings.



- Any desires expressed by SMLSC to use the multipurpose space needed to be consistent with Council's intention of utilising the area for broader community activation.
- 4.11 The multipurpose space would be managed through the Council booking system and would be available for hire under a commercial or community rate when not needed for lifesaving club activities. Refer to Attachment 1 (outlined in blue) for the location of the multi-purpose space.
- 4.12 Under this model, Council would set the rental fee to cover ongoing costs of maintenance and outgoings.
- 4.13 This model was considered to:
- Allow the SMLSC to focus efforts on life saving activities rather than facilities management and bookings for the multipurpose room.
  - Provide flexibility to SMLSC enabling them to undertake fundraising activities using the multipurpose room.
  - Distribute maintenance and other building costs based on utilisation, reducing the SMLSC requirement to generate significant income from the multipurpose facilities to cover all of the maintenance and running costs of the building.
  - Allow Council to actively work to maximise the utilisation of the new community facility (multipurpose room) and balance access across the SMLSC, community and other interested parties.
  - Provide for Council to undertake the necessary maintenance and life cycle renewal over time to maximise the life of the building and minimise costs while reducing the financial burden to the SMLSC.
  - Allow Council to generate income from community and commercial bookings (such as company workshops) which the SMLSC would be unable to undertake without the required planning permits. This income will assist with the cost of ongoing maintenance and renewal of the building.
- 4.14 A draft timetable of expected usage for the multipurpose space under this model was developed in consultation with the SMLSC to test this approach and shows significant limitations with space availability outside of the SMLSC and Albert Park College (APC) proposed times.

## 5. STATUS OF NEGOTIATIONS

### Albert Park Collage (APC)

- 5.1 Officers have been in discussions with APC regarding the use of the multipurpose space.
- 5.2 An expectation has been expressed by the APC that they will be granted ongoing access 5 days a week to the multipurpose facility following the re-development. It is expected that this arrangement would impact on the SMLSC ability to deliver on their services and education programs.



- 5.3 In the past, APC hired the pavilion as a classroom facility from SMLSC, at various times during the school terms, for approximately 2-3 days a week.
- 5.4 APC has requested a significant increase in use between 8am – 4pm during the school term, with availability for other users outside school hours and on weekends.
- 5.5 As the Funding Guidelines for the redevelopment required that the building be designed and used as a Lifesaving Victoria clubhouse first and foremost, Officers have focused on managing the needs of the SMLSC as a priority.
- 5.6 The tenancy arrangements with APC will be dependent on the outcome of the SMLSC agreement, however, it is proposed that the APC utilisation is no greater than 3 days a week, to allow for club and other community use.

#### **Kiosk**

- 5.7 A retail lease will be determined via an Expression of Interest process once a planning permit has been confirmed. Councillors will be updated separately regarding the kiosk.

#### **SMLSC**

- 5.8 The SMLSC has occupied the buildings at 72B Beaconsfield Parade, Albert Park since 1957.
- 5.9 In the past, the SMLSC had a tenancy agreement for the whole facility (excluding the kiosk) for \$381.92 per annum plus GST with Council liable for repairs and maintenance of the building.
- 5.10 Going forward, it is anticipated that all users contribute to their portion of maintenance and renewal costs as outlined within the Asset Management Plan allowing for an increase the useful life of the building and reduce the risk of any prospective downtime usually associated with a reactive maintenance strategy. This portion should be based on usage and be reflected in the user hire fee / rental charged by Council.
- 5.11 The predicted average annual cost of maintenance and capital renewal for the new facility is \$60k per annum based on a building life of 25 years while utilities and insurance have been estimated at \$48k per annum.
- 5.12 Recognising the significant cost attributable to the upkeep of the building, Council needs to take into consideration the financial capability of the SMLSC to contribute to costs, which may require the SMLSC generate further income detracting from the SMLSC core activities of lifesaving programs.
- 5.13 A centralised management model aimed to assist with this concern by allowing the SMLSC exclusive use of the SMLSC space and a licence for SMLSC use of the multipurpose space to help with fundraising activities.
- 5.14 Councillors provided feedback on this centralised management model in February 2019, and it has since been further developed and discussed with the SMLSC.
- 5.15 A summary of key terms considered for a centralised management model has been provided below:



Key Terms	Exclusive Use Space 100% Usage	Multipurpose Space 30% Usage
Length of Lease	5 Years	5 Years
Rent	\$104 p.a + GST	\$1 p.a + GST
Maintenance	\$10,594.84 p.a + GST	\$2,506.09 p.a + GST
Capital Renewal	Nil	Nil
Building Insurance	\$1,855.04 p.a + GST	\$438.79 p.a + GST
Outgoings	Separately Metered and paid by SMLSC	\$5,537.93 p.a + GST

- 5.16 Officers recommended that the estimated costs be rolled into a single rent figure to provide the SMLSC certainty over costs for the term of the agreement.
- 5.17 Using this method, Council would receive rental of \$12,553.89 per annum plus GST for the exclusive use area and \$8,483.81 per annum plus GST for the shared space area to assist in covering maintenance and outgoing costs. This is considerably lower than the ongoing costs to run the facility and the estimated market rent of \$145,000 per annum for the whole building (excluding the kiosk).
- 5.18 Recognising the significant change in rent that was proposed, Officers recommended a transition period allowing for a 50% discount on rent in the first year and a 25% discount in the second year dependant on the SMLSC's financial surplus.
- 5.19 The SMLSC are opposed to this centralised model and club members would prefer the SMLSC to take over the full management of the facility.
- 5.20 The key concerns raised by the SMLSC committee include:
- The viability of SMLSC operations with limited access to multi-purpose space reducing their ability to raise suitable revenue to cover increased costs.
  - Their ability to support and maintain their community relationships without full access to the facility.
  - Understanding why Council is treating this agreement differently to other lifesaving clubs.
  - The increase in costs to the SMLSC for occupancy within the building.

## 6. OPTIONS ASSESSMENT - SMLSC

- 6.1 When Officers first started work on the new tenancy arrangements, a range of options were explored to determine what model best supported the new building and the SMLSC. At this time, a centralised model was proposed, which provided a lease for exclusive use of the SMLSC facilities and a licence for club use, including fundraising activities, of the multipurpose space.



- 6.2 Given the resistance of the SMLSC to the centralised model, and that the centralised model is untested, Officers have explored an alternative model.
- 6.3 A high level options assessment for the two building management models (centralised model and single lease) has been provided below.

***Option 1: Centralised model – lease and licence (previously proposed)***

***Benefits***

- 6.4 Allows the SMLSC to focus efforts on life saving activities rather than facilities management and bookings for the multipurpose room.
- 6.5 Planning permit is not required for Council to undertake certain commercial bookings of the multipurpose space whereas the SMLSC would be required to apply for a planning permit.
- 6.6 Council can generate income from community and commercial bookings which will assist with the cost of ongoing maintenance and renewal of the building.
- 6.7 Distributes maintenance and other building costs based on utilisation, reducing the SMLSC requirement to generate significant income from the multipurpose facilities to cover all of the maintenance and running costs of the building.
- 6.8 Allows Council to undertake the necessary maintenance and life cycle renewal over time to maximise the life of the building and minimise costs.

***Challenges***

- 6.9 This is a new management model that is yet to be tested.
- 6.10 Council's ability to maximise the utilisation of the multipurpose space is unclear as there is not a lot of potential hours left within in peak periods after SMLSC and APC use is considered.
- 6.11 Council would need to become involved in negotiating access to the multipurpose space between the SMLSC use and APC, which is currently in conflict (both want same time during summer).
- 6.12 There will be some time and effort required from council to manage the space appropriately, dealing with issues and brokering conflicts between users without a person onsite.
- 6.13 The SMLSC may not be financially viable enough to cover their portion of running costs as proposed.
- 6.14 Officers have had ongoing discussions with the SMLSC who are opposed to this proposal.



**Option 2: Single lease with the SMLSC for whole building**

**Benefits**

- 6.15 Providing the SMLSC the ability to occupy the whole building is a known model that has been in place for a number of years.
- 6.16 Removes the burden from Council to manage the daily bookings of the facility, including the need to negotiate access between the SMLSC and other groups such as the APC.
- 6.17 Alleviates a number of concerns that the SMLSC have raised regarding the new model.
- 6.18 Allows the SMLSC to create a club culture and provides them the ability to increase fundraising ability to support their activities.

**Challenges**

- 6.19 In order to be a viable option for Council, the SMLSC would need to take on the full facilities management tasks including the full cost of maintenance and outgoings of the building (with Council undertaking the maintenance on their behalf). While SMLSC are open to accepting this responsibility, the club have requested further information prior to agreeing to this term. Note that the SMLSC did not pay for maintenance under their previous lease.
- 6.20 The SMLSC is run by volunteers and they would need to upskill or hire skilled employees to undertake the management of the space, including managing bookings. This would in turn increase the overheads for the SMLSC. Alternatively, they may choose to engage a third party to manage the facility. Either option would likely require a planning permit to support the SMLSC booking non-club related bookings, such as regular weddings or other non-club functions.
- 6.21 This model would require a new Grant and Purpose to be issued by DELWP and Council to revise lease terms to allow additional permitted use of venue hire not related to fundraising or other club activities. Statutory notice of the intention to lease would be required for a lease for the whole building given the value of the lease. This would result in minimum three-month delay in the lease being finalised.
- 6.22 Based on a quick comparison of available financial data of our life saving clubs, the SMLSC will need further support to improve their business model before Council can consider allowing them to take on the full responsibility of the facility. Discussion has been had with the SMLSC regarding the potential for discounted rent while they set up the operational models to be viable and sustainable in the future. This reflects a staged transition for the club into a different financial arrangement.

**Recommendation**

- 6.23 Given the resistance of the SMLSC to the centralised model, and that the centralised model is untested, Officers recommend Councillors consider approving the alternative model, an exclusive use tenancy agreement, which is preferred by the SMLSC and is more aligned with what the club had previously.



- 6.24 It is recommended that this be undertaken as a trial, with a lease for five years, with clear monitoring and reporting requirements for the club and council officers. Review of the trial to occur prior to the end of the five-year term, and a report to Council with the results of the trial and recommendations for a new tenancy agreement.

## 7. CONSULTATION AND STAKEHOLDERS

- 7.1 Community feedback was invited for the building construction. If Council enters into a full lease with the SMLSC the agreement will be subject to further community consultation as per s190 and s223 of the Local Government Act 1989 due to market value.
- 7.2 There has been ongoing consultation with the SMLSC around the proposed terms of the new tenancy agreement. They have since advised that are open to starting negotiations for a new exclusive use agreement.
- 7.3 Discussions with APC are currently underway with negotiations to continue based on Council feedback from this meeting.
- 7.4 The kiosk planning permit has been publicly exhibited with a planning permit decision expected at the end of August.
- 7.5 Undertaking the alternative model will require a new Grant and Purpose to be issued by DELWP to Council for the revised terms, which would include an additional permitted use to allow for venue hire not related to fundraising or other club activities, and a lease for the full building.

## 8. LEGAL AND RISK IMPLICATIONS

- 8.1 Legal Risk - The proposed tenancy agreements are subject to Ministerial Approval however terms negotiated have been in consideration of best practice principles for managing Crown Land leases.
- 8.2 Operational Risk - Key terms need to provide clarity of Permitted Use and of roles and responsibilities for the building. A shorter lease term of 5 years has been determined as appropriate by Officers to allow flexibility to review and analyse the suggested usage arrangement and its suitability.
- 8.3 Reputational Risk - The SMLSC and/or APC may not agree to the terms and conditions of either option, given that even paying for maintenance for the building represents a significant change from their previous agreement in the old building.
- 8.4 Development Risk - The planning permit decision for the kiosk may be delayed due to objections received therefore, of an appeal to VCAT may be required, which could delay the issuing of the permit until July 2020.

## 9. FINANCIAL IMPACT

- 9.1 Council would require Officer resources to manage the bookings of the shared space under a centralised model. These costs are unquantified but are expected to form part of the current community facilities bookings process.



- 9.2 Cost recovery is aligned with the Draft Property Policy, supporting sustainable management of the property portfolio and equitable allocation of costs to users of facilities as well as the broader community.
- 9.3 Fully discounted rent is proposed, with full cost recovery of outgoings and building maintenance costs.
- 9.4 Under either option, it is proposed that Council provide a 50% discount on full cost recovery in the first year.
- 9.5 Council will remain responsible for undertaking all capital maintenance requirements for the building, with costs recovered from the SMLSC as per a defined Asset Management Plan.

## 10. ENVIRONMENTAL IMPACT

- 10.1 The proposed lease will require the SMLSC to implement environmentally sustainability practices and programs that supports reduction in energy, waste and water.
- 10.2 Council will work with the SMLSC over the term of their lease to improve the efficiency of water and energy usage. In particular to:
  - Reduce or minimise greenhouse gas emissions.
  - Maximise the use of renewable or recyclable materials.
  - Reduce waste from operations, including single use plastics.
  - Implement best-practice storm water management.
- 10.3 Council will work with the SMLSC to report annually on initiatives.

## 11. COMMUNITY IMPACT

- 11.1 The SMLSC is mindful of Council's objectives of maximising the benefit to the community from the facilities.
- 11.2 Community consultation has been undertaken in the initial stages of the project, with the Kiosk being publicly exhibited as part of the planning permit application.
- 11.3 An exclusive use agreement will contain certain requirements to ensure maximised community benefit from the multi-purpose space including an agreed level of non-related club, community activities and maximum school hours to support the discounted rent.

## 12. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 12.1 The proposed lease terms align with:
  - Direction 1 – "We embrace difference, and people belong with a safe and active community with strong social connections".



- Direction 6 – “A financially sustainable, high performing, well-governed organisation that put the community first”.

### 13. IMPLEMENTATION STRATEGY

#### 13.1 TIMELINE

13.2 The next steps are as follows and will be undertaken as quickly as possible but are usually a 4-6-month process:

- Officers to implement Councillors preferred option in line with the legal requirements, commencing negotiations with the club.
- Officers to provide a short-term agreement in line with current discussions to the Club while the alternative agreement is negotiated to allow for club access to the building in preparation for the summer season.
- Public advertising of the proposed key terms of a lease.
- Finalise the lease and execute.

### 14. OFFICER DIRECT OR INDIRECT INTEREST

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

**TRIM FILE NO:** 20/15/59  
**ATTACHMENTS** 1. SMLSC Site Plan

Reference only - do not remove