



14.3 **PROPOSED LEASE WITH ELWOOD CROQUET CLUB -
COMPLETION OF STATUTORY PROCEDURES**

EXECUTIVE MEMBER: **CHRIS CARROLL, GENERAL MANAGER, CUSTOMER AND
CORPORATE SERVICES**

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1. PURPOSE

To seek Council's approval to complete the statutory procedures under Section 190 of the Local Government Act 1989 (Vic) ("Act") and finalise the proposed lease with the Elwood Croquet Club for the premises at 135A Ormond Esplanade, Elwood.

2. EXECUTIVE SUMMARY

- 2.1 The Elwood Croquet Club ("ECC") is located on Crown land for which the City of Port Phillip ("CoPP") is the Committee of Management. The ECC was founded in 1927 and is now the only croquet club in the larger City of Port Phillip.
- 2.2 The previous lease between CoPP and ECC was for 7 years expiring 1 August 2016 and had a rental of \$452.73 per annum plus GST. A short-term lease was then put in place in October 2016 and expired on the 31 August 2017. This agreement had a rental of \$707.64 and is currently in overholding with the current terms and condition prevailing whilst a new agreement is put in place.
- 2.3 The proposed tenancy agreement is for a term of 3 years, with the terms largely reflecting the terms of the previous lease. It is proposed that the rental remain at \$707.64 per annum plus GST, increased annually by CPI, representing a significant subsidy of the market rental valuation of \$58,000 (August 2018).
- 2.4 Under the proposed lease, Council will continue to contribute to the maintenance, repair and renewal of the building, with ECC responsible for the upkeep and maintenance of the croquet greens. Outgoings (except for water) will continue to be paid by ECC.
- 2.5 Officers recommend that the terms remain largely the same as the previous lease over the next three years whilst a new Property Policy is finalised and further work is undertaken to review Council's total contribution to the club, including discounted rent and maintenance and renewal of the building, in the context of such things as the benefits generated for the club members and wider community, size of the club, age of the assets, and the clubs income earning potential through hire of the facilities for private functions and other fundraisers.
- 2.6 Council resolved to commence statutory process on the 20 March 2019 which invited submissions on the proposed tenancy agreement. Council must hear and consider any submissions received before making a decision to enter into such tenancy agreement.
- 2.7 No submissions were received in response to the public notice that was published in the Port Phillip Leader newspaper on the 26 March 2019.
- 2.8 Council is now in a position to complete the statutory procedures and make a final decision on the proposed tenancy agreement.



3. RECOMMENDATION

That Council:

- 3.1 Not having received any submissions in response to the Notice of Intension to Lease the property at 135A Ormond Esplanade, Elwood to Elwood Croquet Club (ECC), resolves to conclude the statutory procedures under Section 190 and 223 of the Local Government Act 1989 and approves the proposed tenancy agreement to the Tenant.
- 3.2 Authorises the Chief Executive Officer or delegate to execute such tenancy agreement on the key terms outlined below:
 - Tenant: Elwood Croquet Club (ECC).
 - Demised Premise: 135A Ormond Esplanade, Elwood.
 - Permitted Use: Croquet and associated activities.
 - Commencement Date: 1 January 2019.
 - Term: 3 years with no further Options.
 - Rent: \$707.64 per annum plus GST
 - Maintenance: All maintenance, repairs and asset renewal to be undertaken by Council other than the croquet greens which are managed by the tenant. All other Outgoings (except for water) are the responsibility of the ECC.
- 3.3 Notes that ECC use recycled water for most of their water usage with any shortfall coming from the mains water which is paid for by Council.
- 3.4 Notes that whilst the market rental valuation is \$58,000 per annum plus GST, a discounted rent of \$707.64 per annum plus GST is proposed to help support the club's delivery of agreed community benefits. 3-year short term lease will allow for the implementation of a new Property Policy currently in development and a review to be undertaken on the future use of the assets and possibility of a redevelopment of the site.

4. KEY POINTS/ISSUES

Background

- 4.1 ECC occupies Crown land at 135A Ormond Esplanade, Elwood near the Elwood foreshore. Council is appointed Committee of Management under the *Crown Land (Reserves) Act 1978* (CLRA). This enables Council to lease the land as landlord.
- 4.2 The ECC was founded in 1927 and is now the only croquet club in the larger City of Port Phillip.
- 4.3 ECC currently has 47 members and generates income from membership subscriptions and hire fees for the greens. The ECC also regularly holds private parties, functions, and barefoot croquet sessions to assist with raising funds. All events are run by club volunteers. The club also have reciprocal arrangements with the Elwood Sailing Club to supporting each club's community initiatives such as the Anzac Day memorial held annually.



- 4.4 The building is in relatively good condition and it is estimated the remaining life of the asset is 30 years. An audit was completed and confirmed that the asset contains asbestos throughout the building. It has been estimated that removal of the asbestos would cost Council approximately \$160,000, not including any significant additional upgrades to the building. The asbestos is secure and just requires monitoring, although removal would be the goal as part of any future work to the building.
- 4.5 The ECC is mindful of Council's objective of maximising the benefit to the community from facilities and have advised that the current access arrangements into the ECC has made it difficult to provide unsupervised entry. The club has suggested that creating a separate visitor entrance in future will alleviate this problem and support a higher utilisation of the asset.
- 4.6 The proposed tenancy agreement has a term of more than one year but less than ten years and the market rent exceeds \$50,000 per annum hence it invokes statutory process.
- 4.7 In accordance with the statutory process, a Notice of Intention to Lease the property was published in Port Phillip Leader newspaper on 20 March 2019. No submissions were received by the submission deadline date of 23 April 2019.
- 4.8 Council is now in a position to complete the statutory procedures and make a final decision on the proposed tenancy agreement.

Current Lease

- 4.9 A short-term lease with the ECC expired on the 31 August 2017 and is now in overholding with the current terms and conditions prevailing. Under the expired lease the club is currently contributing \$707.64 per annum plus GST for rent with the Council being responsible for repairs and maintenance to the building and the club responsible for the maintenance of the greens. Building maintenance costs for FY18/19 to date are \$2,156.15.
- 4.10 Currently the ECC is not contributing towards water, as the ECC uses recycled water for most water usage with any shortfall coming from the mains water which is paid for by Council. This will be reviewed and any changes will be reflected in future leases.

Proposed Lease

- 4.11 The proposed tenancy agreement is for a term of 3 years, with the terms largely reflecting the terms of the previous lease.
- 4.12 It is proposed that the rental remain at \$707.64 per annum plus GST, increased annually by CPI, representing a significant subsidy of the market rental valuation of \$58,000 (August 2018).
- 4.13 A discounted rate is proposed to help support the club's delivery of agreed community benefits.
- 4.14 Council will continue to be responsible for the maintenance of the building and ECC continuing to be responsible for the maintenance of the greens and utilities costs except for water.
- 4.15 ECC have advised they would like to upgrade the kitchen facilities of which they would like security of tenure prior to making a capital investment. Future maintenance and repairs for the new kitchen would be the responsibility of the club.



- 4.16 Further work is needed to review the long-term arrangements for the site including the utilisation of the assets, the club's income earning potential through hiring of the facilities, future upgrades or redevelopment potential of the site, and the level of Council's total contribution to the club. A shorter-term lease supports this work being undertaken, with any changes being reflected in a future lease.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 DELWP have been consulted on the proposed lease arrangements.
- 5.2 Council had consulted with the community through a Notice of Intention to Lease which was published in Port Phillip Leader newspaper on 26 March 2019 inviting submissions in accordance with statutory procedures.
- 5.3 The deadline date of submissions was on 23 April 2019.
- 5.4 No submissions were received by the deadline date.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 The statutory process under the Act requiring Council to notify the public before committing to the proposed tenancy agreement was undertaken.
- 6.2 Documenting the tenant and landlord responsibilities through a legally binding tenancy agreement conforms to legislative requirements which mitigates risk
- 6.3 The proposed lease is subject to approval by the Minister for Environment, Climate Change and Water.

7. FINANCIAL IMPACT

- 7.1 Council will receive \$707.64 per annum plus GST (increased annually by CPI) as rent. This is reduced from the market rental value of \$58,000 per annum plus GST (August 2018). This proposed nominal rent reflects the long-term arrangements for the site and supports the community benefit generated by the ECC.
- 7.2 The main source of income for the ECC to date has been from membership fees and green hire. The ECC also regularly hold private parties, functions, and barefoot croquet sessions to assist with raising funds. All events are run by ECC volunteers.
- 7.3 Under the proposed lease terms Council is responsible for the maintenance, repair and renewal obligations of the building while the ECC is responsible for the ongoing maintenance of the greens, reflecting the long-term arrangements.
- 7.4 A review of Council's total contribution to the club is proposed during the term of the proposed three-year lease.

8. ENVIRONMENTAL IMPACT

- 8.1 There are no immediate environmental Impacts associated with this Report.
- 8.2 The proposed lease will require the ECC to implement environmentally sustainability practices and programs that supports reduction in energy, waste and water.
- 8.3 Council will work with the ECC over the term of their lease to improve the efficiency of water and energy usage. In particular to:
- a) Reduce or minimise greenhouse gas emissions
 - b) Maximise the use of renewable or recyclable materials;



- c) Reduce waste from operations; and
- d) Implement best-practice storm water management.
- e) Reduction on single use plastic.

8.4 Council will work with the ECC to report annually on initiatives.

9. COMMUNITY IMPACT

- 9.1 The ECC is mindful of Council's objective of maximising the benefit to the community from facilities, and advised that the current access arrangements into the ECC has made it difficult to provide unsupervised entry.
- 9.2 Further work will be undertaken with the club to identify opportunities to increase the utilisation of the building.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

The proposed lease terms align to the Council Plan 2017-2027 through supporting:

- 10.1 Direction 1 – “We embrace difference, and people belong with a safe and active community with strong social connections”.
- 10.2 Direction 6 – “A financially sustainable, high performing, well-governed organisation that put the community first”.

11. IMPLEMENTATION STRATEGY

11.1 Timeline

If Council resolves to complete the statutory process and approves the proposed tenancy agreement, such agreement will be finalised immediately.

11.2 Communication

Officers will liaise with the Tenant's representatives to advise them of the outcome of the 15 May 2019 Council meeting

12. OFFICER DIRECT OR INDIRECT INTEREST

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

TRIM FILE NO: 20/15/93

ATTACHMENTS 1. Lease Area Plan - Elwood Croquet Club