



4. KEY POINTS/ISSUES

Background

- 4.1 Council is Committee of Management for Kiosk 2, 6 Jacka Boulevard which is situated on Crown Land.
- 4.2 The Kiosk is currently vacant and permitted use of the premises is to function as a retailer for food and non alcoholic beverages (café).
- 4.3 A leasing process to procure a suitable tenant was undertaken in March 2017, in accordance with best practice guidelines for Crown Land assets and Local Government Act statutory procedures.
- 4.4 Council resolved to grant a lease to Ice Cream Delights Pty Ltd at its meeting on 6 December 2017. Subsequent to Councils decision to approve a lease between Council and Ice Cream Delights, Ice Cream Delights Pty Ltd has withdrawn its interest.
- 4.5 At the meeting of Council on 21 February 2018 it was resolved to rescind the decision of the Lease to Ice Cream Delights P/L and proceed to the second tender submission made by Peter Spiropoulos as trustee for Spiropoulos Family Trust, scoring superior in all criteria with the exception of price.
- 4.6 As the proposed lease is for a term of more than one year and the rental is projected to exceed \$50,000 per annum inclusive of GST, the lease is subject to the statutory procedures under Sections 190 and 223 of the Act.
- 4.7 Councillors resolved to commence statutory procedures at its meeting on 21 February 2018.
- 4.8 A “notice of intention to lease” was published in the The Age newspaper on 27 February 2018 in accordance with section 190 of the LGA 1989 and inviting public submissions in accordance with section 223 of the LGA 1989.

Key Information

- 4.9 Council has complied with the provisions of sections 190 and 223 of the Act for the lease which is proposed. The Act specifies procedures for consulting with the public prior to making a final decision.
- 4.10 No submission was received in response to the public notice inviting submissions on the proposed new Lease
- 4.11 Following the completion of statutory process under Local Government Act it is proposed to enter into a lease in accordance with the terms detailed in the recommendation section of this report.



5. CONSULTATION AND STAKEHOLDERS

- 5.1 On 21 February 2018 Council resolved to commence the statutory procedures under section 190 of the Act for the proposed lease by publishing a notice in the local newspaper inviting interested persons to make a submission under section 223 of the Act.
- 5.2 No submission was received in response to the public notice inviting submissions on the proposed new lease.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 The proposed lease will require the tenant to hold the required public liability insurance equal to that specific value in the lease terms and conditions.
- 6.2 Documenting the respective property responsibilities and obligations through a legally binding Lease aims to ensure compliance with legislative requirements and mitigates risk.
- 6.3 The proposed lease is subject to Retail Leases Act 2003.

7. FINANCIAL IMPACT

- 7.1 This proposal has no impact on the capital budget.
- 7.2 The proposed commencement rental is \$46,750 per annum inclusive of GST (with fixed annual increments of 3.5%) plus outgoings costs.
- 7.3 The amount of rent being proposed by the tenant is aligned with officer expectations and is expected to be sustainable by the tenant across the term of the lease.
- 7.4 The proposed tenant will undertake internal improvements to the facility to a contemporary standard.

8. ENVIRONMENTAL IMPACT

- 8.1 There are no anticipated environmental impact associated within this report.
- 8.2 The proposed tenant will be required to engage in activities to promote environmentally sustainable behaviours including:
- Minimising waste from operations and reducing landfill waste through discouraging single use plastics.
 - Reducing energy consumption.
 - Reducing water usage.

Council officers are in a position to provide support to the tenant to achieve these sustainable outcomes documented within the lease.



9. COMMUNITY IMPACT

- 9.1 The kiosk will continue to provide services to the visitors to the foreshore area.
- 9.2 There is no anticipated negative service impact to the community with the lease proposal.
- 9.3 The leasing of the kiosk to Peter Spiropoulos will continue to provide a local business opportunity and support the visitors offer along the foreshore.
- 9.4 The St Kilda Foreshore is an iconic destination and the continued provision of amenity will ensure patronage to the area will continue.
- 9.5 The Kiosk provides amenity to those patrons visiting The Esplanade Markets and the foreshore area in general. The proposed offering within Kiosk 2 is different to that of the neighbouring Kiosk 3 functioning more as a café.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 The proposed new lease for Kiosk 2, 6 Jacka Boulevard, St Kilda aligns with Strategic Direction 6 in the Council Plan 2017-2027 through supporting:
- 10.1.1 Transparent governance and an actively engaged community
- 10.1.2 A financially sustainable, high performing and community focused organisation.

11. IMPLEMENTATION STRATEGY

11.1 TIMELINE

An indicative timeline is shown below should the recommendation be adopted.

Date	Event
18 April 2018	Council resolves to finalise the statutory procedures
18 May 2018	Lease execution

11.2 COMMUNICATION

- Rental is at a commercial level with no subsidy.
- The proposed tenant is accountable for operating costs associated with occupying the property.
- Peter Spiropoulos will be advised of Council's decision following the meeting.



ORDINARY MEETING OF COUNCIL 18 APRIL 2018

12. OFFICER DIRECT OR INDIRECT INTEREST

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

TRIM FILE NO: 20/09/19

ATTACHMENTS Nil