



8.4 NEW LEASES - CHILDCARE CENTRES AND KINDERGARTENS

WARD: WHOLE OF MUNICIPALITY

GENERAL MANAGER: CHRIS CARROLL, ORGANISATIONAL PERFORMANCE

PREPARED BY: LYANN SERRANO, PROPERTY ADVISOR

TRIM FILE NO: 20/15/13

ATTACHMENTS: Nil

PURPOSE

This report seeks Council’s approval to commence statutory processes in relation to granting of new leases to not-for-profit community based organisations that provide childcare and kindergarten services at various premises within the City of Port Phillip.

I. RECOMMENDATION

That Council:

- I.1 Resolves that the statutory procedures be commenced under section 190 of the Local Government Act 1989 (“Act”) for the proposed leases summarised in the table below by publishing a notice in the local newspaper inviting interested persons to make a submission under section 223 of the Act:

Proposed Tenant	Premises	Permitted Use
Ada Mary A’ Beckett Children’s Centre Inc	2 Batman Road, Port Melbourne (Crown Land)	Childcare centre
Clarendon Children’s Centre Co Op Ltd	410 Clarendon Street, South Melbourne (Crown Land)	Childcare centre
Poets Grove Family & Children’s Centre Inc.	18 Poets Grove, Elwood (Crown Land)	Childcare centre and kindergarten
Lilian Cannam Kindergarten Inc	97 Eastern Road, South Melbourne	Kindergarten
South Melbourne Child Care Co-Operative Limited	5-11 Carter Street, Albert Park	Childcare centre



Proposed Tenant	Premises	Permitted Use
The Avenue Children's Centre Inc.	39 The Avenue, Balaclava	Childcare centre and kindergarten
The Elwood Children's Centre Inc	46 Tennyson Street, Elwood	Childcare centre
Pre School Assn Middle Park Inc (Civic Kindergarten)	254-256 Richardson Street, Middle Park	Kindergarten
Albert Park Pre-School Centre	18 Dundas Place, Albert Park	Kindergarten
Eildon Road Children's Centre Inc	17 Eildon Road, St Kilda	Childcare centre

1.2 Proposes the following terms to apply to each of the leases:

Commencement Date: 1 January 2018

Term: 3.5 years x 7 centres

Ada Mary A' Beckett Children's Centre Inc

Clarendon Children's Centre Co Op Ltd

Poets Grove Family & Children's Centre Inc

Lilian Cannam Kindergarten Inc

South Melbourne Child Care Co-Operative Limited

Pre School Assn Middle Park Inc (Civic Kindergarten)

Albert Park Pre-School Centre

1.5 years x 3 centres

The Avenue Children's Centre Inc

The Elwood Children's Centre Inc

Eildon Road Children's Centre Inc

Rental: \$10 per annum plus GST

1.3 Authorises the Chief Executive Officer or delegate to undertake the administrative procedures necessary to enable Council to carry out its functions under section 223 of the Act, and

1.4 Resolves to hear and consider any submissions received pursuant to section 223 of the Act at the Council meeting to be held on 15 November 2017 commencing at 6.30pm at the St Kilda Town Hall.



Further, should no submissions be received, Council:

- 1.5 Resolves that, having followed all the required statutory procedures pursuant to sections 190 and 223 of the Act, grants the proposed tenants new leases.
- 1.6 Authorises the Chief Executive or delegate to sign the new leases

2. BACKGROUND

- 2.1 Council provides children's services at a number of facilities throughout the municipality. These facilities enable the direct provision of childcare and kindergarten services to the community or the indirect provision through a community based not-for-profit organisation.
- 2.2 Where there is indirect provision through a community based not-for-profit organisation, the organisation is required to enter into a lease of premises with Council as the landlord.
- 2.3 Council must comply with the provisions of sections 190 and 223 of the Local Government Act for the proposed leases. The Act specifies procedures for consulting with the public prior to making a decision about granting a lease.
- 2.4 Three of the ten proposed leases are on Crown land for which Council is the Committee of Management. The Minister for the Department of Environment Land Water and Planning (DELWP) has already given grant and purpose approval to these leases. The leases will be on a standard Crown land lease format, incorporating those further obligations agreed between the parties in respect of the lease of the premises.
- 2.5 The remainder of the proposed leases are on freehold Council owned properties. Where such a community organisation occupies Council premises, it does so under a lease as a fundamental form of legal agreement. The service provision will also be subject to service agreements with Council and tight regulatory State Government controls.
- 2.6 Childcare centre leases reflect the current City of Port Phillip Childcare Policy which is focused on quality subsidy, affordability subsidy and capital investment, apart from the funding agreement. Under this policy, they are required to collect maintenance and infrastructure levies.
- 2.7 Kindergartens are also funded by Council. The buildings are maintained by Council.

3. KEY INFORMATION

- 3.1 There are ten childcare centres and kindergartens whose leases are expiring or need updating to reflect current circumstances.

Term of the Lease

- 3.2 Key principles:
 - 3.2.1 The term of the lease needs to be appropriate to the tenant and the tenant's use of the premises.
 - 3.2.2 The term of the lease would align with the tenant's funding agreement cycle and would consider the current state of the premises.



- 3.3 Assessment:
- 3.3.1 Seven childcare centres and kindergartens are proposed to have a lease term of three and a half years commencing 1 January 2018 to align with the funding agreement cycle.
 - 3.3.2 The remaining three childcare centres are proposed to have a lease term of one and a half years commencing 1 January 2018. This period enables decisions about the future use as the centres have premises that have problems related to building condition, functionality and compliance.

Rent

- 3.4 Key principles:
- 3.4.1 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.
 - 3.4.2 Council will also consider the tenant’s ability to pay rent and the effect rent would have on its programs and community benefit.
- 3.5 Assessment:
- 3.5.1 The proposed rent of \$10 per annum plus GST is the same as the previous rent.
 - 3.5.2 This proposed rent is considered appropriate to a tenant that receives a significant Council funding grant to support service delivery.
 - 3.5.3 An estimated market rent which represents some of Council’s contribution towards the provision of services is shown in the table below. The total value of the discounted rent for the 10 centres annually is \$1.48M.

Tenant – service provider	Estimated Market Rent (exclusive of GST, per annum)
Ada Mary A’ Beckett Children’s Centre Inc	\$500,000
Clarendon Children’s Centre Co Op Ltd	\$84,000
Poets Grove Family & Children’s Centre Inc	\$370,000
Lilian Cannam Kindergarten Inc	\$90,000
South Melbourne Child Care Co-Operative Limited	\$84,000
The Avenue Children’s Centre Inc	\$84,000
The Elwood Children’s Centre Inc	\$86,000
Pre School Assn Middle Park Inc (Civic Kindergarten)	\$48,000
Albert Park Pre-School Centre	\$50,000
Eildon Road Children’s Centre Inc	\$84,000



Tenant – service provider	Estimated Market Rent (exclusive of GST, per annum)
TOTAL	\$1,480,000

Outgoings

- 3.6 Key principle:
 - 3.6.1 It is desirable that tenants pay the running costs (outgoings) of the leased premises.
- 3.7 Assessment:
 - 3.7.1 The tenant will pay all outgoings applicable to the tenancy as this is a normal operational expense.

Community Benefit

- 3.8 Key principle:
 - 3.8.1 Council leases should deliver direct and indirect benefits to the community. This can be achieved either by:
 - 3.8.1.1 Promotion of health and wellbeing, supporting service provision, cultural or recreational opportunities, or economic benefits; or
 - 3.8.1.2 Full market rent so that the funds can be used to support council activities
 - 3.8.1.3 A combination of the above.
- 3.9 Assessment:
 - 3.9.1 The tenant will be required to maximise occupation of the premises to ensure utmost possible access for all children on Council’s Children Services Waitlist.
 - 3.9.2 The tenant may be required to share the premises with other service users including offices for allied health staff, community space for playgroups and community groups at times when the tenant is not at the premises, and/or when spaces within the premises are vacant.

Environmental Sustainability

- 3.10 Key principle:
 - 3.10.1 Leases should contain sustainability measures including adapting to climate change and using resources more efficiently to reduce everyday environmental impacts.
- 3.11 Assessment:
 - 3.11.1 Within 12 months of signing the lease, the tenant must do at least one of the following:
 - 3.11.1.1 Participate in an Early Years Sustainability Leadership Program (Seedlings project);



- 3.11.1.2 Achieve 'exceeding' in the National Quality Standard 3.3 "The service takes an active role in caring for its environment and contributes to a sustainable future";
- 3.11.1.3 Provide a copy of the tenant's 'Environmental Sustainability Policy' along with procedures or actions that support a reduction in energy, waste and water.

Maintenance and Renewal

3.12 Key principle:

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

3.13 Assessment:

- 3.13.1 Under the City of Port Phillip Childcare Policy, all childcare centres collect and pay to Council, maintenance and infrastructure levies. Council is responsible for building maintenance and renewal and uses the levies collected to fund works.
- 3.13.2 The buildings used for kindergartens are maintained by Council.



FURTHER SUPPORTING INFORMATION

4. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 4.1 The granting of new leases to these childcare centres and kindergartens aligns with the Strategic Direction 6 in the Council Plan 2017-27 through supporting:
 - 4.1.1 Transparent governance and an actively engaged community
 - 4.1.2 A financially sustainable, high performing and community focused organisation.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 Officers are consulting with the centres about the proposed leases.
- 5.2 Council will consult with the community through a Notice of Intention to Lease to be published in the local newspaper inviting submissions in accordance with statutory procedures.
- 5.3 Three of the proposed leases on Crown land are subject to approval by DELWP.
- 5.4 Relevant departments have been consulted, namely Children's Services and Sustainability. Each support the proposed leases.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 Statutory procedures require Council to consult with the public before committing to any of the proposed leases. Documenting the landlord and tenant responsibilities through a legally binding lease conforms to legislative requirements that mitigates risk.

7. SUSTAINABILITY – Triple Bottom Line

7.1 ENVIRONMENTAL IMPLICATIONS

- 7.1.1 The proposed leases require the tenants to implement green leasing initiatives that support reduction in energy, waste and water within twelve months of signing the lease.

7.2 SOCIAL & CULTURAL IMPLICATIONS

- 7.2.1 The proposed leases support Council's provision and support of quality and affordable children's services centres and kindergartens.

7.3 ECONOMIC IMPLICATIONS

- 7.3.1 The proposed leases do not provide for any change to services and thus there will be no negative economic impact.

7.4 FINANCIAL IMPLICATIONS

- 7.4.1 The proposed leases do not commit Council to any increase in operational or capital expenditure.



8. IMPLEMENTATION STRATEGY

8.1 TIMELINE

8.1.1 An indicative timeline is shown below should the proposal be ultimately approved:

Date	Event
6 September 2017	Council resolves to commence the statutory procedures
12 September 2017	Notice of Intention to Lease published in local newspapers
12 October 2017	Closing date for submissions
15 November 2017	Council hears and considers any submissions received in response to Council’s Notice of Intention to Lease
6 December 2017	Council finalises the statutory process and makes the decision to proceed with the new leases

8.2 COMMUNICATION

8.2.1 A Notice of Intention to Lease will be published in the local newspaper following the Council resolution.

8.2.2 Any interested person will be given the opportunity to make a submission and to be heard in person and have their views considered.

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.