



8.7 **NEW LEASE FOR KIOSK 2, 6 JACKA BOULEVARD, ST KILDA**

WARD: LAKE

GENERAL MANAGER: CHRIS CARROLL, ORGANISATIONAL PERFORMANCE

PREPARED BY: LYANN SERRANO, PROPERTY ADVISOR

TRIM FILE NO: 14/02/17007

ATTACHMENTS: Nil

PURPOSE

This report seeks Council's approval to complete the statutory procedures pursuant to the Local Government Act 1989 (Vic) (**Act**) and finalise the proposed lease to Ice Cream Delights Pty Ltd for Kiosk 2, 6 Jacka Boulevard, St Kilda.

1. RECOMMENDATION

That Council:

- 1.1 Not having received any submissions in response to the Notice of Intention to Lease Kiosk 2, 6 Jacka Boulevard, St Kilda to Ice Cream Delights Pty Ltd, resolves to conclude the statutory procedures under sections 190 and 223 of the Local Government Act 1989.
- 1.2 Authorises the Chief Executive Officer or delegate to execute a new lease agreement on the terms outlined below:
- Tenant: Ice Cream Delights Pty Ltd
 - Premises: Kiosk 2, 6 Jacka Boulevard, St Kilda
 - Permitted Use: Operation of a kiosk and an outdoor area including the preparation, service and sale of food and non-alcoholic refreshments
 - Term: Five (5) years
 - Commencement Rental: \$70,000 per annum inclusive of GST.

2. BACKGROUND

- 2.1 An Expression of Interest (EOI) process was undertaken to find a suitable tenant capable of providing food and refreshments from the kiosk as a service to visitors to the foreshore area.
- 2.2 Following evaluation of the EOI, the preferred tenant is Ice Cream Delights Pty Ltd.
- 2.3 The proposed lease with Ice Cream Delights Pty Ltd is for a five-year period and the lease is to be in the standard state government format for leases of Crown land.
- 2.4 A Notice of Intention to Lease the kiosk to Ice Cream Delights Pty Ltd was advertised in Port Phillip Leader on 31 October 2017. The closing date for submissions was on 29 November 2017.



3. KEY INFORMATION

- 3.1 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.
- 3.2 No submission was received in response to the public notice inviting submissions on the topic.
- 3.3 This proposed lease is on Crown land and as such will ultimately require the approval of the Minister for Energy, Environment and Climate Change through the Department of Environment, Land, Water and Planning.
- 3.4 Where a property is owned or controlled by Council and it is occupied by another legal entity, it is appropriate and prudent that there is a lease in place and it conforms to legislative requirements.
- 3.5 The proposed commencement rental is \$70,000 per annum inclusive of GST with the following increments:
- Year 2 - \$72,250 per annum inclusive of GST
 - Year 3 - \$74,500 per annum inclusive of GST
 - Year 4 - \$76,000 per annum inclusive of GST
 - Year 5 - \$78,400 per annum inclusive of GST.



FURTHER SUPPORTING INFORMATION

4. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

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

5. CONSULTATION AND STAKEHOLDERS

- 5.1 On 18 October 2017 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.
- 5.3 DELWP has provided approval in principle for this lease under section 17D of the Crown Land Reserves Act 1978.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 The proposed tenant holds 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 which conforms to legislative requirements mitigates risk.
- 6.3 The proposed lease is subject to approval by the Minister for Energy, Environment and Climate Change through DELWP. 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 Ice Cream Delights Pty Ltd has expressed knowledge of and commitment to Waste Wise, a program of waste and litter reduction in the city of Port Phillip.
- 7.1.2 Other sustainability conditions as follows will be included in the lease provided that implementing these measures does not result in any additional costs to Ice Cream Delights Pty Ltd:
- 7.1.2.1 reducing energy consumption;
 - 7.1.2.2 reducing water usage;
 - 7.1.2.3 reducing landfill waste – reducing waste with a particular focus on Single Use Plastics such as plastic bags, bottles, take away coffee cups, disposable plastic containers);
 - 7.1.2.4 encouraging low emission transport options and



7.1.2.5 implementing sustainable purchasing policies to help reduce contamination/pollution and enhance indoor environment quality.

7.2 SOCIAL & CULTURAL IMPLICATIONS

7.2.1 The kiosk will continue to provide services to the visitors of the foreshore area adding vibrancy and amenity for locals and tourists.

7.3 ECONOMIC IMPLICATIONS

7.3.1 The leasing of the kiosk to Ice Cream Delights Pty Ltd will continue to provide a local business opportunity and support the visitor offer along the foreshore.

7.4 FINANCIAL IMPLICATIONS

7.4.1 The proposed commencement rental is \$70,000 per annum inclusive of GST (with annual increments of Year 2 - \$72,250, Year 3 - \$74,500, Year 4 - \$76,000, Year 5 - \$78,400). The income exceeds Council’s budget projections and will provide revenue to support Council services.

8. IMPLEMENTATION STRATEGY

8.1 TIMELINE

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

Date	Event
6 December 2017	Council resolves to finalise the statutory procedures
11 December 2017	Lease execution

8.2 COMMUNICATION

8.2.1 Ice Cream Delights Pty Ltd will be advised of Council’s decision.

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.