

## **7.6 Notice of Intention to Lease - Boroondara Aged Services Society and the East Camberwell Tennis Club Inc.**

### **Abstract**

This report is presented in the context of Council fulfilling its obligations under section 190 of the *Local Government Act* 1989 (the Act) in relation to lease terms for the Boroondara Aged Services Society in Marwal Avenue, Balwyn North and the East Camberwell Tennis Club Inc.

Section 190 of the Act requires where new leases have a term of more than one year and the rent or market rent for any period of the lease term exceeds \$50,000 per annum, Council must give public notice of its intention to enter into such a lease and consider any submissions received in accordance with section 223 of the Act prior to entering into the lease.

A public notice was published on the Council website and in The Age newspaper advising of Council's intention to lease land to the Boroondara Aged Services Society and the East Camberwell Tennis Club Inc. No submissions have been received.

Council is now in a position complete the formal process of leasing land to the Boroondara Aged Services Society and the East Camberwell Tennis Club Inc.

### **Officers' recommendation**

That Council resolve to authorise the Chief Executive Officer or such other person as the Chief Executive Officer approves, to undertake the necessary procedural steps to complete the formal process to lease the land including the execution of all relevant documentation with the Boroondara Aged Services Society ABN 66 004 574 547 and the East Camberwell Tennis Club Inc. ABN 36 078 762 853.

**Responsible director: David Thompson  
Governance**

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## 1. Purpose

The purpose of this report is to enable Council to fulfill obligations under section 190 of the *Local Government Act 1989* (the Act) in relation to the lease renewals for the Boroondara Aged Services Society and the East Camberwell Tennis Club Inc.

## 2. Policy implications and relevance to community plan and council plan

The process proposed for advertising Council's intention to lease these facilities is consistent with Council's *Council Assets - Leasing and Licensing Policy 2017*.

This report is consistent with the Council Plan 2017-21, in particular strategies 1, 2, 4 and 5 regarding communication and engagement, community inclusion, families and young people and health, ageing and disability.

The report also supports Strategic Objective 7 of the Boroondara Community Plan 2017-27, to "*Ensure that ethical, financial and socially responsible decision making reflect community needs and are based on principles of accountability, transparency, responsiveness and consultation*".

## 3. Background

### 9 Marwal Avenue, Balwyn North

Boroondara Aged Services Society currently leases the property. The current lease expired on 30 June 2020. Since this time the lease has been in over hold.

The Marwal Centre has been providing social support programs to seniors since 1979 when the North Balwyn Citizens Association began occupying the Council site.

North Balwyn Citizens Association and the Canterbury Citizens Welfare Committee merged in 2001 to become BASSCare. BASSCare continues to provide social connectedness and services including meals on wheels and planned activities to seniors at the centre.

It is proposed to offer a new lease to 30 June 2022 with a permitted use of: 'The provision of programs, services and activities which promote healthy ageing, wellbeing and independence and associated purposes as agreed by Council'.

A two year lease is being offered to align with the extended Australian Government aged care reforms timeline. This affords Council the opportunity to review the terms of any future lease by taking into consideration the impact of any policy or regulatory changes made by the Australian Government.

The proposed rental is \$4,005.60 per annum plus GST consistent with Council's *Council Assets - Leasing and Licensing Policy*.

2A Spencer Street, Camberwell

East Camberwell Tennis Club Inc (the Club) currently leases the property. The current lease expired in 2007. Since this time the lease has been in over hold.

A land swap to allow the anniversary trail to be continued through to Prospect Hill Road has just been completed. The land swap will alter the leased area slightly to allow for the anniversary trail to travel up the western boundary of Riversdale Park and Camberwell High School.

The Club was founded in 1920 and today has 510 members. It is proposed the new lease will be for a term of five years and this is consistent with Council's *Council Assets - Leasing and Licensing Policy*.

#### 4. Outline of key issues/options

As the proposed new lease term for both the Boroondara Aged Services Society and the East Camberwell Tennis Club Inc. is for one year or more and the current market rental value exceeds, or will exceed \$50,000 per annum during the term, Council is required to comply with section 190 of the Act.

Under the Act Council is required to give public notice of its intention to enter into a lease and to consider any submissions received in accordance with section 223 of the Act, prior to resolving whether or not to enter into the lease.

Section 190 of the Act provides as follows:

##### **190. Restriction on power to lease land**

- (1) *A Council's power to lease any land to any person is limited to leases for a term of 50 years or less.*
- (2) *Subject to any other Act, if a Council leases any land to any person subject to any exceptions, reservations, covenants and conditions, it must comply with this section.*
- (3) *If the lease is to be*
  - (a) *for 1 year or more and*
    - (i) *the rent for any period of the lease is \$50,000 or more a year; or*
    - (ii) *the current market rental value of the land is \$50,000 or more a year; or*
  - (b) *for 10 years or more; or*
  - (c) *a building or improving lease*

*the Council must at least 4 weeks before the lease is made publish a public notice of the proposed lease.*

- (4) *A person has a right to make a submission under section 223 on the proposed lease.*

## 5. Consultation/communication

As the market rentals for each of the facilities outlined in **Attachment 1** were assessed at more than \$50,000 per annum by Council's Senior Valuer, a public notice was given by Council of its intention to lease the facilities in accordance with section 190 of the Act.

The public notice advised any person can make a written submission under section 223 of the Act in relation to the proposed leases and request to be heard in support of their written submission.

The public notice was advertised on the Council website and in The Age newspaper on Saturday 20 June 2020. No submissions have been received.

## 6. Financial and resource implications

In accordance with Council's *Council Assets - Leasing and Licensing Policy 2017* the aged support services has been classified as part Category A peppercorn, part Category C discounted market rent and part Category D market rent tenant and the tennis club as a Category B community partnership tenant.

Council's Senior Valuer has assessed the current market rental of the facilities. The proposed annual rentals for each of the facilities is set out in **Attachment 1**

## 7. Governance issues

Officers involved in the preparation of this report have no conflict of interest.

The list of prescribed human rights contained in the Victorian Charter of Human Rights and Responsibilities has been reviewed in accordance with Council's Human Rights Compatibility Assessment Tool and it is considered the proposed actions contained in this report present no breaches of, or infringements upon, those prescribed rights.

## 8. Social and environmental issues

Provision of the buildings under an appropriate lease agreement enables the various tenants to provide services to the Boroondara community.

**Manager:** David Thompson, Governance

**Report officer:** Rebecca Dewar, Senior Property Management Officer