

7.4 Intention to advertise proposed leases

Abstract

This report is presented in the context of Council meeting its obligations under section 190 of the *Local Government Act 1989* ("the Act") in relation to lease terms for Access Health and Community located at 51 St Johns Avenue, Camberwell and Ashburton Community Centre located at 160 High Street, Ashburton, as detailed in **Attachment 1**.

Section 190 of the Act requires any new leases with 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, then 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.

It is proposed a public notice be published in the Progress Leader advising of Council's intention to lease as described above, advising any person can make a submission. If any submissions are received a further report will be presented to a future Council meeting to enable consideration of any submissions received.

If no submissions are received pursuant to the provisions of Section 223 of the Act, following the publication of the Public Notice, the proposed resolution will 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 procedures to lease the land including the execution of all relevant documentation.

Officers' recommendation

That Council resolve to:

1. Commence the statutory procedures under section 190 of the Local Government Act 1989 ("the Act"), advising of its intention to lease the Council owned facilities as detailed in Attachment 1.
2. If no submissions are received pursuant to the provisions of Section 223 of the Act, following the publication of the Public Notice, 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 procedures to lease the land including the execution of all relevant documentation.
3. In the event submissions are received, note a further report will be presented to Council to enable consideration of the submissions.

Responsible director: Bruce Dobson
Environment & Infrastructure

1. Purpose

The purpose of this report is to advise Council of its obligations under section 190 of the Act in relation to lease renewals for the two facilities, detailed in **Attachment 1** and seek a Council decision to commence the statutory procedures relevant to these proposed leases.

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 strategic objective - *"Community services and facilities are high quality, inclusive and meet a variety of needs now and into the future"*

It 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

Facility - 51 St Johns Avenue, Camberwell

Access Health and Community has merged with Camcare who leased the property at 51 St Johns Avenue, Camberwell from Council. The lease was assigned in June 2018 to ensure the continuation of the range of support services provided to the community. These services are prescribed through a funding Deed. Officers' recommendations regarding the funded activities provided by Camcare as a recipient of the grant were informed through a review of the performance of Camcare over the past three years. At the Council meeting of 28 August 2017, Council resolved to provide Camcare with an additional one year's funding until 30 June 2019.

The merger was effective from 8 July 2018 and officers assigned the funding agreement from Camcare to Access Health and Community to ensure continuity of the funded services. It is proposed the new lease with Access Health and Community will be until 30 June 2019, to align with the funding deed. Access Health and Community will only be able to use the building for the current suite of services that were formerly provided by Camcare.

Facility - 160 High Street, Ashburton

Ashburton Community Centre Inc currently leases the property at 160 High Street, Ashburton. The current lease expires 18 November 2018. The centre provides a variety of education, leisure, active and social activities, which is available to all of the Boroondara community. It is proposed the new lease will be offered for a term expiring 30 June 2023, at which time a further lease may be offered subject to Council policy and community need.

4. Outline of key issues/options

As the proposed new lease terms are for one year or more and the current market rental values exceed \$50,000 per annum, Council is required to comply with section 190 of the Act. Under this section 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 values have been assessed at more than \$50,000 per annum by Council's Senior Valuer, it is therefore proposed a public notice be given by Council of its intention to lease each of the facilities in accordance with section 190 of the Act. The public notice will advise any person has the opportunity to make a submission under section 223 of the Act in relation to the proposed leases.

If submissions are received, a further report will be presented to a future meeting of Council to consider the submissions.

6. Financial and resource implications

Facility - 51 St Johns Avenue, Camberwell

Camcare was classified as a Category C discount market tenant, Access Health and Community at 51 St Johns Avenue, Camberwell, has also been determined to be a Category C under Council's Policy. The rental is to remain at \$1.00 per annum for this lease. An Expression of Interest will be conducted to determine who will provide the services prescribed in the funding deed from Council as of 1 July 2019. A new lease would be required for the successful agency.

Facility - 160 High Street, Ashburton

In accordance with Council's *Council Assets - Leasing and Licensing Policy 2017* (the "Policy") the Ashburton Community Centre at 160 High Street, Ashburton, has been classified as a Category A peppercorn tenant, which equates to \$1.00 per annum rental.

Council's Senior Valuer has assessed current market rental of the facilities - see **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 buildings under appropriate lease agreements will enable Access Health & Community and Ashburton Community Centre to continue to provide important services to the Boroondara community.

9. Conclusion

It is recommended by officers the statutory procedures be commenced in accordance with section 190 of the Act advising of Council's intention to lease each of the facilities for the permitted uses specified, as detailed in **Attachment 1**.

Manager: Chris Hurley, Commercial Property Services

Report officer: John Lorkin, Coordinator Revenue and Property Services

| Proposed tenant | Facility/Address | Permitted use | Market Valuation per annum (exclusive of GST) | Proposed Term |
|--------------------------------|--------------------------------|---|--|----------------------|
| Access Health & Community | 51 St Johns Avenue, Camberwell | Community Support Service and associated purposes as agreed by Council. | \$75,600 | To 30 June 2019 |
| Ashburton Community Centre Inc | 160 High Street, Ashburton | Community facility including the provision of educational and leisure courses, activities and associated purposes as agreed by Council. | \$52,000 | To 30 June 2023 |