

19.4 RENEWAL OF LEASES - CAPALABA AND CLEVELAND

Objective Reference:

Authorising Officer: Louise Rusan, General Manager Community & Customer Services

Responsible Officer: Graham Simpson, Group Manager Environment & Regulation

Report Author: Damien Jolley, Senior Property Officer

Attachments:

1. Locality Map - Capalaba
2. Locality Map - Cleveland

The Council is satisfied that, pursuant to Section 275(1) of the *Local Government Regulation 2012*, the information to be received, discussed or considered in relation to this agenda item is:

(e) *contracts proposed to be made by it.*

PURPOSE

To obtain approval to negotiate new leases on expiry of existing agreements, in accordance with the requirement of the *Local Government Regulation 2012*.

BACKGROUND

Lease Renewals

- a) 1-21 Degen Road Capalaba is currently leased to the CPL (formerly Cerebral Palsy League) until 31 January 2021, with the option to extend the term of the lease to 31 January 2023 having already been taken up in accordance with lease terms. CPL has now requested approval for a further lease period of two (2) years following 31 January 2023.
- b) Council resolved on 23 October 2019 to enter into a lease for a part of 233 Middle Street Cleveland with the Australian Industry Trade College (AITC) for a 12 month period, being 1 January 2020 to 31 December 2020, with the option to extend the lease for a further six (6) month period to 30 June 2021 having already been taken up in accordance with lease terms. The AITC has also requested approval for a further lease period of six months following 30 June 2021.

ISSUES

Both the CPL and AITC have requested further extensions to their existing leases, which effectively means the terms and conditions of those existing leases are rolled over without the ability of Council to review and renegotiate terms.

Accordingly, it is considered that due to a combination of the length of time requested and the need to review commercial terms to market, the preferred option is to renegotiate new leases to extend their occupation. This will still provide the lessees some certainty about continued tenure but provide Council the opportunity to review the lease terms including consideration of fair market value.

STRATEGIC IMPLICATIONS

Legislative Requirements

The *Local Government Regulation 2012* (LGR 2012) describes land as a “Valuable Non-Current Asset” and prescribes a number of options available to enter into a contract to dispose of the land including granting of a lease. Sale by tender or auction is the prescribed method of disposing of land, however the LGR 2012 provides for exceptions to this rule in certain circumstances.

In particular, reference is made to sub paragraph 236(1)(c)(iii) and paragraph which states exceptions apply as follows:

236(1)(c)(iii) - The disposal is for the purpose of renewing the lease of land to the existing tenant of the land.

It is considered that the proposal to renew the leases is able to be made in accordance with these exceptions contained within the LGR 2012 provisions.

Risk Management

In proposing a review to market, Council is establishing an initial position of full commerciality for negotiation of new leases. This will ensure that any decision to subsequently reduce commercial terms is quantified and informed.

If this initial commercial position is not taken, there is a reputational risk to Council that the provision of accommodation to an external party does not meet good governance and transparency expectations for a commercial asset, and does not support a sound basis for a sustainable property portfolio.

In regards to AITC, the previous Council resolution relating to the current AITC lease provided a substantial rent reduction to reflect their not-for-profit status and the original agreement with Council in regards to establishing the college within the city while continuing to source another local campus site.

As such, negotiations for a new lease on a commercial basis may require engagement with key stakeholders to manage reputational risk and support any alternative outcomes.

Financial

There are no implications for the current financial year as there are no financial changes to existing lease arrangements. If new leases are negotiated this may positively contribute to lease revenue and Council maintenance and administration costs in subsequent financial years.

People

There are no staff implications.

Environmental

There are no identified environmental implications.

Social

There are no identified social implications.

Human Rights

There are no known human rights implications associated with this report.

Alignment with Council's Policy and Plans

No non-alignment with Council Policy and Plans has been identified.

CONSULTATION

Consulted	Consultation Date	Comments/Actions
Strategic Property Manager	June 2020	Advice concerning renegotiation options.
Cr Peter Mitchell – Division 2	1 July 2020	Notification of report relating to AITC.
Cr Adelia Berridge – Division 9	1 July 2020	Notification of report relating to CPL.

OPTIONS

Option One

That Council resolves as follows:

1. To apply the exception to dispose of land or an interest in land, other than by tender or auction, under subparagraph 236(1)(c)(iii) of the *Local Government Regulation 2012*, for renewing leases.
2. To delegate authority to the Chief Executive Officer under s.257(1)(b) of the *Local Government Act 2009* to negotiate, make, vary and discharge the leases of the properties at fair market value.
3. That this report and attachment remain confidential until the contract is awarded, subject to maintaining the confidentiality of legally privileged, private and commercial in confidence information.

Option Two

That Council resolves as follows:

1. That the exception to dispose of land or an interest in land, other than by tender or auction, under subparagraph 236(1)(c)(iii) of the *Local Government Regulation 2012*, for renewing leases does not apply.
2. That this report and attachment remain confidential until the contract is awarded, subject to maintaining the confidentiality of legally privileged, private and commercial in confidence information.

OFFICER'S RECOMMENDATION

That Council resolves as follows:

1. To apply the exception to dispose of land or an interest in land, other than by tender or auction, under subparagraph 236(1)(c)(iii) of the *Local Government Regulation 2012*, for renewing leases.
2. To delegate authority to the Chief Executive Officer under s.257(1)(b) of the *Local Government Act 2009* to negotiate, make, vary and discharge the leases of the properties at fair market value.
3. That this report and attachment remain confidential until the contract is awarded, subject to maintaining the confidentiality of legally privileged, private and commercial in confidence information.



Redemap Portal Map

Legend

 Lease

 Current Lot

 CPL Lease area

Scale @ A4:
1:1,114

Date:
12/06/2020



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