

ITEM NUMBER: 19.1

CONFIDENTIAL REPORT

KAURI COMMUNITY AND SPORTING COMPLEX - MANAGEMENT AGREEMENT AND LEASE TO SEACLIFF SPORTS CLUB

Pursuant to Section 83(5) of the Local Government Act 1999 the Report attached to this agenda and the accompanying documentation is delivered to the Council Members upon the basis that the Council consider the Report and the documents in confidence under Part 3 of the Act, specifically on the basis that Council will receive, discuss or consider:

- b. Information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and would, on balance, be contrary to the public interest.**

- d. commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and would, on balance, be contrary to the public interest.**

Recommendation – Exclusion of the Public – Section 90(3)(b & d) Order

1. That pursuant to Section 90(2) of the *Local Government Act 1999* Council hereby orders that the public be excluded from attendance at this meeting with the exception of the Chief Executive Officer and Staff in attendance at the meeting in order to consider Report No: 198/22 Kauri Community & Sporting Complex – Management Agreement and Lease to Seacliff Sports Club in confidence.

 2. That in accordance with Section 90(3) of the *Local Government Act 1999* Council is satisfied that it is necessary that the public be excluded to consider the information contained in Report No: 198/22 Kauri Community & Sporting Complex – Management Agreement and Lease to Seacliff Sports Club on the following grounds:
 - b. pursuant to section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which would prejudice the commercial position of the Council.

 - d. pursuant to section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information.

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information.

 3. The Council is satisfied, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.
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Item No: 19.1

Subject: **KAURI COMMUNITY AND SPORTING COMPLEX – MANAGEMENT AGREEMENT AND LEASE TO SEACLIFF SPORTS CLUB**

Date: 14 June 2022

Written By: Property Officer

General Manager: Strategy and Corporate, Ms P Jackson

SUMMARY

The current agreement between the City of Holdfast Bay (**Council**) and Belgravia Health and Leisure Group Pty Ltd (**Belgravia**) for the management of the Kauri Community and Sporting Complex (**Complex**) expires on 22 June 2022. As foreshadowed by Council Resolution No. C20322/2581, Council Administration has now facilitated negotiations with the Seacliff Tennis and Hockey Clubs (**Clubs**) with the aim of transitioning the management to the Clubs. As such, this report recommends that Council extend the existing arrangements with Belgravia until 30 June 2022 and grant a lease to Seacliff Sports Club Inc (being an umbrella association comprising both Clubs) in respect of the first floor function area for a term of five (5) years as and from 1 July 2022 and otherwise on the terms discussed herein.

RECOMMENDATION

That Council:

- 1. approves the extension of the current management agreement with Belgravia for the facility management of the Kauri Community and Sports Complex for a period of eight (8) days commencing on 23 June 2022 and expiring on 30 June 2022;**
- 2. enters into Memorandum of Lease with Seacliff Sports Club in respect of the first floor function area of the Kauri Community and Sporting Complex and more particularly being the area delineated in red on the plan annexed hereto as Attachment 1 for a term of five (5) years commencing on 1 July 2022 (subject to a trial period of one (1) year) and otherwise on the terms discussed herein; and**
- 3. authorises the Mayor and Chief Executive Officer to execute and seal any documents required to give effect to the extension of the management agreement with Belgravia, the Memorandum of Lease to Seacliff Sports Club and any documents of and incidental to the transfer of management.**

RETAIN IN CONFIDENCE - Section 91(7) Order

3. having considered Agenda Item 19.1 Kauri Community and Sporting Complex – Management Agreement and Lease to Seacliff Sports Club (Report No: 198/22) in confidence under Section 90(2), 90(3)(b) and 90(3)(d) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the Report and Attachment 2 be retained in confidence for a period of 24 months with the Chief Executive Officer authorised to release the documents following conclusion of the Management Agreement with Belgravia Health and Leisure Group or the expiry of the 24 month confidentiality period.
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STRATEGIC PLAN

Wellbeing Objectives 2020-2030 – Support businesses and increase participation rates across the whole community

COUNCIL POLICY

Sporting and Community Leasing Policy

STATUTORY PROVISIONS

Local Government Act 1999

Retail and Commercial Lease Act 1995

BACKGROUND**Previous Relevant Reports**

- Confidential Council Report No. 82/22; Item No. 18.1, “Kauri Community & Sporting Complex – Extension of Management Agreement”, 22 March 2022 (Resolution No. C220322/2581)
- Confidential Council Report No. 250/21; Item No. 18.4, “Kauri Community & Sporting Complex – EOI Tender”, 27 July 2021 (Resolution No. C270721/2372)
- Confidential Council Report No. 166/21; Item No. 18.1, “Kauri Community and Sporting Complex – Management Review and New EOI Tender”, 8 June 2021 (Resolution No. C080621/2314)

At its meeting held on 22 March 2022, Council resolved to extend the current management agreement with Belgravia Health and Leisure Group for the facility management of the Kauri Community and Sports Complex (**Complex**) for three (3) months expiring on 22 June 2022 as a means to facilitate negotiations with the Seacliff Tennis and Seacliff Hockley Clubs to review the existing management model with the aim of transitioning the management to the Clubs.

Since then, Council Administration has had detailed discussions with the Clubs to settle on a management model that would allow for clubroom space whilst balancing the broader community needs that Council may have for the facility.

REPORT

Grant of Lease

From those discussions, it has been agreed that the preferred way forward is for the Clubs to manage the first floor function area of the Complex (being the area delineated in red on the plan annexed hereto as Attachment 1) (**Premises**) by way of a Memorandum of Lease (**Lease**) which will grant the Clubs exclusive possession of the Premises provided always that the Clubs honour Council's current arrangements with The Holdfast Bay Music Centre Incorporated and make the Premises available for use by the broader community in a similar manner and on similar terms to that which is currently offered by Belgravia (acting reasonably).

The obligations imposed on the Clubs by such an arrangement (both financial and performance-wise) have been discussed at length and to ensure that the proposed management model is the preferred fit for both Council and the Clubs, it is proposed that the arrangement be subject to a trial period of one (1) year with both parties having the right to terminate the Lease by giving written notice to the other not less than two (2) months prior to the end of the first year of the Lease (time being of the essence).

The Clubs have agreed to provide monthly reports to Council during the first year of the Lease which will include details of all bookings and actual use by community user groups and hirers including attendance numbers, hire charge, bar revenue, kiosk revenue, details of maintenance carried out by the tenant and evidence of compliance with key lease obligations. These reports will be in a similar form to that provided by Belgravia and will enable both parties to make an informed decision as to whether the management model is suitable. If neither party exercises the right to terminate by the required date, the Lease will continue with the Clubs being required to provide reports on quarterly basis instead of a monthly basis.

Terms of Lease

An overview of the terms and conditions of the proposed Lease are as follows:

Landlord:	City of Holdfast Bay
Tenant:	Seacliff Sports Club Inc ABN 62 785 462 790 (being an umbrella association formed by Seacliff Tennis Club Inc and Seacliff Hockey Club Inc)
Lease Area:	That portion of the land in Certificate of Title Volume 6184 Folio 142 comprising the first floor function area as delineated in red on the plan annexed hereto as Attachment 1 and situated at Level 1, Kauri Community and Sports Complex, Lipson Avenue Seacliff SA 5049

Term of Lease:	Five (5) years subject to a one (1) year trial period
Commencement Date:	1 July 2022
Expiry Date:	30 June 2027 (unless terminated upon expiry of the one (1) year trial period)
Option to Renew	Nil (to be negotiated at end of lease)
Annual Rent:	\$6,453.00 plus GST (as calculated in accordance with Council's Sporting and Community Leasing Policy)
Payment Terms:	Monthly, in advance
Rent Review:	The rent shall be increased by CPI annually thereafter.
Permitted Use:	The provision of community recreational tennis and hockey and hiring of the Premises on the terms contained in the Lease and for such other lawful uses to which the Landlord may consent.
General Maintenance:	The Tenant is responsible for the general maintenance, repair and replacement of all fixtures, fittings and chattels in relation to the Premises in accordance with the Building Maintenance Schedule annexed to the Lease.
Notable Special Conditions:	<ol style="list-style-type: none"> 1. Trial period of one (1) year – either party can terminate upon giving written notice to the other on or before 30 April 2023 (time being of the essence). Tenant to issue monthly reports to Council during the trial period as detailed in the Lease. 2. Use by The Holdfast Bay Music Centre Incorporated – Tenant to honour Council's current arrangements with The Holdfast Bay Music Centre. 3. Use by Council – Tenant to honour Council's current arrangements with Belgravia regarding Council's free use for the Let's Eat Program, etc. 4. Use by Community Groups – Tenant to permit broader community use of the Premises in a similar manner and on similar terms to that currently offered by Belgravia (acting reasonably).

The Seacliff Sports Club, comprising the Seacliff Tennis Club and the Seacliff Hockey Clubs, were pleased to participate in recent negotiations with members of City of Holdfast Bay administration to review the existing management model of the Kauri Community and Sporting Complex with the aim of transitioning the management of the Complex to the Clubs. The parties were able to settle on a management model that would allow for clubroom space for the Clubs, while balancing the broader community needs for the facility. The Seacliff Sports Club have provided a joint letter

(provided as Attachment 2) advocating for Council's support for the Memorandum of Lease recommended by Council administration, as the general terms are agreeable to the Clubs.

Refer Attachment 2

Extension of Belgravia Management Agreement

The Clubs have indicated that they are prepared to accept a lease of the Premises as and from 1 July 2022 being the first day of the new financial year. However, the current agreement between Council and Belgravia is due to expire on 22 June 2022. Accordingly, in order to maintain continuity of service, it is recommended that Council grant an extension of the management agreement with Belgravia for a period of eight (8) days commencing on 23 June 2022 and expiring on 30 June 2022. This will ensure a smooth and seamless transition to the Clubs whilst simplifying the arrangement from an accounting perspective.

BUDGET

This will have a positive effect on the 2022/23 operational budget as:

- the Management fees currently payable to Belgravia will no longer be payable;
- Council will receive \$6,453 plus GST in rent; and
- the Tenant will be responsible for cleaning costs in respect of the Premises, thus reducing Council's annual liability.

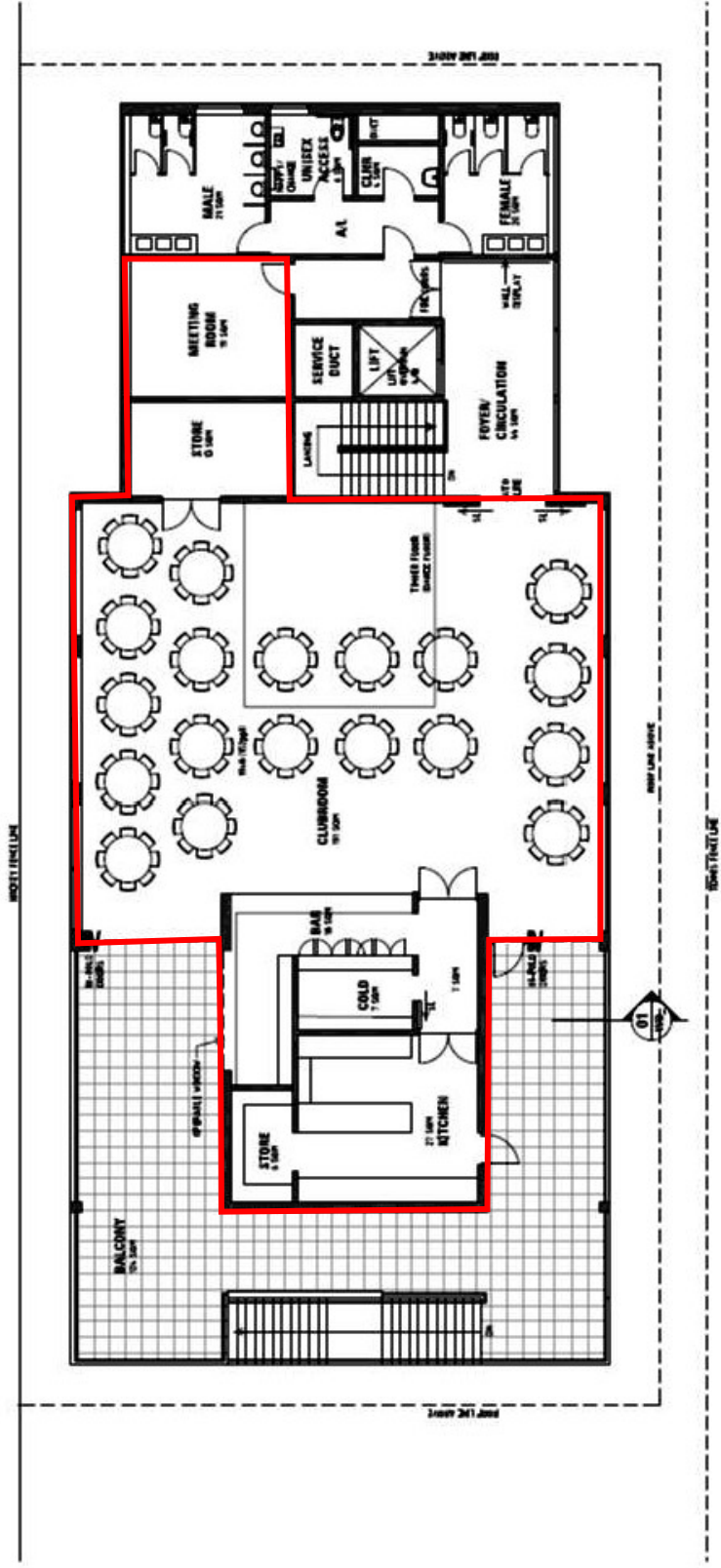
An annual budget allocation is provided to Strategy and Corporate for the review and implementation of property leases and for maintenance responsibilities retained by Council under the Lease. This budget includes the engagement of legal advice and services for the preparation of the Lease.

LIFE CYCLE COSTS

Under the terms of the Lease, Council is already responsible for the structural maintenance of the Premises, the costs of which is included in the Long Term Financial Plan.

Attachment 1





FIRST FLOOR PLAN
CITY OF HOLDFAST BAY - SEACLIFF SPORTING CLUBROOMS



DWG SK 03
 SCALE 1:100
 DATE 05.09.2014



Attachment 2



SEACLIFF SPORTS CLUB INC.

PO Box 146, Brighton SA 5048

ABN 62 785 462 790



7/06/2022

The Seacliff Sports Club, comprising the Seacliff Tennis Club and the Seacliff Hockey Club, were pleased to participate in recent negotiations with members of City of Holdfast Bay administration to review the existing management model of the Kauri Community and Sporting Complex with the aim of transitioning the management of the clubroom area of the Complex to the Seacliff Sports Club. The parties were able to settle on a management model that would allow for clubroom space for the Clubs, while balancing the broader community needs for the facility. The Seacliff Sports Club would therefore be pleased to provide support for the Memorandum of Lease advocated by Council administration, as the general terms are agreeable to the Clubs.

A handwritten signature in black ink, appearing to read "M Stephenson".

Mark Stephenson

President
Seacliff Sports Club Inc