

1.4 85 ATKINSON STREET, OAKLEIGH – PART CALOOLA RESERVE – PROPOSED LEASE TO OAKLEIGH TENNIS CLUB INC

Responsible Director: Peter Panagakos

RECOMMENDATION

That Council:

1. *Negotiate a lease with the Oakleigh Tennis Club Inc (OTC) for the tennis courts located at part Caloola Reserve, 85 Atkinson Street Oakleigh incorporating the following terms and conditions;*
 - a) *Premises: Tennis courts located at part Caloola Reserve, 85 Atkinson Street, Oakleigh*
 - b) *Lessee: Oakleigh Tennis Club Incorporated*
 - c) *Term: 12 Years*
 - d) *Rent: \$1,022 per annum (Inc GST)*
 - e) *Rent Reviews: Increased in accordance with the City of Monash's Annual adopted Budget*
 - f) *Further Term: One (1) further term of Ten (10) years*
 - g) *Use: Tennis and associated activities*

("the Proposal")
2. *Give public notice of the proposal in accordance with Section 190 of the Act, in a newspaper and on Council's website from 27 January 2021 and invite submissions on the proposal.*
3. *Authorises Council's Chief Executive Officer or her delegate to undertake the administrative procedures necessary to enable Council to carry out its functions under section 223 of the Act in respect of the proposal ('Appointed Officer').*
4. *Appoint a Committee of Council comprising the Oakleigh Councillors and the Mayor to hear any submitters requesting to be heard and consider any submissions received under Section 223 of the Act.*
6. *Consider and determine the outcome of the Section 223 process on the proposal at the Ordinary Meeting of Council on a date and time to be fixed.*

INTRODUCTION

The purpose of this report is for Council to commence the statutory process in accordance with Section 190 of the Local Government Act 1989 to advertise its proposal to grant a lease to the Oakleigh Tennis Club Incorporated (OTC) for the use of the tennis courts at Caloola Reserve (85 Atkinson Street Oakleigh). Please refer to Attachment 1.

BACKGROUND

At the Ordinary Council meeting on 29 August 2017, Council received a report on the new tennis courts at part Caloola Reserve and amongst other matters authorised officers to:

“... proceed to tender for the installation of eight synthetic grass tennis courts with LED sports lighting at Caloola Reserve, Oakleigh to be initially funded from the 2017/18 Oakleigh Recreation Centre Redevelopment budget;”

“...enter into a heads of agreement with Oakleigh Tennis Club and North Oakleigh Tennis Club for future usage agreements for the shared use of the new facility at Caloola Reserve which will include a condition that when the preferred days and hours of use of the new facility have been agreed with the tennis clubs, there must be in place an appropriate public booking system for the use of tennis courts by the general public;”

Council completed the construction of eight new synthetic grass tennis courts at Caloola Reserve in December 2018.

In October 2017, a Heads of Agreement (HoA) was entered into between Council, the Oakleigh Tennis Club Inc., and the North Oakleigh Tennis Club Inc. to outline the key terms and conditions for the relocation of both clubs to the new multi-purpose sporting facility to be constructed in Caloola Reserve.

A key condition of the HoA was the merger of the Oakleigh Tennis Club Inc. and the North Oakleigh Tennis Club Inc. This has occurred and the new legal entity was provided access to the tennis court complex shortly after construction was completed in December 2018.

The Oakleigh Tennis Club were previously located at 2a Park Street Oakleigh. The lease for this site was surrendered in June 2019.

The North Oakleigh Tennis Club was located at 14-16 Atkinson Street Chadstone and has merged into the Oakleigh Tennis Club. The lease with the North Oakleigh Tennis Club was surrendered in August 2019.

DISCUSSION

The eight tennis courts are located upon Council land at 85 Atkinson Street, Oakleigh and are within the larger Caloola Reserve as shown below.



The proposed key terms and conditions of the lease to the OTC are identified in Attachment 2. These Terms and conditions have been mutually agreed between the parties.

Prior to offering a new lease agreement, Council is required to comply with the requirements of section 190 of the Local Government Act 1989, which states that if a 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,

Council must, at least 4 weeks before the lease is made, publish a public notice of the proposed lease. A person has a right to make a submission under Section 223 of the Act on the proposed lease.

As the proposed lease is for a period of greater than 10 years, Council must publish a public notice of intention to enter into a lease and invite submissions.

SOCIAL IMPLICATIONS

The opportunity to consolidate the two tennis venues and clubs; Oakleigh Tennis Club and North Oakleigh Tennis Club to Caloola Reserve benefits current and potential tennis members by sharing resources, volunteers and maximising the use of Reserves. This helps by connecting members to a broader community and leading to less isolation and a greater sense of belonging. In turn, this should make club venues more popular as places for other forms of socialising to support and strengthen community connectedness.

FINANCIAL IMPLICATIONS

Should the proposal proceed, Council will receive an annual rent payment from OTC for the occupation of the premises. The Lessee is responsible for the payment of utility charges.

CONCLUSION

The use of a Council owned facility requires an appropriate occupancy agreement in the form of a lease agreement. The lease agreement aligns with the Heads of Agreement between the parties and the terms and conditions of the lease have been mutually agreed between the parties.

It is now appropriate for Council to commence the statutory procedures under Sections 190 and 223 of the Local Government Act 1989 in order for Council to understand any concerns of its community with the proposal.

Attachment 1

Proposed Lease Area



Atkinson Rd

Attachment 2**Key Lease Terms and Conditions**

Leased Area	Refer to Attachment 1
Commencement Date	The date upon which Council resolves to proceed with a lease
Hours of Use	7.00am to 11.00pm for tennis courts 1 to 6; and 7.00am to 9.00pm for tennis courts 7 & 8.
Permitted Use	Tennis Courts and associated activities
Term	12 years plus one further term of 10 years
Rental and Licence Fee	Rental for the Tennis Courts to commence at \$1,022.00 per annum including GST in accordance with Council's Schedule of Fees and Charges for Sporting Reserves and Pavilions
Maintenance of the Courts	Council to maintain the Courts for the first three years after completion. Thereafter the responsibility lies with the Lessee
Sinking Fund	An annual amount of \$5,000 per annum plus GST, increased annually by CPI over the initial first term of 12 years to be invested by the Lessee into a sinking fund for the maintenance and resurfacing of the court surface. The sinking Fund will be managed and administered by the Tenant and the Tenant must satisfy the Landlord that it has adequate funds in its annual budget
Outgoings	The Lessee will be responsible for all electricity associated with the courts
Additional Clauses	Both clubs to vacate their current facilities, surrender their leases and form as one legal entity The lessee must ensure that the courts are used for tennis programs. i.e. junior boys and girls, males and females, disability programs for either training, social or competition

	<p>Community access for the courts via the daily usage schedule to be negotiated between both parties regularly</p> <p>Council will manage maintenance of lighting, fencing and all other associated infrastructure of the courts. The lessee will be responsible for all material costs associated to undertake these works and Council the labour costs.</p>
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