

19.1 RENEWAL OF LEASE - CLEVELAND LIBRARY BUILDING CAFE

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. Lease Area

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 renew an existing lease, in accordance with the requirement of the *Local Government Regulation 2012*, for the business Little Bloomfield Cafe that operates from the Cleveland Library building located at 21-31 Bloomfield Street, Cleveland.

BACKGROUND

Council leases part of the Cleveland Library building as a café, which is run by a business trading as Little Bloomfield Cafe. The lease area is 253m² comprising of an indoor area of 153m² and outdoor area of 100m².

The business has recently been sold and the lease assigned to the new owner, [REDACTED] by a Deed of Lessor Consent, which was executed under delegation on 23 October 2019. The current lease expires on 14 December 2023.

Prior to the business being sold and the lease being assigned, in-principal endorsement was given by the Group Manager Environment and Regulation that consideration would be given to extending the lease for a further five (5) years. This was given at the request of the prospective purchaser and seller to provide certainty around the future use and tenure of the leased area. The new owner was also made aware that the decision to approve an extension would be made by Council resolution.

ISSUES

The current lease expires on 14 December 2023 and generally the option to renew a lease with three (3) years to run would typically be undertaken closer to the expiry date. However, given the circumstances, it is considered reasonable to provide the new owner with some reassurance that Council is satisfied for business to continue to operate from the building for a period of five (5) years past the current expiry date.

Officers are unaware of any future impediment to the lease continuing for the proposed five-year period.

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 state 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 lease is able to be made in accordance with these exceptions contained within the LGR 2012 provisions.

Risk Management

No risks have been identified. Granting a five-year extension will provide the owner with a degree of certainty around their ability to continue to operate the business.

Financial

There are no implications for the current financial year as there are no financial changes to existing lease arrangements. Rent for the lease will increase annually in accordance with the current lease agreement.

People

There are no staff implications.

Environmental

There are no identified environmental implications.

Social

There are no identified social implications.

Alignment with Council's Policy and Plans

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

CONSULTATION

Consulted	Consultation Date	Comments/Actions
NA		

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 a new lease.
2. To delegate the Chief Executive Officer under s.257(1)(b) of the *Local Government Act 2009* to make, vary, negotiate and discharge the lease of the property 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. Not to agree to a five-year extension of the lease.
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 Act*, for renewing a new lease.**
2. **To delegate the Chief Executive Officer under s.257(1)(b) of the *Local Government Act 2009* to make, vary, negotiate and discharge the lease of the property at fair market value.**
3. **That this report and attachments remain confidential until the contract is awarded, subject to maintaining the confidentiality of legally privileged, private and commercial in confidence information.**

Title Reference: 50207326

APPENDIX 3

[Outdoor Area Sketch]

[Part 18]

