

Agenda

Special Meeting of Council

Monday, 8th August 2016

Commencing at 6.00pm

Council Chamber
1230 Nepean Highway, Cheltenham

kingston.vic.gov.au

John Nevins
Chief Executive Officer
Kingston City Council

community inspired leadership



City of
KINGSTON

**City of Kingston
Special Meeting of Council**

Agenda

8 August 2016

Notice is given that a Special Meeting of Kingston City Council will be held at 6.00pm at Council Chamber, 1230 Nepean Highway, Cheltenham, on Monday, 8 August 2016.

1. Apologies

2. Foreshadowed Declaration by Councillors, Officers or Contractors of any Conflict of Interest

Note that any Conflicts of Interest need to be formally declared at the start of the meeting and immediately prior to the item being considered – type and nature of interest is required to be disclosed – if disclosed in writing to the CEO prior to the meeting only the type of interest needs to be disclosed prior to the item being considered.

3. City Assets and Environment Reports

3.1 Submissions Proposed Lease of Council Land - Moorabbin Reserve ... 5

4. Confidential Items

Nil

3. City Assets and Environment Reports

Ordinary Meeting of Council

8 August 2016

Agenda Item No: 3.1

SUBMISSIONS PROPOSED LEASE OF COUNCIL LAND - MOORABBIN RESERVE

Contact Officer: Julian Harvey, Manager Property, Arts and Leisure Services

Purpose of Report

The purpose of this report is to consider submissions received in response to a public notices published on 6 July 2016 which sought comment regarding Council's intention to lease part of Moorabbin Reserve located at Linton St Mentone.

Disclosure of Officer / Contractor Direct or Indirect Interest

No Council officer/s and/or Contractor/s who have provided advice in relation to this report have declared a Conflict of Interest regarding the matter under consideration.

OFFICER RECOMMENDATION

That Council:

1. Receive the written submissions and hear from those submitters who wish to speak in support of their submission.
2. That a further report be August Ordinary Council meeting regarding the proposed lease.

1. Executive Summary

On 26 April 2016 Council resolved to publish public notices giving notice of intention to lease land inviting any person wishing to make a submission to do so by 4 August 2016. Those parties providing a submission have been invited to speak at a Special Council Meeting on 8 August 2016, to assist Council in consideration of determining the matter.

2. Background

On 26 April 2016 Council resolved to:

1. Authorise the Chief Executive Officer or his delegate to publish public notices in accordance with section 190 of the Local Government Act 1989 (Act) stating Council's intention to Lease part of the Moorabbin Reserve located at Linton Street Moorabbin;
2. Authorise and direct the CEO and other relevant Council staff to carry out the necessary administrative procedures to allow Council to carry out its functions under section 223 of the Act;
3. Authorise and direct the CEO and other relevant staff to convene, if required, a special meeting of Council on 8 August 2016 at 6:00 PM at 1230 Nepean Highway Cheltenham to hear presentations be heard in support of their written submissions; and

4. That in the event no submissions are received, to authorise and direct the CEO or his delegate to execute a lease with the St Kilda Football Club including the terms contained in this report and to the satisfaction of Council's legal advisors.

3. Discussion

3.1 Council Plan Alignment

Goal 1 - Facilities and Assets that are Well Used and Effectively Managed

Outcome 1.1 - Assets are managed and used to meet the needs and provide for current and future generations

3.2 Consultation/Internal Review

Each submitter who has requested to be heard by Council in support of their submission has been provided with an opportunity to present in person to Council on 8 August 2016 at a Special Council Meeting or the submitter may elect to be represented at the meeting by a person specified in their submission.

3.3 Operation and Strategic Issues

3.3.1 Officers have reviewed the submissions and these are attached by the closing time of 4 August 2016.

The following parties had submitted:

- Mr John Atkinson
- Ms Dianne Fensham
- Ms Gillian Lelah

4. Conclusion

4.1 Environmental Implications

Redevelopment of the reserve and facilities will enhance the environment and provide the opportunity to implement ESD principles. The implementation of a new lease with the Club is required to achieve this.

4.2 Social Implications

The s223 process provides any person who wishes to provide comment on Council's intentions set out in a public notice(S) with an opportunity in this instance to be heard by Council.

4.3 Resource Implications

Council is contributing to the construction of the community facilities at the reserve.

4.4 Legal / Risk Implications

Section 223 Local Government Act process arises a result of submissions received in relation to Section 189 and Section 190 public notices.

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Appendices

Appendix 1 - Submission - Proposed Lease to St Kilda Football Club (Trim No 16/99880)

Appendix 2 - Submission - Proposed Lease to St Kilda Football Club - Dianne Fensham
(Trim No 16/100370)

Appendix 3 - Submission - Proposed Lease to St Kilda Football Club - Gillian Lelah (Trim
No 16/100364)

Author/s: Julian Harvey, Manager Property, Arts and Leisure Services

Reviewed and Approved By: Daniel Freer, General Manager City Assets and Environment

3.1

SUBMISSIONS PROPOSED LEASE OF COUNCIL LAND - MOORABBIN RESERVE

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From: john atkinson [REDACTED] on behalf of john atkinson
Sent: Monday, 1 August 2016 12:59 PM
Subject: Proposed Lease of coucil land.

Dear Julian, regarding the proposed lease arrangements of council land to St Kilda football club, I have the following comments:-

1. Lease period of 25 X 25. Clearly the last lease of 70 years has left the council with little power to get the tenant to maintain the facilities. As far as I am aware St Kilda still holds a 50 year lease down at Seaford. What the outcome of that fully paid up \$1 a year rental agreement will be is anyone's guess. The area around Linton St is predicted to change dramatically with potentially the Harvey Norman and Clark rubber areas designated for residential soon to be redeveloped. If you look at, the 2008 financial crash, the rise of China and the USA now exporting oil, as typical of the changes that very few people saw coming, why would anyone tie up a lease for 25 years. We have difficulty in predicting the future three years out. Thus we should not lease this facility for 25 years and have a repeat of the current decay and neglect.

Keep in mind that Moorabbin was third on the list. On wishing to leave Seaford, St Kilda wanted to go back to the Junction Oval, that rejected, they apparently tried St Kilda or Elwood not certain which, with those two exhausted they wanted to come back to their "Spiritual Home" seems a rather loose sort of tie when you have two other options ahead of Moorabbin. Thus given their track record I do not think they have much allegiance to any location. It's just what seems right at the time. Thus in two or three years they might find a better option and be off again.

The council should go for the standard 3 X 3 rental agreement, and possibly if one was feeling benevolent go for 3 X 6, but do not tie this place up for 25 years. This is madness and any 3 X ? should be able to work just as well.

Also I am concerned about amateur club participation. When I delved into the numbers of new players and teams created for the \$28M it turns out to be zero. Some are moving to play some games there but no amateur teams are moving to St Kilda ground full time. Thus I think in a couple of years amateur clubs may start to feel a bit aggrieved about what they signed up for, thus the 3 X # provides an option for review.

In summary NO to anything but a 3 X # and preferably 3 X 3 X 3. Anything else tells me we have not learned from past mistakes.

2.

a. Land Rent. \$5,350. While I cannot be precise, it would from scaled measurements of the area indicate that the land area which they wish to have tenancy over is 5.5 hectares. Let's assume it is 5.3 hectares then that makes the land rent \$1,000 per hectare. Is that really the going rate for land in Kingston? Seems rather low. Can you substantiate how this figure is arrived at?

b. Building Rent \$8,000 (being discounted \$50,000 discounted by 84% for the first ten years.) Is the council a charity organisation, it gives St Kilda \$4 M of rate payers' money then wants to reduce the building rent by 84%. Ridiculous. St Kilda is a business like many others in Moorabbin, I presume the council does not help factory owners by a gift of several million dollars then lets them off the rent for 10 years. (Some councils do a 6 month period for fit out costs etc.). Let us not forget the size of the AFL to which St Kilda are affiliated. (Australian March 5th 2014) TV rights sold for \$1.2 billion, last chief executive paid \$3.8 M per year. This is big business with deep pockets. The council should not look favourably on the company any more than any other. (I presume the council does not bail out the local Pizza shop when it runs into financial hardship)

While it is not comparing apples with apples, a quick check on two factory rentals indicated that 175 m² the rent was \$28,000 per year and one of 2500m² was \$32,000 per year. Thus I think the \$50,000 is a bit on the low side but reasonable if it rises by the rate of inflation every year. But no ten year breathing space.

In summary No 84% reduction, not warranted, no other business in Moorabbin would get such terms why start now. Rent should be indexed to inflation.

c. Gaming Rent \$41,500. I presume this figure is set up some state government body. Is this correct? If not correct then \$10 per week per machine is a very low figure. If council has the option to change this \$50 per week.


In summary if can't be moved so be it, if it can up it considerably.

d. Liquor rent of 2% of sales. Much the same as C above, if fixed by some state agreement so be it, if not then \$20,000 is again a low figure.

In summary if it can't be moved so be it, if it can up it considerably.

Comments. I think we all too often lose sight of the fact that St Kilda is a commercial enterprise and should be treated as such. It should be subject to the same rules and regulations and any other business in Kingston no more no less. I have the distinct impression that in matters relating to St Kilda a great deal of emotion is involved rather than a clear business process for achieving the best outcome for ratepayers. The current facilities are a disgrace and it reflects badly on the council that we are unable to enact the current lease to have the Tennant maintain the facilities. We need to ensure we do not find ourselves in the same situation in 25 years time with the facilities in a poor state. With the world changing at such a rapid pace who can predict what Kingston and in particular Moorabbin will look like in a few years time, in order to be able to react to changing demographics and public needs the council needs to use its normal rental agreement of 3 x 3.

I should like to appear at the special council meeting on the 8th August.
Thank you for the opportunity to comment on this important lease agreement.
Regards
John

john atkinson


From: Dianne Fensham [REDACTED]
Sent: Thursday, 4 August 2016 11:31 PM
Subject: Mr Julian Harvey- Manager Property Arts and Leisure

I wish to lodge an objection to the Proposed Lease of Land -part of Moorabbin Reserve located at Linton Street Moorabbin

Lease period of 50 years(25x25option) is far too great a period.
(10x10 would be a little easier to accept!

Building rent \$8000(being\$50,000 discounted by 84% per annum for the first ten years is particularly generous to a business, St Kilda Football Social Club, that netted \$2.2 million from 83 poker machines in 2015-2016!

Let's not forget the lack of care that St Kilda Football Club showed towards their last lease!

It is time that Kingston Council and more so, the City of Kingston Councillors, who represent ratepayers, showed more regard towards where they spend our money!

Perhaps more to struggling clubs and less towards a powerful organisation?

Di Fensham
4b Margaret Street Moorabbin. 3189
[REDACTED]
[REDACTED]

From: GILLIAN LELAH [REDACTED]
Sent: Friday, 5 August 2016 8:40 AM
Subject: URGENT Attention Julian Harvey - Proposed Lease of Council Land

To Julian Harvey
Manager Property, Arts & Leisure Services

RE: PROPOSED LEASE OF COUNCIL LAND - Notice in Glen Eira Leader 6th July 2016

My objections to this proposal are:

1) That St Kilda Football Club should receive an **84% discount on their Building Rent** for the first 10 years.

Why should they receive this discount when they are a business ?

What is the justification for giving them this discount ?

2) To allow them to have a **lease for 25 + 25 years is excessive**. There are many changes taking place in Moorabbin currently and in the next 50 years the needs of the community could change.

3) **St Kilda Football Club has never applied for a Planning Permit for their poker machines.**

Under provisions of the **Gambling Regulation Act 2003**, proclaimed in July 2004, Council's planning powers increased to require all gaming applications to have a Planning Permit issued by Council, even when the proposed machines would cover less than 25% of the floor space.

Before any Gaming Rent can be included in this Lease it is obvious that St Kilda Football Club needs to apply for a Planning Permit for their current and new gaming venue and machines (KP-465/2016) and be successful in their application. This Planning Permit needs to be separate from the overall KP-465/2016 Application.

I included my objection to their lack of a planning permit in my submission re: KP 465/2016 - see below.

OBJECTION: SKFC has never obtained a Planning Permit for Gaming Machines.

- *The applicant considers (page 26 in the Town Planning Assessment) there is no need for a separate planning permit. (There is a letter from Mr P.Soding in the Appendix that relates to this).*
- *I believe that SKFC should now have to apply for a planning permit specifically for their machines, as the community has a right to have its say now, as since 1992 so much more has become known about the harmful effects of pokie machines.*

I request the opportunity to heard in support of the above matters at the 8th August Special Council Meeting.

Kind regards
Gillian Lelah
5 Baker Street
Moorabbin 3189
[REDACTED]