

9.6 EXTENSION OF LEASE AND DEED OF CONTRACT TO BELGRAVIA HEALTH & LEISURE GROUP PTY LTD - LOFTUS RECREATION CENTRE - PORTION LOT 501 (99) LOFTUS STREET, LEEDERVILLE

Attachments: Nil

RECOMMENDATION:

That Council:

- 1. APPROVES an extension to Belgravia Health & Leisure Group Pty Ltd (ACN 005 087 463) of the:**
 - 1.1 Deed of Contract, governing the operation and management of the Loftus Centre, for a further term of 12 months commencing 1 January 2022 and expiring on 31 December 2022 subject to all other terms and conditions remaining the same; and**
 - 1.2 Lease (including the Car Parking Licence) for part of the Loftus Centre at Lot 501 (99) Loftus Street, Leederville, for a further term of 12 months commencing 1 January 2022 and expiring on 31 December 2022 subject to all other terms and conditions remaining the same; and**
- 2. AUTHORISES the affixing of the Common Seal of the City of Vincent to the extension of the Deed of Contract and Lease in accordance with the City's Execution of Documents Policy.**

PURPOSE OF REPORT:

To consider granting an extension of the Deed of Contract and the Lease (including the Car Parking Licence) to Belgravia Health & Leisure Group Pty Ltd (ACN 005 087 463) (Belgravia) over the Loftus Recreation Centre (Loftus Centre).

BACKGROUND:

Belgravia leases part of the Loftus Centre at Lot 501 (99) Loftus Street, Leederville pursuant to a lease between Belgravia and the City. At the same time the Lease was entered into, the City and Belgravia executed a Deed of Contract (Contract). The Contract runs concurrently with the Lease and governs the operation and management of the Loftus Centre by Belgravia.

The Lease was for an initial term of 10 years commencing 1 January 2007 and expiring 31 December 2016 (this included a further optional term of 10 years, commencing 1 January 2017 and expiring 31 December 2026).

At its Ordinary Council Meeting on 23 August 2016, Council approved the grant of an extension to the Lease and Contract for a further term of 5 years commencing 1 January 2017 and expiring 31 December 2021. A Deed of Extension of Lease dated 12 November 2018 was subsequently executed by the City and Belgravia.

The Lease is currently in holding over.

The Contract includes a profit share arrangement and a loan repayment provision relating to the repayment by Belgravia of the City's \$3 million loan which funded the redevelopment of the Loftus Centre. Pursuant to the Contract, Belgravia is required to make Loan repayments to the City in equal monthly instalments in advance and the City is required to use the Loan repayments to pay off the principal and interest owing by the City under the Loan.

On 30 June 2020, the COVID-19 Relief and Recovery Committee (Committee) at its Meeting approved a deferral of Belgravia's obligations to pay 27 percent of rent, variable outgoings, sinking fund contributions and Loan repayments for the period between 1 April 2020 and 31 July 2020. The total deferred amount is \$64,900.72 (**Deferred Amount**).

On 8 September 2020, the Committee approved for the CEO to enter into a payment arrangement of equal monthly instalments with Belgravia for the repayment of the Deferred Amount to commence after 1 October 2020 and conclude no later than 31 December 2021.

DETAILS:**Contract and Deferred Amount Repayment**

No formal payment arrangements were finalised in respect of the Deferred Amount repayment as the City and Belgravia have been in negotiations regarding possible new lease arrangements.

As no repayment of the Deferred Amount has been made to date by Belgravia, Administration proposes for the repayment of the Deferred Amount to be extended for a period of 12 months commencing 1 January 2022 and expiring on 31 December 2022 to allow Belgravia to repay the Deferred Amount by 12 equal monthly instalments. The Contract would be extended for the further term of 12 months to align with this period of time.

Administration's proposal is consistent with the City's COVID-19 Relief and Recovery Strategy to support the City's business community impacted by the pandemic and ensuring recovery of the business community.

Lease

Consequently, the Lease would also be extended for a further term of 12 months commencing 1 January 2022 and expiring on 31 December 2022, on the same terms and conditions as currently apply.

Existing Repayments Under Lease and Contract

Excluding the Deferred Amount, Belgravia is up to date with the repayment of rent and outgoings, reserve fund and loan repayments under the Lease and the Contract.

Further Report

A further report would be presented to Council in respect of the future management model and lease arrangements of the Loftus Centre prior to the Lease and Contract expiring on 31 December 2022.

CONSULTATION/ADVERTISING:

Nil.

LEGAL/POLICY:

Clause 4.2 of the Contract provides that the City at its sole discretion may extend the Deed of Contract for a further ten year term, commencing on 1 January 2017.

Similarly, clause 19.1 of the Lease provides that the City at its sole discretion may extend the Lease for a further ten year term, commencing on 1 January 2017.

Council is therefore in a position to consider granting an extension of the Contract and Lease for a further 12 months to Belgravia.

RISK MANAGEMENT IMPLICATIONS

Low: It is low risk for Council to grant an extension of the Contract and Lease, as the City will enter into a Deed of Extension in respect of the Contract and the Lease.

Belgravia has demonstrated its capacity in managing the Loftus Centre and performing the requirements under the Lease. In addition, the observance of Belgravia's obligations under the Contract and Lease are supported through guarantee provisions under the Contract and Lease and backed by a bank guarantee. In view of the above, it is considered that the granting of an extension of the Contract and Lease for 12 months to be within acceptable risk parameters.

STRATEGIC IMPLICATIONS:

This is in keeping with the City's *Strategic Community Plan 2018-2028*:

Connected Community

Our community facilities and spaces are well known and well used.

Thriving Places

Our physical assets are efficiently and effectively managed and maintained.

Innovative and Accountable

Our resources and assets are planned and managed in an efficient and sustainable manner.

SUSTAINABILITY IMPLICATIONS:

This does not contribute to any sustainable outcomes in the City's *Sustainable Environment Strategy 2019-2024*.

PUBLIC HEALTH IMPLICATIONS:

This does not contribute to any public health outcomes in the *City's Public Health Plan 2020-2025*.

FINANCIAL/BUDGET IMPLICATIONS:

The following table is a summary of the Belgravia's current and up-to-date repayment obligations to the City:

DATE	INVOICE		AMOUNT
01/01/2022	46506	Loftus Recreation Centre - Reserve Fund From - 01/01/2022 To - 31/01/2022	5412.45
01/01/2022	46507	Loftus Recreation Centre - Monthly Lease Fee From - 01/01/2022 To - 31/01/2022	13230.41
01/01/2022	46508	Loftus Recreation Centre - Loan Servicing From - 01/01/2022 To - 31/01/2022	23332.00
01/01/2022	46509	Loftus Recreation Centre - Outgoings From - 01/01/2022 To - 31/01/2022 2021/22 Estimates	6995.91
			48970.77