
**FINANCE AND GOVERNANCE COMMITTEE SUPPLEMENTARY
REPORTS**

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** Item includes confidential papers

FINANCE AND GOVERNANCE COMMITTEE NO. 2

16 JULY 2024

SUPPLEMENTARY REPORTS

12. ****SWIFTS LEAGUES CLUB CAMERON PARK**

This is a report concerning potential revised terms to the existing Lease to Swifts Leagues over part of freehold land located at 95A Brisbane Road Booval.

RECOMMENDATION

- A. That the report in relation to Swifts Leagues Club Cameron Park, be received and noted.
- B. That Council approve the proposed framework and the commercial approach to any variations to the existing lease, as outlined in the confidential Attachment 1 to this report.
- C. That pursuant to Section 257(1)(b) of the *Local Government Act 2009*, Council resolve to delegate to the Chief Executive Officer the power to take action in relation to the variation of the existing Lease or the creation of a new Lease.
- D. That the matter be brought back to Council for approval of any amendments to the existing lease or new Lease.

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This matter has been determined to be of a significant nature and approval has been given to refer this report to the Finance and Governance Committee as a supplementary item.

ITEM: 12

SUBJECT: SWIFTS LEAGUES CLUB CAMERON PARK

AUTHOR: GENERAL MANAGER (CORPORATE SERVICES)

DATE: 1 JULY 2024

EXECUTIVE SUMMARY

This is a report concerning potential revised terms to the existing Lease to Swifts Leagues over part of freehold land located at 95A Brisbane Road Booval.

RECOMMENDATION/S

- A. That the report in relation to Swifts Leagues Club Cameron Park, be received and noted.**
- B. That Council approve the proposed framework and the commercial approach to any variations to the existing lease, as outlined in the confidential Attachment 1 to this report.**
- C. That pursuant to Section 257(1)(b) of the *Local Government Act 2009*, Council resolve to delegate to the Chief Executive Officer the power to take action in relation to the variation of the existing Lease or the creation of a new Lease.**
- D. That the matter be brought back to Council for approval of any amendments to the existing lease or new Lease.**

RELATED PARTIES

There are no discernible related party conflicts of interest associated with this report and its recommendations.

IFUTURE THEME

Vibrant and Growing

PURPOSE OF REPORT/BACKGROUND

The existing Lease to Swifts Leagues Club (**Swifts**) is weighted in favour of Swifts as Lessee, with below market rent, a current term of 10 years to 2031, with an option (in favour of Swifts) for a further 10 year tenure period. The buildings located on this site are aging and require refurbishment and ongoing maintenance.

Following an expression of interest from Swifts to purchase the Swifts Sports Club building and land, a report was submitted to the Growth Infrastructure and Waste Committee Meeting on the 4 November 2021 for the disposal of part of 95A Brisbane Road, Booval. The Growth Infrastructure and Waste Committee resolved that Council would consider the potential disposal, with a condition to conduct a community engagement process, in order to seek community sentiment.

Following completion of this community consultation a report was submitted to the Ordinary Council Meeting on 8 December 2022 providing three possible options:

1. Manage the existing lease
2. Negotiate a new Lease
3. Disposal by sale to Swifts

Council subsequently resolved not to sell the land on the basis it was considered most prudent for financial, risk and operational reasons for Council to remain the owner of the land. It also resolved to advise the Lessee that it was prepared to negotiate revised terms of the existing lease or to enter into a new lease with the Lessee on terms and conditions and for such a period as may be agreed to by the Parties.

“Without prejudice” discussions commenced with Swifts in early 2023 to negotiate revised terms of the existing Lease in accordance with the Council resolution focused on three key areas:

1. Lease terms and conditions;
2. Renovations and refurbishment; and
3. Responsibility for maintenance.

Discussions have been ongoing to resolve the above and agree accountability for the relevant works which would enable Swifts to progress with a refurbishment of the premise. This has included proposed commercial terms for relevant works and lease arrangements, determining an approach for the delivery of works to enable ongoing operation of the premise in addition to accountability for ongoing maintenance. Details of these discussions and proposed commercial terms (which are commercial-in-confidence) are incorporated within Attachment 1.

LEGAL IMPLICATIONS

This report and its recommendations are consistent with the following legislative provisions:
Local Government Act 2009
Local Government Regulation 2012

POLICY IMPLICATIONS

This report and its recommendations are consistent with Council Policy.

RISK MANAGEMENT IMPLICATIONS

The facility is nearing the end of its useful life and there is a moderate risk of asset failure if work is not commenced on refurbishment and repairs to the facility. If an agreement is unable to be reached in line with the proposed framework and approach to commercial variations, the estimated cost of a full refurbishment and ongoing maintenance and repair for 20 years has been determined at an estimate in excess of \$7.4 million. This investment would likely require offsetting against other Capital expenditure. Additionally, the existing lease is based on non-commercial terms providing a low return for council with limited opportunity to offset ongoing maintenance costs should council be required to continue to maintain the facility throughout the life of the existing lease.

FINANCIAL/RESOURCE IMPLICATIONS

Funding allowances have been incorporated within the 2024-2025 Capital Budget to accommodate relevant works on the premise in accordance with the proposed framework and commercial terms detailed in Attachment 1.

COMMUNITY AND OTHER CONSULTATION

Community consultation was undertaken by an external consultant on the potential sale with this consultation concluding in September 2022. The result of this consultation were include in the paper to Council on 8 December 2022. No further community consultation has been undertaken.

CONCLUSION

Due to this facility being at the end of its useful life and noting the previous resolution of Council on 8 December 2022, discussions have been ongoing with Swifts to determine the appropriate path forward with regard to variations to the existing lease. As a result, a proposed framework and commercial approach to variations has been developed (Attachment 1) to support finalising ongoing negotiations.

It is recommended Council receive and note this paper and approve the proposed framework and commercial approach to any variations to the existing lease as detailed in Attachment 1 with final arrangements and any variations to the current Lease to be brought back to Council for approval.

HUMAN RIGHTS IMPLICATIONS

HUMAN RIGHTS IMPACTS	
OTHER DECISION	
(a) What is the Act/Decision being made?	<p>The recommendation states that:</p> <ul style="list-style-type: none"> That Council approve the proposed framework and the commercial approach to any variations to the existing lease, as outlined in the confidential Attachment 1 to this report

	<ul style="list-style-type: none"> That pursuant to Section 257(1)(b) of the Local Government Act 2009, Council resolve to delegate to the Chief Executive Officer the power to take action in relation to the variation of the existing Lease or the creation of a new Lease. That the matter be brought back to Council for approval of any amendments to the existing lease or new Lease.
(b) What human rights are affected?	No human rights are affected by this decision. This is because all parties are entities and not individuals. Further, the subject matter of the lease and development commercial terms will not impact on the human rights of any third party as the purpose is for redevelopment of the existing location.
(c) How are the human rights limited?	Not applicable
(d) Is there a good reason for limiting the relevant rights? Is the limitation fair and reasonable?	Not applicable
(e) Conclusion	The decision is consistent with human rights.

ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

	CONFIDENTIAL
1.	Proposed Commercial Terms
2.	Cost Plan

Matt Smith
GENERAL MANAGER (CORPORATE SERVICES)

I concur with the recommendations contained in this report.

Matt Smith
GENERAL MANAGER (CORPORATE SERVICES)

“Together, we proudly enhance the quality of life for our community”