



Marion Sports and Community Club - Landlord Consent - Adjourned Item

Originating Officer	Property Leasing Officer - Chloe McDonald
Corporate Manager	Manager City Property - Thuyen Vi-Alternetti
General Manager	General Manager City Development - Ilia Houridis
Report Reference	SGC200729F01

Confidential



Confidential Motion

That pursuant to Section 90(2) 3(d) (i) and (ii) of the Local Government Act 1999, the Council orders that all persons present, with the exception of the following persons: Adrian Skull, Ilia Houridis, Tony Lines, Sorana Dinmore, Kate McKenzie, Thuyen Vi-Alternetti, Chloe McDonald, Jaimie Thwaites, Vicoria Moritz and Craig Clarke, be excluded from the meeting as the Council receives and considers information relating to the Marion Sports and Community Club - Landlord Consent, upon the basis that the Council is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep consideration of the matter confidential relating to matters pertaining to commercial operations of a confidential nature, the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information and could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business.

REPORT OBJECTIVE

The item 'Marion Sports and Community Club - Landlord Consent', GC200728F03 (attached as attachment 1) was adjourned at the 28 July 2020 General Council Meeting to allow additional financial information to be distributed to Council Members.

EXECUTIVE SUMMARY

In accordance with the Local Government (Procedures at Meetings) Regulations, the debate on an adjourned item will resume and continue at the point it was adjourned.

Council had gone into confidence, the motion was Moved by Councillor Telfer and is yet to be Seconded. Councillor Telfer has spoken to the motion and the following members have asked a question/s in relation to the item: Cr Hull (3), Cr Crossland (3), Cr Gard (1).

Additional financial information was provided to Council Members via email on 29 July 2020.

RECOMMENDATION

That Council:

1. Grants consent as landlord for Club Marion to apply for a bank loan of \$263,666.78 with National Australia Bank

2. Delegates to the General Manager City Development as landlord to sign the Acknowledgement Deed for Club Marion to apply for a bank loan.
3. Authorises an amount of up to \$65,000 to be allocated to Club Marion for utilities and grounds maintenance costs incurred during the Covid-19 pandemic in line with the rent relief package period of 16 March 2020 to 16 September 2020.
4. In accordance with Section 91(7) and (9) of the Local Government Act 1999 the Council orders that this report, Marion Sports and Community Club - Landlord Consent, the associated appendices and any minutes arising from this report having been considered in confidence under Section 90(2) and (3)(d) (i) and (ii) of the Act, except when required to effect or comply with Council's resolution(s) regarding this matter, be kept confidential and not available for public inspection for a period of 12 months from the date of this meeting. This confidentiality order will be reviewed at the General Council Meeting in December 2020.

Attachment

#	Attachment	Type
1	GC200728F03 - Final Agenda - Confidential - Marion Sports and Community Club – Landlord Consent	PDF File



Marion Sports and Community Club – Landlord Consent

Originating Officer	Property Leasing Officer - Chloe McDonald
Corporate Manager	Manager City Property - Thuyen Vi-Alternetti
General Manager	General Manager City Development - Ilia Houridis
Report Reference	GC200728F03

Confidential



Confidential Motion

That pursuant to Section 90(2) 3(d) (i) and (ii) of the Local Government Act 1999, the Council orders that all persons present, with the exception of the following persons: Adrian Skull, Ilia Houridis, Tony Lines, Sorana Dinmore, Kate McKenzie, Thuyen Vi-Alternetti, Chloe McDonald, Jaimie Thwaites, Vicoria Moritz and Craig Clarke, be excluded from the meeting as the Council receives and considers information relating to the Marion Sports and Community Club - Landlord Consent, upon the basis that the Council is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep consideration of the matter confidential relating to matters pertaining to commercial operations of a confidential nature, the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information and could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business.

REPORT OBJECTIVE

The purpose of this report is to seek consent from Council to support the Marion Sports and Community Club (Club Marion) by signing an Acknowledgement Deed (Deed) as landlord to allow Club Marion to apply for a bank loan.

EXECUTIVE SUMMARY

Club Marion hold a 21 year lease with Council which expires on 11 September 2039.

In the last twelve months, Club Marion have undertaken and self-funded \$1.3 million in tenant improvements which include the extension of the balcony structure on top of the existing concrete slab viewing area, refurbishment of the existing commercial grade kitchen, enclosing the outdoor area, paving section of the track in front of the main building and replacing the existing fence around the oval.

Club Marion have been significantly impacted by the COVID-19 pandemic and as a result have an outstanding account needing payment for work that has recently been undertaken as part of a tenant improvement.

Noting that the work has been completed, the decision is time critical to support Club Marion to finalise the account with the supplier.

RECOMMENDATION

That Council:

1. Grants consent as landlord for Club Marion to apply for a bank loan of \$263,666.78 with National Australia Bank.



2. **Delegates to the General Manager City Development as landlord to sign the Acknowledgement Deed for Club Marion to apply for a bank loan.**
3. **Authorises an amount of up to \$65,000 to be allocated to Club Marion for utilities and grounds maintenance costs incurred during the Covid-19 pandemic in line with the rent relief package period of 16 March 2020 to 16 September 2020.**
4. **In accordance with Section 91(7) and (9) of the Local Government Act 1999 the Council orders that this report, Marion Sports and Community Club - Landlord Consent, the associated appendices and any minutes arising from this report having been considered in confidence under Section 90(2) and (3)(d) (i) and (ii) of the Act, except when required to effect or comply with Council's resolution(s) regarding this matter, be kept confidential and not available for public inspection for a period of 12 months from the date of this meeting. This confidentiality order will be reviewed at the General Council Meeting in December 2020.**

Organisational Excellence: Club Marion has worked to formalise policies and procedures, and affiliate documentation to provide a sound level of governance to the overarching management of the Club.

Legal / Legislative / Policy: Under the current lease agreement it is the responsibility of the lessee to remain insured in relation to Public Liability Insurance and to Indemnify the City of Marion against all damages, cost and expenses.

DISCUSSION

BACKGROUND

Club Marion provides sporting facilities free of charge to 25 sporting groups and social facilities and free of charge to 38 not-for profit community groups and organisations. As a not-for profit organisation, all proceeds from Club Marion's operations are invested back into the community.

In December 2019, Council granted landlord consent for Club Marion to extend the recently completed balcony structure on top of the existing concrete slab viewing area and to refurbish the existing commercial grade kitchen. The total cost for this work was \$835,940.06 excluding GST.

During the delivery phase of this project, the COVID-19 pandemic impacted Club Marion financially which has resulted in Club Marion unable to finalise payment of the kitchen refurbishment.

When Club Marion applied for landlord consent for the construction of the balcony structure and the refurbishment of the existing commercial kitchen, budget was allocated to self-fund the work entirely.

During the pandemic, the allocated budget was used to outlay a lump sum for the Job Keeper scheme prior to receiving payments from the government and ongoing sporting field maintenance and utility payments during the 3 months the facility was not in operation. No income was received by Club Marion during this time due to the restrictions.

As a result, Club Marion are seeking landlord consent to enable them to apply for a bank loan to cover the remaining costs of the kitchen refurbishment.

DISCUSSION

A Deed was provided to Council on 21 May 2020 requesting a signature as landlord to enable Club Marion to apply for a bank loan of \$263,666.78 to be repaid over 3 years with repayments commencing in November 2020.



Following review of Council delegations, it was identified that administration do not have authorised delegation to sign the Deed as landlord and that the request would need to be presented to Council for approval.

Further legal advice was sought with a number of risks being identified. The most critical risk would be that the NAB will have security interest over the Goods (kitchen equipment) and that the NAB can enter the premises at any time and remove the Goods, however the likelihood of this occurring is if Club Marion default on their loan.

Advice provided by NAB outlines that business that have been affected by COVID-19 are entitled to apply for a bank loan based on the sound and viable operation of the business prior to the pandemic. NAB have also deferred payments of these loans to later in the year. Based on Club Marion's financial documentation and discussions with NAB, it is our understanding Club Marion will be able to meet the ongoing repayment of the proposed loan.

Following a meeting with Club Marion to discuss the proposed loan, additional information was requested in relation to the Deed along with a revised version of the Deed with the recommended changes on 22 June 2020. The submission of the Annual Subsidy Report and supporting documentation was also requested and subsequently provided by Club Marion.

During the period of the loan, Council will be able to monitor Club Marion's financial situation in accordance with their lease requirements and through the Annual Subsidy Report and their governance documentation. This process will identify any financial difficulty that Club Marion may experience in the future and enable conversations to take place between Council and Club Marion to address any concerns.

Club Marion will also be eligible to receive relief through Councils rent relief package to lease and licence holders who lease Council venues, this was endorsed by Council in March 2020.

In addition to this, Club Marion have had to continue their current maintenance schedule to ensure that the sporting fields are kept in an acceptable condition for when sports return to play. The agreement in place with an external contractor is at a cost of \$4,300 per month. As Club Marion have direct accounts with utility providers they also needed to continue to pay their utilities bills unlike other tenants who are on charged for their utilities by Council, in these cases the on charging ceased during this period. The grounds maintenance and utility costs for Club Marion is estimated to be up to \$65,000 for the period between March to September 2020, this report seeks endorsement of Council to allocate \$65,000 as part of the rent and utilities relief package for the Club Marion site.

CONCLUSION

Taking into consideration the current COVID-19 situation and restrictions being lifted as we progress, Club Marion have the opportunity to continue to operate which in turn will increase their revenue as a community club with services they provide. This will assist Club Marion's ability to pay any outstanding debts and loans.

Noting that the kitchen refurbishment has been completed, this decision is time critical to support Club Marion to pay their outstanding account.