

REPORT TITLE NEW LEASE - ENFIELD STATE EMERGENCY SERVICES

Report Type	Decision
City Plan Theme	A city that supports community wellbeing
Report Author	Property Leasing Officer (City Assets)
Report Summary	This report seeks Council's consent to enter into a new lease agreement with the State Emergency Services (SES) for their long standing use of a portion of Stockade Botanical Park.
Attachments	Attachment 1 – GRO Plan No. 273/2002 Attachment 2 – Aerial Image

RECOMMENDATION

Council resolves that:

- 1. The Director City Assets' report titled "*New Lease – Enfield State Emergency Services*" be received and noted.**
- 2. The Chief Executive Officer, or delegate, are authorised to negotiate terms and conditions of a new lease for the area occupied by the Enfield Unit of the State Emergency Services, upon a portion of the Reserve commonly known as Stockade Botanical Park.**
- 3. The Mayor and Chief Executive Officer are authorised to affix the Common Seal of the City of Port Adelaide Enfield on a new lease agreement to South Australian State Emergency Service for the portion of the land comprised in Certificate of Title Volume 5735 Folio 191, which is delineated as "Area A" in Attachment 1 - GRO Plan No. 273/2002, containing a term of five (5) years with an annual rent of \$1.00 (if demanded).**

Report

At its meeting on 12 September 2017, Council resolved as follows:

*"..the Director City Assets' report titled "**Renewal of Holding Over Community Leases**" be received and noted.*

2. The community leases on holding over provisions and those that are due to expire before October 2019 are offered new leases expiring on 30 September 2019 or for a period of 12 months whichever is longer"

The Minister for Emergency Services, Enfield SES, has occupied a portion of Stockade Botanical Park, Northfield prior to Council amalgamation, with the earliest lease document on record being executed in 2002 (**Refer Attachment 1**). The latest lease commenced 1 October 2012 and expired 30 September 2017, and has since been subject to 'holding over' provisions.

The South Australian Fire and Emergency Services Commission (SAFESC) was presented with Council's standard community lease agreement that was being utilised for the renewing all of the Community Leases included in the abovementioned Council resolution. A review undertaken by Crown Solicitor's Office (CSO) suggested substantial amendments required to make the document workable for SAFESC.

In February 2019 the SAFESC wrote to Council suggesting Council instead negotiate a lease document based on CSO drafting, as per previous agreements, and made a request for the term to be renewed from the expiry of the previous lease until 30 September 2022, being five (5) years. The correspondence also confirmed that the SES will cover the costs of having the Crown Solicitor prepare the proposed agreement. Once prepared Administration will review the lease to ensure it is broadly consistent with other similar leases and the conditions provide Council with adequate protection against risks associated with the use of the site.

Within the previous Council resolution abovementioned, Council deliberated the short-term extension of 'Community Lease' agreements so that a review could be undertaken on the way that Council manage its property agreements, with possible future policy considerations. 'Community Lease' in this instance included all agreements that were 'peppercorn' in nature. Council Administration are currently working on a Lease, Licence and Property Agreements Policy to assist in the administration of such agreements, with an Elected Member's workshop scheduled in April 2019.

The services provided by SES had inherent and obvious community value. Notwithstanding the proposed review of Council's property management procedures, Council Administration suggest that the SES Lease be renewed on similar terms and conditions as proposed by the SES.

Community Land

The Land known as Stockade Botanical Park is subject to three of Council's Community Land Management Plans: Passive Recreation Reserves, Commercial Property and Leased, Licensed or Short-Term Hired Community Facilities; with the latter being relevant in this case.

The Community Land Management Plan for Leased, Licensed or Short Term Hired Community Facilities contains the following Purposes and Objectives:

Purpose – Leased, Licensed or Short-Term Hired Community Facilities

- *To provide Community groups with premises to conduct social and recreational activities.*
- *To benefit the community through recreation which provides social, economic and environmental benefits.*
- *To contribute towards Council's open space with natural features.*
- *To maximise both the cost effectiveness of its resources and the opportunities it can offer its residents. Wherever feasible and practical, to encourage resource sharing and the multiple use of recreation facilities.*
- *Leased, Licensed or Short-Term Hired Community Facilities may be required for special events. E.g. concerts, fetes, etc and other uses as approved in writing by The City Manager or delegate.*

Objectives

- *To provide a broad range of recreation opportunities which satisfies the needs of a diverse community.*
- *To ensure Council's Community Centres and halls are accessible to all facets of the community.*
- *To have financially viable and well-managed recreation groups occupying Council's Community Centres and halls and minimise the financial burden on Council.*
- *To encourage the shared use of Council's Community Centres and halls to accommodate the needs of community groups and the general public.*
- *To ensure the upkeep and maintenance of Council's Community Centres and halls is to a satisfactory standard.*
- *Provide a broad range of recreation facilities that meet current demands.*
- *To review community requirements and demands as Council finds necessary from time to time.*
- *Create formal agreements with Tenants and other uses of Council facilities which may include exclusive occupancy by groups or individuals for varying periods up to 5 years, from time to time.*
- *Ensure fair and equitable rentals are charged for facilities used by community groups.*
- *Provide well managed Community Centres for the enjoyment of local residents and communities.*
- *Offer a safe, non-threatening, flexible and multi-purpose environment that allows coordinators to work with individuals and community groups to develop programs that enrich the lives of local residents.*
- *Provide facility-based social and recreation programs in Council's Community Centres and halls.*
- *Allow for optimum usage and enjoyment of Council's Community Centres, halls and other facilities.*
- *Ensure there is a range of recreation opportunities with variety for the community for all ages, genders, culture and levels of ability.*
- *Design recreation provisions with all user groups in mind that are easy to use, within reasonable distance of residents, readily accessible and affordable.*
- *Design and provide facilities in a way that promotes and provides safe recreation experiences suitable for their intended use.*
- *Strategically plan for the provision of recreation services and facilities to ensure that its community's needs are addressed.*
- *To accommodate where appropriate on grassed areas, following public consultation relevant to the exercising of dogs, changes in use.*
- *Provide facilities which are managed in accordance with Council's corporate goals and service delivery standards.*

City Plan Relationship

The SES support the City Plan theme of 'A City that supports community wellbeing' through their role in our community during emergency situations or through times of crisis. The SES is also a proud volunteer based organisation which gives the community an opportunity to participate and be included, along with gaining awareness and education.

Legislative Context and Related Policies

Section 202 of the *Local Government Act 1999* provides for the alienation of Community Land by Lease or Licence. For terms over 5 (five) years, the Council must first follow the relevant steps set out in its Public Consultation Policy. Council may grant a Lease over Community Land for a term not exceeding 42 (forty two) years. Because this Lease is proposed to be granted for a term not exceeding five (5) years, community engagement is not required under the Act.

Although Council has an exemption from the *Retail and Commercial Leases Act 1995* for particular 'peppercorn' lease arrangements, property agreements to the Crown are also excluded from this legislation.

As mentioned, Council may consider a policy in relation to Property Agreements and therefore if this agreement is pursued it will not be subject to the policy (and its decisions/position) until the agreement's expiry.

Stakeholder Engagement

In addition to the correspondence dated February, an officer from SAFESC has spoken with Council Administration in March and reiterated that they are eager to see the matter resolved and a new lease entered into as soon as possible.

Public Consultation is only required on the alienation of community land by lease or licence, where the term is greater than 5 years. Since the effective use of the site is unchanged by the lease renewal, it is not recommended that public consultation be undertaken.

Risk Management

There is a risk that Council adopts a policy position on property management which is at odds with this lease agreement. Council Administration suggests that given the unique nature of the SES and their investment in developments on the site, it is unlikely that a lease with similar terms and conditions would be radically different to such policy. If there is a varied policy position in relation to this type of lease arrangement, a retrospective policy impact obviously does not apply, however given that the proposed term is five years, back dated to the expiry of the previous agreement, there is effectively less than four years until the proposed new expiry where any terms and conditions can be renegotiated.

Council will ensure standard indemnity and release clauses are provided for within the draft lease agreement, limiting Council's liability from the undertakings at the site.

Financial Management

As is common with other 'Community Leases', no rent is proposed to be payable to Council for the lease. This subsidy is on the basis of the service that the organisation provides the community, in addition to the lessor being responsible for all building services and maintenance on the site.

Environmental and Social Impacts

The community benefit from the State Emergency Services being available 24/7 for response to crisis situations, and Council also rely on the additional assistance from the SES in managing localised emergencies and extreme events.



