

14.1 LEASE AGREEMENT - 64 NELSON STREET, STEPNEY - WOMEN'S COMMUNITY CENTRE SA INCORPORATED

REPORT AUTHOR: Manager, Governance & Legal
GENERAL MANAGER: General Manager, Governance & Civic Affairs
CONTACT NUMBER: 8336 4626
FILE REFERENCE: qA2033
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of this report is to advise the Council of the status of the Lease Agreement between the Council and the Women's Community Centre South Australia (SA) Incorporated, for the premises at 64 Nelson Street, Stepney, which expired on 30 June 2022.

BACKGROUND

The Women's Community Centre South Australia (SA) Incorporated ("the Centre") is a not-for-profit community group that is one of the oldest Community Centres in South Australia. The Centre provides a range of services to women including legal services, art, health and wellbeing programs and child care and pre-school experiences. The Centre was previously funded by the State Government, however as a result of the withdrawal of this funding, the Centre now operates through Volunteer services, donations and programs fees. In addition the Centre runs an Op-shop and hires rooms within the premises as meeting rooms.

On 1 July 2017, the Council and the Centre entered into a Lease Agreement for the Council owned premises at 64 Nelson Street, Stepney ("the premises"). The Centre has occupied the premises since 1977.

The Lease Agreement was for a five (5) year term period which expired on 30 June 2022. Since 1 July 2022, the Centre has been holding over the premises under the terms of the Lease Agreement.

A Special Condition under the Lease Agreement included a Rent Incentive to the Centre. This has been consistent in the Lease Agreements between the Council and the Centre since 2011 when the premises was renovated as part of the Dunstone Grove-Linde Reserve Redevelopment.

The Rent Incentive offered to the Centre is twenty per cent (20%) of the fair market rental rate of the premises. This is based on the Lease Fee Setting Model that was endorsed by the Council at its meeting held on 14 June 2011. The Lease Fee is applicable for not-for-profit community groups.

Due to the Lease Agreement expiring on 30 June 2022, a new market rental valuation of the premises has been obtained in anticipation of entering into a new Lease Agreement for the premises.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

The relevant goals contained in the CityPlan 2030 are:

Objective 1.1- Convenient and accessible services, information and facilities.

Strategy

1.1.1 *Establish community hubs that integrate social support, health, recreational and commercial services, in multi-purpose spaces.*

FINANCIAL AND BUDGET IMPLICATIONS

The Council engaged Liquid Asset Consultants to undertake a new market rental valuation of the premises in October 2022. The new Annual Lease Fee for the premises is \$45,000.00 based on the recent market rental valuation. In accordance with the Council's Lease Fee Model, the Annual Lease Fee required for the premises is \$9000. Under the former Lease Agreement, the Annual Lease Fee increased annually, commencing at \$6,298.00 in the 2017-2018 Financial Year to \$10,494.00 in the 2021-2022 Financial Year.

Whilst the Centre receives a discounted Lease Fee under the Lease Fee Model, the Centre has failed to pay the prescribed Lease Fee to the Council. This is a relevant consideration for the Council to take in account if resolving to enter into a new Lease Agreement with the Centre. This is discussed in more details in the Discussion section of the report.

EXTERNAL ECONOMIC IMPLICATIONS

Not Applicable.

SOCIAL ISSUES

The Centre is a not-for-profit community organisation that provides a unique service to women in South Australia. The Centre is the only women's community centre operating in the Adelaide Metropolitan Area.

CULTURAL ISSUES

Not Applicable.

ENVIRONMENTAL ISSUES

Not Applicable.

RESOURCE ISSUES

Not Applicable.

RISK MANAGEMENT

In accordance with the Council's new Risk Management Framework, a risk assessment of the Council entering into a new Lease Agreement with the Centre will be undertaken once staff have reviewed the Financial Information requested in this Council Report.

CONSULTATION

- **Elected Members**
The Council has considered the Centre's occupancy at the premises at the Council meetings held on 5 December 2011, 2 March 2015, 7 September 2015, 3 April 2017 and 2 July 2018.
- **Community**
Nil
- **Staff**
General, Manager, Governance & Civic Affairs
Financial Accounting Officer
- **Other Agencies**
Not Applicable

DISCUSSION

Since 2015, the Centre has experienced difficulties with meeting its obligations under the Lease Agreement by failing to pay the Annual Lease Fee to the Council as required under the Lease Agreement. The Centre has experienced financial difficulties as a result of poor management practices by the previous and the current Board of Directors and the Centre Director which has resulted in a significant debt.

2015

In 2015, the Centre owed the Council of \$5,295.00 in unpaid lease fees for the financial years of 2013-2014 and 2014-2015. The Centre requested that the Council write off the debt owed to the Council, and suspend the rent increase payable from 1 January 2015 to 1 January 2016 under the Lease Agreement.

The Council considered the Centre's request at its meetings held on 2 March 2015 and 7 September 2015. At its the meeting held on 2 March 2015, the Council resolved that further financial information was required from the Centre, including Financial Statements for 2014-2015 to adequately consider the Centre's request.

At its meeting held on 7 September 2015, the Council considered the financial information provided by the Centre, and resolved not to write off the debt of \$5,295.00 owed to the Council because the Centre was in the financial position to repay the outstanding debt owed to the Council.

The Centre was required to repay the amount owed to the Council in two (2) instalments, with the first instalment due on 1 December 2015, and the second instalment due on 18 January 2016. The Centre made the payments by the due dates.

The Council also resolved at the meeting held on 7 September 2015 to cap the annual rent increase from 1 January 2015 and January 2016 at the January 2014 rate of \$325 plus CPI until January 2017. From 2017, the annual lease fee would increase over the lease period, with other occupancy costs (i.e. insurance) payable under the Lease Agreement to continue on a cost recovery basis.

2017

At its meeting held on 3 April 2017, the Council considered renewing the Lease Agreement with the Centre. The Council were advised that the Centre had requested that the Council continue with the arrangement of the monthly Lease Fee being capped at the 2014 Lease Fee rate of \$325 plus CPI until April 2018. The rent relief provided to the Centre by the monthly lease fee capped at \$325 plus CPI totalled \$6,831.00. The request by the Centre to continue capping the monthly lease fee to December 2017 would have amounted to \$12,213 in savings by the Centre that would have been owed to the Council.

The Council resolved at the meeting held on 3 April 2017, to renew the Lease Agreement with the Centre, however not to cap the monthly Lease Fee at the 2014 Lease Fee rate on the basis that the Centre was financially stable to pay the increased Annual Lease Fee pursuant to the Lease Agreement.

2020-2021

On 24 September 2021, as a result of the impact of the COVID-19 pandemic, the Chief Executive Officer of the Council waived the amount of \$2,623.50 owed by the Centre in unpaid lease fees by the Centre from April 2020 to June 2020 inclusive due to the pandemic. The Centre was forced to close between 15 March 2020 to 18 May 2020, and as such the Centre was impacted by the restrictions imposed by the State Government during this period.

The waiver of the unpaid lease fees was a result of an initiative by the Council to provide rent relief to Council tenants on a case-by-case basis under the Council's COVID-19 Financial Support Package adopted by the Council at its meeting held on 6 April 2020.

At the time of waiving the unpaid lease fees, the Chief Executive Officer made the point of Council staff meeting with the Centre to reiterate the Centre's obligations under the Lease Agreement.

2022

The Council's records as at 30 June 2022 show the Centre owed the Council \$10,494.00 in unpaid Lease Fees.

Given the Lease Agreement between the Council and the Centre expired on 30 June 2022, the Council's Manager, Governance & Legal, wrote to Ms Kala McClean, Centre Director, to ascertain if the Centre wished to enter into a new Lease Agreement with the Council for the premises.

Ms McClean was advised that if the Centre wished to enter into a new Lease Agreement, the Council would be advised of the Centre's ongoing failure to meet its obligations under the expired Lease Agreement. Specifically, these obligations relate to the Centre consistently failing to pay the lease fee as required under the terms of the Lease Agreement.

In a letter dated 13 December 2022, from Ms McClean, Ms McClean advised that the Board of Directors resolved to request that the Council renew the lease for the premises for a further five (5) year term.

Ms McClean stated the outstanding debt owed to the Council under the recently expired Lease Agreement was a result of a banking error. Ms McClean indicated the Centre was recovering financially and had commenced paying the outstanding rent owed to the Council, and that the payment of \$6,000 had been made in early December 2022, reducing the amount owed to \$4,494.

The Council's records confirm that the payment of \$6,000 was made by the Centre to the Council on 8 December 2022.

A copy of the letter from Ms McClean to the Council dated 13 December 2022, is contained in **Attachment A**.

Next Steps

It is prudent for the Council to request evidence from the Centre to confirm its financial position before committing to entering into a new Lease Agreement with the Centre. This request is appropriate given the financial difficulties experienced by the Centre since 2015 resulting in unpaid rent and monies owed to the Council.

For the Council to appropriately consider entering into a new Lease Agreement with the Centre, the Council will require Financial Statements for the 2020-2021 and the 2021-2022 Financial Years, and a payment plan for the outstanding monies still owed to the Council. This information will assist the Council determine if the Centre can meet its rental obligations under a new Lease Agreement with the Council.

Based on the new market rental valuation of the premises, the new Annual Lease Fee under a new Lease Agreement will be \$9,000 with the monthly Lease Fee of \$750.00, inclusive of the annual CPI increase.

OPTIONS

The Council has the following options in respect of the matter:

1. The Council can determine to request financial information from the Centre to determine the Centre's capacity to meet the ongoing financial obligations of a new Lease Agreement for a five (5) year term.
2. The Council can determine to not obtain financial information from the Centre and instead request that the Centre vacate the premises after giving the required one (1) month notice under the current holding over Lease Agreement.

As the Centre has been located at 64 Nelson Street for over 45 years providing a range of services to the local community, option one is recommended, to ensure that the Centre is given the opportunity to assure the Council of its financial position.

CONCLUSION

The Council has the option of entering into a new Lease Agreement with the Centre at the premises for another five (5) year period. The Council should consider the financial difficulties experienced by the Centre in meeting its obligations under the Lease Agreement as a relevant consideration in entering into a new Lease Agreement with the Centre.

COMMENTS

Not Applicable.

RECOMMENDATION 1

That pursuant to Section 90(2) and (3) of the *Local Government Act 1999*, the Council orders that the public, with the exception of the Council staff present, be excluded from the meeting on the basis that the Council will receive, discuss and consider:

- (a) Information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

and the Council is satisfied that, the principle that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the consideration of the information confidential.

RECOMMENDATION 2

1. That the Council note the status of the Lease Agreement between the Council and the Women's Community Centre South Australia (SA) Incorporated, for the premises at 64 Nelson Street, Stepney, which expired on 30 June 2022.
2. That the Council request that the Women's Community Centre (SA) Incorporated provide the following information to the Council as part of its consideration of the matter:
 - a. Financial Statements for 2020-2021 and 2021-2022; and
 - b. a Payment Plan outlining the instalments for the payment of the outstanding monies owed to the Council in unpaid Lease Fees pursuant to the Lease Agreement.

RECOMMENDATION 3

Under Section 91(7) and (9) of the *Local Government Act 1999* the Council orders that the report, minutes and discussion to be kept confidential until such time that the Council considers entering into a Lease Agreement with the Women's Community Centre South Australia (SA) Incorporated for the premises.

Cr Knoblauch moved:

That pursuant to Section 90(2) and (3) of the Local Government Act 1999, the Council orders that the public, with the exception of the Council staff present [Chief Executive Officer, General Manager, Governance & Civic Affairs, General Manager, Urban Planning & Environment, Manager, Communications & Community Relations, Manager, Finance and Administration Assistant, Governance & Civic Affairs], be excluded from the meeting on the basis that the Council will receive, discuss and consider:

- (a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).*

and the Council is satisfied that, the principle that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the consideration of the information confidential.

Seconded by Cr Whittington and carried unanimously.

Cr Duke moved:

1. *That the Council note the status of the Lease Agreement between the Council and the Women's Community Centre South Australia (SA) Incorporated, for the premises at 64 Nelson Street, Stepney, which expired on 30 June 2022.*
2. *That the Council request that the Women's Community Centre (SA) Incorporated provide the following information to the Council as part of its consideration of the matter:*
 - a. *Financial Statements for 2020-2021 and 2021-2022; and*
 - b. *a Payment Plan outlining the instalments for the payment of the outstanding monies owed to the Council in unpaid Lease Fees pursuant to the Lease Agreement.*

Seconded by Cr Clutterham.

Amendment

Cr Piggott moved:

1. *That the Council note the status of the Lease Agreement between the Council and the Women's Community Centre South Australia (SA) Incorporated, for the premises at 64 Nelson Street, Stepney, which expired on 30 June 2022.*
2. *That the Council request that the Women's Community Centre (SA) Incorporated provide the following information to the Council as part of its consideration of the matter:*
 - a. *Financial Statements for 2020-2021 and 2021-2022;*
 - b. *a Payment Plan outlining the instalments for the payment of the outstanding monies owed to the Council in unpaid Lease Fees pursuant to the Lease Agreement;*
 - c. *a Business Plan for the Centre; and*
 - d. *general information regarding the Centre's operations, including the number of clients, number of programs and the nature of programs etc., that the Centre runs.*

Seconded by Cr Sims.

The amendment was put and carried unanimously and on becoming the motion was again put and carried unanimously.

Cr Duke moved:

Under Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the report, minutes and discussion to be kept confidential until such time that the Council considers entering into a Lease Agreement with the Women's Community Centre South Australia (SA) Incorporated for the premises.

Seconded by Cr Knoblauch and carried unanimously.

Attachment A

Confidential

**Lease Agreement
64 Nelson Street, Stepney
Women's Community Centre SA Incorporated**

Released

City of Norwood Payneham & St Peters
175 The Parade, Norwood SA 5067

Telephone 8366 4555
Facsimile 8332 6338
Email townhall@npsp.sa.gov.au
Website www.npsp.sa.gov.au



City of
**Norwood
Payneham
& St Peters**

Nurturing Resilience in Women



Women's Community Centre SA Inc.

64 Nelson Street Stepney SA 5069 Ph: 83626571

E: director@wccsa.asn.au W: wccsa.asn.au T: t.me/wccsa F: facebook.com/wccsa

13.12.2022

Teri Hopkins
Manager, Governance, Legal
City of Norwood, Payneham & St. Peters

Dear Teri,

LEASE AGREEMENT 64 Nelson STREET STEPNEY

Thank you for your correspondence dated 8 Nov 2022. At the Board meeting last week, the Board unanimously agreed to renew the lease and thanks the Council this invitation.

The Board also takes this opportunity to express its gratitude for the \$2623.50 rental amount that was waived. The year 2020 was an exceptionally difficult year financially for the Centre. The Centre is gradually recovering financially and aims to be able to raise enough funds to cover all its costs in the coming year. In 2023 WCCSA intends to resume its fund-raising events which have been stalled since 2020 due to Covid restrictions and uncertainties.

With regards to the amount \$10,494 of rental money owed, this was mainly due to a some error at the Bank when the two signatories change-over occurred, following the 2021 Annual General Meeting. This banking issue was finally resolved in September 2022. Last week WCCSA has made a payment of \$6000, reducing the amount owed to \$4,494 and will resume regular monthly payments of rent to the Council.

WCCSA is rebuilding its financial resilience and is determined to keep up with the required rental payments.

Kind regards,

Kala McLean