

11.5 Goolwa Surf Life Saving Club Draft Ground Lease - Public Consultation Outcomes

ACM20826 Moved Cr Rebbeck seconded Cr Maidment

- 1. That Council grants consent to a 21 year ground lease agreement with the Goolwa Surf Life Saving Club, for occupancy of the Goolwa Surf Life Saving Club building located at Lot 1 Beach Road Certificate of Title Volume 6227 Folio 630, commencing 27 January 2020 and including a 21 year right of renewal commencing 27 January 2041, subject to the conditions of the lease.**
- 2. That the Mayor and Chief Executive Officer be authorised to sign and seal the ground lease agreement.**
- 3. That Council reaffirms its position that pursuant to Section 221 of the Local Government Act 1999 (SA) Council grants an Authorisation and, pursuant to Section 222 of the Local Government Act 1999 (SA) Council grants a Permit, to the Goolwa Surf Life Saving Club for the placement of private structures on a portion of the road adjacent to Lot 1 Beach Road, Certificate of Title Volume 6227 Folio 630, for a term commencing on execution of the Goolwa Surf Life Saving Club ground lease and to remain in place until completion of recommendation 4 of this Report.**

4. That consent is granted for Administration to commence a Roads (Opening and Closing) Act 1991 (SA) and Local Government Act 1999 (SA) process including public consultation, to close and amalgamate the portion of road adjacent Lot 1 Goolwa Beach, Certificate of Title Volume 6227 Folio 630 into said land parcel and that the Mayor and Chief Executive Officer be authorised to sign and seal all documentation required to facilitate the road closing process.

11.5 Goolwa Surf Life Saving Club Draft Ground Lease - Public Consultation Outcomes

File Ref: 9.24.003 & 16.51.085

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Community Strategic Plan Impact:

ACTIVATE	Vibrant Communities
PARTICIPATE	Collaborative Community Ventures
THRIVE	Progressive Approaches to Climate Change
INNOVATE	Productive Community Assets

Report Objective

To seek Council consent to a 21 year lease with the Goolwa Surf Life Saving Club Incorporated for continued occupancy of the Surf Life Saving Club building at Goolwa Beach.

Executive Summary

Council and the Goolwa Surf Life Saving Club entered into an interim occupancy Agreement in July 2019 for occupation of the land at Goolwa Beach while the Goolwa Surf Life Saving Club was built, the land transfer finalised with the Department for Environment and Water, and the ground lease negotiated.

Administration have negotiated a draft 21 year lease with the Goolwa Surf Life Saving Club for continued occupation of the Goolwa Surf Life Saving Building at Goolwa Beach. Public consultation has been held, with the submissions received brought back to Council to assist in considering the lease request.

REFER ATTACHMENT 11.5 (a) (page 322)

Recommendation

- 1. That Council grants consent to a 21 year ground lease agreement with the Goolwa Surf Life Saving Club, for occupancy of the Goolwa Surf Life Saving Club building located at Lot 1 Beach Road Certificate of Title Volume 6227 Folio 630, commencing 27 January 2020 and including a 21 year right of renewal commencing 27 January 2041, subject to the conditions of the lease.**

2. That the Mayor and Chief Executive Officer be authorised to sign and seal the ground lease agreement.
3. That Council reaffirms its position that pursuant to Section 221 of the Local Government Act 1999 (SA) Council grants an Authorisation and, pursuant to Section 222 of the Local Government Act 1999 (SA) Council grants a Permit, to the Goolwa Surf Life Saving Club for the placement of private structures on a portion of the road adjacent to Lot 1 Beach Road, Certificate of Title Volume 6227 Folio 630, for a term commencing on execution of the Goolwa Surf Life Saving Club ground lease and to remain in place until completion of recommendation 4 of this Report.
4. That consent is granted for Administration to commence a *Roads (Opening and Closing) Act 1991 (SA)* and *Local Government Act 1999 (SA)* process including public consultation, to close and amalgamate the portion of road adjacent Lot 1 Goolwa Beach, Certificate of Title Volume 6227 Folio 630 into said land parcel and that the Mayor and Chief Executive Officer be authorised to sign and seal all documentation required to facilitate the road closing process.

Context

In July 2019, the Goolwa Surf Life Saving Club entered into an interim occupancy Agreement with Council for occupation of the land at Goolwa Beach while the Goolwa Surf Life Saving Club was built, the land transfer finalised with the Department for Environment and Water, and the ground lease negotiated. Following lengthy negotiations which commenced in September 2019, in October 2020 Administration requested and was granted Council consent to proceed to public consultation on Draft 3 of the proposed lease (ACM20738).

General Analysis

Public consultation was held from 29 October to 20 November 2020. Public notices were placed in the Southern Argus, Victor Harbor Times and the MySay page of the Council website. Submissions could be lodged online via MySay or in writing to the Chief Executive Officer.

On close of public consultation, 1 submission was received from an Alexandrina Ratepayer, supporting the proposed lease as below:

“Vital Community Service protecting the beach going community that needs an appropriate facility in which to operate”.

The proposed draft lease term has been backdated to reflect the date of intent of the commencement of the lease on 27 January 2020, being the day after expiry of the interim occupancy agreement. The Goolwa Surf Life Saving Club have not objected to this date during negotiations.

A portion of the building is situated on road reserve. Road reserve is the section of road corridor that has been set aside for the purpose of a public road, irrespective of whether or not it is currently being used as one. During initial reports on the Goolwa Surf Life Saving Club development in 2017, it was recognised that a portion of the facility was proposed to sit on road reserve due to the sloping nature of the land, the size of the building footprint and the protection of native vegetation. At 15 May 2017 Council Meeting the following 'Recommendation 3' was carried ():

Moved Cr Walker Seconded Cr Lume

That subject to approval of DA 455/1043/15 and public consultation on the proposed lease, the Council grants consent for the Infrastructure and Assets Division of Council to issue the Goolwa Surf Life Saving Club with a five (5) year permit in accordance with Section 222 of the Local Government Act 1999, to occupy a portion of the adjoining road reserve to facilitate the footprint of the building, whilst long term land tenure agreements over the road reserve are negotiated with Crown Lands.

With the land tenure now resolved and the building and landscaping now complete, the next stage is to progress the closure of a portion of the road reserve in order to amalgamate the road into the land parcel housing the new building, future plaza and café. The proposed road closure will not impact on the existing road network at Goolwa Beach and was included within the draft lease public consultation at Clause 3.

REFER ATTACHMENT 11.5 (b) (page 371)

As a Roads (Opening and Closing) process can take a significant period of time to complete, the intent remains to recognise the Goolwa Surf Life Saving Club's private infrastructure on the road in the interim via a Section 221 and Section 222 Permit Agreement, up to a maximum term of 5 years.

If the Council grant consent to the proposed draft ground lease, Administration will proceed to finalise the lease with the Club. Once finalised, Administration will be able to commence the road closure and amalgamation of the portion of the road that houses a portion of the building, into one land parcel to coincide with future upgrades to the Precinct as per the Goolwa Beach and Surrounds Masterplan.

The public toilets located in a portion of the ground floor of the building and which are accessible via an external entrance, are excluded from the lease area. The public toilets are managed and maintained by Council within existing budget.

Comparative Analysis

In accordance with Council's Lease and Licence Policy, a maximum lease term of 21 years is permitted for Emergency Service Agreements, subject to investment. In this instance, the Goolwa Surf Life Saving Club can demonstrate significant investment and community benefit as the owner of the majority of improvements on the land. In order to finalise the lease, agreement was reached to enter into a 21

year term with a further term of 21 years subject to compliance with the conditions of the lease.

The lease principles applied to the Goolwa Surf Life Saving Club lease are envisioned to apply consistently to the new Port Elliot Surf Life Saving Club lease and the Chiton Rocks Surf Life Saving Club lease on expiry of their current agreements respectively.

Financial and Economic Implications

Lease fee - In accordance with Council's Lease and Licence Policy and Council's Annual Fees and Charges, the draft lease has been negotiated as a 'Community' peppercorn rent of \$1.00 per annum, payable on demand. Administration notes the Lease and Licence Policy provides an alternative option of a 'Minor Commercial/Community' rental of \$500 per annum to reflect public sales associated with the operation of a bar from this facility, however Administration concedes that as a core emergency service provider, a community rental fee should prevail.

Rates - The Goolwa Surf Life Saving Club can apply to receive a maximum 75% Discretionary Rate Rebate in accordance with Council's Guidelines for Discretionary Rate Rebates which was adopted in 2017 and permits Administration to determine rate rebates up to 75% for all applications from community groups and not-for-profit organisations that provide a benefit or service to the local community. The current rates are \$13,133 per annum. If the Club applies and is successful in receiving a 75% discretionary rate rebate, the annual rates would reduce by \$9,850 per annum.

Insurance - The Goolwa Surf Life Saving Club are the owners of all improvements on their site and are therefore responsible for obtaining and holding their own building, contents and public liability insurances during the term of the lease. Council continues to insure the public toilets located within a portion of the Premises.

Maintenance - The Goolwa Surf Life Saving Club are the owner of all improvements within their lease area (lease area excludes public toilets) and remain responsible for general maintenance, capital works and major repair at end of useful life. During negotiations, Goolwa Surf Life Saving Club have requested an ongoing 'life of lease' cost contribution of \$20,000 – \$30,000 per annum from Council, via a sinking fund for building maintenance. As the Goolwa Surf Club portion of the building is owned by the Goolwa Surf Life Saving Club and not Council, Administration has retained the position that Council will not be contributing funds to the maintenance of the Goolwa Surf Life Saving Club portion of the Premises as provided in Recommendation 3 of this Report.

Although the Department for Environment and Water transferred the land to Council for nil consideration, Council was responsible for the costs of the plan of division and associated fees of \$2,200 which were accommodated within existing 2018-19 budgets.

Legal advice for these lease negotiations is estimated at \$4,000, which is provided for within existing budget lines. The legal advice can be utilised by Administration in future new lease negotiations with the Port Elliot and Chiton Rocks Surf Life Saving Clubs respectively.

Risk Management

In accordance with the Alexandrina Risk Management Policy and Matrix, the risk of adopting this recommendation is considered low as the submissions received from the public consultation process will assist Council in considering the Draft Lease agreement further.

Political and reputational risk is minimised by endorsing the recommendation as Council have previously publically supported the construction of the Goolwa Surf Lifesaving Facility.

Financial risk is increased, if Council consent to an ongoing 'life of lease' contribution to Goolwa Surf Life Saving Club.