

29 August 2006**SUB-LEASE – YARRA YARRA ROWING CLUB AND BANKS
ROWING CLUB****Committee** Finance and Governance**Presenter** Cr Shanahan**Purpose**

1. To seek Council approval to permit Yarra Yarra Rowing Club and Banks Rowing Club to enter into sub-lease arrangements with Carey Baptist Grammar School Ltd and Caulfield Grammar School respectively.

Recommendation

2. That Council:
 - 2.1. subject to each sub-lease being to the satisfaction of the Minister of Planning and not being effective until the written approval of the Minister is obtained:
 - 2.1.1. pursuant to clause 8.1 of a lease dated 24 December 1993 by Council to Yarra Yarra Rowing Club Inc, approve the granting of a sub-lease by Yarra Yarra Rowing Club to Carey Baptist Grammar School Ltd of the boatshed for the storage of boats used for Carey Baptist Grammar School's rowing program on the following terms and conditions;
 - 2.1.1.1. a sub-lease term expiring on 8 March 2014;
 - 2.1.1.2. an annual rental of \$1.00 per annum plus any GST; and
 - 2.1.1.3. such other terms and conditions as required by the Manager Legal Services;
 - 2.1.2. pursuant to clause 8.1 of a lease dated 23 July 1993 by Council to Banks Rowing Club Inc, approve the granting of a sub-lease by Banks Rowing Club to Caulfield Grammar School of the boatshed for storage of boats used for Caulfield Grammar School's rowing program on the following terms and conditions;
 - 2.1.2.1. a sub-lease term expiring on 23 July 2014;
 - 2.1.2.2. an annual rent of \$41.60 per annum plus any GST plus 40% of all outgoings connected with the sub let premises; and
 - 2.1.2.3. such other terms and conditions as required by the Manager Legal Services;

- 2.2. by Instrument of Delegation sealed by the Council under Section 98(1) of the *Local Government Act 1989* (“The Act”) delegate to the Chief Executive Officer, or the person from time to time acting in that position, the authority to implement the resolution described in paragraph 2.1 including giving written notice of Council’s approval to the sub-leases and doing anything necessary or ancillary to the same; and
- 2.3. under Section 98(3) of the Act, authorise the Instrument of Delegation to the Chief Executive Officer, or the person from time to time acting in the position, to empower him or her to delegate any power, duty or function delegated to him or her under paragraph 2.2 to a member of Council staff.

Council Report Attachment:

1. Finance and Governance Committee, Agenda Item 5.6, 8 August 2006

8 August 2006

**SUB-LEASE – YARRA YARRA ROWING CLUB AND BANKS
ROWING CLUB**

Division Assets and Services

Presenter Graham Porteous, Manager, Sport, Recreation and Business Support

Purpose

1. To seek Council approval to permit Yarra Yarra Rowing Club and Banks Rowing Club to enter into sub-lease arrangements with Carey Baptist Grammar School Ltd and Caulfield Grammar School respectively.

Recommendation from Management

2. That the Finance and Governance Committee recommend that Council;
 - 2.1. Subject to each sub-lease being to the satisfaction of the Minister of Planning and not being effective until the written approval of the Minister is obtained:
 - 2.1.1. pursuant to clause 8.1 of a lease dated 24 December 1993 by Council to Yarra Yarra Rowing Club Inc, approve the granting of a sub-lease by Yarra Yarra Rowing Club to Carey Baptist Grammar School Ltd of the boatshed for the storage of boats used for Carey Baptist Grammar School's rowing program on the following terms and conditions;
 - 2.1.1.1. a sub-lease term expiring on 8 March 2014;
 - 2.1.1.2. an annual rental of \$1.00 per annum plus any GST; and
 - 2.1.1.3. such other terms and conditions as required by the Manager Legal Services.
 - 2.1.2. pursuant to clause 8.1 of a lease dated 23 July 1993 by Council to Banks Rowing Club Inc, approve the granting of a sub-lease by Banks Rowing Club to Caulfield Grammar School of the boatshed for storage of boats used for Caulfield Grammar School's rowing program on the following terms and conditions;
 - 2.1.2.1. a sub-lease term expiring on 23 July 2014;
 - 2.1.2.2. an annual rent of \$41.60 per annum plus any GST plus 40% of all outgoings connected with the sub let premises; and
 - 2.1.2.3. such other terms and conditions as required by the Manager Legal Services.

- 2.2. By Instrument of Delegation sealed by the Council under Section 98(1) of the *Local Government Act 1989* (“The Act”) delegate to the Chief Executive Officer, or the person from time to time acting in that position, the authority to implement the resolution described in paragraph 2.1 including giving written notice of Council’s approval to the sub-leases and doing anything necessary or ancillary to the same; and
- 2.3. under Section 98(3) of the Act, authorise the Instrument of Delegation to the Chief Executive Officer, or the person from time to time acting in the position, to empower him or her to delegate any power, duty or function delegated to him or her under paragraph 2.2 to a member of Council staff.

Key Issues

3. Rowing on the Yarra River in its current location adjacent to the Alexandra Gardens has been a feature in Melbourne since at least 1860. As Committee of Management, and pursuant to the *Crown Land (Reserves) Act 1978*, Council has entered into Head Lease arrangements with each of seven clubs; Melbourne University Boat Club, Yarra Yarra Rowing Club, Banks Rowing Club, Melbourne Grammar School, Melbourne Rowing Club, Mercantile Rowing Club and Richmond Rowing Club. There are also facilities provided to canoeing, kayaking and dragon boat clubs within the precinct.
4. Both Yarra Yarra Rowing Club and Banks Rowing Club have approached Council and sought Council consent to sub-lease arrangements with Carey Baptist Grammar School Ltd and Caulfield Grammar School respectively. These schools operate extensive rowing programs in the precinct and wish to formalise their usage arrangements.
5. In February 2005, Council’s Community and Culture Committee agreed in principle to a Precinct development Proposal presented by five of the seven Head Lease clubs which includes the development of a number of rowing sheds, including the Yarra Yarra and Banks leased sheds.
6. The approval of Council is now being sought pursuant to clause 8.1 of the respective Head Lease with each of the clubs for the sub lease arrangements. The written approval of the Minister for Planning (as the responsible Minister for Crown Lands) is also required to effect the granting of the sub-leases.
7. A delegate of the Minister has indicated in writing that in principle support has been given for the granting of sub-leases by both the Yarra Yarra Rowing Club and Banks Rowing Club.

Time Frame

8. Operation of the sub-leases will take effect immediately following execution by the parties and receipt of the Minister’s written approval.

Finance

9. There are only minor (additional sub-lease rental) financial implications for Council arising from the recommendations contained in this report.
10. Rentals and outgoings are payable to the Head Lease Clubs (Yarra Yarra Rowing Club and Banks Rowing Club) in accordance with the requirements of these Head Leases.

Legal

11. The legal issues are accurately described in this report.

Sustainability

12. As a consequence of this proposal, particular segments of the community will have the opportunity to participate in rowing programs that may otherwise be inaccessible to them. With this greater level of access, the health and well being of the community would be expected to improve.

Comments

13. The granting of a sub-lease by Yarra Yarra Rowing Club to Carey Baptist Grammar School Ltd and by Banks Rowing Club to Caulfield Grammar School allows for greater equity and access to the sports of rowing, canoeing, kayaking and the rowing precinct as a whole and is consistent with the intended use of the area. It also formalises the existing relationships and addresses risk management, insurance and legal issues.
 14. Banks Rowing Club and Caulfield Grammar School have had an informal usage arrangement for the use of Banks Rowing Club Boatsheds since 1998. The sub-lease formalises and reflects that agreement.
 15. Yarra Yarra Rowing Club and Carey Baptist Grammar School Ltd have recently both contributed to the complete redevelopment of the boatshed on that site. This sub-lease formalises that agreement.
 16. Similar arrangements exist with other rowing clubs in the precinct, for example Mercantile Rowing Club currently has a sub-lease arrangement with Brighton Grammar School and Richmond Rowing Club has a sub-lease arrangement with Methodist Ladies College.
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FINANCE ATTACHMENT

SUB-LEASE – YARRA YARRA ROWING CLUB AND BANKS ROWING CLUB

There are only minor (additional sub-lease rental) financial implications for Council arising from the recommendations contained in this report.

Joe Groher
Manager Financial Services

LEGAL ATTACHMENT

SUB-LEASE – YARRA YARRA ROWING CLUB AND BANKS ROWING CLUB

The relevant site comprises Crown land over which the Council has been appointed Committee of Management under the *Crown Land (Reserves) Act 1978* (“the Act”).

Section 17D of the Act empowers the Committee of Management, with the written approval of the Minister for the time being administering the Act (“the Minister”), to grant leases of any part of the land for purposes approved by the Minister.

Pursuant to clause 8.1 of the head leases from Council dated 23 July 1993 and 24 December 1993 to Banks Rowing Club and Yarra Yarra Rowing Club respectively, the written approval of the Council and the Minister is required to permit the Clubs to enter into subleases.

Kim Wood
Manager Legal Services