

Report to the Future Melbourne Committee

Agenda item 6.1

Catering in the Pavilion – Fitzroy Gardens

15 August 2023

Presenter: Roger Teale, General Manager Property, Infrastructure and Design

Purpose and background

1. The purpose of the report is to provide an update on the lease of the Pavilion at the Fitzroy Gardens.
2. The 'Pavilion' located in the centre of Fitzroy Gardens in East Melbourne (Pavilion), was constructed in 1963 and has had a kiosk or tearooms in this general location since 1908. Over the years, the Pavilion has become a beloved and iconic fixture of Melbourne, attracting visitors to enjoy its beautiful garden surrounds and dining offerings.
3. Based on community consultation findings carried out in early 2021, a property expression of interest to lease (EOI) was undertaken in December 2021 for the lease, fit out and management of the Pavilion to provide a multi-use space combining a community outcome with hospitality services.
4. The EOI was unsuccessful in identifying a community tenant to activate the Pavilion for a dynamic multi-use community space.
5. In November 2022, the Future Melbourne Committee approved the end of the community EOI and approved the commencement of a new commercial EOI for hospitality providers to operate and lease the Pavilion.
6. A commercial EOI was carried out from 1 December 2022 to 28 February 2023, providing an opportunity for hospitality operators to outline their vision for creating an innovative food and beverage destination at the iconic venue in the heart of the Fitzroy Gardens precinct. Three submissions were received.

Key issues

7. Having conducted community engagement and a public EOI, in April 2023 Council proposed to enter into a lease of the Pavilion with Fitzroy Pavilion Pty Ltd (being Hugh Allen/Vue Group) pursuant to section 115 of the *Local Government Act 2020* and section 17C of the *Crown Land (Reserves) Act 1978* on the following terms:
 - 7.1. an initial term of 15 years with an option to renew for a further term of five (5) years
 - 7.2. a commencing rental of \$157,050 (ex. GST) and subject to rent incentives
 - 7.3. annual rent increases of 3.5 per cent to be reviewed to market at the commencement date of the further term
 - 7.4. such other terms and conditions as may be required by the Minister responsible for the *Crown Land (Reserves) Act 1978* and Council's Chief Legal Counsel.
8. Management is currently finalising the lease and all necessary approvals and permits including Heritage Victoria and the Department of Energy, Environment and Climate Action.

Recommendation from management

10. That the Future Melbourne Committee:
 - 10.1. Pursuant to section 115 of the *Local Government Act 2020* and section 17C of the *Crown Land (Reserves) Act 1978*, approves management entering into a lease with Fitzroy Pavilion Pty Ltd of the Pavilion at the Fitzroy Gardens on the following terms and conditions:
 - 10.1.1. an initial term of 15 years with an option to renew for a further term of five (5) years
 - 10.1.2. a commencing rental of \$157,050 (ex. GST) and subject to rent incentives
 - 10.1.3. annual rent increases of 3.5 per cent to be reviewed to market at the commencement date of the further term
 - 10.1.4. such other terms and conditions as may be required by the Minister responsible for the *Crown Land (Reserves) Act 1978* and Council's Chief Legal Counsel.
 - 10.2. Notes the lease will be entered into under delegation.

Attachments:

1. Supporting Attachment (Page 3 of 3)

Supporting Attachment

Legal

1. The Council is Joint Trustee of the Fitzroy Gardens and committee of management under the *Crown Land (Reserves) Act 1978*.
2. In accordance with section 115 of the *Local Government Act 2020* the proposed lease has been the subject of a community engagement process in accordance with Council's Community Engagement Policy.
3. As the location of the Pavilion was used as a tearoom/kiosk prior to the commencement of the *Crown Land (Reserves) (Amendment) Act 1984*, section 17C of the *Crown Land (Reserves) Act 1978* applies and provides an expedited process for leases for that purpose.

Finance

4. The proposed rental under the lease is market driven and all refurbishment and fit out costs will be at the tenant's expense.

Conflict of interest

5. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a material or general conflict of interest in relation to the matter of the report.

Health and Safety

6. In developing this proposal, no occupational health and safety issues or opportunities have been identified.

Stakeholder consultation

7. In early 2021 a four week community engagement process was carried out seeking community views on the future use for the Pavilion. The engagement process sought to encourage a wide range of diverse voices from the community to take part and featured communications across multiple online and offline platforms. Respondents could provide their feedback via a Participate Melbourne survey, emailing, or participating in one of three pop-up sessions held at the site.
8. A community EOI to lease was carried out in December 2021.
9. A commercial EOI to lease was carried out in December 2022.
10. Management has carried out community engagement on the lease proposal pursuant to section 115 of the *Local Government Act 2020*.

Relation to Council policy

11. This report has been prepared in accordance with the Property Portfolio Plan, Property Strategy and the draft Leasing Policy.

Environmental sustainability

12. The proposed refurbishment will prioritise sustainability and energy efficiency with a design that will highlight the building's original features whilst incorporating modern elements. The design will embody Council's objectives around sustainability.