

Attachment 3 - The Vineyard Restaurant Next Steps (Information to be made public)

COUNCIL RESOLUTION 19 MAY 2021 (TO BE UPDATED FROM THE MINUTES)

That Council:

- 1.1 Resolves to withhold Landlord Approval for the redevelopment required under the existing lease between Council and The Vineyard Pty Ltd and discontinues any discussion regarding a new long-term lease, thereby cancelling the proposed redevelopment of the site by the tenant.
- 1.2 Delegates authority to the CEO to negotiate an early end of (current) lease date with The Vineyard Pty Ltd with consideration of the current requirements of the lease to deliver benefits to the community and including agreement on works to be undertaken by the tenant to address any urgent maintenance works required to maintain the function of the building for the duration of the lease.
- 1.3 Notes that this course of action is considered to provide the best way forward for the site given the significant passage of time since the lease was executed in 2011, that the benefits that were to be delivered to the community through the provision of a new public asset have not been realised, and that since there hasn't been a competitive process for the management of the crown land since before 1999, the importance of site to the surrounding public realm and the challenges that have been experienced in managing the current lease, it is prudent to undertake a competitive process to explore tenancy and development options to understand if better alternatives exist, noting that it would be open to the current tenant to participate in the market process.
- 1.4 Approves the information in this Resolution and Attachment 3 to be made public once the tenant has been notified of the decision and authorises the CEO to make any minor amendments to the information in Attachment 3 as required to improve accuracy or readability.
- 1.5 Authorises the CEO to update the title of the confidential report post meeting to *The Vineyard Restaurant - Next Steps* once the tenant has been notified of the decision.

Summary Information

- The Vineyard Restaurant, managed by The Vineyard Pty Ltd (TVPL) is situated on Crown Land located at 71A Acland St, St Kilda for which Council is Committee of Management.
- The Vineyard Restaurant has been located on this property since 1999 under various tenancy arrangements. The current 15 year lease commenced on 8 December 2011.
- The current lease between Council and TVPL requires the tenant to complete "substantial building works" of no less than \$1 Million within certain timeframes articulated in the lease. This requirement was included in the lease due to the 'poor condition' of the building, as identified in a condition assessment completed in June of 2009.
- Since 2014, Council has been working with TVPL to resolve the approach to the redevelopment of the site, as required under the current lease, to respond to site

constraints. After significant negotiation with TVPL and delays, the redevelopment approach for the site was in principle agreed by Councillors in April 2018.

- A new 15-year lease with TVPL was proposed to facilitate the redevelopment as the proposed new building extends beyond the current lease boundary, and to accommodate the significant delays experienced to the time frames set out in the current lease for the development of the site.
- Prior to providing Landlord (Council) approval for TVPL to submit a development application or proceeding with the legislative process for a new lease, community consultation was undertaken by Council to inform Council's decision making as Landlord about next steps.
- The community consultation was undertaken in August and September 2019 and the results of the consultation was provided to Council on 6 November 2019. In summary, results from the community engagement showed a relatively equal split of those for and against the proposed redevelopment and new lease.
- Following the consultation results being made public in November 2019, focus shifted in the short term to resolving several outstanding matters with the current lease.
- Since March 2020, when Covid19 hit and then restrictions started to impact the economy, focus shifted to economic recovery for all tenants, rather than further progressing leasing or planning processes to support the proposed redevelopment.
- As a note, TVPL had been receiving 100 % rental relief aligned with Council's relief package endorsed 25 March 2020. From November 2020, TVPL, like other tenants, was required to apply for rent relief attesting to their Covid19 related losses. TVPL have applied and were granted a 40% waiver for rent in November 2020 and a 60% waiver for rent in December 2020 in line with CoPP policy.
- Council has now further considered the status of the current lease, the redevelopment requirement and the idea of a new long-term lease through direct negotiation with the current tenant to support redevelopment of the site and has decided that rather than a direct negotiation with the current tenant, it is prudent to undertake a competitive process to ensure best value is achieved for the community.
- There are a number of reasons for this change in direction, including the significant passage of time since the lease was executed in 2011 without delivery of the benefits that were to be delivered to the community through the provision of a new public asset; that there hasn't been a competitive process for the management of the crown land since before 1999; the importance of the site to the surrounding public realm; and the challenges that have been experienced in managing the current lease.
- A market process will allow Council to explore tenancy and development options to understand if better alternatives exist, noting that it would be open to the current tenant to participate in a market process.
- Council will seek to negotiate an early resolution to the lease with the tenant with consideration of the current requirements of the lease to deliver benefits to the community. While works will need to be agreed to address the more urgent maintenance issues, given the poor condition of the building, negotiating an early exit will allow for a market process, which would be open to the current tenant to participate in, to occur in a more timely fashion to resolve the condition issues that have remained unresolved through the current lease.