

ITEM 11

THIRROUL SURF LIFE SAVING CLUB INC - REQUEST FOR WAIVER OF FEES FOR LICENCE AGREEMENT

A request has been received from Thirrour Surf Life Saving Club Inc to waive fees payable in respect of a proposed licence agreement for the occupation of the Crown land by the Club. This request is submitted for Council's determination.

RECOMMENDATION

The fees payable in respect of the proposed licence agreement, being the preparation of lease and licence agreements fee and the licence fee (payable annually), not be waived.

REPORT AUTHORISATIONS

Report of: Lucielle Power, Manager Property + Recreation (Acting)

Authorised by: Kerry Hunt, Director Community Services - Creative and Innovative City

ATTACHMENTS

There are no attachments for this report.

BACKGROUND

Council has received a request from Thirrour Surf Life Saving Club Inc [the Club] to waive the annual Community and Sporting Group Licence Fee and Licence Preparation Fee in relation to its licence agreement for Council's surf club located on Crown land known as part Thirrour (R89099) Trust.

Council has been working with each of the surf life saving clubs in our local government area to finalise all lease arrangements on land owned and managed by Council, including Crown land. Council has worked rigorously over a number of years with external stakeholders, including extensive consultation with Surf Life Saving Illawarra and Surf Life Saving New South Wales [SLSNSW] to finalise a template surf club draft lease acceptable to all parties. This template is now finalised and several surf clubs within our local government area have been granted 21 year lease tenures.

Council has progressed leases/licences with eight of the 17 surf clubs to date. Of the leases that have been finalised, seven of the eight surf clubs have agreed to payment of the fees as per Council's Fees and Charges. The exception relates to Wollongong City Surf Lifesaving Club who only occupies a small percentage of the total floor space of the building and contributes to outgoings on a pro rata basis. The remaining nine surf clubs are currently under negotiation and will be required to pay the fees as per Council's Fees and Charges. Negotiations to date have not encountered any objection to the payment of these fees with the exception of Thirrour Surf Life Saving Club.

On 1 July 2018, the way in which Council administered the control and management of its Crown reserves, including the land upon which the Thirrour Surf Life Saving Club is constructed, was significantly altered. As part of these changes, Council is required to adopt appropriate plans of management in accordance with the legislation. These must be adopted prior to the granting of most leases and licences, including the 21 year surf club lease. An exception to this is Section 2.20 of the *Crown Lands Management Act 2016* which permits certain short term licences whilst plans of management are being developed. This short term licence for a 12 month period is currently being developed whilst Council is continuing to prepare and finalise the draft plan of management affecting the Crown reserve to which the Club currently operates. Once finalised Council will have the ability to grant the preferred 21 year lease.

There is a development application active in respect of the premises. The development application requires owner's consent. Council, as Crown Land Manager, can issue owner's consent pursuant to the *Crown Land Management Act 2016* (enacted 1 July 2018), however subject to Council's policies cannot do so until the licence agreement is executed. Extensive correspondence has been entered into with the Club to clarify this position.

SLSNSW has recently been recognised as an emergency service as has been the case with majority of the state based surf life saving bodies nationally. SLSNSW remains a not-for-profit organisation and has not become a government agency. There is largely no material change to operations, other than some potential additional support services being offered. Where additional services are required to support other organisations outside of the core role as surf lifesavers, additional resources will be requested to undertake this. It should be noted that being recognised as an approved emergency service does not alter the Club's status under Council's Community and Sporting Group Rentals Policy and therefore Council's Fees and Charges would apply. SLSNSW will remain a not-for-profit organisation and is not becoming a government agency and as such there is neither mandate nor expectation on clubs to deliver emergency support services 24/7 as this remains on an opt-in basis. As per the policy, any variation to these fees and charges requires a report to Council for determination.

PROPOSAL

Thirroul Surf Life Saving Club on 6 May 2019 requested a waiver of fees on the grounds that -

- It is now recognised as an approved emergency service and training agent by the Federal Government
- Other surf life saving clubs have not paid the licence fees and licence preparation fees.

The Club also raised concerns that its development application was being delayed from processing until signing of the agreement.

By way of response, the Club was advised by Council that -

- A licence agreement does need to be in place to not only secure tenure for the Club but for Council, as Crown Land Manager, to comply with its legislative requirements. Once the licence is executed then owner's consent can be issued in respect of the development application. This response is consistent with both the Surf Lifesaving Building Management Policy and the Community and Sporting Group Rentals Policy
- Other surf clubs have paid the community and sporting group licence fee and the licence preparation fee in relation to their licence agreements once the agreements have been finalised. There are some agreements which are yet to be finalised however will be subject to the fees and charges as conditions of their respective leases.

Whilst the change in legislation notes SLSNSW as an emergency service, the Club occupying the premises fundamentally remains a not-for-profit organisation and therefore should still be considered under this policy.

The Club was advised that the waiver of fees would be considered on the information provided to date and, whilst Council has internal processes to follow and adhere to, we do not seek to tie up the development application process with this matter as it may take some time. Council requested the Club to proceed with the licence proposal in its original form and that the waiver of the fees would be considered as a separate matter. In the event the request for waiver of fees was successful, Council would apply this retrospectively and, if applicable, a refund will be raised. This approach will ensure the development application process can progress without impediment. The Club chose not to abide by this recommendation.

The Club was also informed that, pursuant to the Community and Sporting Group Rentals Policy, any request from an organisation to pay an alternative amount other than that stipulated in Council's Fees and Charges will be formally reported to Council for determination.

In an effort to minimise disturbance to the Club's operations, Council officers are continuing to liaise with the Club to work towards a mutually acceptable resolution in respect of the terms and conditions in the licence proposal.

CONSULTATION AND COMMUNICATION

Thirroul Surf Life Saving Club representatives in respect of the proposal for a licence agreement and the request by the Club for waiver of fees

SLSNSW in the development of the agreed document including payment of the applicable fees in accordance with the adopted fees and charges

Recreation Services

Legal Services

PLANNING AND POLICY IMPACT

This report contributes to the delivery of Our Wollongong 2028 goal “Participation in recreational and lifestyle activities is increased”.

It specifically delivers on core business activities as detailed in the Service Plan 2019-20 - ‘Provide statutory services to appropriately manage and maintain our public spaces’.

Two adopted policies relevant to this report are -

- Community and Sporting Group Rentals Council Policy
- Surf Life Saving Buildings Management Policy

The payment of the licence fee and the licence preparation fee are standard charges required to be made to Council pursuant to the Community and Sporting Group Rentals Council Policy.

FINANCIAL IMPLICATIONS

Council’s adopted Fees and Charges for 2019/2020 include charges for -

- | | |
|---|----------|
| • Preparation of Lease and Licence Agreements (Community and Sporting Groups) | \$182.00 |
| • Licence Fee (payable annually) | \$705.00 |

If this waiver is applied consistently for other surf clubs and community groups it could result in a significant reduction in income to Council noting the amount of surf clubs and community groups occupying Council owned land throughout the local government area.

CONCLUSION

Council acknowledges the valuable contribution made to the community by the Club, its members and volunteers. In good faith and in an effort to minimise disturbance to the Club’s operations, Council officers will continue to negotiate with the Club to achieve a mutually agreeable resolution in respect of the terms and conditions in the licence.

As the fees are adopted by Council and incorporated in our fees and charges, the request for the waiver of the annual licence fee and the licence preparation fee is submitted to Council for determination.

The requirement for the payment of these fees has been applied to other surf life saving clubs that are now under lease/licence agreement. If a determination was made to waive the above fees, other surf clubs and community groups may request consistency across the board and request that these fees also be waived for their respective clubs. If this were to occur, it could result in a loss of income of the preparation fee for each surf club as well as a loss of the annual licence fee per surf club.