

ITEM 17 LEASE OF NORTH WOLLONGONG BEACH CAFÉ & KIOSK

This report recommends the acceptance of a submission for the Lease of North Wollongong Beach Café & Kiosk located at Part Lot 7001 DP 105765, Part Lot 70 DP 751299, Part Lot 3 DP 1136814 and Part Lot 11 in DP 86522.

RECOMMENDATION

- 1 Council accept the offer of North Kiosk Pty Ltd for the Lease of North Wollongong Beach Café & Kiosk subject to the consideration of any submissions made during the statutory notice period as required under Section 47 of the *Local Government Act 1993*.
- 2 Enter into a Lease agreement with North Kiosk Pty Ltd for a term of five (5) years with two (2) options of five (5) years each in accordance with the provisions of the lease agreement.
- 3 Council delegate to the General Manager the authority to finalise and execute the Lease and any other documentation required to give effect to this resolution.
- 4 Council grant authority for the use of the Common Seal of Council on the Lease agreement and any other documentation, should it be required, to give effect to this resolution.

REPORT AUTHORISATIONS

Report of: Roisin OSullivan, Manager Commercial Operations + Property
 Authorised by: Kerry Hunt, Director Community Services - Creative and Innovative City

ATTACHMENTS

There are no attachments for this report

ACRONYMS USED IN REPORT

Abbreviation	Meaning
Act	Local Government Act 1993
Regulation	Local Government (General) Regulation 2021

BACKGROUND

The General Manager has declared a Conflict of Interest in relation to a Director of North Beach Kiosk Pty Ltd which has been an ongoing declaration by the General Manager first lodged in 2018. North Beach Kiosk Pty Ltd is the current lessee of the subject premises and also participated in the current tender and negotiation process. Due to that declaration the General Manager stepped away from any role or involvement in this matter, including prior to the tender and through the evaluation and reporting of the outcome.

Council invited tenders for the lease of the North Wollongong Beach Café & Kiosk with a close of tenders on 21 October 2025.

On 17 November 2025, Council resolved in accordance with Section 178(1)(b) of the *Local Government (General) Regulation 2021* (the Regulation), to decline to accept any tender received for the lease of North Wollongong Beach Café & Kiosk.

Instead, Council determined to enter into negotiations with the three initial tenderers with the objective of identifying a preferred party for a lease relating to the subject matter of the tender.

Council further resolved, in accordance with Section 178(4) of the Regulation, that inviting fresh tenders is not warranted. This decision was based on the alternative tender responses received, which proposed varying lease terms and created challenges in undertaking appropriate and equitable comparisons.

Council considered that a more beneficial outcome will be achieved through direct commercial negotiations with the three initial tenderers.

The initial tenderers were advised that the lease term would be five years with two additional option periods of five years each. Each party was asked to confirm their proposed commencement rent, proposed capital and Lessee fit out works amount and any proposed rent-free period based on the revised lease term.

The evaluation panel assessed the submissions, including the clarified information provided, in accordance with the following evaluation criteria and weightings outlined in the initial tender documentation:

Mandatory Criteria

1. Referees
2. Financial Capacity
3. Food Safety Certificate
4. Site Inspection
5. Operating Objectives
6. Workplace Health & Safety Documentation

Evaluation Criteria

- | | |
|---|-----|
| 1. Proposed annual rental payable to Council | 30% |
| 2. Proposed Business Plan | 30% |
| 3. Demonstrated experience and satisfactory performance in operating premises of similar size, scope and risk profile | 20% |
| 4. Staff qualifications and experience | 10% |
| 5. Demonstrated strengthening of local economic capacity | 10% |

The mandatory evaluation criteria have been met by the recommended party.

The evaluation panel utilised a weighted scoring method for the evaluation of the submissions which allocates a numerical score out of 5 in relation to the level of compliance offered to each of the evaluation criteria. The method then considers pre-determined weightings for each of the evaluation criteria which provides for a total score out of 5 to be calculated for each submission.

The submission that achieved the highest overall score is considered to best satisfy the requirements of the evaluation criteria and delivers the greatest value to Council.

Table 1 below summarises the results of the evaluation and the ranking of the submissions.

TABLE 1 – SUMMARY OF PANEL ASSESSMENT

Name of Submitting Party	Ranking
North Kiosk Pty Ltd	1
2PS Productions & Management Pty Ltd	2
Callbat Pty Ltd	3

PROPOSAL

It is proposed that Council approve entering into a lease agreement with North Kiosk Pty Ltd for the North Wollongong Beach Café & Kiosk.

Under Section 47 of the *Local Government Act 1993* (the Act), Council is required to give public notice of any proposal to grant a lease of more than five years on Community Land. Given the proposed extension to the original advertised lease term, Council is readvertising the lease proposal for community feedback. No lease will be executed with the recommended party until the notification period prescribed by the Act has expired, and consideration has been given to any submissions received.

The recommended party has demonstrated to the evaluation panel its capability to meet the obligations outlined in the proposed lease. The panel is satisfied that they possess the necessary experience, operational capacity and commitment to deliver high-quality service at the site.

Referees nominated by the recommended submitter were contacted by the evaluation panel and provided positive feedback, confirming their satisfaction with their performance in similar lease arrangements.

Under Section 377 (1) of the *Local Government Act 1993* (the Act), Council is not permitted to delegate powers to any staff member other than the General Manager. In circumstances where there is a declared conflict of interest, as is the case with this matter, the appropriate course of action is for the General Manager to sub-delegate their authorities and powers in relation to the matter to a staff member of their choosing, and for that staff member to implement the decision of Council. If Council so resolves as per items 3 and 4 of the recommendation, the General Manager has indicated that they will promptly sub-delegate those items to the Director Community Services.

CONSULTATION AND COMMUNICATION

- Members of the Tender Evaluation Panel
- Nominated Referees
- Procurement and Governance
- Property Services
- Legal Services
- External Probity Advisor from Mills Oakley
- Pursuant to Section 47 of the Act, Council is required to give public notice of the proposed lease. The 28-day statutory advertising period closes on 23 December 2025.

PLANNING AND POLICY IMPACT

This report contributes to the delivery of Our Wollongong Our Future 2035 Goal 3 – ‘We foster a diverse economy, and we value innovation, culture, and creativity’.

It specifically delivers on core business activities as detailed in the Community Strategic 3.3 – ‘Increase and attract new business investment and enterprise to Wollongong while supporting and growing existing local businesses’.

RISK ASSESSMENT

Following the Council resolution of 17 November 2025 to decline all submissions and negotiate with the original tenderers, a negotiation plan was prepared. External and internal probity advisors participated as non-scoring members of the evaluation panel. Their role was to review the assessment methodology, examine negotiation records and ensure the process was satisfactory from a probity perspective.

For completeness, it is noted that no lease will be executed with the recommended party until the notification period prescribed by the Act has expired, and consideration has been given to any submissions received.

The risk of entering into a lease agreement is considered low, based on Council’s risk assessment matrix. Appropriate lease management practices will be implemented in accordance with the lease agreement.

The General Manager has a declared conflict of interest and has accordingly sub-delegated their authorities and powers in relation to this matter and will continue to do so throughout the finalisation of this matter.

SUSTAINABILITY IMPLICATIONS

The following sustainability implications have been considered:

- Weighting in the assessment provided for strengthening of local economic capacity using local services, labour and materials.
- The lease agreement promotes sustainable business practices including mandatory use of sustainable packaging and sourcing of products and limited wastage. The successful party has demonstrated sustainable practices.

FINANCIAL IMPLICATIONS

Walsh and Monaghan provided updated market valuation advice to Council on 28 November 2025 to assist with the assessment of the submissions.

Council will receive commercial rental income under the lease in accordance with the information circulated to Council under separate cover.

CONCLUSION

Council should endorse the recommendations of this report and approve entering into a commercial lease agreement with North Kiosk Pty Ltd for the Lease of North Wollongong Beach Café & Kiosk. This offer provides a commercial return to the community and aligns with Council's operational objectives for the property.