

Item No 8.1
To: Council
Date: 1 August 2023
Author: Ross Whitfield Director Assets and Environment
Nathan Cunningham Chief Executive Officer
Subject: TENANCY/ LEASE ARRANGEMENTS NORMANVILLE SURF LIFE
SAVING CLUB AND CAFÉ/ KIOSK
Attachments: CONFIDENTIAL – Attachment A
CONFIDENTIAL – Attachment B
Prev. Resolution: C23072 – Major Projects Report March 2023
C23096 – Chief Executive Officer Report May 2023

Officer's Recommendation

1. Pursuant to section 90(2) and 90(3)(d) of the *Local Government Act 1999* the Council orders that the public be excluded from attendance at that part of the meeting relating to agenda 8.1 CONFIDENTIAL - Tenancy/ Lease arrangements Normanville Surf Life Saving Club and Café/ Kiosk, except the following persons;
 - Nathan Cunningham – Chief Executive Officer
 - Jodie Summer – Director Corporate Services
 - Ross Whitfield – Director Assets & Environment
 - Lisa Pearson – Group Manager Economy, Tourism and Community
 - Liz Soper – Communication and Executive Administration Minute Taker

to enable Council to consider item 8.1 in confidence on the basis Council considers it necessary and appropriate to act in a meeting closed to the public (excepting those persons listed above) in order to receive, discuss or consider in confidence the following information or matter relating item 8.1

 - Commercial information of a confidential nature (not being a trade secret) the disclosure of which –
 - (i) Could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - (ii) Would, on balance, be contrary to be public interest
2. Accordingly, on this basis, the principle that meetings of Council should be conducted in a place open to the public has been outweighed by the need to keep the information or matter confidential.
3. That the Report be received.
4. That the Council having considered the following report, commence a consultation process in accordance with Section 202 of the Local Government Act for the proposed lease to for running of a café and kiosk at the Normanville Surf Life Saving Club building with the lease to include but not be limited to the following key elements;

- a) **Rental Terms and Payment:**
Establishing a baseline fixed monthly and Annual rent that remains consistent throughout the lease duration, regardless of fluctuations in business.
- b) **Lease Duration and Renewal:**
Determining an appropriate lease duration to provide the tenant with enough time to establish a successful business while allowing the Council to periodically reassess the arrangement. Possible options include:
 - **Initial Lease Term:** A reasonable initial lease term, such as five years, with the option to extend or renew the lease for additional periods.
 - **Lease Renewal Clause:** Including a lease renewal clause that outlines the conditions and process for the lessee to request an extension and the Council's criteria for granting such extensions.
- c) **Permitted Use:**
Defining the permitted use of the leased premises is essential to maintain the character and objectives of the Normanville Surf Life Saving Club. Key elements to include are:
 - **Provision of Food and Beverage:** Specifying that the tenant is allowed to serve food and beverages to patrons within the designated areas.
 - **Liquor Licensing:** Stipulating the necessary requirements for obtaining and maintaining a valid liquor license, ensuring responsible service of alcohol.
 - **Hours of Operation:** Outlining the approved operating hours to balance the business's viability with community considerations.
- d) **Maintenance and Repairs:**
Clearly outlining the responsibilities for maintenance and repairs is vital to ensure the premises remain safe and well-maintained. Key considerations include:
 - **Regular Maintenance:** Defining the tenant's responsibility to conduct regular maintenance to keep the café and kiosk in good condition.
 - **Structural Repairs:** Clarifying the Council's role in structural repairs or upgrades to the premises and determining cost-sharing arrangements if applicable.
- e) **Utilities and Additional Costs:**
Addressing the allocation of utility costs and additional expenses will help avoid disputes and provide transparency in the financial arrangement. Considerations should include:
 - Specifying how utility payments (e.g., water, electricity) will be managed, whether they will be the responsibility of the tenant or shared with the Council.
 - Identifying any additional costs, such as waste disposal fees or licensing fees, and clearly indicating who bears these expenses.
- f) That Community Consultation be conducted in accordance with Council's Public Consultation Policy.
- g) That a report be presented to Council following the completion of the community consultation for the granting of a lease to [Tenant/ Operator Name] to table the consultation feedback for consideration.
- h) That Council authorise the Mayor and Chief Executive Officer to sign and seal all necessary documentation to complete the lease agreement based on the above parameters and community consultation outcome.

5. That the Council proceed to enter into formal leasing arrangements with the Normanville Surf Life Saving Club on non-commercial terms as a partner through the construction process and a significant funding contributor to the Normanville SLSC and Café/ Kiosk building with the lease to include the following key elements;
 - a) Purpose of Use:

The purpose of use for the leased premises should be explicitly defined to ensure that it aligns with the mission and values of the Normanville Surf Life Saving Club. Key elements to include are:

 - Surf Life Saving Operations: Specifying that the primary purpose of the premises is to support surf life-saving activities, training, and beach safety initiatives.
 - Community Services: Encouraging the Club to engage in community-focused programs, such as swimming lessons, first aid training, and environmental conservation efforts.
 - b) Lease Duration and Renewal:

Determining an appropriate lease duration is essential to provide the Normanville Surf Life Saving Club with stability and continuity in fulfilling its critical role. Consider the following options:

 - Long-Term Lease: Offering a long-term lease, such as 21 years, to provide the Club with ample time to plan and execute its initiatives effectively.
 - Lease Renewal Opportunities: Incorporating provisions for lease renewal, subject to the Club's continued adherence to its mission and objectives.
 - c) Rental Terms and Payment:

Given that the Council will be acting as a significant funding contributor, the rental terms and payment structure should be tailored to support the Club's operations while being mindful of the Council's budgetary constraints. Possible approaches include:

 - Nominal Rent: Charging a nominal rent or symbolic token amount to formalise the lease agreement and maintain the Council's legal interest in the property.
 - Rent-Free Period: Considering a rent-free period during the initial stages to ease financial burdens during the construction phase or early years of operation.
 - d) Permitted Activities and Restrictions:

To protect the integrity of the Surf Life Saving Club's activities and the public's safety, it is essential to outline permitted activities and any relevant restrictions. Key considerations include:

 - Surf Life Saving Operations: Specifying that all activities related to surf life-saving operations and public safety are permitted without hindrance.
 - Environmental Protection: Prohibiting any actions that may harm the coastal environment or disrupt local wildlife.
 - e) Maintenance and Improvements:

The responsibilities for maintenance and improvements should be clearly delineated to ensure that the premises remain in optimal condition for both safety and efficiency. Consider the following aspects:

 - Maintenance Obligations: Outlining the Surf Life Saving Club's responsibilities for day-to-day maintenance and cleanliness of the premises.
 - Capital Improvements: Addressing the process for proposing and approving significant capital improvements, with potential cost-sharing arrangements if applicable.
6. That Community Consultation be conducted in accordance with Council's Public Consultation Policy.

7. That a report be presented to Council following the completion of the community consultation for the granting of a lease to Normanville Surf Life Saving Club to table the consultation feedback for consideration.
8. That Council authorise the Mayor and Chief Executive Officer to sign and seal all necessary documentation to complete the lease agreement based on the above parameters and community consultation outcome.
9. That the Council having considered Agenda Item 8.1 – Tenancy / Lease Arrangements Normanville Surf Life Saving Club and Café/ Kiosk in confidence under Section 90(2) and (3)(a) of the *Local Government Act 1999*, resolves;
 - i. That pursuant to Section 91(7) of the Act, Attachment A presented with Agenda Item 8.1 – CONFIDENTIAL - Tenancy/ Lease arrangements Normanville Surf Life Saving Club and Café & Kiosk remain confidential and not available for public inspection until otherwise determined by the Chief Executive Officer; and
 - ii. The public be readmitted to the meeting.

Purpose

1. To seek Council’s approval to proceed with key leasing arrangements for the spaces within the Normanville SLSC & Café/Kiosk building, currently under construction.

Strategic Plan

The following Strategic Plan provisions and Four Year Focus Items are relevant:

VISION 2030
 The long term vision will be guided by five themes. The first of the four years will be shaped by 12 community priorities obtained through consultation. This is the story of the future of our district as told by over 1,000 participants during an unprecedented community engagement program.

<p>1. OUR ENVIRONMENT</p> <p>PRIORITIES:</p> <ol style="list-style-type: none"> 1. Protecting our natural environment and rural lifestyle 2. Living sustainably 3. Ensuring sensitive development 	<p>2. OUR COMMUNITY</p> <p>PRIORITIES:</p> <ol style="list-style-type: none"> 4. Providing for our children, young people and families 5. Accessing health, emergency and community services 6. Building community connections
<p>3. OUR ECONOMY</p> <p>PRIORITIES:</p> <ol style="list-style-type: none"> 7. Developing tourism opportunities for economic benefit 8. Supporting agribusiness and food production 9. Increasing job and business opportunities 	<p>4. OUR INFRASTRUCTURE</p> <p>PRIORITIES:</p> <ol style="list-style-type: none"> 10. Getting around 11. Delivering township infrastructure
	<p>5. OUR LEADERSHIP</p> <p>PRIORITIES:</p> <ol style="list-style-type: none"> 12. Demonstrating good governance

Proposal Impacts

Asset Management	✓	Environment	✓	Risk Assessment	✓
Budget/Annual Business Plan	✓	Legal Advice	✓	Service Standards	
Community Engagement	✓	Legislation/Statutory/Policies		Social	✓
Economic Growth	✓	Long Term Financial Management Plan	✓	Staff Resources	✓

Report Preparation

This report was prepared by:

Author	Time
Director Assets and Environment	9 hrs
Chief Executive Officer	7 hrs
Total	16 hrs

Discussion

2. After years of concept planning, discussions, consultation, refinement and process, the delivery of the Normanville Surf Life Saving Club (SLSC) & Café/ Kiosk building has reached a point where tenancy and occupation agreements can be secured.
3. Across 2023, the Council and Administration have worked through processes on how to achieve the best community outcome for the facility once completed with an eye on short, medium and long terms. The details of this process will be outlined further throughout the report.
4. The report focuses on two distinct leasing decisions;
 - 4.1 A commercial decision related to the choice that is before Council (and subject to presentations during the Council Meeting) regarding the commercial spaces of Café and Kiosk within the building, and
 - 4.2 the other, a community decision in relation to confirming the tenancy occupation for Council's project partner, the Normanville Surf Life Saving Club.

Normanville Surf Life Saving Club (SLSC) and the opportunities presented by the new building

5. As a community club, the Normanville SLSC makes a profound and positive impact in our community. Nestled on our picturesque coastline, this institution stands as a beacon of safety, a bastion of camaraderie, and a symbol of unity that has helped to shape the very essence of our coastal town.
6. The Normanville SLSC has, for decades, served as a community hub; ensuring the safety of beachgoers and offering invaluable life-saving services that have safeguarded countless lives.
7. As an emergency service provider, its vigilant patrols and commitment to water safety instil a sense of security and trust, allowing our residents and visitors to enjoy our pristine shores with peace of mind. The club's lifesaving activities are easily described as heroic, as its brave members selflessly and voluntarily dedicate themselves to protecting the lives of others.

8. Beyond its life-saving endeavours, the Normanville SLSC has fostered a tight-knit community that extends far beyond the shoreline. It is a place where generations of families have come together, forging lifelong friendships and memories that span the test of time. From the enthusiastic nippers learning vital life skills to the seasoned members who share their wisdom and experiences, the club has become a nurturing ground for personal growth and mateship.
9. The club's impact goes well beyond its core objectives. It has been a driving force behind various community initiatives, demonstrating its commitment to the wellbeing of our town. Whether it is promoting environmental conservation, hosting community events, or raising funds for worthy causes, the Normanville SLSC has always been at the forefront of contributing positively to our community's growth and prosperity.
10. With the new Normanville SLSC & Café/Kiosk building currently undergoing construction, the future holds even greater promise for our beloved coastal community. The old structure (now removed) has given way to a new and iconic destination that is set to captivate residents and tourists alike.



11. This redevelopment will undoubtedly elevate the club's allure, breathing new life into the heart of our town and, as anticipated through Council's Economic Development Strategy, revitalising local businesses and tourism in the process.
12. With the impending completion of the new building, the SLSC will be housed within this exciting showpiece of contemporary architecture, a symbol of progress, and a focal-point that draws visitors from far and wide.
13. Thanks to the partnered funds received from the Federal Government, the State Government (through Surf Life Saving SA) and from the Club itself, when combined with the investment from Council, the striking design and modern amenities of the new SLSC building will elevate its status as an iconic destination and further solidify Normanville's reputation as a cherished gem on the South Australian coast.
14. As the new building rises, so too will the prospects for local businesses. With the anticipated increased foot traffic, the increase of tourists at the upgraded Big4 Normanville Jetty Holiday Park and a heightened interest from visitors, neighbouring establishments are likely to experience a surge in economic opportunities. The

leasable spaces of the café and kiosk, once tenanted, will play a central role in this transformation, providing an inviting space for beachgoers and creating a gathering point for residents and tourists alike.

15. As the Council progresses the commercial arrangements for the building, respectful progress and negotiations need to occur with our project partner, the Normanville SLSC. Recognition of the club's investment into a building made in good faith and ahead of a formal lease agreement is a testament to the commitment of the Club.
16. Collaborating with the prospective commercial tenants, who are anticipated to be experienced and community-focused operators, the Council has a unique opportunity to further augment the club's offerings, fostering an even stronger sense of belonging and unity among our residents and visitors.
17. The proposed café and kiosk, designed to complement the SLSC's mission of creating a safe and welcoming environment, will not only cater to culinary delights but will also serve as a social hub, strengthening bonds and nurturing cherished connections. This addition aligns with Council's strategic objectives and fits seamlessly with the club's core values, upholding its legacy as a cherished community institution.
18. The Normanville Surf Life Saving Club and Café/ Kiosk building is not simply a structure by the beach; it is an embodiment of our community's strength, compassion, and resilience. Its legacy runs deep, touching the lives of countless individuals, and its continued growth and prosperity are our shared responsibility. By endorsing this report and the recommendations therein, Council reaffirm its commitment to preserving the spirit of community, safety, and camaraderie that the Normanville SLSC embodies.
19. Since early in 2023, the Council has diligently mapped out and followed a rigorous selection process to identify tenant/operators who can effectively manage the diverse range of facilities offered through a commercial lease while prioritising the prompt establishment of the café and kiosk tenancies. The chosen approach aims to ensure profitable trading, positive returns, minimal risk of financial loss, minimal reputational damage, and sustained positive relationships with the SLSC.
20. Council Executive Leadership team understand the critical importance of transparency, efficiency, and strategic decision-making in selecting operators for the Café and Kiosk tenancies in the newly reconstructed Normanville SLSC building. Below is an overview of the process which has been meticulously developed to reach Council decisions on preferred commercial tenants, ensuring that these choices align with the vision and expectations for the future operations of the building.

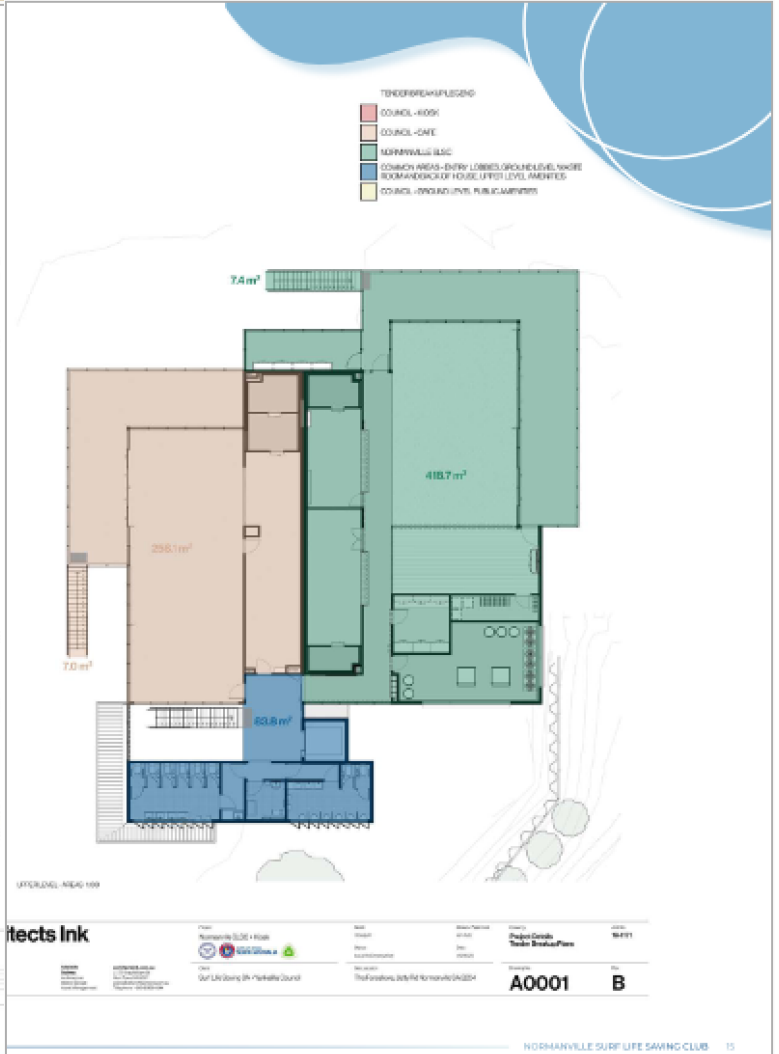
Commercial Leasing Process

21. Engagement of Savills Real Estate
 - 21.1. In February 2023, an Expression of Interest (EoI) process was undertaken to engage a qualified commercial real estate agent to assist with commercial leasing of the Café and Kiosk spaces.
 - 21.2. Savills Real Estate was selected as Council's partner to source, assess, and confirm tenants for the Café and Kiosk and to work on key elements of commercial leases for those spaces. Their expertise and experience have been instrumental in attracting suitable candidates for these coveted tenancies.
22. Elected Member Briefing Session
 - 22.1. In April 2023, an Elected Member Briefing Session was conducted, featuring a presentation by Savills together with Q&A opportunities to ensure a shared

understanding of the vision and expectations for the SLSC building's future operations. This collaborative approach facilitated alignment between Council and its real estate agent on the desired outcomes.

23. Expression of Interest and Marketing Process

23.1. Armed with the insights from the briefing session, Savills prepared the Expression of Interest (EoI) and marketing materials. The marketing process commenced in early June and concluded in early July with the monthly CEO Update Report and monthly Major Projects Report to Council providing regular updates and insights, including copies of the marketing materials and timelines.



24. Formation of the Recommendation Panel

- 24.1. In May 2023, the CEO proposed the establishment of a 'Recommendation Panel' to assist the Council in navigating the complex considerations involved in selecting preferred tenants.
- 24.2. This governance structure was then recommended by the Audit & Risk Committee and adopted by Council in May 2023.
- 24.3. The Panel's role has been to review and assess submissions and to make recommendations to Council on preferred tenant/s for the key commercial spaces.
- 24.4. The Recommendation Panel members included; Savills Real Estate representatives, Mayor Houston, Deputy Mayor Moffat, the CEO and responsible Director of Council as well as local non-resident ratepayer and independent advisor Amanda Blair. The authors of this report take this opportunity to thank Amanda Blair for her commitment to the process, for her insights, her passion, her candour and for her volunteering her time to input to this critical decision.

25. Extended EoI Process

- 25.1. Given the substantial interest through the EoI process but minimal formal submissions lodged nearing the end date, the EoI process was extended on Savills' advice.
- 25.2. Some prospective tenants found the paperwork requirements for an open process with a Local Government Authority as the 'landlord' more onerous than expected. The extended process concluded on 4 July 2023.

26. Recommendation Panel Meeting

- 26.1. On 18 July 2023, four (4) full submissions for the Café and Kiosk tenancy (all as combined offerings) were distributed to the Recommendation Panel Members.
- 26.2. A Recommendation Panel Meeting was held on Monday 24 July 2023 to consolidate individual assessments and prepare a joint recommendation to Council.
- 26.3. The four submissions received were from; Black Bear Tower, Kenton Day, Buick Holdings and Stock & Kamleh. All submissions demonstrated some strengths and were put to the Panel for a detailed discussion.
- 26.4. Across a 2.5 hour meeting, the panel deliberated and discussed all submissions and formed the view that the best step forward was to recommend that the top 2 candidates to present to the full Council.
- 26.5. Whilst the panel was authorised to provide a single recommendation, given the complexity of the submissions and the passion of the lead candidates, it was felt that consideration and questioning from the full Council on both lead submissions was the best next step.
- 26.6. A 'Sensitivity Analysis Form' was developed between Savills and key Council staff to assist in the objective assessment of the submissions received. Criteria are attached below;

Item	[COMPANY] [NAME]		
		Secondary Business Driver	5
Financial Capability	5	Community Connectedness	5
Experience/Credentials	5	Approach to Sustainability	5
Reputation	5	Aligning with Council Values	5
Capital Investment	5	Innovative <u>and Creativity</u>	5
<u>3-yr Revenue</u> Forecasting	5	Responding to Challenges (e.g., staffing & seasonality)	5
Rental Expectation & Ability to Pay	5	Total	70
Appeal of Menu & Pricing	5		
Tourism Value & Local Appeal	5		

- 26.7. Through the Panel meeting, the group formed the view that the submissions from; Buick Holdings and from Steve Finlayson (Black Bear Tower), whilst each having some strengths and representing good local interest, the Panel determined not to recommend either party to progress to presentations to Council.
- 26.8. The Buick Holdings submission was carefully reviewed by the Panel, however, it was found that the submission lacked important details, a clear vision, a strong financial background information, and specific details regarding the offer. As a result, the submission was ultimately considered inadequate when compared with its competition and was the first submission selected to not proceed further.
- 26.9. The Council's main concern as landlords should be to ensure that the selected cafe/kiosk tenant has a well-defined vision, a target market in mind, and a sustainable business model. The lack of necessary details in the Buick Holdings submission acted as a significant deterrent in the evaluation process.
- 26.10. Analysis of the Black Bear Tower submission, which had provided all the requirements outlined in the Expression of Interest (EoI) guidelines was ultimately (after extensive discussion) determined to not represent the same level of opportunity that was proposed by the other remaining submissions and the Panel determined to conclude consideration of that submission without it being progressed to the full Council.
- 26.11. In relation to that submission, the panel formed the view that the proposal fell short in reflecting a unique sense of place; something that other candidates were able to capture more readily. The financial 'offer' was unclear when compared with other candidates and whilst some strengths existed in relation to the breadth and strength of the overall business (which the Café and Kiosk would be connected to) was a value-add, the draft menu was a little short on imagination in comparison.
- 26.12. The top two (2) candidates of; Kenton Day and Stock & Kamleh were selected by the recommendation panel to progress further in the process. Both of these submissions provided energy, excitement and vision and it was clear that considerable effort had been made in making a strong submission.

- 26.13. Highlights of both submissions included; demonstrated ability to deliver great customer experiences, vision, positivity towards creating an iconic experience, desire to connect to and support the community and to work with the SLSC to ensure mutually beneficial activation and outcomes for the site.
- 26.14. Both submissions also outline their demonstrated ability to consistently deliver exceptional customer experiences, which aligns perfectly with the Council's goal of enhancing the overall appeal and quality of offerings at the location. Moreover, their profound knowledge of business activity within the Fleurieu Peninsula reflects a keen understanding of the local market dynamics, fostering a promising foundation for their respective ventures.
- 26.15. Notably, the strong emphasis on community engagement featured prominently in both submissions. Both Kenton Day and Stock & Kamleh expressed a genuine eagerness to forge meaningful connections with the community, recognising the importance of integrating their establishments into the fabric of the local culture. Additionally, their willingness to collaborate with the Surf Life Saving Club (SLSC) in mutually beneficial activation initiatives reflects a conscientious approach to enhancing the site's appeal and generating positive outcomes for all stakeholders.
- 26.16. It is evident that both Kenton Day and Stock & Kamleh invested considerable effort in crafting robust and impressive proposals that stood out among the pool of applicants.
- 26.17. Overall, the Council finds itself in a highly advantageous position with these top two candidates, as both Kenton Day and Stock & Kamleh offer exceptional opportunities for not only the broader community but also for Council's benefit.
- 26.18. The authors of this report (and the Recommendation Panel members) express gratitude to all applicants who participated in the expression of interest process, as each submission contributed to a thorough and rigorous assessment of the tenancy opportunity.
- 26.19. While the decision was undoubtedly challenging, the Panel is confident that the chosen candidates will breathe new life into the site and create a dynamic and engaging space that enriches the community's experience and fosters a sense of pride for all involved parties.
27. Special Meeting of Council
- 27.1. A Special Meeting of Council is scheduled for the morning of 1 August 2023 to progress to a selection of a lead candidate to enter into lease negotiations with.
- 27.2. During the Special Council meeting, the top 2 candidates will separately present through a confidential session, their vision and plans to Council, followed by a confidential Q&A session with Elected Members. Savills agents will attend to provide input and respond to questions regarding what tenants would expect to see in the proposed tenancy agreements. **Refer Attachment A** (Stock and Kamleh) and Attachment B (Kenton Day) for candidate submissions.

Council Decision and Direction

28. Following the presentations and discussions to occur in Confidence at the Special Council Meeting of 1 August 2023, Council is asked to reach a decision on a preferred tenant and to support a number of key lease terms, inclusions, and exclusions. Savills have provided advice on industry norms and what is reasonable for agreements of this nature, ensuring informed decision-making. This advice is detailed below:

Lease Inclusions – Commercial Lease

1. No Sub Leases
2. Liquor license obligations
3. Signage and Advertising
4. Waste Management and Utilities
5. 5+5+5 years - *Note that only leases or licenses for less than 5 years can be granted in accordance with the adopted community land management plan without further community consultation. Leases or licences for more than 5 years (including any renewals) must be consistent with the relevant community land management plan and Council must follow the relevant steps set out in its public consultation policy and consult with the community.*
6. It is important to note the lease fees previously charged by Council from the former Café/Kiosk Operators at the Normanville Foreshore are detailed below:
 - Main Lease (Café) - \$3,410.25 per month
 - Container Lease (Kiosk) - \$600.00 per month

Rent Comparisons

A base line comparison (from other comparable establishments) to determine fair market rental for the Normanville project is detailed below:

- Example 1 - Oceanique Lease at Adelaide Sailing Club West Beach

Lessee is currently paying \$80,000 p/a Gross Rental plus a bonus rental at 10% of rental above a turnover threshold bar which currently sits at circa \$1.3 million. Rent is adjusted by fixed increase each year and a market adjustment at renewal. The turnover rent bar is adjusted at the same rate so it remains market relevant.
The turnover sits at similar levels to those proposed by current considered candidates.
- Example 2 - Mount Lofty Summit Café

Lessee pays circa \$60,000 p/a plus GST plus outgoings and similar in that it is a destination based operation and achieves a very similar turnover to that proposed by current considered candidates.

Lease inclusions – Community Lease (SLSC)

1. No Sub Leases
2. Liquor License obligations
3. Signage and Advertising
4. Waste Management and Utilities

5. Lease duration 21 years (in recognition of the capital investment in the building of the facilities), noting that a lease of this tenure is subject to outcomes of Community Consultation.
 6. Exempt from Council Rates
29. Consideration for SLSC Agreement is naturally different to the consideration of the commercial lease arrangements for the Café and Kiosk.
 30. It is noted that with the SLSC floor plan showing a kitchen and bar area, the agreements need to be structured for mutual benefit and not to create favourable conditions for one party that could be to the exclusion or disadvantage of the commercial tenant. This is where the inclusions and exclusions are important.
 31. Savills have considered the balance across the building and the different tenancy arrangements that should be proposed and have outlined how equity is achieved by the Surf Life Saving Club being treated on 'non-commercial' terms.
 32. With the Club having collaboratively designed their floorspace with Council across several years in the lead-up to construction and now delivering in partnership through an arrangement outlined in the Council-endorsed Development Agreement, a direct negotiation on non-commercial terms is appropriate.
 33. This direct negotiation will involve matters such as annual contribution, final fitout details, the appropriateness of sub-leasing (if at all), together with shared obligations for activation across all tenancies before legal agreements are drafted.

Previous arrangements – Commercial Tenants of Café & Kiosk

34. Lease and other applicable fees previously received by Council from the Previous Café & Kiosk Tenants prior to the closure and demolition of the previous building are detailed below:
 - Term of Lease: Five (5) Years commencing 23 November 2015 and extended such that the current term will expire on 31 December 2021 together with a further right of renewal. Together with three (3) rights of renewal of five (5) years
 - Premises: That portion of the certificate of title volume 5932 Folio 811 known as the esplanade marked café A and Veranda B in the plan annexed to the lease
 - Trading Hours:
 - Summer – October 1 to 30 April. Monday to Sunday 8:00am to 8:00pm
 - Winter – 1 May to 30 September. Monday to Sunday 8:00am to 4:00pm
 - Temporary usage license: Lessor grants the lessee a license to use the area described as "Service Area" for storage of two shipping containers.
 - Fees and Charges: Main Lease (Café) - \$3,410.25 per month. Container Lease (Kiosk) - \$600.00 per month

Previous arrangements – Surf Life Saving Club

35. Lease and other applicable fees previously received by Council from the SLSC prior to the closure and demolition of the previous building are detailed below:

- Period: Five (5) years commencing 1 July 2014 and ending 30 June 2019 (subject to an early termination clause).
- Extension: The user may extend the period by three (3) extensions of five (5) years (subject to an early termination or extension this agreement may allow).
- Public Liability Insurance: \$20,000,000 at the users cost.
- Building Insurance: Included in Councils insurances and reimbursed by the User.
- Councils Fixtures: Club Rooms / Sheds / Fences / Paved or Concretes areas now upon the premises.
- Security: Nil
- Annual Fee (Rent): \$1 (before GST) (If demanded) per 12 months (subject to review on 1 July of each year of the period, and during the negotiation period.
- Councils Outgoings: The User is liable for outgoings including rates, taxes and other holding costs in respect of the premises and the land (being 100% of the total payable for the whole of the premises comprised in this agreement), during the occupation right payable on demand.

36. It is noted that the only invoice issued to the Normanville Surf Life Saving Club during this period was for the reimbursement of water usage.

37. The above precedent is considered important as part of establishing a new agreement moving forward directly with the Normanville SLSC.

Community Organisations

38. Community clubs, such as the Normanville Surf Life Saving Club (SLSC), hold a unique and cherished place in our society, driven by a primary objective: to serve and uplift the community they belong to. As an emergency service provider, this distinctive purpose calls for differentiated lease arrangements and fees when compared to commercial operators, as the core theme of community benefit takes precedence in their operations.

39. Surf Life Saving is the largest volunteer organisation in of its kind in Australia. As part of a not for profit movement, the Normanville SLSC exists only through community donations, fundraising and corporate sponsorship.

40. Normanville SLSC currently has 250 members including 670 juniors. Members volunteer their service to patrol the beach on weekends and public holidays from October to April.

41. The Normanville SLSC provides essential educational and emergency services for patrons of Normanville and surrounding beaches. Normanville SLSC is part of the state emergency response group working in collaboration with other emergency services year-round.

Financial contribution to project

42. The Original Budget for the Surf Club was \$3,500,000 (in early negotiations ahead of final design, development approval and tenders) and was agreed to be distributed as follows;

- 33% funded by Council = $\$3.5\text{M} \times 33\% =$ \$1,155,000
- 56% funded by SAFECOM = $\$3.5\text{M} \times 56\% =$ \$1,960,000

- 11% funded by NSLSC = \$3.5M x 11% = \$385,000
- TOTAL \$3,500,000

43. Additional funding was then approved by Council at its meeting in September 2022 to align with the realities of the tender pricing which effectively brought the total budget up to \$4,596,217 for the Surf Life Saving components of the building as outlined below.

43.1. Surf Club components of the building

- Council funding \$1,821,817
- SAFECOM funding \$2,319,000
- Normanville SLSC contribution \$455,400
- TOTAL: \$4,596,217

Project description	Budget approval timeline				Funded by			TOTAL
	2020-21	2021-22	2022-23	2023-24	Council Contribution	SAFECOM	Normanville SLSC	
Normanville Surf Club	\$ 3,500,000				\$ 1,155,000	\$ 1,960,000	\$ 385,000	\$ 3,500,000
Normanville Surf Club	\$ -		\$ 726,400		\$ 297,000	\$ 359,000	\$ 70,400	\$ 726,400
Normanville Surf Club	\$ -	\$ -	\$ -	\$ 369,817	\$ 369,817			\$ 369,817
					\$ 1,821,817	\$ 2,319,000	\$ 455,400	\$ 4,596,217
					39.6%	50.5%	9.9%	

43.2. Café / Kiosk components of the building

- Council Funding \$1,987,217 (100% of those building components)

Project description	Budget approval timeline				Funded by			TOTAL
	2020-21	2021-22	2022-23	2023-24	Council Contribution			
Normanville Café / Kiosk	\$ 1,600,000		\$ 387,217		\$ 1,987,217			\$ 1,987,217

44. What this confirms is that the State and Local Surf Life Saving bodies have funded a significant portion (60%) of this community asset which needs to be respected in any discussions relating to financial contributions from the SLSC going forward.

45. For simple comparison purposes, it is noted that other emergency services that operate from Council assets or sites across the District and include; the Yankalilla CFS and the Inman Valley CFS as well as the Cape Jervis CFS. The annual financial contributions agreed by Council for those facilities are as follows:

- Yankalilla CFS - \$1 per annum (if demanded)
- Inman Valley CFS - \$1 per annum (if demanded)
- Cape Jervis CFS - \$1 per annum (if demanded)

Resolution and Progression

46. From the Special Meeting discussions, recommendations are proposed to progress to a commercial lease with a preferred Café & Kiosk tenant and to also to progress a general lease (or license to occupy) directly with the Normanville Surf Life Saving Club, laying the foundation for a successful and mutually beneficial partnership for years ahead.

Conclusion

47. Through following a sound decision making process and after a comprehensive review of the proposals received from interested tenant/operators, the Council's review panel recommended hearing from the top 2 candidates of; Kenton Day and Stock & Kamleh.
48. After hearing from these parties in relation to their offer and their vision, the Council is invited to select a preferred candidate to progress a Commercial Lease arrangement with for the Café and Kiosk elements of the overall Normanville SLSC & Café/ Kiosk building.
49. The exceptional experience of the top 2 candidates, together with their sound financial position, vision, community-oriented approach, and robust risk management strategies make either candidate well-placed for success for this venture.
50. The Council is also asked to progress direct negotiations with the Normanville SLSC in regards to an ongoing tenancy arrangement for them as a community tenant.
51. Consideration has been given to proposed key elements of the Commercial and the Community Lease arrangements; many of which are outlined as desirable negotiation points for each agreement.