

NOTICE OF MOTION - TALUS STREET RESERVE LEASE

RESPONSIBLE OFFICER: DEBRA JUST – GENERAL MANAGER

AUTHOR: DEBRA JUST – GENERAL MANAGER

CITY STRATEGY LINK: 6.1.1 A COUNCIL THAT IS OPEN, ACCOUNTABLE AND REPRESENTS ITS CONSTITUENTS

MEETING DATE: 12 FEBRUARY 2018

1. PURPOSE OF REPORT

Councillor Saville has indicated her intention to move the below Notice of Motion.

2. OFFICER'S RECOMMENDATION

That Council consider the Notice of Motion from Councillor Saville.

3. MOTION

That councillors be provided:

- a) a legal briefing on the chronological history
- b) advice that the new lease is lawful and complies with the principles of the Brereton judgement 2016
- c) Receive advice from an eminent barrister as to council's exposure regarding the Aboriginal Land Claim.

4. BACKGROUND

None provided as yet.

5. GENERAL MANAGER'S COMMENTS

The following comments relate to the Notice of Motion from Councillor Saville as it relates to Item 17.2 "Expression of Interest – Talus Street Reserve" considered by Council at its meeting on 13 November 2017. At that meeting, Council resolved:

That Council:

1. Endorse the Expressions of Interest and draft lease documents for the Talus Street Reserve Tennis Complex, Naremburn.

2. Approve the issuance and advertisement of the Expression of Interest for the operation of tennis and / or related recreational activities at the Talus Street Reserve Tennis Complex, Naremburn.

Councillor Saville sought to raise a motion at the 13 November 2017 meeting identical to this Notice of Motion. At the meeting, verbal advice was provided to the Council that addressed the points raised. That advice follows below.

Each of the three component parts is discussed in turn.

a) A legal briefing on the chronological history.

Councillors can have access to briefing materials to date. A chronological overview of the Talus Reserve would relate largely to the 2013 proceedings. These proceedings have however, reached a process of negotiated settlement.

b) Advice that the new lease is lawful and complies with the principles of the Brereton judgement 2016.

The new lease is lawful and complies with the principles of the Brereton judgement. The Brereton advice said that the lease needed to be in accordance with the Plan of Management for the Reserve and that it needed to guarantee public access to the Reserve, such as for example that you didn't need to be a member of the club to access the Reserve. The lease that was put to the Council on 13 November 2017 for the EOI process, and which will come back to Council for further consideration, does meet those requirements.

Justice Brereton only made one court order: that the Talus Trust would not be justified in giving its consent to or seeking or obtaining the minister's consent to the proposed sublease from the Talus Reserve to Love 'N Deuce Pty Ltd. That order does not relate to a new lease.

c) Receive advice from an eminent barrister as to council's exposure regarding the Aboriginal Land Claim.

Council has received advice on the land claim which has been shared with the Councillors previously. Council is required as the Reserve Trust Manager to manage Talus Reserve under the Crown Lands Act. Any action that relates to Aboriginal land claims has a separate process under another Act. Our obligation and duty now is to continue to prosecute our responsibilities under the Crown Lands Act.

At its meeting held on 27 November 2017, Council endorsed the inclusion of late advice from the Department of Industries that resulted in the additional clause being inserted into the EOI for the lease. It acknowledged that the Talus Reserve was the subject of an Aboriginal land claim and a resultant 3 year lease period.

<<Insert Link Here >>