

10. 7. 2008

**REPORT BY THE CHAIRPERSON OF THE
SPREYDON/HEATHCOTE COMMUNITY BOARD
4 JULY 2008**

PART A - MATTERS REQUIRING A COUNCIL DECISION



1. REDCUP 2007 LIMITED - LEASE

General Manager responsible:	General Manager Community Services, Michael Aitken DDI 941-8986
Officer responsible:	Libraries & Information Manager
Author:	Bill Binns, Property Consultant

PURPOSE OF REPORT

1. The purpose of this report is to seek the Council's approval for the:
 - (a) Surrender of the existing lease with Redcup 2007 Limited.
 - (b) Entering into a new lease with Choffy Limited.
 - (c) Corporate Support Manager to be given delegated authority to approve the new lease.

EXECUTIVE SUMMARY

2. The current tenant (Redcup 2007 Limited) has decided to move on and rather than assign the lease to a specific party they decided to tender the remainder of the term of the lease. (Three years with the lease expiring on 22 August 2011.)
3. A director of Redcup 2007 Limited has advised that a successful tenderer has been found (Choffy Limited) who he feels meets the Council's criteria.
4. As the existing lease has only three years to run, the Property Consultancy Manager is recommending that the current lease is surrendered by Redcup 2007 Limited and that a new lease is entered into with Choffy Limited.
5. The reasons behind this recommendation are twofold:
 - (a) In the normal course of events the existing lease would run until expired on 22 August 2011. At that point the Council would tender a new lease which would cost the Council time and money. By tendering the lease, Redcup have saved the Council this expense and this meets the Council's objective in terms of publicly notifying that a lease is available.
 - (b) With the surrender of the current lease the Council is in a position to review the terms and conditions and make appropriate changes. By engaging in this process the lease would be updated to meet current commercial conditions.
6. The successful tenderer is Choffy Limited whose directors are Elizabeth Symons and Peter Lord who have experience in setting up and operating a restaurant. On checks carried out by staff the Directors would meet the requirements under the terms and conditions set out in the current Auckland District Law Society Deed of Lease. The Directors will also provide personal guarantees.
7. It is proposed that once agreement is reached, the Council enter into a lease on the following terms:
 - (a) A term of three years with three rights of renewal of three years, a right to be exercised by the Tenant.
 - (b) Rent reviews will be carried out every three years.
 - (c) A base rent will be \$18,000 per annum plus GST.

FINANCIAL IMPLICATIONS

8. The Revenue from the rental will increase from current levels by \$1,780 per annum plus GST.
Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?
9. Yes the recommendations are in alignment with the budget.

LEGAL CONSIDERATIONS

10. The first consideration is that Redcup 2007 Limited meet all of its obligations before the surrendering of the lease. Second, that Choffy Limited agree to the terms and conditions of the new lease.

Have you considered the legal implications of the issue under consideration?

11. Provided that the provisions in 10 are met all implications have been considered.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

12. Yes.

Do the recommendations of this report support a level of service or project in the 2006 LTCCP?

13. Yes.

ALIGNMENT WITH STRATEGIES

14. Yes.

Do the recommendations align with the Council's strategies?

15. Yes.

CONSULTATION FULFILMENT

16. As mentioned in Clause 5(a) the obligation of Public notification by tendering has been met by the process followed by Redcup 2007 Limited.

STAFF RECOMMENDATION

It is recommended that the Council:

- (a) Consents to the surrender of the existing lease with Redcup 2007 Limited provided that they have met all their company's obligations under the lease.
- (b) Agrees to a new lease to replace the surrendered one, on terms and conditions negotiated between the Council and Choffy Limited.
- (c) Agrees that personal guarantees be provided by the shareholders and directors of Choffy Limited.
- (d) Agrees that Redcup 2007 Limited and Choffy Limited meet all costs associated with the lease surrender and drawing up the new lease.
- (e) Agrees that the Corporate Support Manager be given delegated authority to approve the new lease.

SPREYDON/HEATHCOTE COMMUNITY BOARD

The Spreydon/Heathcote Community Board considered this report at its meeting held on Friday 4 July 2008.

BOARD RECOMMENDATION

That the staff recommendation be adopted.

**Phil Clearwater
CHAIRPERSON**