



## REPORT BY THE CHAIRPERSON OF THE SPREYDON/HEATHCOTE COMMUNITY BOARD

### PART A - MATTERS REQUIRING A COUNCIL DECISION

#### 1. ASSIGNMENT OF LEASE (RED COFFEE LIMITED) TO MARTIN SISSON TRADING AS RED CUP 2007 LIMITED

<b>General Manager responsible:</b>	General Manager Human Resources, DDI 941-8548
<b>Officer responsible:</b>	Libraries & Information Unit Manager
<b>Author:</b>	Bill Binns, Property Consultant

#### PURPOSE OF REPORT

- The purpose of this report is to seek the Council's approval to the Assignment of the Deed of Lease from Red Coffee Limited at the South Christchurch Library Café to Martin Sisson and Brian Johnson, trading as Redcup 2007 Limited.

#### EXECUTIVE SUMMARY

- The Council is obliged to consent to the assignment as per clause 35 of the Deed of Lease which is covered in the background section of this lease.

#### FINANCIAL AND LEGAL CONSIDERATIONS

- The assignor (Red Coffee Limited) and Martin Sisson and Brian Johnson trading as Redcup 2007 Limited have fulfilled their contractual obligations with the Council. Therefore, consent to the assignment of the lease and agreement to lease cannot be arbitrarily or unreasonably withheld.

#### BACKGROUND ON THE ASSIGNMENT OF LEASE (RED COFFEE LIMITED) TO MARTIN SISSON TRADING AS RED CUP 2007 LIMITED

- In May 2005 the Council (the landlord) agreed to the assignment of the lease to Red Coffee Limited (the tenant).
- The lease is to be for an area of 101.38 m<sup>2</sup> being part of the land contained in certificates of title 241/117, 7B/666 and 7B/589 (Canterbury Registry).
- The initial term of the term of the lease was for two years commencing on 23 August 2003; with rights of renewal on the second and fifth anniversaries of the commencement date. Each renewed term is to be for three years, with the final expiry date eight years after the commencement date (22 August 2011) at which time the lease will be re-tendered.
- The tenant has requested the landlord's consent to the assignment of the lease to Redcup 2007 Limited.
- The assignment provisions of this lease are typical in terms as set out in the Auckland District Law Society lease document that is used by the Council. The Council is required to consent to an assignment if:
  - The proposed assignee is respectable, responsible and has the financial resources to meet the tenant's commitments under the lease. The current rent is \$16,720.80 per annum plus GST.
  - All rent has been paid and there are no other breaches of the tenant's covenants under the lease at the date of assignment.
  - The assignee enters into a Deed of Covenant in a form acceptable to the Council.
  - Where the assignee is a company, the company's obligations are guaranteed by the principal shareholder of that company, and if required by the Council, the directors of the company.

- (e) The assignee pays the Council's costs and disbursements in respect of the preparations and stamping of any Deed of Covenant of guarantee.
- 9. The assignor has fulfilled the obligations under the lease and agreement to lease to satisfy the assignment conditions above.
- 10. In summary:
  - (a) The assignee, Redcup 2007 Limited, is a New Zealand registered company.
  - (b) Its directors and shareholders are Brian Leslie Johnson, WF Trustees Limited and Martin John Sisson.
  - (c) The shareholders will advance personal funds to the company.
  - (d) A cash flow forecast for the year has been provided by the Redcup 2007 Limited's accountants.
  - (e) They have relevant skills with a good business background and some specific restaurant experience. Mr Martin Sisson is known to the Council as he leased the former Stags Head Inn in Clarence Street which is now trading as Robbie's Bar & Bistro. Whilst he was a tenant he traded successfully and met all obligations under the Deed of Lease.
  - (f) The directors/shareholders will provide personal guarantees.

#### **STAFF RECOMMENDATIONS**

It is recommended that the Council:

- (a) Agree to the assignment of the Deed of Lease of the café situated at the South Christchurch Library from Red Coffee Limited to Redcup 2007.
- (b) Require the vendor and purchaser to meet all the costs relating to the assignment of the lease and agreement, as agreed between the parties.

#### **BOARD'S RECOMMENDATION**

That the staff recommendations be adopted.