

Right of renewal and rent review - Enterprise Whangamata Incorporated

TO Whangamata Community Board
 FROM Jan McNeil - Property Officer
 DATE 19 June 2018
 SUBJECT **Right of renewal and rent review - Enterprise Whangamata Incorporated**

1 Purpose of report

For consideration to recommend to Council to approve a right of renewal and rent review between the Thames-Coromandel District Council (Council) and Enterprise Whangamata Inc. (EWI), for the premises located on part 616 Port Road, Whangamata.

2 Background

EWI was certified as an incorporated society under the Incorporated Society Act 1908 on 10 June 2008.

The current lease with EWI commenced 1 July 2015 in accordance with the following abridged resolution dated 5 August 2015.

Resolved

That the Thames-Coromandel District Council:

1.
2.
3. *Approves a new lease between the Thames-Coromandel District Council and the Enterprise Whangamata Incorporated over part of the land and buildings described as Lot 1 DPS656 CFRSA1255/18 being local purpose reserve, located at 616 Port Road, Whangamata on the following terms;*
 - Term:** 2 years
 - Commencement:** 1 July 2015
 - Right of Renewal:** 1 of 2 years 364 days (subject to the Tenant securing a contract with the Landlord)
 - Renewal Dates:** 1 July 2017
 - Final Expiry:** 30 June 2020 (if right of renewal exercised)
 - Rental:** \$350 + GST plus outgoings + GST per annum
 - Rent Review:** 1 July 2018
4. *Notes that the rent set in the lease for Enterprise Whangamata Incorporated is inconsistent with Council's Lease Policy and further notes that the Lease Policy is scheduled for review in the coming year.*

Moved/seconded by: Wells/ Bartley

3 Issue

EWI has confirmed they wish to exercise their lease right of renewal with the rent review due on renewal. Recommendation to Council to approve is required.

4 Discussion

Right of Renewal

Retrospective right of renewal is being progressed, given it was due 1 July 2017, however it is subject to Council approving the funding agreement between EWI and Council. If for any reason the funding agreement is not consistent with the right of renewal term, then subsequently the lease right of renewal period will reflect the funding agreement term.

Rent Review

The current rent paid by EWI is \$350.00 + GST per annum.

Rent review is due 1 July 2018 to market rent, subject to and in accordance with any prevailing Council policy relating to leases. The 'Leases and Licence to occupy Policy' (Policy) has been reviewed and comes into effect on 1 July 2018.

In accordance with the Policy for EWI to meet a community organisation status EWI must be an incorporated society, a club, or a registered charity. As outlined above EWI was incorporated under the Incorporated Society Act 1908 on 10 June 2008 (**Attachment A**). It is the Property Team's view that EWI meets the criteria of a community organisation, therefore qualifying for an annual rental of \$350.00 + GST per annum.

An incorporated society is a non-profit organisation. The Incorporated Societies Act 1908 specifies that a society must not undertake activities for financial gain. This is confirmed in clause 24 of EWI rules registered on the Incorporated Societies Register.

Given the above the following resolution is suggested.

5 Suggested resolution(s)

That the Whangamata Community Board:

1. Receives the 'Right of renewal and rent review - Enterprise Whangamata Incorporated', report, dated 19 June 2018.
2. Recommends to Council to approve a right of renewal of lease between the Thames-Coromandel District Council and Enterprise Whangamata Inc. for a period to align with the funding agreement term, which is also subject to Council approval under a separate report.
3. Recommends to Council to approve the annual rental for \$350.00 plus GST as a community organisation, in accordance with the Lease and Licences to Occupy Policy, effective from 1 July 2018, subject to the funding agreement being approved by Council.

References-tabled/Agenda attachments

Attachment A *Certificate of Incorporation*

Attachment A - Certificate of Incorporation