

3.2 CULTURAL RECREATION LAND ACT (CRLA) POLICY REVIEW (DW:F18-2206)

Responsible Director: Danny Wain

EXECUTIVE SUMMARY

At its meeting on 31st October 2017, Council considered a Notice of Motion from Crs Lake and Fergeus proposing a review of the Cultural and Recreational Lands Act (CRLA) Policy. This report advises the findings of that review.

PURPOSE

Council, has previously considered nine (9) properties eligible to be charged under the Cultural and Recreational Land Act 1963 (CRLA). The CRLA requires that Council undertake a separate process for the purpose of setting a charge 'in lieu of rates' for each CRLA property. CT Management Group (CT) were provided a brief, based on the Council resolution, to undertake this review and consultation with the CRLA clubs and undertake benchmarking of the CRLA Policy with similar councils. .

FINANCIAL IMPLICATIONS

The proposed changes, if adopted, will have minimal impact on Council's rate setting for 2018/19. However, will change the rating status of several Clubs. This report provides options to minimise financial hardship the changes may impose on Clubs.

CONCLUSION/RECOMMENDATION

This report recommends adopting an updated CRLA policy and endorse the current discount for Clubs that retain CRLA status. However also notes that the following Clubs, as from 1 July 2018, do not qualify for CRLA rating status and therefore will be rated under the provisions of the *Local Government Act 1989*;

- Victorian Homing Association Inc;
- Mulgrave Country Club;
- Oakleigh Rifle Club Inc.; and
- Oakleigh and Caulfield District Angling Club

It also recommends a waiver of rates (up to the current CRLA discount) for

- Victorian Homing Pigeon Association;
- Oakleigh Rifle Club Inc.; and
- Oakleigh and Caulfield Districts Angling Club.

It also recommends Council owned leased properties, used exclusively for outdoor recreation use (including ancillary buildings) also be rated for CRLA with provision for amending lease arrangements to ensure status quo on charges.

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RECOMMENDATION

That Council, in relation to the Cultural Recreation Lands Act 1963:

- 1) *Endorses the revised Cultural Recreation Lands Policy (CRLA Policy) incorporating;*
 - a) *retaining the current discount for;*
 - the Riversdale Golf Club, Metropolitan Golf Club and Huntingdale Golf Club – and the clubs be advised that Council is agreeable to discussions regarding an agreement (to apply from 2019/20) which may provide for;*
 - (i) *a greater/lesser discount subject to the clubs meeting conditions which may include increased community benefit, recognition of the economic benefit to the local area, local purchasing, social procurement and profile/branding for the Council;*
 - (b) *retaining the current discount for;*
 - (i) *Glen Iris Valley Recreation Club; and*
 - (ii) *Hawthorn Football Club Ltd (Waverley Park);*
 - (c) *noting that the following Clubs, as from 1 July 2018, do not qualify for Cultural Recreation Lands status and therefore will be rated under the provisions of the Local Government Act 1989;*
 - (i) *Victorian Homing Association Inc.;*
 - (ii) *Mulgrave Country Club;*
 - (iii) *Oakleigh Rifle Club Inc.; and*
 - (iv) *Oakleigh and Caulfield District Angling Club;*
 - (d) *That an amount, equivalent to the CRLA discount, be applied as a waiver, under Section 169(1) of the Local Government Act 1989, to the municipal rates for 2018/19 for;*
 - (i) *Victorian Homing Association Inc.;*
 - (ii) *Oakleigh Rifle Club Inc.; and*
 - (iii) *Oakleigh and Caulfield Districts Angling Club.*
- (2) *Endorses the review findings that determines Council owned leased properties, used exclusively for outdoor recreation use (including ancillary buildings);*
 - (a) *be rated under the CRLA Policy; and*
 - (b) *commence proceedings to vary the current property leases to include provision for Council to pay for any CRLA charges, Municipal rates, fire services property levies and water rates from 1 July 2018; and*
- (3) *Writes to each of the affected Clubs to advise the above determinations and further, to invite any of the Clubs to make a submission to Council if they believe that the determinations will create undue financial burden.*

INTRODUCTION

Council, has previously considered nine (9) properties eligible to be charged under the *Cultural and Recreational Land Act 1963 (CRLA)*. The CRLA requires that Council undertake a separate process for the purpose of setting a charge 'in lieu of rates' for each CRLA property.

If land is 'recreational lands' within the meaning of the CRLA, rates under the Local Government Act 1989 are not levied. Instead, there is payable to Council charges being such amount as Council thinks 'reasonable'. Council considers each year as part of its planning and budget setting process the services utilised by each property occupier and the benefit their land provides to the community. This process effectively levies a 'charge in lieu of rates' that provides a discount of approximately 60-61% for these properties compared to the equivalent municipal rates they would otherwise pay.

BACKGROUND

At its meeting on 31st October 2017, Council considered a Notice of Motion from Crs Lake and Fergeus regarding the Cultural and Recreational Lands Act (CRLA) Policy Review and resolved:

That Council:

- a) *Notes that it has not reviewed its approach to charging land zoned 'Cultural and Recreational Land' for many years;*
- b) *Undertakes a review of its policy settings for land subject to the Cultural and Recreation Lands Act 1963 to:*
 - a. *ensure the policy is relevant to, consistent with and appropriate with regard to Council's current rating strategy, service delivery and policy objectives;*
 - b. *consider what may be reasonably classified as 'community benefit', and how this should be assessed and taken into account when reviewing charges for each property;*
- c) *Consults and seeks input from the occupiers of the affected land and the general public; and*
- d) *Undertakes this review in time for any changes to be in place for the setting of charges for Council's 2018/19 budget.*

Those properties identified for consultation as Cultural and Recreational lands (currently nine properties) were:

- Metropolitan Golf Club
 - Huntingdale Golf Club
 - Riversdale Golf Club
 - Glen Iris Valley Recreation Club
 - Mulgrave Country Club
 - Victorian Homing Association Inc
 - Oakleigh & Caulfield District Angling Club
 - Hawthorn Football Club Ltd (Waverley Park oval and sporting rooms),
- and
- Oakleigh Rifle Club Inc.

DISCUSSION

CT Management Group (CT) were provided a brief, based on the Council resolution, to undertake this review and consultation with the CRLA clubs. They met with seven (7) of the nine clubs, with the exception of Hawthorn Football Club F.C. and the Victorian Homing Association that could not attend or did not request a meeting.

CT endorses the application of the current policy, however recommends that 4 out of the 9 recipients are not properly classified as CRLA lands and recommend they be rated under the *Local Government Act 1989* (LGAct).

They also identified some Council owned leased properties, used exclusively for outdoor recreation use (23 bowls, tennis and sporting clubs with leases providing exclusive use over Council land) that have not been rated under the CRLA provisions nor the LGAct. They recommend that they should be rated (a charge in lieu of rates) under the CRLA.

Independent legal advice confirms the CT findings regarding the validity of the findings. Based on the premise that the land is insufficiently used for out-door sporting use and to rate the four clubs (listed below) under the LGAct, rather than CRLA;

- Mulgrave Country Club;
- Victorian Homing Association;
- Oakleigh Rifle Club Inc.; and
- Oakleigh and Caulfield District Angling Club.

Further, the advice confirmed, outdoor sporting clubs, with leases over Council land, should also be rated under the CRLA.

This report recommends that, if Council has some concerns regarding the effect these rating changes might have on the three smaller clubs (e.g. Homing, Angling and Rifle Clubs), then a rebate under the LGAct should be considered.

Regarding the clubs on Council land this report also recommends it would not be unreasonable to agree that leases be amended to “cover” the municipal rates & other property charges.

The current draft budget (adopted for consultation on 24th April 2018) includes the previous process for calculation of the CRLA charges, however also notes that Council is considering an updated policy that, if adopted before the Budget is approved in June, will likely change that section of the budget.

The setting of rates for the council owned leased properties will require additional work to create separate assessments and undertake valuations to enable setting of a CRLA charge for each property. It is proposed to undertake this work forthwith however may require a supplementary rating for each assessment post adoption of the 2018/19 Budget. If Council adopts the recommendations contained within this report appropriate disclosure will be made in the adopted Budget document.

The proposed draft Cultural and Recreational Land Act Policy (CRLA Policy) is attached to this report.

BENCHMARKING

The review process included CT identifying suitable councils for comparative purposes, being those whose areas included private golf clubs, other sporting clubs and, in three cases, racecourses. Also to research which of the eight “comparable” councils (Bayside, Boroondara, Frankston, Glen Eira, Greater Dandenong, Kingston, Moonee Valley and Yarra) had formally adopted a CRLA rating strategy;

The research revealed some council’s had;

- a Rating Strategy with minimal CRLA information;
- no mention of a Rating Strategy on the website;
- indicated a Rating Strategy, but it could not be easily located; and
- where there was a Rating Strategy, there was minimal reference to community benefit.

POLICY IMPLICATIONS

This is the first review of CRLA Policy in more than 15 years and therefore, it is timely and desirable that Council review this policy at this point.

CONSULTATION

The current draft budget (adopted for consultation on 24th April) includes the normal process for calculation of the CRLA charges, however also notes that Council is considering an updated policy that, if adopted before the Budget is approved in June, will likely change that section of the budget.

All of the affected properties were advised of the review; and CT Management Group met with seven of the CRLA recipients during their review. Members of the public were also provided an opportunity to comment through the “Have your Say” portal (4 responses).

Consultation with Clubs located on Council land has not been undertaken as they have only recently been identified as likely to be CRLA affected properties. However if Council adopts the proposed recommendation, regarding amending each lease to ensure each Club is not financially disadvantaged (regarding rates) the transition should be acceptable. Once a new policy is adopted the affected Clubs will be advised of the proposed changes.

FINANCIAL IMPLICATIONS

The proposed changes, if adopted, will have minimal impact on Council’s rate setting for 2018/19. However, changing the rating status for the Mulgrave Country Club from CRLA charges to a municipal charge under the LGAct will increase the rate from \$10,836 to approx. \$27,000. The Mulgrave Country Club would appear to have sufficient capacity to absorb the

increase in rates without experiencing any hardship nor requiring further assistance from Monash Council.

For the other three Clubs (Homing, Angling and Rifle), where the rating status is applied under the LGAct, their rates will also increase. If Council agrees to apply rate relief in the form of a waiver they will not be adversely affected.

Clubs that occupy Council land, under a lease arrangement and rated under the CRLA, will also not be adversely affected provided Council also agrees to amend the leases to remove responsibility for those charges to be imposed on the Clubs (e.g. Council agrees to pay the CRLA, municipal rates and water rates).

CONCLUSION

This report recommends updating the current policy, however maintaining the current discount at 60%. If Council has some concerns regarding the effect these rating changing might have on the three smaller clubs (e.g. Homing, Angling and Rifle Clubs) then a rebate under the LGA should be considered.

Regarding the clubs on Council land this report also recommends it would not be unreasonable to agree that leases be amended to “cover” the CRLA, municipal rates & other property charges.

The current draft budget (adopted for consultation on 24th April) includes the normal process for calculation of the CRLA charges, however also notes that Council is currently considering an updated policy that, if adopted before the Budget is approved in June, will likely change that section of the budget.