

MINUTES

Ordinary Council Meeting

23 August 2022

Mayor and Councillors

Here within are the Minutes of the Ordinary Council Meeting of the City of South Perth Council held Tuesday 23 August 2022 in the City of South Perth Council Chamber, corner Sandgate Street and South Terrace, South Perth.



VICKI LUMMER
A/CHIEF EXECUTIVE OFFICER

25 August 2022

Acknowledgement of Country

Kaartdjinin Nidja Nyungar Whadjuk Boodjar Koora Nidja Djining Noonakoort kaartdijin wangkiny, maam, gnarnk and boordier Nidja Whadjuk kura kura.

We acknowledge and pay our respects to the traditional custodians of this land, the Whadjuk people of the Noongar nation and their Elders past and present.

Our Guiding Values



Disclaimer

The City of South Perth disclaims any liability for any loss arising from any person or body relying on any statement, discussion, recommendation or decision made during this meeting.

Where an application for an approval, a licence or the like is discussed or determined during this meeting, the City warns that neither the applicant, nor any other person or body, should rely upon that discussion or determination until written notice of either an approval and the conditions which relate to it, or the refusal of the application has been issued by the City.

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Ordinary Council Meeting - Minutes

Minutes of the Ordinary Council Meeting held in the City of South Perth Council Chamber, corner Sandgate Street and South Terrace, South Perth at 6.00pm on Tuesday 23 August 2022.

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Presiding Member declared the meeting open at 6:01pm.

2. DISCLAIMER

The Presiding Member read aloud the City's Disclaimer.

3. ANNOUNCEMENTS FROM THE PRESIDING MEMBER

Nil.

4. ATTENDANCE

Mayor Greg Milner (Presiding Member)

Councillors

Como Ward
Manning Ward
Manning Ward
Moresby Ward
Moresby Ward
Mill Point Ward
Mill Point Ward

Councillor Carl Celedin
Councillor Blake D'Souza (arrived 6:04pm)
Councillor André Brender-A-Brandis
Councillor Jennifer Nevard
Councillor Stephen Russell
Councillor Mary Choy
Councillor Ken Manolas

Officers

A/Chief Executive Officer
Director Corporate Services
A/Director Infrastructure Services
Manager Development Services
Manager Finance
Manager Customer, Communications and Engagement
Manager Governance
Communications & Marketing Coordinator
Governance Coordinator
Governance Administration Officer

Ms Vicki Lummer
Mr Garry Adams
Mr Steve Atwell
Ms Fiona Mullen
Mr Abrie Lacock
Ms Danielle Cattalini

Ms Bernadine Tucker
Ms Karys Nella
Ms Toni Fry
Ms Shannon Renner

Gallery

There were approximately 10 members of the public present.

4.1 APOLOGIES

Councillor Glenn Cridland

4.2 APPROVED LEAVE OF ABSENCE

Nil.

5. DECLARATIONS OF INTEREST

- Councillor Mary Choy – Impartiality Interest in Item 10.4.5 as ‘The Hon. Minister Rita Saffioti is known to me’.
- Mayor Greg Milner – Impartiality Interest in Item 10.5.1 as ‘my wife serves on the committee of the Manning Community Toy Library and my family are members of the Manning Community Toy Library’.
- Councillor Stephen Russell – Impartiality Interest in Item 10.5.3 as ‘I have an association with the applicant. This association is that my son is a junior member of the club. As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly’.
- Mayor Greg Milner – Impartiality Interest in Item 15.1.1 as ‘my wife and I have attended the annual South Perth Hospital Christmas Dinner in previous years and received a meal at these functions’.

6. PUBLIC QUESTION TIME

6.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

Councillor Blake D’Souza arrived at the meeting at 6.04pm during Item 6.2 Public Question Time.

6.2 PUBLIC QUESTION TIME: 23 AUGUST 2022

The Presiding Member opened Public Question Time at 6:03pm.

Written questions were received prior to the meeting from:

- Mr Murray Rosenberg of Como
- Mr Ross Smith of South Perth
- Mr Robert Mitchell of South Perth
- Mrs Cecilia Brooke of South Perth (read out by Mayor Greg Milner)
- Mr Sam Middlemas and Mr Robert Kelly

The questions and responses can be found in the **Appendix** of these Minutes.

There being no further questions, the Presiding Member closed Public Question Time at 6:15pm.

7. CONFIRMATION OF MINUTES AND TABLING OF NOTES OF BRIEFINGS

7.1 MINUTES

7.1.1 Ordinary Council Meeting Held: 26 July 2022

Officer Recommendation AND COUNCIL DECISION

0822/102

Moved: Councillor André Brender-A-Brandis

Seconded: Councillor Stephen Russell

That the Minutes of the Ordinary Council Meeting held 26 July 2022 be taken as read and confirmed as a true and correct record.

.CARRIED (8/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

7.2 CONCEPT BRIEFINGS

7.2.1 Council Agenda Briefing - 16 August 2022

Officers of the City presented background information and answered questions on Items to be considered at the August Ordinary Council Meeting at the Council Agenda Briefing held 16 August 2022.

Attachments

7.2.1 (a): Briefing Notes

7.2.2 Concept Briefings and Workshops

Officers of the City/Consultants and invited third party guests provided Council with an overview of the following matters at Concept Briefings and Workshops:

Date	Subject	Attendees
1 August 2022	Professional Development Session 4 - Constructive conflict contributing to effective decision making	Mayor Greg Milner and Councillors Carl Celedin, André Brender-A-Brandis, Blake D'Souza, Jennifer Nevard, Stephen Russell, Cr Mary Choy, Ken Manolas.
2 August 2022	Policy Workshop	Mayor Greg Milner and Councillors Carl Celedin, Glenn Cridland, André Brender-A-Brandis, Blake D'Souza, Jennifer Nevard, Mary Choy, Ken Manolas.
8 August 2022	Professional Development Session 5 - Structured decision-making and how to identify what information is required to support a particular decision	Mayor Greg Milner and Councillors Carl Celedin, Glenn Cridland, André Brender-A-Brandis, Blake D'Souza, Jennifer Nevard, Stephen Russell, Mary Choy, Ken Manolas.

Attachments

Nil.

Officer Recommendation AND COUNCIL DECISION

0822/103

Moved: Councillor André Brender-A-Brandis

Seconded: Councillor Ken Manolas

That Council notes the following Council Briefings/Workshops were held:

- 7.2.1 Council Agenda Briefing - 16 August 2022
- 7.2.2 Concept Briefings and Workshops

.CARRIED (8/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

8. PRESENTATIONS

8.1 PETITIONS

Nil.

8.2 PRESENTATIONS

Nil.

8.3 DEPUTATIONS

Deputations were heard at the Agenda Briefing of 16 August 2022.

9. METHOD OF DEALING WITH AGENDA BUSINESS

The Presiding Member advised that with the exception of the items identified to be withdrawn for discussion that the remaining reports, including the Officer Recommendations, will be adopted by exception resolution (i.e. all together) as per Clause 5.5 Exception Resolution of the Standing Orders Local Law 2007.

The A/Chief Executive Officer confirmed all the report items were discussed at the Council Agenda Briefing held 16 August 2022.

ITEMS WITHDRAWN FOR DISCUSSION

- 10.3.1 Proposed Third-Party Digital Advertising Sign Additions to Existing Commercial Building on Lot 303, No. 149-153 South Terrace, Como
- 10.4.3 Model Standards for CEO recruitment, performance and termination
- 10.4.4 Council Delegation DC702 Granting Fee Waiver – Collier Park Golf Course
- 10.4.5 Town Planning Scheme Amendment No. 61 – Correspondence from the Hon Minister for Transport; Planning; Ports
- 10.5.1 Proposed Licence Agreement for Manning Community Toy Library Inc located at Manning Community Centre
- 15.1.1 Burch Street Carpark

The Presiding Member called for a motion to move the balance of reports by Exception Resolution.

Officer Recommendation AND COUNCIL DECISION

0822/104

Moved: Councillor Carl Celedin

Seconded: Councillor André Brender-A-Brandis

That the Officer Recommendations in relation to the following Agenda Items be carried by exception resolution:

- 10.1.1 Department of Local Government, Sport & Cultural Industries – Club Night Lights Grant Program 2022/23 – Application and City Assessment
- 10.1.2 Department of Local Government, Sport and Cultural Industries – Community Sport and Recreation Facilities Fund Small Grants Program 2022/23 – Application and City Assessment
- 10.3.2 Tender 03/2022 Provision of Consultancy – Electrical Services
- 10.3.3 RFT 5/2022 – Provision of Verge Side Collection Service
- 10.4.1 Listing of Payments July 2022
- 10.4.2 Monthly Financial Statements July 2022
- 10.5.2 Proposed Lease Agreement for Moorditj Keila Inc located at Manning Community Centre
- 10.5.3 Proposed Lease Agreement for Manning Rippers Football Club Inc located at 1 Bradshaw Crescent, Manning

.CARRIED (8/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

10. REPORTS

10.1 STRATEGIC DIRECTION 1: COMMUNITY

10.1.1 Department of Local Government, Sport & Cultural Industries - Club Night Lights Grant Program 2022/23 - Application and City Assessment

File Ref: D-22-39030
Author(s): Louis Cronan, Recreation Development Officer
Patrick Quigley, Manager Community, Culture and Recreation
Reporting Officer(s): Vicki Lummer, Director Development and Community Services

Summary

The Department of Local Government, Sport and Cultural Industries facilitates a Club Night Lights Program to provide financial assistance to sporting clubs and local governments to develop sports floodlighting infrastructure.

Club Night Lights Program applications must be presented to the relevant local government for its assessment to provide project ratings and prioritised rankings (in the case of multiple applications); and to request in-principle support for the proposed project/s, including any financial contributions associated with the projects.

One application is presented for the current round of the Club Night Lights Program for 2022/23, namely South Perth Lawn Tennis Club Hard and Synthetic Courts Lighting Upgrade Project. The applicant is South Perth Lawn Tennis Club, who will be responsible for contributing one-third of the project cost.

Officer Recommendation AND COUNCIL DECISION

0822/105

Moved: Councillor Carl Celedin
Seconded: Councillor André Brender-A-Brandis

1. That Council approves the submission of one funding application to the Department of Local Government, Sport, and Cultural Industries via its Club Night Lights Program, together with comments from the Officer report and the following rankings and ratings for the following project:

<u>Applicant</u>	<u>Project</u>	<u>Ranking</u>	<u>Rating</u>
South Perth Lawn Tennis Club	Hard and Synthetic Court Lighting Upgrade Project	1	A

2. That subject to the above application being successful with the Department of Local Government, Sport and Cultural Industries, a provisional amount of up to \$31,218 is considered in the City's 2022/23 Budget (mid-year review), as the City's financial contribution to the project, as follows:

- a. South Perth Lawn Tennis Club Hard and Synthetic Court Lighting Upgrade Project - \$31,218 (ex GST).

CARRIED BY EXCEPTION RESOLUTION (8/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

Background

The Department of Local Government, Sport and Cultural Industries (DLGSC) facilitates a state-wide funding program called 'Club Night Lights Program' (CNLP) and has invited applications for financial assistance from sporting clubs and local governments for the development of sustainable floodlighting infrastructure for sport. The CNLP is a new grant available from DLGSC and is in addition to the Community Sporting and Recreation Facilities Fund which is still available to sporting clubs and local government.

The CNLP aims to maintain or increase participation in sport and recreation with an emphasis on physical activity through rational development of good quality, well-designed and well-utilised community sporting facilities. Two CNLP funding categories are offered as detailed in the table below.

Grant Category	Standard DLGSC Contribution (\$ excl. GST)	Total Project Cost Range (\$ excl. GST)
Annual Grant	\$2,500 - \$166,666	\$5,000 - \$500,000
Forward Planning Grant	\$166,667 - \$1 million	Exceeds \$500,000

The maximum grant awarded by DLGSC will generally be no greater than one-third of the project up to a maximum of \$1 million.

Note: There may be some projects eligible for up to 50% funding through meeting a 'development bonus', whereby a project meets at least one of the following development principles created by the Department, namely:

1. *Geographical location (e.g. projects in a regional/remote or growth area);*
2. *Co-location of facilities;*
3. *Sustainability initiative; or*
4. *Increased participation.*

There is no guarantee that the full requested amount would be funded and any shortfall would need to be funded by the applicant. There is no obligation on a local government to make a financial contribution to the project, however, a contribution from all stakeholders (which may include local government, state sporting associations and user clubs) in a project that meets local and sporting needs is viewed more favourably.

CNLP applications must be initially presented to the relevant local government for its assessment to provide project ratings and prioritised rankings (where there are multiple applications); and to request in-principle support for the proposed project/s, including the financial contribution requested by the application under the Club Night Lights Program.

Comment

One project is proposed by the City for the current funding round of the 2022/23 Club Night Lights Program. The table below provides a summary of the grant being sought, the City contribution, and Club/other contribution for the proposed projects

1. South Perth Lawn Tennis Club - Hard and Synthetic Court Lighting Upgrade Project

CNLP Grant Sought*	\$31,218 (ex GST)
City's Contribution	\$31,218 (ex GST)
Club Contribution	\$31,218 (ex GST)
Estimated Total Project Cost	\$93,654 (ex GST)

*Note: * The grant amount sought of \$31,218 represents one-third of the total project cost, which is the general level of funding provided by the Department. However, under the CNLP Grant Program Guidelines the Department has discretion to approve a 'development bonus' comprised of a higher level of funding up to 50% of the total project cost for specific projects that deliver significant sustainability outcomes and community benefits. If the development bonus funding is approved it would reduce the City's overall financial contribution towards the project depending on the amount awarded. Meeting the development bonus criteria will not automatically ensure the applicant is eligible for 50% of the project cost, as the final decision is at the Department's discretion.*

CNLP Assessment Guidelines

Under the CNLP guidelines, applications must initially be presented to the relevant local government to review and to request its in-principle support of the project, including the financial contribution required by the applicant under the CNLP. For this reason, a panel consisting of the Manager Community, Culture and Recreation; Recreation Development Coordinator; and Recreation Development Officer (Clubs & Community) assessed and ranked the application against the criteria in the table set out below by DLGSC.

A	Well planned and needed by the municipality
B	Well planned and needed by the applicant
C	Needed by the municipality, more planning required
D	Needed by the applicant, more planning required
E	Idea has merit, more preliminary work required
F	Not recommended

The result is summarised in the table below, with the amounts shown being GST exclusive.

Applicant	Project	Ranking	Rating	CNLP Grant Sought	City's Contribution	Club Contribution	Total Project Cost
South Perth Lawn Tennis Club	Hard and Synthetic Court Lighting Upgrade Project	1	A	\$31,218	\$31,218	\$31,218	\$93,654
			Total	\$31,218	\$31,218	\$31,218	\$93,654

City Assessment

1. South Perth Lawn Tennis Club - Hard and Synthetic Court Lighting Upgrade Project

The South Perth Lawn Tennis Club is situated at 107 Murray Street, Como, which is on crown land vested with the City for parks and recreational purposes. The clubrooms, tennis courts and associated storage areas are leased to the Club.

The current sports lighting (sodium vapour and halogen lights) were installed in 1989 and no longer meet Australian Standards/Tennis Australia's club competition lighting standards of 350 lux. Current lights have a lux reading between 244-305. Several lights continue to trip the circuit breaker on wet or damp conditions.

The proposed project will involve the replacement of the current obsolete lights with new energy efficient LED lamps that will be mounted on the existing poles to minimise the overall project cost. The new LED lamps will raise the sports lighting lux levels to meet the recommended lighting standards and will improve player safety.

In 2020/21, the Club had a membership of 221 and the tennis courts are used for approximately 133 hours per week. The Club will continue to be responsible for all ongoing maintenance costs of the lights into the future.

In summary, the City recommends that the South Perth Lawn Tennis Club Court Lighting Upgrade Project receive a '1' ranking; and an 'A' rating for the Club Night Lights Grant Program due to:

- The project aligns with the City's Community Recreation Facility Plan;
- The project aligns with the City's Sports Oval Floodlight Plan;
- The project will allow the sports lighting to meet the recommended standards;
- South Perth Lawn Club has demonstrated it is a sustainable club; and is a good tenant of the City.

Consultation

The City advertised the Club Night Lights Grant Program to local clubs and received one club application for the current funding round, being from the South Perth Lawn Tennis Club. The City has undertaken preliminary consultation with the Department of Local Government, Sports and Cultural Industries for the proposed project and was advised that the project is eligible for funding consideration under the Club Night Lights Grant Program.

Policy and Legislative Implications

- Policy P106 Use of City Reserves and Facilities
- Policy P110 Support of Community and Sporting Groups
- Policy P202 Energy Conservation

Financial Implications

The total cost for the proposed project is estimated at \$93,654. The City's total contribution to the project will be \$31,218 proposed to be allocated in the City's 2022/23 Budget (mid-year review), subject to future Council approval. If the project is successful in attracting external funding from the State Government via the Club Night Lights Program, the South Perth Lawn Tennis Club will be required to contribute the balance of funds towards their project.

Key Risks and Considerations

Risk Event Outcome	Business Interruption Incorporates the impact of events which impinge upon the City's capacity to deliver expected services to the community. These interruptions can range from minor inconvenience requiring an alternative method of service delivery being employed through to forced loss of ability to provide multiple services to all or some of the community. Knowledge loss, technological failure and property damage will also contribute to this outcome
Risk rating	Medium
Mitigation and actions	The risk of the business interruption will be mitigated by the proposed project proceeding. If upgrade of the tennis court sports lighting is delayed, it could result in further damage/degradation to essential equipment required at these community recreational facilities. Additionally, the CNL grant program enables the City to mitigate some of its financial risk, by sharing the costs with the state government and the sporting club who is the main beneficiary of the proposed project.

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2021-2031](#):

Strategic Direction:	Community
Aspiration:	Our diverse community is inclusive, safe, connected and engaged
Outcome:	1.2 Community infrastructure
Strategy:	1.2.1 Maintain current and plan, develop and facilitate community infrastructure to respond to community needs and priorities

Attachments

Nil.

10.1.2 Department of Local Government, Sport and Cultural Industries - Community Sport and Recreation Facilities Fund Small Grants Program 2022/23 - Application and City Assessment

File Ref: D-22-39031
Author(s): Louis Cronan, Recreation Development Officer
Patrick Quigley, Manager Community, Culture and Recreation
Reporting Officer(s): Vicki Lummer, Director Development and Community Services

Summary

Each year the Department of Local Government, Sport and Cultural Industries calls for applications via its Community Sport and Recreation Facilities Fund (CSRFF) Small Grants Program to invite eligible sporting clubs and local governments to apply for funding to assist with sport and recreation infrastructure projects.

CSRFF applications must initially be presented to the relevant local government for its assessment to provide project ratings and prioritised rankings (in the case of multiple applications); and to request its in-principle support for the proposed project/s, including the financial contribution requested by the application under the CSRFF program.

One application is presented for the current round of the CSRFF Small Grants Program for 2022/23, namely, South Perth Lawn Tennis Club Court Resurfacing Project. The applicant is South Perth Lawn Tennis Club, who will be responsible for contributing one-third of the project cost.

Officer Recommendation AND COUNCIL DECISION

0822/106

Moved: Councillor Carl Celedin

Seconded: Councillor André Brender-A-Brandis

1. That Council approves the submission of one funding application to the Department of Local Government, Sport and Cultural Industries via its Community Sport and Recreation Facilities Fund Small Grants Program, together with comments from the Officer report and the following rankings and ratings for the following project:

<u>Applicant</u>	<u>Project</u>	<u>Ranking</u>	<u>Rating</u>
South Perth Lawn Tennis Club	Court Resurfacing Project	1	A

2. That subject to the above application being successful with the Department of Local Government, Sport and Cultural Industries, a provisional amount of up to \$22,520 is considered in the City's 2022/23 Budget (mid-year review) as the City's financial contribution to the project, as follows:
 - a. South Perth Lawn Tennis Club Court Resurfacing Project - \$22,520 (ex GST).

CARRIED BY EXCEPTION RESOLUTION (8/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

Background

The Department of Local Government, Sport and Cultural Industries (DLGSC) annually invites applications for financial assistance to assist sporting clubs and local governments to develop sustainable infrastructure for sport and recreation under its Community, Sport and Recreation Facilities Fund (CSRFF).

The CSRFF program aims to increase participation in sport and recreation with an emphasis on physical activity through rational development of good quality, well designed and well utilised facilities. Priority is given to projects that lead to facility sharing and rationalisation. Three CSRFF categories are offered (see table below for details).

Grant Category	Total Project Costs Range	Standard DSR Contribution	Frequency
Small Grants	\$7,500 - \$300,000	\$2,500 - \$100,000	Bi-Annual
Annual Grants	\$300,001 - \$500,000	\$100,000 - \$166,666	Annual
Forward Planning Grants	\$500,001 +	\$166,666 - \$2,000,000	Annual

The maximum grant awarded by DLGSC will be no greater than one-third of the project up to a maximum of \$2m. The CSRFF grant must be at least matched by the applicant's own cash contribution equivalent to one third of the total project costs, with any remaining funds being sourced by the applicant. In some cases, funds provided by DLGSC do not equate to one-third of the project costs and the applicants are advised that they are expected to fund any shortfall. The local government is not obliged to contribute funding to the projects. As stated in the CSRFF guidelines, small grants for this round must be claimed in the financial year following the date of approval. Therefore, grant applications in this round must be claimed by 15 June 2023.

CSRFF applications must initially be presented to the relevant local government to request its in-principle support of the project, including the financial contribution requested by the applicant under the CSRFF program.

Comment

One project is proposed by the City for the current round of the CSRFF Small Grants Program. The estimated project cost, CSRFF grant being sought, and City contribution are as follows:

1. South Perth Lawn Tennis Club - Court Resurfacing Project

CSRFF Grant Sought*	\$22,520 (ex GST)
City's Contribution	\$22,520 (ex GST)
Club Contribution	\$22,522 (ex GST)
Estimated Total Project Cost	\$67,562 (ex GST)

*Note: * The grant amount sought of \$22,520 represents one-third of the total project cost, which is the general level of funding provided by the Department. However, under the CSRFF Grant Program Guidelines the Department has discretion to approve a 'development bonus' comprised of a higher level of funding up to 50% of the total project cost for specific projects that deliver significant sustainability outcomes and community benefits. If the development bonus funding is approved, it would reduce the City's overall financial contribution towards the project depending on the amount awarded. Meeting the development bonus criteria will not automatically ensure the applicant is eligible for 50% of the project cost, as the final decision is at the Department's discretion.*

CSRFF Assessment Guidelines

Under the CSRFF guidelines, applications must initially be presented to the relevant local government to review and to request its in-principle support of the project, including the financial contribution required by the applicant under the CSRFF program. For this reason, a panel consisting of the Manager Community, Culture and Recreation; Recreation Development Coordinator; and Recreation Development Officer (Clubs & Community) assessed and ranked the application against the criteria in the table set out below by DLGSC.

A	Well planned and needed by the municipality
B	Well planned and needed by the applicant
C	Needed by the municipality, more planning required
D	Needed by the applicant, more planning required
E	Idea has merit, more preliminary work required
F	Not recommended

The result is summarised in the table below, with the amounts shown being GST exclusive.

Applicant	Project	Ranking	Rating	CSRFF Grant Sought	City's Contribution	Club Contribution	Total Project Cost
South Perth Lawn Tennis Club	Court Resurface Upgrade Project	1	A	\$22,520	\$22,520	\$22,522	\$67,562
			Total	\$22,520	\$22,520	\$22,522	\$67,562

City Assessment

1. South Perth Lawn Tennis Club Court Resurfacing Project

The South Perth Lawn Tennis Club is situated at 107 Murray Street, Como, which is on crown land vested with the City for parks and recreational purposes. The clubrooms, courts and associated storage areas are leased to the Club.

Four existing hardcourts laid in 1989 have developed significant cracks. The deterioration of these courts has been monitored over several years. These cracks are now starting to impact player safety.

The proposed project will involve the replacement and improvement of the four existing courts. This project will require the courts to be dug out, re-levelled, re-laid with asphalt, and repainted. This project will allow the Club to improve safety and encourage further utilisation for their members (including juniors) and the general public. The Club's growth in coaching, court hire and pennant teams has increased the requirement to use these courts.

In 2020/21, the Club had a membership of 221 and the tennis courts are used for approximately 133 hours per week. The Club will continue to be responsible for all ongoing maintenance costs of the courts into the future.

In summary, the City recommends that the South Perth Lawn Tennis Club Court Resurfacing Project receive a '1' ranking; and an 'A' rating for the Community Sport and Recreation Facilities Fund due to:

- The project aligns with the City's Community Recreation Facility Plan;
- South Perth Lawn Tennis Club submitted a sound application;
- South Perth Lawn Tennis Club has demonstrated signs of membership growth and increased participation;
- South Perth Lawn Club has demonstrated it is a sustainable club; and is a good tenant of the City.

Consultation

The City advertised the Community Sport and Recreational Facilities Fund to local sporting clubs and received one application for the current funding round, being from the South Perth Lawn Tennis Club. The City has undertaken preliminary consultation with the Department of Local Government, Sports and Cultural Industries for the proposed project and was advised that the project is eligible for funding consideration under the Community Sport and Recreation Facilities Fund.

Policy and Legislative Implications

- Policy P106 Use of City Reserves and Facilities
- Policy P110 Support of Community and Sporting Groups
- Policy P609 Management of City Property

Financial Implications

The total cost for the proposed project is estimated at \$67,562. The City's total contribution to the project will be \$22,520 proposed to be allocated in the City's 2022/23 Budget (mid-year review), subject to future Council approval.

Key Risks and Considerations

Risk Event Outcome	Business Interruption Incorporates the impact of events which impinge upon the City's capacity to deliver expected services to the community. These interruptions can range from minor inconvenience requiring an alternative method of service delivery being employed through to forced loss of ability to provide multiple services to all or some of the community. Knowledge loss, technological failure and property damage will also contribute to this outcome
Risk rating	Medium
Mitigation and actions	The risk of the business interruption will be mitigated by the proposed project proceeding. If refurbishment of the tennis courts is delayed, it could result in further damage/degradation to these community recreational facilities. Additionally, the CSRFF program enables the City to mitigate some of its financial risk, by sharing the costs with the state government and the sporting club who is the main beneficiary of the proposed project.

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2021-2031](#):

Strategic Direction:	Community
Aspiration:	Our diverse community is inclusive, safe, connected and engaged
Outcome:	1.2 Community infrastructure
Strategy:	1.2.1 Maintain current and plan, develop and facilitate community infrastructure to respond to community needs and priorities

Attachments

Nil.

10.3 STRATEGIC DIRECTION 3: ENVIRONMENT (BUILT AND NATURAL)

10.3.1 Proposed Third-Party Digital Advertising Sign Additions to Existing Commercial Building on Lot 303, No. 149-153 South Terrace, Como

Location: Lot 303, No. 149-153 South Terrace, Como
Ward: Moresby Ward
Applicant: Planning Solutions
File Reference: D-22-39032
DA Lodgement Date: 14 February 2022
Author(s): Kevin Tang, Urban Planner
Reporting Officer(s): Vicki Lummer, Director Development and Community Services

Summary

This report seeks Council's consideration for a recommendation of refusal to the Western Australian Planning Commission (WAPC) for Third-Party Digital Advertising Sign Additions to Existing Commercial Building on Lot 303, No. 149-153 South Terrace, Como.

The item is referred to Council as there is no specific delegation afforded to officers to determine the application.

It is considered that the proposed development does not achieve compliance with the requirements and objectives of the relevant planning scheme and policy and would have a significant adverse amenity impact on the residents of the precinct.

For the reasons outlined in this report, it is recommended that Council advise the WAPC of a recommendation of refusal for the reasons listed below.

Officer Recommendation

Moved: Mayor Greg Milner

Seconded: Councillor Blake D'Souza

That Council recommends to the Western Australian Planning Commission (WAPC) that the application for development approval for a Third-Party Digital Advertising Sign Additions to Existing Commercial Building on Lot 303, No. 149-153 South Terrace, Como, is **refused** for the following reasons:

1. The proposal does not satisfy the requirements of Development Control Policies 1.2 & 5.4 in relation to amenity.
2. The proposal does not comply with clause 6.12(3) of TPS6 as roof-mounted advertisement is prohibited.
3. The proposal does not satisfy the objectives of TPS6 as it will pose a significant adverse impact to the residential character and amenity of the locality.
4. The proposal does not satisfy the requirements of clause 2 of Council Policy P308 Signs as the digital sign contains third-party advertising content.

Amendment

Moved: Councillor Stephen Russell

That recommendation 5. and 6. be added with an Advice Note as follows:

5. The proposal's Road Safety Assessment and Lighting Impact Assessment Outdoor Signage Report include drawings which are incorrect with respect to sign size and mounting location.
6. Notwithstanding point 5, the proposal has not demonstrated So Far As Reasonably Practicable (SFARP) with respect to the mitigation of public safety risk for pedestrians crossing the South Tce & Canning Hwy intersection, where a turning traffic must give way to crossing pedestrians rule exists.

Advice Notice

1. The Applicant has included renderings that illustrate optional building facia modifications that would be installed if the proposal is successful. The approval of such building modifications is not included within this proposal and would be subjected to a separate Development Application. The recommendation to refuse this proposal should not and has not considered these renderings.

Reason for amendment

1. For reason 7, although given the opportunity to rectify, the proposal's Road Safety Assessment and Lighting Impact Assessment Outdoor Signage Report still include drawings of a version which are incorrect with respect to sign size (drawings included within the reports show the signs as being undersized when compared to the corrected versions) and location relative to the mounted building (drawings included within the reports show the signs at or above the parapet wall whereas the corrected versions show the sign partially below the parapet wall). It is unknown how the corrected drawing versions would impact the recommendations and conclusions of the aforementioned reports, including the subsequent MRWA no-objection letter dated 13th April 2022. Hence an informed decision in these respects cannot be made.
2. For reason 8, although the Proposal's Road Safety Assessment has considered pedestrian crash statistics for its crash analysis, the proposal is silent with respect to the specific risk to pedestrian safety when crossing the South Tce & Canning Hwy intersection, where the rule of turning traffic must give way to crossing pedestrians exists. This rule is considered a safety baseline and therefore as the proposed sign may cause a distraction to a driver just prior to and/or during a critical time (i.e. giving way to crossing pedestrians), then an increase in risk to pedestrian safety would result. Under the Work Health & Safety Act, due diligence must be demonstrated to mitigate risk to So Far As Reasonably Practicable (SFARP); ideally back to the safety baseline. It is considered that SFARP for this specific risk scenario has not been demonstrated.

The amendment lapsed for want of a seconder.

Officer Recommendation AND COUNCIL DECISION**0822/107****Moved:** Mayor Greg Milner**Seconded:** Councillor Blake D'Souza

That Council recommends to the Western Australian Planning Commission (WAPC) that the application for development approval for a Third-Party Digital Advertising Sign Additions to Existing Commercial Building on Lot 303, No. 149-153 South Terrace, Como, is **refused** for the following reasons:

1. The proposal does not satisfy the requirements of Development Control Policies 1.2 & 5.4 in relation to amenity.
2. The proposal does not comply with clause 6.12(3) of TPS6 as roof-mounted advertisement is prohibited.
3. The proposal does not satisfy the objectives of TPS6 as it will pose a significant adverse impact to the residential character and amenity of the locality.
4. The proposal does not satisfy the requirements of clause 2 of Council Policy P308 Signs as the digital sign contains third-party advertising content.

CARRIED (8/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

Background

The development site details are as follows:

Zoning	Primary Regional Road Reserve (Metropolitan Region Scheme)/Highway Commercial
Density coding	R80
Lot area	965m ²
Building height limit	10.5m
Development potential	N/A
Plot ratio limit	0.5

(a) **Background**

In February 2022, the City received a development application for a Third-Party Digital Advertising Sign Additions to Existing Commercial Building on Lot 303, No. 149-153 South Terrace, Como (the site). The proposal was first presented to Council for consideration at its Agenda Briefing on 19 July 2022 and was withdrawn from the Ordinary Council Meeting on 26 July 2022 at the request of the applicant in order to provide further information and development plans. The additional information and amended development plans have now been included in the **Attachments (b) and (c)** to this report for Council's consideration.

The site is partially reserved as Primary Regional Road Reservation (Canning Highway) under the Metropolitan Region Scheme (MRS) and partially zoned Highway Commercial under the City's Town Planning Scheme No. 6 (TPS6). The proposed development is fully contained within the Primary Regional Road Reservation.

Development applications under the MRS are generally determined by the Western Australian Planning Commission (WAPC) unless they are delegated to other authorities via a resolution or delegation policy. WAPC Delegation Policy (DEL2022/03) delegates certain power to determine an application for development approval to the local government where the proposal is wholly located within the MRS regional road reservation and where the local government is supportive of the development.

In this instance, should the officers recommendation be supported by Council, the application will be referred to the WAPC for determination.

It is also noted that Clause 61 of the Deemed Provisions provides an exemption from the need to obtain a development approval under TPS6 when a proposed development is wholly located within an MRS regional reservation.

As a result, this development proposal requires an MRS development approval but does not require a development approval under TPS6. Notwithstanding the above, the development application has been assessed against TPS6 and relevant local planning policies as Development Control Policy 1.2 requires the City to consider compatibility with relevant planning policies, strategies and development control criteria.

(b) **Description of the Surrounding Locality**

The site has a frontage to Canning Highway to the west and South Terrace to the north and is located adjacent to residential properties to the east and south, as seen in **Figure 1** below.

Notably, the site is also surrounded by some non-residential land uses and development, including the following land uses activities located in the immediate vicinity of the Site:

- The Como Hotel is located opposite the subject site to the north-west;
- A Medical centre is located opposite the subject site to the west;
- Physiotherapy consulting rooms are located opposite the subject site to the north.



Figure 1: Aerial Photo of the Site

(c) Description of the Proposal

The site is currently developed with a one and two-storey building containing a mix of commercial tenancies on the ground floor, including two restaurants, a hairdresser and clothing shop.

The proposal seeks to install a digital advertising sign on the existing building on the subject site. The sign comprises a curved digital display panel to be installed at the north-west corner of the site and the supporting structure of the sign will be mounted on top of the existing roof with the digital sign display panel being attached to the supporting structure and building facia. The proposed sign has dimensions of: 8.96m wide x 2.88m high, with a display area of 25.8m². As a comparison, the existing north facing digital sign on the corner of Canning Highway and Henley Street is 12.44m in width and 3.3m in height (display area – 41m²), while the west facing sign is 8.78m in width and 2.96m in height (display area – 25.98m²).

The sign is proposed to digitally display a range of first, second- and third-party advertising content. The advertisements will be static images and will not display any animations, moving graphics, flashing lights or offensive content. The sign was initially proposed to operate 24 hours a day, 7 days per week. Following the neighbour consultation period and officer's planning assessment, the applicant has provided additional information and amended development plans. The amended proposal includes an introduction of operational down time between 10pm and 6am and the applicant's willingness to set aside 2.5% of operational time for community advertising.

A copy of the amended development plans is provided at **Attachment (b)** with the applicant's planning reports, including a Road Safety Assessment and Lighting Impact Assessment, provided at **Attachment (c)**. The site photographs show the relationship of the site with the surrounding built environment at **Attachment (d)**.

The applicant has requested the City's discretion relating to the following components of the proposed development under the MRS, TPS6 and Council Policy requirements:

- Character and amenity;
- Consistency with clause 6.12(3) of TPS6
- Consistency with local planning policy P308;

- Consistency with Development Control Policy 5.4 (DCP5.4)
- Street setback;

The proposal is not considered to meet the relevant requirements of the Scheme, council policies and WAPC policies.

(d) Character and amenity

In considering the suitability of the proposal, Council (as a delegate of WAPC) is required to have regard to the following relevant planning considerations in making decisions on this development application in accordance with Development Control Policy 1.2 – Development Control (General Principles) (DCP1.2):

- *Compatibility with relevant planning policies, strategies and development control criteria;*
- *Integration of development into the site and its surroundings;*
- *Transport and traffic impacts;*
- *Vehicular and non-vehicular access, circulation and car parking;*
- *Relevant environmental, economic and social factors;*
- *Relevant factors of amenity and suitability*

Clause 6.12 (6) of TPS6 states the following:

When determining an application for development approval for an advertisement, the local government shall examine the application in the light of the objectives of the Scheme and the precinct, and with particular regard to the character, amenity, historic or landscape significance and traffic safety, within the locality.

Clause 1.6 (2) of TPS6 (general objectives of the Scheme) provides the following relevant objectives for Council's consideration:

- (a) 'Maintain the City's predominantly residential character and amenity;*
- (f) safeguard and enhance the amenity of residential areas and ensure that new development is in harmony with the character and scale of existing residential development;*
- (g) Protect residential areas from the encroachment of inappropriate uses;*
- (j) in all commercial centres, promote an appropriate range of land uses consistent with:*
- (i) the designated function of each centre as set out in the Local Commercial Strategy; and*
- (ii) the preservation of the amenity of the locality;'*

The term 'amenity' is defined in clause 1 of the Deemed Provisions to mean 'all those factors which combine to form the character of an area and include the present and likely future amenity'.

The locality surrounding the site is characterised predominantly by low to medium density residential properties (colour coded brown) with some commercial pockets (colour coded blue) located on the four corners of Canning Highway and South Terrace Street intersection (Refer to **Figure 2**). These commercial properties were intended to serve a local population and provide daily convenience. Como Hotel, a heritage listed building, is located opposite to the site to the northwest. There is currently no digital signage on any of the commercial buildings. It is considered that the proposed digital sign is a large, illuminated structure that would detract from the existing visual amenity of the locality.



Figure 2: Zoning Map

The proposed digital sign would have light spillage impact on the nearby residences and this impact is particularly great at night. The site is surrounded by residential properties with the closest property on the opposite side of South Terrace being approximately 70m away.

The proponent has provided a Lighting Impact Assessment (refer to **Attachment (b)**), which contains an assessment against Australian Standards AS4282-2019 Control of the Obtrusive Effects of Outdoor Lighting and the Main Roads Western Australia “Policy and Application Guidelines for Advertising Signs”. The findings of the Assessment indicate that the proposal will be compliant with the relevant Australian Standards. This Assessment has been reviewed by the City’s Environmental Health business unit and found to be acceptable subject to a condition. Additionally, the applicant has offered to introduce an operational down time between 10pm and 6am. On this basis, it is considered that the light spillage impact has been appropriately addressed.

Notwithstanding, given there is no digital sign within the immediate surrounding area, the proposed digital sign presents a large, illuminated structure and is considered to be out of character with the street interface and would detract from the existing streetscape. The proposed digital sign does not enhance the amenity of nearby residential areas and would be more suitably located at a city centre or activity centre location.

It is noted that the applicant has provided justification addressing the character and amenity aspects of this development proposal at **Attachment (c)**.

Based on the above analysis, it is considered that the proposal would be inconsistent with relevant objectives of TPS6.

(e) Consistency with Clause 6.12(3) of TPS6

Clause 6.12(3) of TPS6 stipulates that roof-mounted advertisements are prohibited. This clause is designed to prevent unsightly signs that are placed at a visually dominant location, e.g. on top of a building roof.

While the lower part of the digital sign display panel will be attached to the facia of the building, a large part of the digital sign's supporting structure will be mounted on the building roof. The projection of the sign above the existing lower roof line to which it is attached will be 2.32m, creating a visually dominant feature in the existing streetscape. In considering this variation, Council is required to satisfy clause 7.8(b) as follows:

- (b) The power conferred by this sub-clause may only be exercised if the local government is satisfied that:*
- (i) Approval of the proposed development would be consistent with the orderly and proper planning of the precinct and the preservation of the amenity of the locality;*
 - (ii) The non-compliance will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the precinct or upon the likely future development of the precinct; and*
 - (iii) The proposed development meets the objectives for the City and for the precinct in which the land is situated as specified in the precinct plan for that precinct.*

As outlined in the preceding section of the report, it is considered that the proposal does not contribute to the preservation of the amenity of the locality and the non-compliance aspect of the development would have an adverse effect on the inhabitants of the precinct. This variation should therefore not be supported.

(f) Consistency with Local Planning Policy P308

Element	Required	Proposed
Clause 2. Relationship between sign and use of a site	On a site in any zone, the City will only approve a sign relating to: <ul style="list-style-type: none"> a) A use or business carried out on that site; b) The name of one or more of the occupiers of that site; or c) Merchandise sold on that site 	The proposal advises that the sign will include first -, second- and third-party advertising with no specified information provided relating to the time allocated for businesses on site.

Clause 9. Signs near traffic light-controlled intersections	The City will not approve a sign in any zone if the sign is within 150 metres of a street intersection and is lit in such a way that it may be confused with traffic lights	The proposed sign is located within 150 metres of a street intersection and is lit.
Clause 10. Control of advertising on Main Roads	All signs on main roads must comply with the requirements of the Main Roads (Control of Advertising) Regulations 1996. A separate approval will be required from Main Roads	Main Roads has no objection to the proposal and provided its advice at Attachment (a) .

The proposal has been assessed against relevant provisions of Council Policy P308 Signs and does not comply with clause 2.

Clause 2 of P308 requires a sign to be related to a use or business carried out on that site, the name of one or more of the occupiers of that site or merchandise sold on that site. The proposed digital sign includes third-party advertising content that does not comply with this requirement. This clause relates to the use of a commercial sign and is designed to prevent the proliferation of third-party commercial signs that would be at odds with the predominant residential character of the City. Should Council approve this development, it would have limited control over what will be displayed on the advertising sign. It is noted that the applicant has provided justification in **Attachment (c)** in relation to this non-compliance aspect.

Clause 9 of P308 stipulates that the City will not approve an illuminated sign within 150m of a street intersection. The proposed digital sign is located within 150m of Canning Highway and South Terrace intersection. The proposal was referred to Main Roads Western Australia and the City's Infrastructure Services business unit. Main Roads Western Australia does not have an objection against the proposal subject to conditions. Whilst the City's Infrastructure Services business unit is of the opinion that the proposal would have negligible impact on the local traffic on South Terrace it endorses the report recommendation to refuse the application.

Clause 10 of P308 states that separate approval should be sought from Main Roads in relation to the proposed sign if it is located on a Main Roads controlled road. It is noted that this process is under a different legislation and will be independent from the development approval process.

In considering a variation from the above policy provisions, Council is required to consider the objective of the policy, which states "*this planning policy sets out the guidelines for the installation of signs on premises. It is designed to reduce the adverse visual amenity impact of signs, especially in residential areas.*"

Despite being supported by Main Roads WA and the City's Infrastructure Services in terms of traffic safety impact of this proposal, it is considered that there is no cogent reason to depart from other provisions of this policy to support the proposed third-party advertising.

(g) Consistency with Development Control Policy 5.4 – Advertising on Reserved Land

DCP5.4 applies to any display of advertisements on land reserved under a Region Planning Scheme. In accordance with the provisions of TPS6, clause 67 of the deemed provisions and DCP1.2, Council is required to have due regard to this policy when determining an application for development approval.

Element	Required	Proposed
Effect on amenity	Clause 5.2.1: The number, size, location and appearance of advertisements must be carefully controlled in order to protect the amenity of the locality. Approval will only be granted if the WAPC is satisfied that the proposal will not detract from the amenity of the reservation and the locality generally.	The proposed digital sign is a large, illuminated structure that would detract from the amenity of the locality.
	Clause 5.2.2: The purpose of the road reserve is a primary consideration in determining the application	The purpose of the reserve is for future road widening. The proposed sign is considered to be appropriate on a temporary basis.
	Clause 5.2.4: The erection of an advertisement to add to the vitality of particular location and to provide a necessary service to the public by giving information, advice and direction in relation to available services and events.	As discussed in the preceding section of this report, the proposed sign is considered to be out of character at this location, taking into consideration the significant number of residential dwelling and would be more suitable for a city centre or activity centre location.

Safety and efficiency of roads	Clause 5.3.1: Advertisements are not acceptable if they interfere with sightlines, distract drivers, or have the potential to hinder the interpretation of traffic signals or road signs	Main Roads WA, being the management authority of Canning Highway, has reviewed the proposal and does not have an objection subject to conditions.
Protection of reservation	Clause 5.4.1: The WAPC will only consider temporary approval of an advertisement and a time limit will be imposed after which the signs shall be removed.	The proposed signs can only be supported on a temporary basis.

It is considered that the proposal does not meet the requirements of DCP5.4 due to its impact on the amenity of the locality.

(h) Street setback

Clause 5.3 and Table 5 of TPS6 provide street setbacks from Canning Highway for all non-residential uses.

Element	Required	Proposed
Canning Highway (east side)	19m	0m to 1m

The proposed digital sign is located between 0m and 1m from the street boundary in lieu of 19m required under Table 5. The objective of the setback is 'to provide future road widening while retaining a 1.5m setback to development'.

In considering this street setback variation, Council is required to satisfy clause 7.8(b) as follows:

- (b) *The power conferred by this sub-clause may only be exercised if the local government is satisfied that:*
 - (iv) *Approval of the proposed development would be consistent with the orderly and proper planning of the precinct and the preservation of the amenity of the locality;*
 - (v) *The non-compliance will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the precinct or upon the likely future development of the precinct; and*
 - (vi) *The proposed development meets the objectives for the City and for the precinct in which the land is situated as specified in the precinct plan for that precinct.*

For the reasons discussed in the preceding section of this report, it is considered that the proposed digital sign would have an adverse amenity impact on the locality, the non-compliance aspect of the development would have an adverse impact on the inhabitants of the precinct and does not satisfy the objectives of TPS6.

(i) Scheme Objectives: Clause 1.6 of Town Planning Scheme No. 6

In considering the application, the Council is required to have due regard to, and may impose conditions with respect to, matters listed in clause 1.6 of TPS6, which are, in the opinion of the Council, relevant to the proposed development. Of the 12 listed matters, the following are particularly relevant to the current application and require careful consideration:

- (a) Maintain the City's predominantly residential character and amenity;*
- (f) Safeguard and enhance the amenity of residential areas and ensure that new development is in harmony with the character and scale of existing residential development;*
- (g) Protect residential areas from the encroachment of inappropriate uses;*
- (j) In all commercial centres, promote an appropriate range of land uses consistent with:*
 - (i) the designated function of each centre as set out in the Local Commercial Strategy; and*
 - (ii) the preservation of the amenity of the locality;*

As outlined in the report, the proposed development is not considered to satisfy the above objectives.

(j) Matters to be considered by Local Government: Clause 67 of the Deemed Provisions for Local Planning Schemes

In considering the application the local government is to have due regard to the following matters listed in Clause 67 of the Deemed Provisions to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application. An assessment of the proposal against Clause 67 is considered through the planning assessment below. The matters most relevant to the proposal, and the City's response to each consideration, are outlined in the table below:

Matters	Officer's Comment
(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;	For reasons outlined in the report, the development is <u>not</u> considered to be consistent with the aims and provisions of the Scheme, particularly objectives (a), (f), (g) and (j) of Clause 1.6 of TPS6.
(e) any policy of the Commission;	For reasons outlined in the report, the development is <u>not</u> considered to meet relevant provisions of DCP 1.2 and DCP5.4 relating to amenity.

(g) any local planning policy for the Scheme area;	For reasons outlined in the report, the development is <u>not</u> considered to meet relevant provisions of Council Policy P308 Signs.
(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;	For reasons outlined in this report, the proposal is <u>not</u> considered to be compatible with the surrounding environment.
(n) the amenity of the locality including the following – (i) environmental impacts of the development; (ii) the character of the locality; and (iii) Social impacts of the development;	For reasons outlined in the report, the proposal is <u>not</u> considered to be consistent with the existing amenity and character of the locality and would have a negative impact on the locality.
(y) any submission received on the application;	A summary of submissions and officer's response are provided in the 'Consultation' section below.
(za) the comments or submissions received from any authority consulted under clause 66;	Main Roads WA provided comments regarding the proposal as the management authority of Canning Highway and a copy of advice is provided at Attachment (a) . For reasons outlined in the report, this advice is not considered to be acceptable by the City and the proposal is not supportable.

Consultation

(a) Neighbour Consultation

Neighbour Consultation has been undertaken for this proposal to the extent and in the manner required by the Deemed Provisions and Council Policy P301 'Advertising of Planning Proposals'. Individual property owners, occupiers and/or strata bodies within a 200m radius of the site were invited to inspect the plans and to submit comments during a 28-day period. In addition, a sign was placed on site inviting comment from any other interested person.

During the advertising period, a total of 334 consultation notices were sent and 12 submission(s) were received, four in favour and eight against the proposal. The comments from the submitter(s), together with officer responses are summarised below.

Submitters' Comments	Officer's Responses
<p>Traffic and pedestrian safety –</p> <ul style="list-style-type: none"> • Busy intersection and unavoidable distraction for drivers and road users; • Safety concerns for pedestrians; 	<p>Council Policy P308 does not support an illuminated sign to be located within 150m of a street intersection. However, the Main Roads WA, being the management authority of Canning Highway, has no objection against the proposal and the City's infrastructure services also reviewed its impact on local traffic and found the impact to be negligible.</p> <p>The comment is NOTED.</p>
<p>Character and amenity –</p> <ul style="list-style-type: none"> • Public visual amenity will be distracted by bright, moving electronic format images and colours; • Overcommercialisation of the area; • Visual and light pollution in the surrounding residential area; 	<p>For reasons outlined in the report, it is considered that the proposal is inconsistent with the existing character and amenity of the area and would have a significant impact to the locality.</p> <p>The comment is NOTED.</p>
<p>Relationship between the sign and site –</p> <ul style="list-style-type: none"> • Clause 2 of P308 should be upheld. 	<p>The comment is NOTED.</p>
<p>Great idea and good for small business</p> <p>Bring more vibrancy to the area</p>	<p>The comment is NOTED.</p>

The applicant's response to the submissions is included in **Attachment (c)**.

(b) Main Roads Western Australia

Main Roads Western Australia is the management authority of Canning Highway road reserve and was invited to comment on the proposal. A copy of referral advice is provided at **Attachment (a)**. This agency does not have an objection to the proposal subject to a number of conditions.

Should Council resolve to approve this development, conditions and advice notes would be included on the notice of determination.

(c) Assets and Design

The City's Assets and Design business unit was invited to comment on the proposal, in particular the Road Safety Assessment submitted by the applicant. This business unit is of the view that the proposal would have negligible impact on local traffic on South Terrace, whilst noting Main Roads Western Australia, being the management authority of Canning Highway road reserve, does not have an objection to the proposal.

(d) Environmental Health

Comments were also invited from the City's Environmental Health business unit in relation to potential environmental health impact from the proposal and the Lighting Impact Assessment.

This business unit has reviewed the Lighting Impact Assessment and is satisfied with the findings of the Assessment. Should Council resolve to approve the development, this business unit has recommended a condition to verify the future operation of the sign.

Policy and Legislative Implications

Comments have been provided elsewhere in this report, in relation to the various provisions of the Scheme, the R-Codes and Council policies, where relevant.

Financial Implications

This determination has no financial implications, as the application will be determined by the WAPC should the officer recommendation be supported.

Key Risks and Considerations

Risk Event Outcome	Reputational Damage Deals with adverse impact upon the professional reputation and integrity of the City and its representative whether those persons be appointed or elected to represent the City. The outcome can range from a letter of complaint through to a sustained and co-ordinated representation against the City and/or sustained adverse comment in the media.
Risk rating	Low
Mitigation and actions	Risk acceptable with adequate controls, managed by routine procedures and subject to annual monitoring

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2021-2031](#):

Strategic Direction:	Environment (Built and Natural)
Aspiration:	Sustainable, liveable, diverse and welcoming neighbourhoods that respect and value the natural and built environment
Outcome:	3.2 Sustainable built form
Strategy:	3.2.1 Develop and implement a sustainable local planning framework to meet current and future community needs

Sustainability Implications

Nil.

Conclusion

It is considered that the proposal does not meet all of the relevant Scheme and/or Council Policy objectives and provisions, as it has the potential to have a negative impact on nearby residential neighbours and streetscape. The proposed digital sign is located in a predominantly residential area and is considered to be out of character, would detract from the existing streetscape and would have a significant amenity impact on the surrounding area.

The proposal contains third-party advertising content and does not comply with clause 2 of Council Policy P308. It is considered that there is no cogent reason to depart from this policy requirement given the proposal does not seek to enhance the amenity of the locality.

While the applicant has provided substantial justification and reports to support this application, it is considered, on balance, that the proposal should not be supported at this location due to its potential impact on local amenity and would be more suitably located in a city centre or activity centre location. Accordingly, it is recommended that Council advise the WAPC of its objection to the proposal.

Attachments

10.3.1 (a):	Main Roads Referral Advice
10.3.1 (b):	Amended Development Plans
10.3.1 (c):	Applicant's Planning Reports
10.3.1 (d):	Site Photographs

10.3.2 Tender 03/2022 Provision of Consultancy - Electrical Services

File Reference: D-22-39033
Author(s): Rodney Markotis, Engineering Technical Officer
Reporting Officer(s): Steve Atwell, Acting Director Infrastructure Services

Summary

This report considers submissions received from the advertising of Tender 03/2022 for the Provision of Consultancy – Electrical Services.

This report outlines the assessment process used during the evaluation of the tenders received and recommends approval of the tender that provides the best value for money and level of service to the City.

Officer Recommendation AND COUNCIL DECISION

0822/108

Moved: Councillor Carl Celedin
Seconded: Councillor André Brender-A-Brandis

That Council:

1. Accepts the tender submitted by Sage Consulting Engineers for the Provision of Consultancy – Electrical Services in accordance with Tender Number 03/2022 for the period of supply for a period of three years; and
2. Accepts the estimated tender price of \$277,300 excluding GST included in **Confidential Attachment (a)**.

CARRIED BY EXCEPTION RESOLUTION (8/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

Background

A Request for Tender (RFT) 09/2022 for the Provision of Consultancy – Electrical Services was advertised in The West Australian on Saturday 8 January 2022 and closed at 2:00 pm on Tuesday 25 January 2022.

Tenders were invited as a Schedule of Rates. Tenderers have confirmed that their rates remain current despite the delay in progressing the award of this contract.

The contract is for a period of three years.

Comment

At the close of the tender advertising period, three submissions had been received, and these are tabled below:

TABLE A – Tender Submissions

Tender Submission
1. Collaborative World Consultants
2. Lucid Consulting Engineers
3. Sage Consulting Engineers

The Tenders were reviewed by an Evaluation Panel and assessed according to the qualitative criteria detailed in the RFT, as per Table B below.

TABLE B - Qualitative Criteria

Qualitative Criteria	Weighting %
1. Demonstrated company experience in completing similar projects	50%
2. Skills and experience of key personnel	25%
3. Quoted price	25%
Total	100%

Based on the assessment of all submissions received for Tender 03/2022 Provision of Consultancy – Electrical Services, it is recommended that Council accept the tender submission from Sage Consulting Engineers.

More detailed information about the assessment process can be found in the Recommendation Report – **Confidential Attachment (a)**.

Consultation

Public tenders were invited in accordance with the *Local Government Act 1995* (the Act).

Policy and Legislative Implications

Section 3.57 of the *Local Government Act 1995* - tenders for providing goods or services:

- (1) *A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.*
- (2) *Regulations may make provision about tenders.*

Regulation 11 of the Local Government (Functions and General) Regulations 1996 - when tenders have to be publicly invited:

- (1) *Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$250 000 unless sub-regulation (2) states otherwise.*

The following Council Policies also apply:

- Policy P605 - Purchasing and Invoice Approval
- Policy P607 -Tenders and Expressions of Interest

Financial Implications

The total cost of the works is included in the 2022/23 budget and will be considered in future budgets as required.

Key Risks and Considerations

Risk Event Outcome	Business Interruption Failure to establish a contract for consultancy services will impact the efficient and timely procurement of electrical design advice. This may delay some of the City's projects, and design costs may vary
Risk rating	Medium
Mitigation and actions	Approval of the report in a timely manner

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2020-2030](#):

Strategic Direction:	Environment (Built and Natural)
Aspiration:	Sustainable, liveable, diverse and welcoming neighbourhoods that respect and value the natural and built environment
Outcome:	3.1 Connected and accessible City
Strategy:	3.1.1 Facilitate a safe, efficient, accessible and reliable transport network that is pedestrian and cycle friendly

Attachments

10.3.2 (a):	RFT 3 2022 Provision of Consultancy - Electrical Services - Recommendation Report (<i>Confidential</i>)
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10.3.3 RFT 5/2022 - Provision of Verge Side Collection Service

File Reference: D-22-39034
Author(s): Dave Beresford, Waste and Fleet Coordinator
Reporting Officer(s): Steve Atwell, Acting Director Infrastructure Services

Summary

This report considers submissions received from the advertising of Tender 5/2022 for the Provision of Verge Side Collection Service.

This report outlines the assessment process used during evaluation of the tenders received and recommends approval of the tender that provides the best value for money and level of service to the City.

Officer Recommendation AND COUNCIL DECISION

0822/109

Moved: Councillor Carl Celedin
Seconded: Councillor André Brender-A-Brandis

That Council:

1. Accepts the tender submitted by Western Maze for the Provision of Verge Side Collection Service in accordance with Tender Number 5/2022 for the period of supply up to June 2023 inclusive with the option to extend for a further two years (one + one) at the absolute discretion of the City; and
2. Accepts the tender price of \$335,000 excluding GST for the first year included in **Confidential Attachment (a)**.

CARRIED BY EXCEPTION RESOLUTION (8/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

Background

A Request for Tender (RFT) 5/2022 for the Provision of Verge Side Collection Service was advertised in The West Australian on Saturday 9 July 2022 and closed at 2pm on Monday 25 July 2022.

The City provides all rateable residential properties with one hard waste collection and two green waste verge side collections per year. The green waste collections commence in Autumn and Spring. The green waste collection is conducted over a six week period with each week dedicated to a defined area of the City.

The hard waste collection commences at the end of October and runs for an eight week period with each week dedicated to a defined area of the City. Items in this collection are typically household furniture, whitegoods, mattresses and general junk. Recyclable materials including metals/whitegoods, mattresses and eWaste are recovered and recycled.

Tenders were invited as a Lump Sum Contract.

The contract is for the period of one year, with the option to extend for a further two years (one + one) at the absolute discretion of the City.

The City proposes to evaluate options for the ongoing verge side collection program during the duration of this contract to establish the best approach in respect to the most efficient and effective collection model, including the opportunity for on-demand collection.

Comment

At the close of the tender advertising period two submissions had been received as stated in the table below:

TABLE A – Tender Submissions

Tender Submission
West Tip
Western Maze

The Tenders were reviewed by an Evaluation Panel and assessed according to the qualitative criteria detailed in the RFT, as per Table B below.

Tender pricing was reviewed separately but in the context of the qualitative assessment.

TABLE B - Qualitative Criteria

Qualitative Criteria	Weighting %
1. Demonstrated experience in completing similar projects and referees	40%
2. Plant & equipment and skills & experience of key personnel	30%
3. Collection Methodology	30%
Total	100%

During the tender evaluation process, both tender submissions were identified as being capable of delivering the specified service, West Tip was initially identified as the preferred tenderer, it received a higher qualitative criteria score at a marginally higher delivery cost.

Subsequent to the initial tender assessment however, West Tip reviewed its capacity to meet the City's specified contract requirements at its tendered lump sum offer and resolved to withdraw its bid.

This has resulted in the City, having only one conforming tender bid to consider, the offer from Western Maze received an adequate qualitative criteria score and was the lowest priced bid.

It is recommended that tender submission, 5/2022 Provision of Verge Side Collection Service, from Western Maze be accepted by Council.

Detailed information about the assessment process can be found in the Recommendation Report – **Confidential Attachment (a)**.

Consultation

Public tenders were invited in accordance with the *Local Government Act 1995* (the Act).

Policy and Legislative Implications

Section 3.57 of the *Local Government Act 1995* - tenders for providing goods or services:

- (1) *A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.*
- (2) *Regulations may make provision about tenders.*

Regulation 11 of the Local Government (Functions and General) Regulations 1996 - when tenders have to be publicly invited:

- (1) *Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$250 000 unless sub-regulation (2) states otherwise.*

The following Council Policies also apply:

- Policy P605 - Purchasing and Invoice Approval
- Policy P607 -Tenders and Expressions of Interest

Financial Implications

The full cost of the works is included in the 2022/2023 operating budget/s, and any extensions would be included in future budgets.

Key Risks and Considerations

Risk Event Outcome	Business Interruption Delay in the contract award may end the validity period and require the tender to be extended or readvertised. This will compromise the City's ability to deliver the advertised verge collections to residents.
Risk rating	Medium
Mitigation and actions	Approval of the report in a timely manner

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2020-2030](#):

Strategic Direction:	Environment (Built and Natural)
Aspiration:	Sustainable, liveable, diverse and welcoming neighbourhoods that respect and value the natural and built environment
Outcome:	3.4 Resource management and climate change
Strategy:	3.4.1 Actively manage and promote sustainable water, waste, land and energy practices

Attachments

10.3.3 (a): Recommendation Report (*Confidential*)

10.4 STRATEGIC DIRECTION 4: LEADERSHIP

10.4.1 Listing of Payments July 2022

File Ref: D-22-39035
Author(s): Abrie Lacock, Manager Finance
Reporting Officer(s): Garry Adams, Director Corporate Services

Summary

This report presents to Council a list of accounts paid under delegated authority between 1 July 2022 to 31 July 2022 for information. During the reporting period, the City made the following payments:

EFT Payments to Creditors	(350)	\$5,479,803.70
Cheque Payment to Creditors	(5)	\$38,347.64
Total Monthly Payments to Creditors	(355)	\$5,518,151.34
EFT Payments to Non-Creditors	(49)	\$138,902.08
Cheque Payments to Non-Creditors	(8)	\$12,170.08
Total EFT & Cheque Payments	(412)	\$5,669,223.50
Credit Card Payments	(8)	\$18,422.78
Total Payments	(420)	\$5,687,646.28

Officer Recommendation AND COUNCIL DECISION

0822/110

Moved: Councillor Carl Celedin
Seconded: Councillor André Brender-A-Brandis

That Council receives the Listing of Payments for the month of July 2022 as detailed in **Attachment (a)**.

CARRIED BY EXCEPTION RESOLUTION (8/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

Background

Council has delegated to the Chief Executive Officer (CEO) the exercise of its power to make payments from its Municipal and Trust Funds. In accordance with regulation 13(1) of the Local Government (Financial Management) Regulations 1996 a list of accounts paid by the CEO is to be prepared each month and presented to the Council at the next Ordinary Meeting of the Council after the list is prepared.

Comment

The payment listing for July 2022 is included at **Attachment (a)**.

The attached report includes a “Description” for each payment. City officers have used best endeavours to redact (in black) information of a private or confidential nature.

The report records payments classified as:

- **Creditor Payments**

These include payments by both cheque and EFT to regular suppliers with whom the City transacts business. The reference number represent a batch number of each payment.

- **Non-Creditor Payments**

These one-off payments that include both cheque and EFT are made to individuals / suppliers who are not listed as regular suppliers. The reference number represent a batch number of each payment.

- **Credit Card Payments**

Credit card payments are now processed in the Technology One Finance System as a creditor payment and treated as an EFT payment when the bank account is direct debited at the beginning of the following month.

Details of payments made by direct credit to employee bank accounts in accordance with contracts of employment are not provided in this report for privacy reasons nor are payments of bank fees such as merchant service fees which are directly debited from the City’s bank account in accordance with the agreed fee schedules under the contract for provision of banking services.

Consultation

Nil.

Policy and Legislative Implications

Regulations 12 and 13(1) of the Local Government (Financial Management) Regulations 1996. Policy P602 Authority to Make Payments from the Municipal and Trust Funds.

Financial Implications

The payment of authorised amounts is within existing budget provisions.

Key Risks and Considerations

Risk Event Outcome	Legislative Breach Refers to failure to comply with statutory obligations in the manner in which the City, its officers and Elected Members conduct its business and make its decisions and determinations. This embraces the full gamut of legal, ethical and social obligations and responsibilities across all service areas and decision making bodies within the collective organisation
Risk rating	Low
Mitigation and actions	Monthly Financial reporting timelines exceeding statutory requirements

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2021-2031](#):

Strategic Direction:	Leadership
Aspiration:	A visionary and influential local government that is receptive and proactive in meeting the needs of our community
Outcome:	4.3 Good governance
Strategy:	4.3.1 Foster effective governance with honesty and integrity and quality decision making to deliver community priorities

Attachments

10.4.1 (a):	Listing of Payments July 2022
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10.4.2 Monthly Financial Statements July 2022

File Ref: D-22-39036
Author(s): Abrie Lacock, Manager Finance
Reporting Officer(s): Garry Adams, Director Corporate Services

Summary

The monthly Financial Statements are provided within **Attachments (a)–(i)**, with high level analysis contained in the comments of this report.

Officer Recommendation AND COUNCIL DECISION

0822/111

Moved: Councillor Carl Celedin
Seconded: Councillor André Brender-A-Brandis

That Council notes the Financial Statements and report for the month ended 31 July 2022.

CARRIED BY EXCEPTION RESOLUTION (8/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

Background

Regulation 34(1) of the Local Government (Financial Management) Regulations 1996, requires each local government to present a Statement of Financial Activity reporting on income and expenditure as set out in the annual budget. In addition, regulation 34(5) requires a local government to adopt a percentage or value to report on material variances between budgeted and actual results. The 2022/23 budget adopted by Council on 28 June 2022, determined the variance analysis for significant amounts of \$10,000 or 10% for the financial year. Each Financial Management Report contains only the Original Budget. A Revised (adjusted) Budget has not been presented as no budget adjustments have been presented to Council for approval.

Comment

The Statement of Financial Activity, a similar report to the Rate Setting Statement, is required to be produced monthly in accordance the Local Government (Financial Management) Regulations 1996. This financial report is unique to local government drawing information from other reports to include Operating Revenue and Expenditure, Capital Income and Expenditure as well as transfers to reserves and loan funding.

The ongoing impact of COVID-19 in conjunction with the war in Ukraine continues to cause uncertainty and supply shortages around the world, with a significant impact on world economic activities. It has resulted in steep rises in inflation worldwide including Australia. The June 2022 Perth CPI rose 7.4% from the corresponding quarter of the previous year. To curb the high inflation the RBA have in the last few months announced consecutive increases in the cash rate, the latest being .5% in August.

The current cash rate is 1.85%, increases for the last four months amounted to 1.75%, increases exceeded market predictions.

In framing the Annual Budget 2022/23, the City considered the economic environment and the impact of COVID-19. In Western Australia the State Government continues to extend the public health state of emergency initially enacted 30 March 2020, however public health measures are easing and the mask mandate has not been reimposed.

Actual income from operating activities for July year-to-date (YTD) is \$57.91m in comparison to budget of \$57.82m, favourable to budget by 0.14% or \$83k. Actual expenditure from operating activities for July is \$4.81m in comparison to the budget of \$4.95m, favourable to budget by 2.81% or \$139k. Variations in the month of July are common with a lower activity following Budget adoption, as well as many year-end processes currently undertaken. The July Net Operating Position of \$53.10m was \$222k favourable in comparison to budget.

Actual Capital Revenue YTD is \$6.5k, budget \$5.7k with an unfavourable variance of less than \$1k against budget. Actual Capital Expenditure YTD is \$81k in comparison to the budget of \$65.4k, \$15.2k or 23.4% unfavourable. A variance analysis is provided within **Attachment (e)** titled Significant Variance Analysis. Timing variations such as these are not uncommon in July. As described during the Budget deliberations, the estimation of Capital projects that may carry-forward from one year to the next is challenging as it is dependent on estimating the completion of work by 30 June by a contractor. As in previous years, there may a number of Capital projects that may require a Budget adjustment.

Cash and Cash Equivalents amounted \$55.52m, this is higher than the prior year comparative period. Consistent with previous monthly reports, the Cash and Cash Equivalents balance is contained within the Statement of Financial Position. In addition, further detail is included in a non-statutory report (All Council Funds).

Interest rates are improving, the record low interest rates in Australia still have residual impact on the City's investment returns, with banks offering average interest rates of 2.73% for investments under 12 months. The City holds a portion of its funds in financial institutions that do not invest in fossil fuels. Investment in this market segment is contingent upon all of the other investment criteria of Policy P603 Investment of Surplus Funds being met. At the end of July 2022 the City held 48.66% of its investments in institutions that do not provide fossil fuel lending. The Summary of Cash Investments illustrates the percentage invested in each of the non-fossil fuel institutions and the short term credit rating provided by Standard & Poors for each of the institutions.

Consultation

Nil.

Policy and Legislative Implications

This report is in accordance with the requirements of the Section 6.4 of the *Local Government Act 1995* and regulation 34 of the Local Government (Financial Management) Regulations 1996.

Financial Implications

The preparation of the monthly financial reports occurs from the resources provided in the annual budget.

Key Risks and Considerations

Risk Event Outcome	Legislative Breach Refers to failure to comply with statutory obligations in the manner in which the City, its officers and Elected Members conduct its business and make its decisions and determinations. This embraces the full gamut of legal, ethical and social obligations and responsibilities across all service areas and decision making bodies within the collective organisation
Risk rating	Low
Mitigation and actions	Monthly Financial reporting timelines exceeding statutory requirements

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2021-2031](#):

Strategic Direction:	Leadership
Aspiration:	A local government that is receptive and proactive in meeting the needs of our community
Outcome:	4.3 Good governance
Strategy:	4.3.1 Foster effective governance with honesty and integrity and quality decision making to deliver community priorities

Attachments

10.4.2 (a):	Statement of Financial Position
10.4.2 (b):	Statement of Change in Equity
10.4.2 (c):	Statement of Financial Activity
10.4.2 (d):	Operating Revenue and Expenditure
10.4.2 (e):	Significant Variance Analysis
10.4.2 (f):	Capital Revenue and Expenditure
10.4.2 (g):	Statement of Council Funds
10.4.2 (h):	Summary of Cash Investments
10.4.2 (i):	Statement of Major Debtor Categories

10.4.3 Model Standards for CEO recruitment, performance and termination

File Ref: D-22-39037
Author(s): Pele McDonald, Manager People and Performance
Reporting Officer(s): Garry Adams, Director Corporate Services

Summary

This report presents the City of South Perth Model Standards for CEO recruitment, performance and termination for adoption. The Model Standards are a requirement under the *Local Government Act 1995*.

Officer Recommendation AND COUNCIL DECISION

0822/112

Moved: Mayor Greg Milner
Seconded: Councillor Stephen Russell

That Council adopts the Model Standards for CEO recruitment, performance and termination as contained in **Attachment (a)**.

CARRIED BY AN ABSOLUTE MAJORITY (8/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

Background

It is a requirement under the *Local Government Act 1995* that a local government must prepare and adopt standards to be observed by the local government that incorporate the model standards.

The Local Government (Administration) Regulations 1996 outline these Model standards for CEO recruitment, performance and termination.

To adopt the Model Standards, a resolution must be passed by an absolute majority of the council. Once adopted, it must then be published on the City's website.

Comment

The City of South Perth Model Standards for CEO recruitment, performance and termination in **Attachment (a)** is the Model Standards as prescribed by the Regulations.

These model standards outline the process and requirements the City must follow when recruiting for a CEO, reviewing the performance of the CEO and termination of employment of the CEO.

Consultation

Nil.

Policy and Legislative Implications

Local Government Act 1995

Local Government (Administration) Regulations 1996

Policy P639 CEO Recruitment, Performance and Termination

Financial Implications

Nil.

Key Risks and Considerations

Risk Event Outcome	Legislative Breach Refers to failure to comply with statutory obligations in the manner in which the City, its officers and Elected Members conduct its business and make its decisions and determinations. This embraces the full gamut of legal, ethical and social obligations and responsibilities across all service areas and decision making bodies within the collective organisation
Risk rating	Low
Mitigation and actions	The City also has Policy P639 CEO Recruitment, Performance and Termination in place to ensure the correct processes are followed.

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2021-2031](#):

Strategic Direction:	Leadership
Aspiration:	A local government that is receptive and proactive in meeting the needs of our community
Outcome:	4.3 Good governance
Strategy:	4.3.1 Foster effective governance with honesty and integrity and quality decision making to deliver community priorities

Attachments

10.4.3 (a):	Model Standards for CEO recruitment, performance and termination
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10.4.4 Council Delegation DC702 Granting Fee Waiver – Collier Park Golf Course

File Ref: D-22-39038
Author(s): Bernadine Tucker, Manager Governance
Reporting Officer(s): Garry Adams, Director Corporate Services

Summary

This report proposes a new Delegation to the CEO to vary the Schedule of Fees and Charges for the Collier Park Golf Course and Mini Golf to undertake promotional offers, charity events and other concessional rates.

Officer Recommendation AND COUNCIL DECISION

0822/113

Moved: Councillor Carl Celedin
Seconded: Councillor Jennifer Nevard

That Council approves Delegation DC702 Granting Fee Waiver – Collier Park Golf Course as contained in **Attachment (a)**.

CARRIED BY AN ABSOLUTE MAJORITY (8/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

Background

Section 5.42 of the *Local Government Act 1995* (the Act) provides that a council may delegate to the Chief Executive Officer the exercise of any of its powers or the discharge of any of its duties under the Act, other than those referred to in section 5.43.

Section 6.12(1)(b) of the Act provides the power to waive or grant concessions in relation to any amount of money.

Comment

The Collier Park Golf Course and Mini Golf is currently run on behalf of the City, under the Course Controller Agreement by Club Links Management Pty Ltd.

Club Links meet with the City on a regular basis to discuss golf course operations and determine strategies for improving returns and player experiences for the golf course and mini golf.

At a recent meeting between Club Links and City management, Club Links conveyed to the City that it would like to undertake some promotional activities to fill vacant capacity at low usage times throughout the week.

It was identified that, whilst the current adopted fees and charges provide for some concessional rates, they do not provide for the type of promotional opportunities that Club Links would normally undertake.

It was therefore identified that the ability to provide for these types of promotional pricing activities should have been accounted for by way of delegation to the CEO. However, no such delegation currently exists.

A new delegation has therefore been created for Council approval, that is specific to the Collier Park Golf Course.

Consultation

Consultation has occurred with officers of the relevant Departments and the operators of the Collier Park Golf Course.

Policy and Legislative Implications

Section 5.42 and 6.12 *Local Government Act 1995*.

Financial Implications

The implementation of promotional pricing opportunities is designed to increase revenue during times of low usage and will therefore have a positive financial impact.

Key Risks and Considerations

Risk Event Outcome	Legislative Breach Refers to failure to comply with statutory obligations in the manner in which the City, its officers and Elected Members conduct its business and make its decisions and determinations. This embraces the full gamut of legal, ethical and social obligations and responsibilities across all service areas and decision making bodies within the collective organisation
Risk rating	Low
Mitigation and actions	Delegations operating as intended. Subject to ongoing monitoring. Reviewed regularly.

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2021-2031](#):

Strategic Direction:	Leadership
Aspiration:	A local government that is receptive and proactive in meeting the needs of our community
Outcome:	4.3 Good governance
Strategy:	4.3.1 Foster effective governance with honesty and integrity and quality decision making to deliver community priorities

Attachments

10.4.4 (a): DC702 Granting Fee Waiver – Collier Park Golf Course

Councillor Mary Choy disclosed an impartiality interest in relation to Item 10.4.5.

10.4.5 Town Planning Scheme Amendment No.61 - Correspondence from the Hon Minister for Transport; Planning; Ports

File Ref: D-22-39039
Author(s): Vicki Lummer, Director Development and Community Services
Reporting Officer(s): Vicki Lummer, Director Development and Community Services

Summary

This report is to notify Council of the correspondence received from the Hon Minister for Transport; Planning; Ports.

Amended Motion and COUNCIL DECISION

Moved: Councillor Stephen Russell
Seconded: Councillor Carl Celedin

That Council notes, but does not accept, the Minister's response to the correspondence from the CEO regarding Town Planning Scheme Amendment No.61 as contained in Attachment (b).

Reasons for change

As a preamble, I would like to acknowledge and thank the Minister in responding to the Council's request. I understand that the Minister had no obligation to respond and hence a response in the requested period is deeply appreciated.

Notwithstanding, the Minister has stated in her responding letter that she trusts that the information provided is of assistance, however it is the opinion that it does not provide any assistance whatsoever to the Council and by extension to the community of South Perth. The Minister's response is bitterly disappointing and quite frankly dismissive in nature.

Specifically, to the Minister's letter;

1. It is acknowledged that the Minister may apply modifications in her decisions making role as with the City Elected Members. However, it is the opinion that the principle of good decision making in the public domain is based upon full transparency as to why the exercise of discretion is considered appropriate and cite reasons to support such. However, rather than provide such to each modification as requested by Council, the Minister has merely provided, with some inconsequential narrative, references to documents that provide the strategic pathway to 'Perth and Peel @ 3.5 million' and the very starting point for the drafting of the South Perth Activity Centre Plan / Amendment 61.
2. The Minister has advised that she has taken into consideration the submissions from the community that were received by the community during public advertising. It is indeed strange where a State Minister believes that the community's expectations through their public submissions to a plan, are better understood at a state level rather than at a local level by the Local Government.

The Minister's statement would be more credible if details to which group of public submissions were guiding her decision making. Alas, no details were provided.

3. The Minister has stated that her modifications still provide for an intensity and arrangement of built form as advocated by the City. It is the opinion that this cannot be the case. The Minister's modifications have for example applied an increased typology within the Mill Point area, set building heights in storeys rather than metres, removed a maximum height limit for High Typology Tier 2 sites and replaced the Tier 2 Competitive Design Process with a South Perth Activity Centre Design Review Panel. The latter is bitterly disappointing, as advised by a City workshop in late 2019, competition is appropriate for proposals seeking to achieve exemplary design such as Sydney's multi-award winning One Central Park.

LOST (3/5).

For: Councillors Carl Celedin, Mary Choy and Stephen Russell.

Against: Mayor Greg Milner, Councillors André Brender-A-Brandis, Blake D'Souza, Ken Manolas and Jennifer Nevard.

During debate Councillor André Brender-A-Brandis foreshadowed the officers recommendation.

Officer Recommendation AND COUNCIL DECISION

0822/114

Moved: Councillor André Brender-A-Brandis

Seconded: Councillor Jennifer Nevard

That Council notes the Minister's response to the correspondence from the CEO regarding Town Planning Scheme Amendment No.61 as contained in **Attachment (b)**.

CARRIED (5/3)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Blake D'Souza, Ken Manolas and Jennifer Nevard.

Against: Councillors Carl Celedin, Mary Choy, and Stephen Russell..

Background

At its meeting held 26 April 2022 Council resolved (Council Resolution Number 0422/053) as follows:

That the CEO:

- "1. *Write a letter to the Minister for Planning, the Hon. Rita Saffioti MLA, to respectfully request:*
 - a. *that for the gazetted Amendment 61, reasons be given for each of the modifications, as approved by herself, from the Council endorsed draft version and;*
 - b. *a response be given within three months from receipt of the letter and;*

10.4.5 Town Planning Scheme Amendment No.61 - Correspondence from the Hon Minister for Transport; Planning; Ports

2. Carry out (1) within two weeks and;
3. Upon receipt of the Ministers response, include the Minister's response along with the CEO's letter for Council noting at the next available Ordinary Council Meeting.

CARRIED (8/1).

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy Glenn Cridland, Blake D'Souza, Jennifer Nevard and Stephen Russell.

Against: Councillor Ken Manolas.”

Comment

The CEO's letter is contained in **Attachment (a)** and the Hon Minister's response is contained in **Attachment (b)**, for noting.

Consultation

Nil.

Policy and Legislative Implications

Nil.

Financial Implications

Nil.

Key Risks and Considerations

Risk Event Outcome	Nil.
Risk rating	Not Applicable
Mitigation and actions	Nil.

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2021-2031](#):

Strategic Direction:	Leadership
Aspiration:	A local government that is receptive and proactive in meeting the needs of our community
Outcome:	4.1 Engaged community and leadership
Strategy:	4.1.1 Engage, consult and listen to our community to understand and deliver on identified priorities

Attachments

10.4.5 (a):	CEO's Letter
10.4.5 (b):	Minister's Letter

10.5 MATTERS REFERRED FROM COMMITTEE MEETINGS

Mayor Greg Milner disclosed an Impartiality Interest in relation to Item 10.5.1 and left the meeting at 6.50pm prior to consideration of the Item.

Councillor Blake D'Souza assumed the Chair.

10.5.1 Proposed Licence Agreement for Manning Community Toy Library Inc located at Manning Community Centre

File Ref: D-22-39040
Author(s): Patrick Quigley, Manager Community, Culture and Recreation
Reporting Officer(s): Vicki Lummer, Director Development and Community Services

Summary

This report seeks approval for the City to enter into a new licence agreement with Manning Community Toy Library Inc. for its continued use of a portion of the Manning Community Centre located at Lot 803 on Plan 69206 (2 Conochie Crescent, Manning), for a five-year term with an option of renewal for a further five-year term.

Committee Recommendation and COUNCIL DECISION

Moved: Councillor Carl Celedin
Seconded: Councillor Blake D'Souza

That the Property Committee recommends to Council that it:

1. Approves a licence agreement between the City of South Perth and Manning Community Toy Library Inc. for its continued use of a portion of the Manning Community Centre located at Lot 803 on Plan 69206 (2 Conochie Crescent, Manning), subject to the following main terms and conditions:
 - a. A term of five years;
 - b. A further term of five years (renewal option);
 - c. A peppercorn/\$1 annual rental (if demanded) to reflect the Toy Library's small-scale operation; and in recognition of the community benefits provided by the Toy Library to local families; and
 - d. Payment of outgoings, utilities and minor building maintenance costs.
2. Authorises the Mayor and Chief Executive Officer to sign and affix the Common Seal to the licence documentation between the City of South Perth and Manning Community Toy Library Inc.

LOST (2/5).

For: Councillors Carl Celedin and Blake D'Souza.

Against: Councillors André Brender-A-Brandis, Mary Choy, Ken Manolas, Jennifer Nevard and Stephen Russell.

During debate Councillor Mary Choy foreshadowed the following alternative recommendation.

Alternative Recommendation

Moved: Councillor Mary Choy

Seconded: Councillor André Brender-A-Brandis

That Council defer this item, and the current casual hire arrangement for the Manning Community Toy Library remain in place, until a Councillor Briefing Session has been held to review the City's documents (including relevant policies, delegation and local law) and procedures pertaining to lease and licence agreements, alongside any legal advice.

Reasons for change

To clarify the remit over licence agreements and the apparent interchangeability between lease and licence terms and conditions, including for the Manning Community Toy Library.

COUNCIL DECISION

0822/115

Moved: Councillor Mary Choy

Seconded: Councillor Ken Manolas

That Item 10.5.1 Proposed Licence Agreement for Manning Community Toy Library Inc located at Manning Community Centre be considered in closed session, in accordance with s5.23(2)(d) of the *Local Government Act 1995* to discuss the legal advice obtained.

CARRIED (4/3)

For: Councillors André Brender-A-Brandis, Mary Choy, Ken Manolas and Jennifer Nevard.

Against: Councillors Carl Celedin, Blake D'Souza and Stephen Russell.

The meeting was closed to members of the public at 7.05pm and those members in the gallery left accordingly.

COUNCIL DECISION

0822/116

Moved: Councillor Mary Choy

Seconded: Councillor Ken Manolas

That Clause 8.9 of the City of South Perth Standings Orders Local Law 2007 be suspended to allow all Councillors to speak more than once.

CARRIED (5/2)

For: Councillors André Brender-A-Brandis, Mary Choy, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Councillors Carl Celedin and Blake D'Souza..

Moved: Councillor Blake D'Souza
Seconded: Councillor Carl Celedin

That the meeting be reopened to the public.

LOST (3/4).

For: Councillors Carl Celedin, Blake D'Souza and Stephen Russell.

Against: Councillors André Brender-A-Brandis, Mary Choy, Ken Manolas and Jennifer Nevard.

COUNCIL DECISION

0822/117

Moved: Councillor Blake D'Souza
Seconded: Councillor André Brender-A-Brandis

That the meeting be reopened to the public and Clause 8.9 of the City of South Perth Standing Orders Local Law 2007 be reinstated.

CARRIED (7/0)

For: Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

The meeting reopened to members of the public at 7.38pm.

Alternative Recommendation and COUNCIL DECISION

0822/118

Moved: Councillor Mary Choy
Seconded: Councillor André Brender-A-Brandis

That Council defer this item, and the current casual hire arrangement for the Manning Community Toy Library remain in place, until a Councillor Briefing Session has been held to review the City's documents (including relevant policies, delegation and local law) and procedures pertaining to lease and licence agreements, alongside any legal advice.

Reasons for change

To clarify the remit over licence agreements and the apparent interchangeability between lease and licence terms and conditions, including for the Manning Community Toy Library.

CARRIED (4/3)

For: Councillors André Brender-A-Brandis, Mary Choy, Ken Manolas and Jennifer Nevard.

Against: Councillors Carl Celedin, Blake D'Souza and Stephen Russell.

Background

The Manning Community Toy Library was established at the site in 2018 and has more than 600 toys, puzzles, games available in its collection to be loaned to local families, mainly for children aged between six months and six years.

The Manning Community Toy Library Inc. is a small community group that currently has capacity to operate one day per week (Saturday mornings from 9am to 10.30am). The Toy Library has a current membership of approx. 200 people who predominantly live in the suburbs of Manning, Salter Point and surrounds, with 20 families on average loaning toys each week.

The Toy Library occupies part of the Manning Community Centre, which is situated on land owned freehold by the City and set aside for 'parks and recreational' purposes.

The City has the power to use the land as required, which may include licensing it to a third party.

Comment

The Toy Library currently use the Centre under a casual hire arrangement, which does not provide them with certainty over their tenure. Both parties have agreed to enter into a licence agreement, which will address the tenure issue and provide clearer operational guidelines on the roles and responsibilities of each party, including building maintenance etc. Having a longer-term tenancy agreement in place will also assist the Toy Library with its operational planning and may assist them to source external grants and sponsorship.

Until the licence agreement can be developed, the tenant continues to provide a toy sharing service at the site under a casual hire arrangement with the City.

The Toy Library is an acceptable tenant as it meets an ongoing community need, especially assisting local families to share/loan toys and games for their children who may otherwise not be able to have access to certain toys and games.

The proposed terms for the licence agreement have been negotiated based on the following considerations that the Toy Library:

- Has a long history of facilitating a toy sharing/loan service within the local community, and is willing and able to continue this role;
- Operates on a low annual operating budget and has agreed to be responsible for paying outgoings, utilities and building maintenance costs; and
- Has low-income generation ability that is mainly achieved through membership fees and grants.

The site plan for the proposed licence of the Toy Library is highlighted in **Figure 1** below.



Figure 1: Aerial photograph of the subject site (2021).

Consultation

The City has undertaken recent consultation with the Toy Library Inc. regarding the proposed licence agreement, who expressed its support to enter into a licence agreement with the City, subject to continuation of the peppercorn rent arrangement. The Toy Library has been operating at the site for many years and is keen to remain at its current site into the future. Granting a licence of the premises will ensure continued provision of a toy sharing/loaning service at this location for the local community.

Policy and Legislative Implications

Under Section 3.58 of the *Local Government Act 1995* (the Act), a disposition of land includes leasing/licencing of local government property. If a local government does not dispose of property via a public auction or the public tender method, the proposal must be advertised for public comment – unless the proposal is an ‘exempt’ disposition.

A disposition of property is exempt from Section 3.58 under Regulation 30, Part 6 Miscellaneous Provisions of the Local Government (Functions and General) Regulations 1996 if the land is to be used for charitable, benevolent, religious, cultural, educational, recreational, sporting or other like purposes.

As the Toy Library is an incorporated association/community group and is seeking use of local government property for recreation purposes, the intended use of the land is exempt from section 3.58 of the Act.

Under Policy P609 Management of City Property, licences with community groups are to be negotiated consistently with the following principles:

- Licences will be granted for a period of five years with a five-year option;
- Licences to be for an annual rental amount which is calculated using the following formula: 0.1% of the insured value of the facility or a minimum of \$1,000 per annum; and
- All groups will be required to adhere to the ‘Property Maintenance Schedule’ for the respective facility; a document which sets out the responsibilities of both parties.

Policy P609 also makes provision for Council to grant a donation in subsidy of the rental amount where the proposed tenancy would provide a demonstrable benefit to the local community.

Financial Implications

The Toy Library is a small-scale operation, which is evidenced by its current financial position. The Toy Library's profit and loss statement and balance sheet is attached in **Confidential Attachment (a)**.

The City supports continuation of a peppercorn/\$1 annual rental (if demanded), in recognition of the Toy Library's small-scale operation with low cash/assets; limited income generation ability; and in recognition of the ongoing community benefits provided by the Toy Library to local families.

The Toy Library will become responsible for payment of outgoings, utilities and some minor building maintenance costs. The City will be responsible for the cost of preparation and lodgement of the licence document.

Key Risks and Considerations

Risk Event Outcome	Legislative Breach Refers to failure to comply with statutory obligations in the manner in which the City, its officers and Elected Members conduct its business and make its decisions and determinations. This embraces the full gamut of legal, ethical and social obligations and responsibilities across all service areas and decision-making bodies within the collective organisation
Risk rating	Low
Mitigation and actions	The proposed new licence agreement will mitigate a potential legislative breach by outlining the terms and conditions regarding the approved use of the land by the licensee. It will also enable the parties to comply with legislative requirements relating to licensing of local government property

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2021-2031](#):

Strategic Direction:	Community
Aspiration:	Our diverse community is inclusive, safe, connected and engaged
Outcome:	1.2 Community infrastructure
Strategy:	1.2.1 Plan, develop and facilitate community infrastructure to respond to changing community needs and priorities

Attachments

10.5.1 (a):	Manning Community Toy Library - Profit and Loss Statement and Balance Sheet (<i>Confidential</i>)
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10.5.2 Proposed Lease Agreement for Moorditj Keila Inc located at Manning Community Centre

File Ref: D-22-39041
Author(s): Patrick Quigley, Manager Community, Culture and Recreation
Reporting Officer(s): Vicki Lummer, Director Development and Community Services

Summary

This report seeks approval for the City to enter into a new lease agreement with Moorditj Keila Inc. for its continued use of a portion of the Manning Community Centre located at Lot 803 on Plan 69206 (2 Conochie Crescent, Manning), for a five-year term with an option of renewal for a further five-year term.

Committee Recommendation AND COUNCIL DECISION

0822/119

Moved: Councillor Carl Celedin
Seconded: Councillor André Brender-A-Brandis

That the Property Committee recommends to Council that it:

1. Approves a lease agreement between the City of South Perth and Moorditj Keila Inc. for its continued use of a portion of the Manning Community Centre located at Lot 803 on Plan 69206 (2 Conochie Crescent, Manning), subject to the following main terms and conditions:
 - a. A term of five years;
 - b. A further term of five years (renewal option);
 - c. A peppercorn/\$1 annual rental (if demanded) to reflect the Moorditj Keila's small-scale operation; and in recognition of the community benefits provided by the Moorditj Keila to local families; and
 - d. Payment of outgoings, utilities and minor building maintenance costs.
2. Authorises the Mayor and Chief Executive Officer to sign and affix the Common Seal to the lease documentation between the City of South Perth and Moorditj Keila Inc.

CARRIED BY EXCEPTION RESOLUTION (8/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

Background

Moorditj Keila ('healthy dolphin' in Nyoongar) is a local community organisation that was established in 2005. Since that time, it has provided support to thousands of Aboriginal and non-Aboriginal people, predominantly within the suburbs of Manning, Karawara, South Perth and surrounds.

Moorditj Keila facilitate a range of community programs, services and events, such as sports programs, reconciliation programs, youth programs and community development programs.

Moorditj Keila occupies part of the Manning Community Centre, which is situated on land owned freehold by the City and set aside for 'parks and recreational' purposes. The City has the power to use the land as required, which may include leasing it to a third party.

Comment

Moorditj Keila currently use a portion of the Manning Community Centre under a lease agreement, which expired on 30 June 2022. Until a new lease agreement can be developed, the tenant continues to provide programs and services at the Centre under a 'holding over' arrangement with the City.

Moorditj Keila is an acceptable tenant as it meets an ongoing community need, especially being a key partner assisting the City of South Perth to implement the actions within the City's Reconciliation Action Plan.

The proposed terms for the lease agreement have been negotiated based on the following considerations that the Moorditj Keila:

- Has a long history of facilitating community programs and services within the local area, and is willing and able to continue this role;
- Operates on a low annual operating budget and has agreed to be responsible for paying outgoings, utilities and building maintenance costs; and
- Has low-income generation ability that is mainly achieved through grants, donations and facility hire.

The site plan for the proposed lease for Moorditj Keila is highlighted in **Figure 1** below.



Figure 1: Aerial photograph of the subject site (2021).

Consultation

The City has undertaken recent consultation with Moorditj Keila regarding the proposed lease agreement, who expressed its support to enter into a lease agreement with the City, subject to continuation of the peppercorn rent arrangement. Moorditj Keila has been operating at the site for many years and is keen to remain at its current site into the future. Granting a lease of the premises will ensure continued provision of community programs and services for Aboriginal and non-Aboriginal people in the local area.

Policy and Legislative Implications

Under Section 3.58 of the *Local Government Act 1995* (the Act), a disposition of land includes leasing of local government property. If a local government does not dispose of property via a public auction or the public tender method, the proposal must be advertised for public comment – unless the proposal is an ‘exempt’ disposition.

A disposition of property is exempt from Section 3.58 under Regulation 30, Part 6 Miscellaneous Provisions of the Local Government (Functions and General) Regulations 1996 if the land is to be used for charitable, benevolent, religious, cultural, educational, recreational, sporting or other like purposes.

As Moorditj Keila is an incorporated association/community group and is seeking use of local government property for recreational purposes, the intended use of the land is exempt from section 3.58 of the Act.

Under Policy P609 Management of City Property, leases with community groups are to be negotiated consistently with the following principles:

- Leases will be granted for a period of five years with a five-year option;
- Leases to be for an annual rental amount which is calculated using the following formula: 0.1% of the insured value of the facility or a minimum of \$1,000 per annum; and
- All groups will be required to adhere to the ‘Property Maintenance Schedule’ for the respective facility; a document which sets out the responsibilities of both parties.

Policy P609 also makes provision for Council to grant a donation in subsidy of the rental amount where the proposed tenancy would provide a demonstrable benefit to the local community.

Financial Implications

Moorditj Keila is a small-scale operation, which is evidenced by its financial position. Moorditj Keila’s profit and loss statement and balance sheet is attached in **Confidential Attachment (a)**.

The City supports continuation of a peppercorn/\$1 annual rental (if demanded), in recognition of Moorditj Keila’s small-scale operation with low cash/assets; limited income generation ability; and in recognition of the ongoing community benefits provided by Moorditj Keila to local families.

Moorditj Keila will remain responsible for payment of outgoings, utilities and some minor building maintenance costs. The City will be responsible for the cost of preparation and lodgement of the lease document.

Key Risks and Considerations

Risk Event Outcome	Legislative Breach Refers to failure to comply with statutory obligations in the manner in which the City, its officers and Elected Members conduct its business and make its decisions and determinations. This embraces the full gamut of legal, ethical and social obligations and responsibilities across all service areas and decision-making bodies within the collective organisation
Risk rating	Low
Mitigation and actions	The proposed new lease agreement will mitigate a potential legislative breach by outlining the terms and conditions regarding the approved use of the land by the lessee. It will also enable the parties to comply with legislative requirements relating to leasing of local government property

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2021-2031](#):

Strategic Direction:	Community
Aspiration:	Our diverse community is inclusive, safe, connected and engaged
Outcome:	1.2 Community infrastructure
Strategy:	1.2.1 Maintain current and plan, develop and facilitate community infrastructure to respond to community needs and priorities

Attachments

10.5.2 (a):	Moorditj Keila - Profit & Loss Statement and Balance Sheet - 2020-21 (<i>Confidential</i>)
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Councillor Stephen Russell disclosed an impartiality interest in relation to Item 10.5.3.

10.5.3 Proposed Lease Agreement for Manning Rippers Football Club Inc located at 1 Bradshaw Crescent, Manning

File Ref: D-22-39042
Author(s): Patrick Quigley, Manager Community, Culture and Recreation
Reporting Officer(s): Vicki Lummer, Director Development and Community Services

Summary

This report seeks Council's approval for the City of South Perth to enter into a lease agreement with Manning Rippers Football Club Inc. for its continued use of part of Crown Reserve R51462 on Deposited Plan 72861 (Lot 501, 1 Bradshaw Crescent, Manning), for sport and recreation purposes for a five-year term with a five-year renewal option.

Committee Recommendation AND COUNCIL DECISION

0822/120

Moved: Councillor Carl Celedin
Seconded: Councillor André Brender-A-Brandis

That the Property Committee recommends to Council that it:

1. Approves a lease agreement between the City of South Perth and Manning Rippers Football Club Inc. for its continued use of part of Crown Reserve R51462 on Deposited Plan 72861 (Lot 501, 1 Bradshaw Crescent, Manning), subject to the following main terms and conditions:
 - a. Use of the Manning Hub (sporting club community facilities comprising clubrooms, changerooms, storerooms and canteen);
 - b. Sport and recreation purposes;
 - c. A period of five years with an option of renewal for a further five-year term;
 - d. An annual rental of \$4,000 per annum (plus GST) which is reviewed each year that is calculated using the following formula: 0.1% of the insured value of the facility; and
 - e. Payment of all rates, taxes, outgoings, utilities and building maintenance costs; and
 - f. Ministerial consent being provided.
2. Authorises the Mayor and Chief Executive Officer to sign and affix the Common Seal to the lease documentation between the City of South Perth and Manning Rippers Football Club Inc; and
3. Notes approval of the lease agreement is subject to Ministerial consent.

CARRIED BY EXCEPTION RESOLUTION (8/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

Background

Manning Rippers Football Club is a local club that is based at James Miller Oval in Manning and use a portion of the adjacent Manning Hub for its clubrooms, changerooms, storerooms and canteen.

The land on which these community facilities are located is on a portion of Crown Reserve R51462 that is vested to the City under a Management Order to be provided for parks and recreational purposes. The City has the power to lease this land for any term not exceeding 21 years subject to the approval of the Minister for Lands.

The Club is an incorporated association registered under the *Associations Incorporation Act 2015*. The Club is comprised of juniors and adult participants and has a current membership of 586 players. The juniors were established in 1957 and the adults/seniors began in 1986, so the Club has a long history playing football within the City of South Perth.

A current seasonal lease agreement is in place between the Club and the City that is due to expire on 30 September 2022. This agreement provides tenure to the Club to use/occupy the clubrooms (and associated changerooms, storerooms and canteen) throughout the football season each year i.e. for a six month period from 1 April to 30 September inclusive.

James Miller Oval and the adjacent clubrooms, changerooms, storerooms and canteen were previously used by the Perth Blitz Gridiron Club during the traditional summer sporting season from 1 October to 31 March inclusive each year. However, the Perth Blitz Gridiron Club vacated the premises in May 2021 and the Manning Hub (sporting club community facilities) have not had a permanent sporting club tenant since that time. In October 2021, the City advertised for expressions of interest for summer seasonal use of the sporting club community facilities. The City received one submission from the Manning Rippers Football Club who is requesting use of the facilities to facilitate (or partner with other community groups and organisations) to provide a range of sport and recreation activities, such as: cricket, AFL 9's, women's football, little athletics, group fitness classes (e.g. pilates, yoga), arts and craft classes etc. The City is supportive of the proposal from the Manning Rippers Football Club, which can be accommodated by the parties entering into an all-year lease agreement, as opposed to a seasonal lease agreement.

Comment

The Manning Rippers Football Club is an acceptable tenant as it caters for the football playing requirements of men, women and children in the local area.

The proposed terms for the new lease agreement have been negotiated based on the following considerations that the Manning Rippers Football Club:

- Has a long history of facilitating football activities within the local community, and is willing and able to continue this role;
- Operates on a low annual operating budget and has agreed to be responsible for paying an annual rental fee, outgoings, utilities and building maintenance costs; and

10.5.3 **Proposed Lease Agreement for Manning Rippers Football Club Inc located at 1 Bradshaw Crescent, Manning**

- Has low income generation ability that is mainly achieved through membership fees, food and beverage sales, fund raising and merchandise sales.

The site plan for the proposed lease of the Club is highlighted in **Figure 1** below.



Figure 1: Aerial photograph of the subject site (2021).

Consultation

The City has been in consultation with the Manning Rippers Football Club about a new lease agreement and they have agreed to the proposed terms and conditions.

Granting a new lease of the premises for 10 years will ensure continued provision of sport and recreation at this location. As a safeguard, the new lease agreement will include a redevelopment clause in case the land is required for other purposes into the future.

The Club has been a good tenant and the recommended terms represent an appropriate outcome for both parties. The agreement will require consent from the Minister for Lands.

Policy and Legislative Implications

The following legislation and policies are relevant:

- *Local Government Act 1995*
- City of South Perth Policy P609 'Management of City Property'

Local Government Act 1995

Under Section 3.58 of the *Local Government Act 1995* (the Act), a disposition of land includes leasing of local government property. If a local government does not dispose of property via a public auction or the public tender method, the proposal must be advertised for public comment – unless the proposal is an 'exempt' disposition.

A disposition of property is exempt from Section 3.58 under Regulation 30, Part 6 Miscellaneous Provisions of the Local Government (Functions and General) Regulations 1996 if the land is to be used for charitable, benevolent, religious, cultural, educational, recreational, sporting or other like purposes. As Manning Rippers Football Club is seeking use of local government property for recreation, the intended use of the land is exempt from section 3.58 of the Act.

Manning Rippers Football Club is an incorporated association.

City of South Perth Policy P609 'Management of City Property'

Under Policy P609 Management of City Property, leases with sporting clubs are to be negotiated consistently with the following principles:

- Leases will be for a period of five years with a five-year option;
- Leases to be set for a rental amount which is calculated using the following formula: 0.1% of the insured value of the facility or a minimum of \$1,000 per annum.
- All groups will be required to adhere to the 'Property Maintenance Schedule' for the respective facility; a document which sets out the responsibilities of both parties.

Financial Implications

The new lease agreement will attract rental fee income for the City of \$4,000 per annum (plus GST) reviewed each year; and recovery of costs from the Club through its payment of outgoings, utilities and building maintenance costs. The City will be responsible for the cost of preparation and lodgement of the lease document.

Manning Rippers Football Club is financially viable/sustainable, which is evidenced by its current financial position. Manning Rippers Football Club's profit and loss statement and balance sheet is attached in **Confidential Attachment (a)**.

Key Risks and Considerations

Risk Event Outcome	Legislative Breach Refers to failure to comply with statutory obligations in the manner in which the City, its officers and Elected Members conduct its business and make its decisions and determinations. This embraces the full gamut of legal, ethical and social obligations and responsibilities across all service areas and decision-making bodies within the collective organisation.
Risk rating	Low
Mitigation and actions	The proposed new lease agreement will mitigate a potential legislative breach by outlining the terms and conditions regarding the approved use of the land by the lessee. It will also enable the parties to comply with legislative requirements relating to leasing of local government property.

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2021-2031](#):

Strategic Direction:	Community
Aspiration:	Our diverse community is inclusive, safe, connected and engaged
Outcome:	1.2 Community infrastructure
Strategy:	1.2.2 Effectively develop, manage and optimise the use of the City's properties, assets and facilities

Attachments

10.5.3 (a):	Manning Rippers Football Club - Profit and Loss Statement and Balance Sheet (<i>Confidential</i>)
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Mayor Greg Milner returned to the meeting at 7.38pm prior to consideration of Item 11 and assumed the Chair.

Councillor Blake D'Souza left the meeting at 7:38pm prior to consideration of Item 11.

11. APPLICATIONS FOR LEAVE OF ABSENCE

- Mayor Greg Milner for the period 30 August 2022 to 9 September 2022 inclusive.

The Presiding Member called for a Motion to approve the Leave of Absence application.

COUNCIL DECISION

0822/121

Moved: Councillor André Brender-A-Brandis

Seconded: Councillor Ken Manolas

That Council approve the Leave of Absence application received from Mayor Greg Milner for the period 30 August 2022 to 9 September 2022 inclusive.

CARRIED (7/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

Councillor Blake D'Souza returned to the meeting at 7:40pm prior to consideration of Item 12.

12. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

Councillor Jennifer Nevard left the meeting at 7.41pm prior to consideration of Item 13 and returned to the meeting at 7:43pm during consideration of Item 13.

13. QUESTIONS FROM MEMBERS

13.1 RESPONSE TO PREVIOUS QUESTIONS FROM MEMBERS TAKEN ON NOTICE

Responses to questions from members taken on notice at the Ordinary Council Meeting held 26 July 2022 can be found in the Appendix of this Agenda.

13.2 QUESTIONS FROM MEMBERS

- Councillor Ken Manolas
- Councillor Carl Celedin

The questions and responses can be found in the **Appendix** of these Minutes.

14. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING

Nil.

15. MEETING CLOSED TO THE PUBLIC

The Chief Executive Officer advises that there is a matter for discussion on the Agenda for which the meeting may be closed to the public, in accordance with section 5.23(2) of the *Local Government Act 1995*.

COUNCIL DECISION

0822/122

Moved: Councillor André Brender-A-Brandis

Seconded: Councillor Mary Choy

That the following Agenda Item be considered in closed session, in accordance with s5.23(2) of the *Local Government Act 1995*:

15.1.1 Burch Street Carpark

CARRIED (8/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

The meeting closed to members of the public at 7.46pm and those members of the gallery left accordingly.

Mayor Greg Milner adjourned the meeting at 7.46pm for five minutes reconvening at 7.51pm

15.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

Mayor Greg Milner disclosed an impartiality interest in relation to Item 15.1.1.

15.1.1 Burch Street Carpark

*This item is considered **confidential** in accordance with section 5.23(2)(c) of the Local Government Act 1995 as it contains information relating to "a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting"*

File Ref: D-22-39043

Author(s): Garry Adams, Director Corporate Services

Reporting Officer(s): Mike Bradford, Chief Executive Officer

Alternative Recommendation

Moved: Councillor Mary Choy

Seconded: Councillor André Brender-A-Brandis

That Council endorse the alternative recommendation as contained in the body of the report.

COUNCIL DECISION

0822/123

Moved: Councillor Blake D'Souza

Seconded: Councillor Carl Celedin

In accordance with Clause 8.10 of the City of South Perth Standing Orders Local Law 2007 Mayor Greg Milner be granted an additional five minutes to speak.

CARRIED (8/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

COUNCIL DECISION

0822/124

Moved: Councillor Stephen Russell

Seconded: Councillor Mary Choy

That Clause 8.9 of the City of South Perth Standings Orders Local Law 2007 be suspended to allow all Councillors to speak more than once.

CARRIED (8/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

COUNCIL DECISION

0822/125

Moved: Mayor Greg Milner

Seconded: Councillor Blake D'Souza

That Clause 8.9 of the City of South Perth Standing Orders Local Law 2007 be reinstated.

CARRIED (8/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

Alternative Recommendation AND COUNCIL DECISION

0822/1269

Moved: Councillor Mary Choy

Seconded: Councillor André Brender-A-Brandis

That Council endorse the alternative recommendation as contained in the body of the report.

CARRIED (5/3)

For: Councillors André Brender-A-Brandis, Mary Choy, Blake D'Souza, Ken Manolas, and Jennifer Nevard.

Against: Mayor Greg Milner, Councillors Carl Celedin and Stephen Russell.

COUNCIL DECISION

0822/127

Moved: Mayor Greg Milner

Seconded: Councillor André Brender-A-Brandis

That the meeting be reopened to the public.

CARRIED (8/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

The meeting reopened to the public at 8.29pm and the Mayor read the resolution passed behind closed doors.

16. CLOSURE

The Presiding Member thanked everyone for their attendance and closed the meeting at 8:31pm.

APPENDIX

6.2 PUBLIC QUESTION TIME: 23 August 2022

1. Mr Murray Rosenberg, Como Received: 19 August 2022	Responses provided by: Vicki Lummer – Director Development and Community Services
<p><i>[Preamble]</i></p> <p><i>On the 18th April 2019, Collier Reserve was removed from one subdivision plan 218435 and included in a new subdivision plan 416118 as Lot 502. As a result of this original management order with the City of South Perth was revoked and replaced with a new one. Also, the land size of Collier Reserve was increased from 2.8755 Ha to 3.59 Ha. Three months after this change on the 23rd July 2019, the Council endorsed the Community Recreation Facilities Plan 2019 – 33, which recommended on page 29 to relocate WASP hockey facilities to Collier Reserve incorporating a synthetic turf, grass hockey fields and a club house.</i></p>	
1. Did the City request the subdivision plan and increase in size of Collier Reserve to accommodate the recommendation in the Community Recreation Facilities plan 2019 – 33 regarding the hockey facilities at Collier Reserve?	No.
2. Why did the City request a new subdivision plan 416118 which resulted in the increase in size to Collier Reserve?	The City did not make this request.
3. Who authorised the request for this change?	Unknown.

<p>2. Mr Ross Smith, South Perth Received: 22 August 2022</p>	<p>Response for question 1 provided by: Vicki Lummer – Director Development and Community Services Response for question 2 provided by: Bernadine Tucker – Manager Governance</p>
<p>1. Does the LPS 7 that is being considered by the WA Planning Commission include the provisions of the decision of Council of August 2021 that includes deleting the ‘opportunity’ site on the Burch Street carpark and if not, why not?</p>	<p>The draft LPS 7 is not currently being considered by the WAPC. The draft Local Planning Scheme No.7 that was endorsed by Council in August 2021 indicates the site as a “Civic and Community Reserve”. This was not changed when the WAPC considered the draft scheme for advertising.</p>
<p>2. The last relevant Council decision relating to Burch Street carpark that I am aware of is that of August 2021 that the site would remain for community use. The question is – Is the City now considering selling the carpark for development in contravention of the last known Council decision?</p>	<p>The item listed on the agenda relating to the Burch Street Carpark is a confidential item. As such, I cannot disclose the contents of that report.</p>

<p>3. Mr Robert Mitchell, South Perth Received: 22 August 2022</p>	<p>Responses to questions 1 and 2 provided by: Vicki Lummer – Director Development and Community Services</p> <p>Response to question 3 provided by: Bernadine Tucker – Manager Governance</p>
<p><i>[Preamble]</i></p> <p><i>Council is to consider in closed session “a contract entered into, or which may be entered into” relating to the Burch Street Carpark (also shown on the EJohnson Masterplan as the “Hospital” Carpark). The August 2021 Council Meeting agreed that the land should be reserved for community needs when accepting the Draft Planning Scheme.</i></p>	
<p>1. What is the current situation with the Draft Town Planning Scheme and its consideration at State Government level and any subsequent Council decision?</p>	<p>The draft scheme will be advertised for comment from end August for 3 months. Upon review of submissions Council will be provided with a report for further consideration.</p>
<p>2. Has the Draft Town Planning Scheme been subject to further changes in relation to the Burch Street Carpark since the August 2021 decision to reserve the land for community needs?</p>	<p>No.</p>
<p>3. Will the decision by Council on Item 15.1.1 Burch Street Carpark at the August 2022 Council Meeting be printed in the Minutes of that meeting, and when will the confidential documents be made available for public scrutiny and comments?</p>	<p>Yes, the Council recommendation will be public. Under <i>the Local Government Act 1995</i>, as the item is confidential, the report will not be made public.</p>

<p>4. Ms Cecilia Brooke, South Perth (read out by Mayor Greg Milner)</p> <p>Received: 22 August 2022</p>	<p>Responses provided by: Garry Adams – Director Corporate Services</p>
<p><i>[Preamble]</i></p> <p><i>In view of the fact that at the August, 2021 Ordinary Council Meeting, Councillor Brender-a-Brandis put forward an amended motion at Item 10.0.1 - Consent to Advertise Draft Local Planning Scheme 7, which dealt with No 20 Allen Street, South Perth, which we all know as the Burch Street Car Park. We note that the community and indeed our Council and the City are still awaiting a response from the Western Australian Planning Commission.</i></p>	
<p>1. We ask why is the Burch Street car park now back on the August, 2022 Agenda and why it is a confidential item?</p>	<p>It is back on the agenda because there is a matter relating to the site that requires a decision of Council. It is confidential because the report contains confidential information that should remain confidential in accordance with section 5.23.2 (c) of the Act.</p>

5. Mr Sam Middlemas and Robert Kelly, Perth Received: 22 August 2022	Responses provided by Fiona Mullen – Manager Development Services
<p>1. Is the Council aware that the proposal includes the display of 2.5% of advertising content (2.8 hours a week) will be for community benefit, providing the opportunity to advertise content for local schools, community events, content from the local government and emerging artists within the community?</p>	<p>Information in relation to the applicants offer of 2.5% of the operational time for community advertising is contained within the officers report and therefore Councillors are aware of this element.</p>
<p>2. Is the Council aware that the long standing Primary Regional Road Reserve affecting the site makes it not financially viable to invest in properties within this reservation, and approval of this digital sign will enable the landowner to invest in improving their existing building with the Modern Fireproof Aluminum Cladding which will complement the recently refurbished Como Hotel across the road?</p>	<p>Financial considerations are not a relevant planning consideration, however officers are aware that the applicant circulated additional information to Councillors prior to tonight's meeting that alludes to the proposal to clad the existing building should approval be granted.</p>
<p>3. Is the Council aware that the intersection where the proposed sign is located, within the highway commercial zone is surrounded by other commercial properties, and that there are no residential properties with an unobstructed view of the sign therefor there is no adverse impact on the residential amenity?</p>	<p>Councillors are aware of the location of residential properties as they relate to the application site, and a zoning map is included within the officers report.</p>

13.1 QUESTIONS FROM MEMBERS taken on notice OCM 26 JULY 2022

Councillor Stephen Russell	Responses provided by: Fiona Mullen – Manager Development Services
<p><i>[Preamble]</i></p> <p><i>My reading of the planning regulations with respect to parking cash in lieu payments is that the City is required to conditionally return the funding after ten years if the funding has not been spent in an appropriate parking demand manner. I note that there are two line items totalling approximately \$160,000 that seem to satisfy this criteria.</i></p>	
<p>1. Hence my question is, is the City now obligated to return these funds?</p>	<p>Schedule 2, Part 9A of the Planning and Development (Local Planning Schemes) Regulations 2015 (as amended July 2021) requires that on the expiry of an adopted Payment in Lieu of Parking Plan, any unexpended monies must be repaid to the relevant payer. If after reasonable steps the relevant payer cannot be traced, then the local government may retain the money.</p> <p>The payments indicated within the Public Register were required to be paid via conditions of development approval prior to the implementation of Schedule 2, Part 9A and as such are not required to be refunded.</p>
<p><i>[Preamble]</i></p> <p><i>With respect to the advertising billboards at the corner of Henley Street and Canning Highway. I refer the City to their answer last week as to why the construction does not fully reflect the DAP form 1 DA approval in that the applicant has not constructed the second story office space. My understanding of the City's response was that the applicant sought and was given approval for the deviation that resulted in the construction of only the advertising billboards. I am unaware of this deviation coming back to a DAP meeting.</i></p>	
<p>2. Therefore could the City provide further clarification of how this approval occurred. For example by whom, with what delegated authority and the reasons for approval?</p>	<p>Following the previous JDAP approval of a 3 storey office development with digital signage, the applicant submitted a further application in July 2020 seeking approval for the signage only, together with a supportive decorative structure.</p> <p>As the application sought approval for signage only, the application was assessed in the same manner and against the same provisions as the</p>

	current development application at No. 149-153 South Terrace, Como, and was approved by the Manager Development Services in accordance with the WAPC Delegation Policy DEL2017/02 (in place at that time).
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Councillor Mary Choy	Response provided by: Garry Adams – Director Corporate Services
<p><i>[Preamble]</i></p> <p><i>At the November 2020 Ordinary Council Meeting, Council endorsed the Business Case for the Recreation & Aquatic Facility (known as the RAF), which consisted of documents including the ‘Project Definition Plan’ and ‘Operational Feasibility Report’, as well as reliance on certain assumptions. The Project Definition Plan outlines on page 1, that it is “the central reference point to aid in decision making throughout future project phases”. “The key purpose” of the Operational Feasibility Report as noted on page 5 of the Project Definition Plan, “is to inform the operational viability of the design and overall facility”.</i></p> <p><i>“Key Considerations” for the RAF project are outlined on page 33 of the Project Definition Plan, with the first being that Stage 2 design works do not commence until the project scope is finalised and final funding commitments (including from the State Government) are obtained. “Critical milestones” for the RAF project are identified on pages 2 and 34 of the Project Definition Plan as set out in ‘Table 6: Indicative Programme Milestone Summary’, that indicate that following the City’s State Funding Submission to the State Government, which included the Treasury Business Case that was “prepared for this purpose”, and prior to any Design activities, which includes procurements, that ‘Finalisation of Project Scope’ based on ‘final funding commitments’, including from the ‘State Government’, would be completed. This was reiterated as an “express” assumption, on which I would say Council was entitled to rely and has. The critical milestones are also clearly set out in the programme snapshot on page 35 ‘Figure 15: Indicative Programme Snapshot’ and in the detailed programme in Attachment N (which I note remains confidential).</i></p> <p><i>Considering these documents, that include these “key considerations, critical milestones and detailed programme”, form part of that Council resolution, if Council had endorsed the City’s recommendations at:</i></p> <ul style="list-style-type: none"> <i>the August Ordinary Council Meeting in 2021, to commence concept and schematic designs, which Council made the decision to defer due to the uncertainty of a State Government funding commitment; and</i> <i>the December 2021 and June 2022 Ordinary Council Meetings respectively, for the acceptance of a tender for the provision of RAF project management services, which Council also did not accept for similar reasons.</i> 	

<p>1. Would such decisions not have been in non-compliance with the Council resolution and as such the only way to remain compliant was as Council resolved?</p>	<p>No. The overarching document that guides both the City and Council is the City's Strategic Community Plan (SCP) (2021-2031). All Council decisions should align with the SCP.</p> <p>Strategy 1.2.3 of the SCP is to plan for and promote the development of recreation and aquatic facilities to service the City's needs. Council has previously decided that a fully integrated, financially viable facility such as the proposed Recreation and Aquatic Facility (RAF) is the best way to achieve this objective. To date, the Council has not amended the SCP, nor directed the City to cease work on the RAF project.</p> <p>Project planning for a large scale project such as the RAF is a dynamic process. There has been considerable slippage and changes since the endorsement of the RAF Business Case documents in November 2020. The City has kept Council informed and updated throughout. The City has also noted that progression of the project (and various project stages) is not a sequential process and multiple processes such as procurement and Design can occur in parallel. Project stages can overlap.</p> <p>The November 2020 Council decision regarding the RAF noted that the RAF must not lead to an increase in rates and that the RAF must be financially self-sustainable. The Officer Recommendations referred to were intended to provide Council with further information about the financial viability of the RAF and overall project cost, reduce the risk of financial penalty to the City and assist Council with future decision making about the RAF.</p> <p>The Officer Recommendation of August 2021 to commence Concept and Schematic Design was designed to give Council greater certainty about the RAF Operational and Financial models, construction costs and inform future decision making. It also addressed one of the recommendations of the independent review of the RAF by Deloitte to prepare a 'detailed functional brief' for the RAF Project. Acceptance of the Officer Recommendation would not have bound Council to future decisions about the RAF Project, as the final decision about whether to proceed with the RAF will be made at a</p>
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	<p>much later date and after the Design Stage (Concept, Schematic and Detailed) was complete.</p> <p>The Officer Recommendations regarding appointment of the Project Manager (PM) to the RAF Project considered in December 2021 and June 2022 was to ensure compliance with the conditions of a legally binding \$20 million Funding Agreement that the City has with Federal Government and meet the requirements of Milestone 2.</p> <p>The City has an obligation to comply with its legal and contractual obligations and reduce potential risks to the City. The contract for the PM was designed to mitigate the risk of the RAF project not proceeding and exposing the City to financial penalty. As part of the proposed contractual arrangements for the PM, the contract was divided into Gateway stages. Written approval from the City was required before progression to the next stage. The City had full discretion to terminate the PM contract at any stage and without financial penalty. A decision from the State Government regarding the RAF was not relevant to the appointment of the PM.</p>
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13.2 QUESTIONS FROM MEMBERS OCM 23 AUGUST 2022

Councillor Ken Manolas	Responses provided by Vicki Lummer – Director Development and Community Services
3. I've been copied into an enquiry relating to the draft LP7, if there is a definite date known for the advertising of the draft LP7, could it be known please?	It is 31 August 2022 until 30 November 2022.

Councillor Carl Celedin	Responses provided by Garry Adams – Director Corporate Services
<i>[Preamble]</i> <i>I understand there has been legal advice provided to explain, again the straightforward difference between lease and licences to confirm the advice staff (including the former CEO of Landgate) gave us.</i>	
1. Which Councillor or Councillors sought this advice?	I requested the legal advice through the Manager of Governance.
2. Did the legal advice differ from the staff advice to us?	No.
3. How much ratepayers' funds were spent on the legal advice?	The legal advice came at a cost of approximately \$800 plus GST.

Councillor Carl Celedin	Responses provided by Vicki Lummer – Director Development and Community Services
<p><i>[Preamble]</i></p> <p><i>This was from the Hansard by John McGrath who was the local member at the time and it says “earlier this month I attended a neighbourhood street meeting with residents of Melville Parade in Como. Melville Parade is the street that runs alongside the freeway. One of the South Perth Councillors Carl Celedin came along and we spoke to these people. They were very concerned because they had a spate of break-ins and they’ve had their windows smashed. We don’t have great CCTV coverage but what we did is we moved the mobile CCTV coverage to that area, which reduced the issues in the area.</i></p>	
<p>1. The mobile CCTV trailer replacement was cut by this Council via a last-minute amendment to the budget. What is the administration doing in order to reduce unsocial behaviour and crime in areas that were previously serviced by this mobile CCTV trailer?</p>	<p>Community safety is a shared responsibility amongst various stakeholders, including: state government (particularly WA Police and Department of Communities), local government (City of South Perth), community organisations, businesses and local residents.</p> <p>The City supports a number of initiatives that are aimed at optimising community safety. In particular, the City focusses on the delivery of actions in five priority areas, namely: home safety; antisocial behaviour; theft of possessions from motor vehicles; places and spaces; and road safety.</p> <p>Examples of recent initiatives undertaken by the City to reduce anti-social behaviour and crime; and optimise community safety are:</p> <ul style="list-style-type: none"> • Facilitated community safety forums on home safety initiatives • Partnered with WA Police and adjacent local governments to discuss and implement home safety programs • Facilitated ‘Streets Meets’ and ‘1000 Playstreets’ programs to encourage neighbourhood connections • Investigated the development of a Home Safety Equipment Rebate Program • Activation of suburban parks through community events • Installed additional CCTV in public spaces • Incorporated lost child service at the City's community events

	<ul style="list-style-type: none"> • Assisted local community groups and sporting clubs to undertake community safety projects • Worked with WA Police to enhance community safety in public places • Partnered with Kensington Police to address local anti-social behaviour issues • Partnered with Kensington PCYC to deliver youth recreation programs • Assisted to establish the Community Safety Collective • Facilitated various community safety campaigns to reduce theft from motor vehicles e.g. 'The Gone in Less Than Sixty Seconds' initiative, 'Remove it or Lose it' • Distributed anti-theft number plate screws to the community • Partnered with WA Police to promote various community safety campaigns e.g. 'Slow Down Consider our Kids', 'Fatality Free Friday' and 'Road Safety Week' campaigns • Installed 10 Speed Awareness Signs to reduce speeding around school zones and aged care facilities <p>Implemented Bike Plan to improve safety for road users and cyclists</p> <p>Partnered with Constable Care Foundation to facilitate road safety education at local schools and community events</p>
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The City advises that comments recorded represent the views of the person making them and should not in any way be interpreted as representing the views of Council. The minutes are a confirmation as to the nature of comments made and provide no endorsement of such comments. Most importantly, the comments included as dot points are not purported to be a complete record of all comments made during the course of debate. Persons relying on the minutes are expressly advised that the summary of comments provided in those minutes do not reflect and should not be taken to reflect the view of the Council. The City makes no warranty as to the veracity or accuracy of the individual opinions expressed and recorded therein.

These Minutes were confirmed at the Ordinary Council Meeting held: Tuesday 27 September
2022

Signed _____

Presiding Member at the meeting at which the Minutes were confirmed