

Minutes of Committee of Council Meeting

Held on

Tuesday 14 September 2021 at 5.30pm

Held at Council Chamber, 83 Mandurah Terrace Mandurah

PRESENT:

COUNCILLOR	P JACKSON [Chairperson]	NORTH WARD
COUNCILLOR	J GREEN	COASTAL WARD
COUNCILLOR	C KNIGHT	NORTH WARD
COUNCILLOR	D PEMBER	EAST WARD
COUNCILLOR	P ROGERS	TOWN WARD
COUNCILLOR	A ZILANI	NORTH WARD
MAYOR	R WILLIAMS	

ELECTED MEMBERS OBSERVING:

COUNCILLOR	D SCHUMACHER	TOWN WARD
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MR	M NEWMAN	CHIEF EXECUTIVE OFFICER
MS	C MIHOVLOVICH	DIRECTOR BUSINESS SERVICES
MS	J THOMAS	DIRECTOR PLACE AND COMMUNITY
MR	J CAMPBELL-SLOAN	DIRECTOR STRATEGY AND ECONOMIC DEVELOPMENT
MR	M HALL	ACTING DIRECTOR BUILT AND NATURAL ENVIRONMENT
MRS	T JONES	MANAGER GOVERNANCE, PROCUREMENT AND LAND
MRS	L SLAYFORD	MINUTE OFFICER

1. OPENING OF MEETING

Prior to commencement of this electronic meeting Committee Member and other attendee connections by electronic means were tested and confirmed.

The Chairperson declared the meeting open at 5.30pm.

2. APOLOGIES

Councillor L Rodgers (Committee Member)
Councillor M Darcy (Committee Member)
Councillor C Di Prinzio (Committee Member)

3. IMPORTANT NOTE

The purpose of this Committee Meeting is to discuss and make recommendations to Council about items appearing on the agenda and other matters for which the Committee is responsible. The Committee has no power to make any decisions which are binding on the Council or the City of Mandurah unless specific delegation of authority has been granted by Council.

No person should rely on or act on the basis of any advice or information provided by a Member or Officer, or on the content of any discussion occurring, during the course of the meeting. The City of Mandurah expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any advice or information provided by a Member or Officer, or the content of any discussion occurring, during the course of the Committee meeting.

4. RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE

Nil.

5. PUBLIC QUESTION TIME

Nil.

6. AMENDMENT TO STANDING ORDERS

CC.1/9/21 STANDING ORDERS LOCAL LAW 2016

The Chairperson advised the meeting that the *City of Mandurah Standing Orders Local Law 2016* will be modified to ensure Committee Members and the public can participate in and follow the meeting as it progresses.

MOTION

Moved: Councillor P Jackson
Seconded: Councillor D Pember

That the Committee of Council:

- 1. Suspend the operation of the following provisions of the *City of Mandurah Standing Orders Local Law 2016* for the duration of this electronic meeting to ensure Council Members and the public can follow and participate in the meeting as it progresses:**

- 1.1. **Standing Order 3.3 Public Question Time** pertaining to public participation in meetings continues via electronic means with public submissions received to be read aloud by the Presiding Member at the relevant agenda item as required.
- 1.2. **Standing Order 7.2 Members to occupy own seats whilst present in meeting room.** Relevant only for Elected Members attending the Council Chambers.
- 1.3. **Agree under Standing Orders 8.1(1) and 12.2, that instead of requiring a show of hands, a vote will be conducted by exception with the Presiding Member calling for those Members against each motion. If no response is received the motion will be declared carried and minuted accordingly.**
- 1.4. **Reiterate the requirement as per Standing Order 7.3 for Members to advise the Presiding Member when leaving or entering the meeting at any time.**

CARRIED: 7/0

7. PRESENTATIONS

Nil.

8. DEPUTATIONS

Nil.

9. CONFIRMATION OF MINUTES

CC.2/9/21 CONFIRMATION OF MINUTES TUESDAY 10 AUGUST 2021

MOTION

Moved: Councillor C Knight

Seconded: Councillor J Green

That the Minutes of the Committee of Council meeting of Tuesday 10 August 2021 be confirmed.

CARRIED: 7/0

10. DECLARATIONS OF INTERESTS

- 10.1 The City's Acting Director Built and Natural Environment, Matthew Hall, declared an impartiality interest in Minute CC.6/9/21 - Advertising of Senior Employee: Director Built and Natural Environment as he is currently acting in the role and may,

in time, apply for the vacancy. Although not a decision maker, Mr Hall will vacate the Chamber during debate and voting on the item.

11. QUESTIONS FROM COMMITTEE MEMBERS

Questions of Which Due Notice Has Been Given

Nil.

Questions of Which Notice Has Not Been Given

Nil.

12. BUSINESS LEFT OVER FROM PREVIOUS MEETING

Nil.

13. REPORTS FROM OFFICERS

CC.3/9/21 DISPOSAL OF LEASE MANDURAH BOAT AND BIKE HIRE (REPORT 1)

Summary

Hentech Pty Ltd trading as Mandurah Boat and Bike Hire (MBBH) hold a current lease over office accommodation located over a portion of Reserve 48457 and a jetty sub-licence over a 47.5 linear metre portion of Jetty LM1750, used to moor vessels for their hire business.

The current lease expired on the 6 August 2020, and since that time MBBH have remained in a holding over with all the current terms and conditions of the lease remaining in place. Due to the nature of their tourism based business and the current economic climate, the lessee had requested time to consider their future before committing to a new agreement. The lessee has recently made a formal request to the City for support for a new five year lease agreement.

In accordance with section 3.58 of the *Local Government Act 1995* (LGA) an independent valuation was required to determine the current market value for the site. The valuer was appointed to undertake the annual rental valuation which was assessed at \$22,000 per annum plus outgoings (exclusive GST). The City is also required to advertise the proposed disposal outlining the term of the lease, annual rent, lessee details and the assessment of an independent valuation.

Council is requested to approve the advertising of, and if no submissions received, the disposal via a lease for office accommodation over 45 square metres being portion of Reserve 48457 and a jetty sub-licence over a 47.5 linear metre portion of Jetty LM1750, to Hentech Pty Ltd, trading as Mandurah Boat and Bike Hire for a term of five years, with annual rent commencing at \$22,000 per annum plus outgoings (exclusive GST), with a Consumer Price Index (CPI) rate to be applied annually. The lease approval is conditional upon the consent of the Minister for Lands, and the jetty sub licence approval by the Department of Transport.

Officer Recommendation

That the Committee of Council recommend that Council:

1. Approves the advertising and if no submissions received during the advertising period, the disposal of a portion of Reserve 48457, and sub-licence over portion of Jetty No: LM1750 known as Mandurah Boat and Bike Hire to Hentech Pty Ltd with the following conditions:
 - 1.1 A tenure period of five years;
 - 1.2 Commencement date after Minister for Lands approval;
 - 1.3 Rent commencing at \$22,000 per annum excluding GST and outgoings;
 - 1.4 Annual CPI to apply for the term of the agreement;
 - 1.5 Subject to the approval of the Minister for Lands and the Department of Transport.
2. Approves all legal costs associated with the preparation of the lease are to be borne by the lessee;
3. Authorises the Chief Executive Officer to finalise the conditions of the lease and sub-licence agreements.

Committee Recommendation**MOTION**

Moved: Councillor D Pember

Seconded: Councillor C Knight

That the Committee of Council recommend that Council:

1. Approves the advertising and if no submissions received during the advertising period, the disposal of a portion of Reserve 48457, and sub-licence over portion of Jetty No: LM1750 known as Mandurah Boat and Bike Hire to Hentech Pty Ltd with the following conditions:
 - 1.1 A tenure period of five years;
 - 1.2 Commencement date after Minister for Lands approval;
 - 1.3 Rent commencing at \$22,000 per annum excluding GST and outgoings;
 - 1.4 Annual CPI to apply for the term of the agreement;
 - 1.5 Subject to the approval of the Minister for Lands and the Department of Transport.
2. Approves all legal costs associated with the preparation of the lease are to be borne by the lessee;
3. Authorises the Chief Executive Officer to finalise the conditions of the lease and sub-licence agreements.

CARRIED: 7/0

CC.4/9/21 DOG EXERCISE VARIATION AND MAPS (REPORT 2)Summary

Changes are proposed to alter dog prohibited and dog exercise areas at Reserve 48366 at Meadow Springs Sporting Facility and to finalise changes to dog prohibited and dog exercise areas at Pyramids Beach Dawesville.

The City has had ongoing concerns with the use of the premier turf wicket oval at Meadow Springs Sporting Facility (Reserve 48366) as a dog exercise area. Although the premier oval has now been fenced separately to protect the wicket, it is proposed to change the current designation on this portion of the Reserve from dog exercise area to dog prohibited to allow enforcement of dogs being within this area. The change also proposes designating the shared use oval with Meadow Springs Primary School as Dog Prohibited, given its connection with the premier oval. The remainder of the Reserve to the south will continue to retain an extensive dog exercise area unless active sport is underway.

Council is requested to approve commencement of a 28-day public notice period specifying Council's intention to prohibit dogs on the northern premier and Meadow Springs Primary School oval on Reserve 48366 at Meadow Springs Sporting in accordance with *Attachment 2.2*

In addition, the City has now completed the required 28-day public notice period to introduce dog prohibited and amended dog exercise arrangements at Pyramids Beach, Dawesville, to assist in the protection of nesting Australian Fairy Terns. Council is requested to give final approval to specify the northern portion of the beach as dog prohibited, with an amendment to the designated dog exercise area to the south providing for a transition to dog on lead. Subject to Council approval appropriate signage will then be installed in Accordance with *Attachment 2.3*.

Officer Recommendation

That the Committee of Council recommend that Council:

1. Approves the commencement of a 28-day public notice period specifying Council's intention to prohibit dogs on the northern oval premier cricket oval and shared use school oval of Reserve 48366 Meadow Springs as per *Attachment 2.2*.
2. Approves the variation to the existing dog exercise area at Reserve 48366 Meadow Springs as per *Attachment 2.2* which provides for dogs to be off lead except where active sport (including training) is in progress.
3. Provides final approval for the prohibition of dogs at Pyramids Beach, Dawesville and amendments to dog exercise areas in accordance with *Attachment 2.3*.

Committee Recommendation**MOTION**

Moved: **Councillor C Knight**
Seconded: **Councillor D Pember**

That the Committee of Council recommend that Council:

1. **Approves the commencement of a 28-day public notice period specifying Council's intention to prohibit dogs on the northern oval premier cricket oval**

and shared use school oval of Reserve 48366 Meadow Springs as per *Attachment 2.2*.

- 2. Approves the variation to the existing dog exercise area at Reserve 48366 Meadow Springs as per *Attachment 2.2* which provides for dogs to be off lead except where active sport (including training) is in progress.**
- 3. Provides final approval for the prohibition of dogs at Pyramids Beach, Dawesville and amendments to dog exercise areas in accordance with *Attachment 2.3*.**

CARRIED WITH ABSOLUTE MAJORITY: 7/0

CC.5/9/21 LOCAL PLANNING POLICY NO 3 NON-RESIDENTIAL USES IN RESIDENTIAL ZONES – FINAL ADOPTION (REPORT 3)

Summary

Council is requested to consider adopting for final approval Local Planning Policy No 3 – Non Residential Uses in Residential Zones (LPP3). This policy will consolidate three existing local planning policies relating to Medical Centres, Child Care Premises and Home Based Businesses and incorporate provisions from Town Planning Scheme No 3 (Scheme) relating to Commercial Vehicle Parking. The proposed LPP3 will provide a framework for the assessment and approval of various non-residential land uses within residential zones, including design criteria for new development.

The draft policy was adopted for advertising purposes by Council at its meeting held on 22 June 2021 and was subsequently advertised for public comment with submissions closing on 13 August 2021. No submissions were received and as such, no changes have been proposed to the draft policy.

As part of a review of the City's local planning policies, the existing Local Planning Policy No 3 – Urban Design Policy has been identified as being redundant due to the introduction of new State Planning Policies and is recommended for revocation.

It is recommended that Council adopt Local Planning Policy No 3 – Non Residential Uses in Residential Zones for final approval and revoke the following four existing local planning policies:

- Local Planning Policy No 3 – Urban Design Policy
- Local Planning Policy No 12 – Home Occupation Policy
- Local Planning Policy No 13 – Child Care Premises Policy and;
- Local Planning Policy No 16 – Medical Centres.

Officer Recommendation

That the Committee of Council recommend that Council:

1. In accordance with Schedule 2, Part 2, Clause 4 of the Deemed Provisions for Local Planning Schemes, that Council resolves to proceed with Local Planning Policy No 3 – Non Residential Uses within Residential Zones without modification, and publish a notice on the City of Mandurah website giving effect to the Policy.

2. In accordance with Schedule 2, Part 2, Clause 6 of the Deemed Provisions for Local Planning Schemes, that Council resolves to revoke Local Planning Policy No 3 – Urban Design Policy, Local Planning Policy No 12 – Home Occupation Policy, Local Planning Policy No 13 – Child Care Premises Policy and Local Planning Policy No 16 – Medical Centres, and publish a notice of revocation on the City of Mandurah website.

Committee Recommendation

MOTION

Moved: Councillor J Green

Seconded: Mayor R Williams

That the Committee of Council recommend that Council:

1. In accordance with Schedule 2, Part 2, Clause 4 of the Deemed Provisions for Local Planning Schemes, that Council resolves to proceed with Local Planning Policy No 3 – Non Residential Uses within Residential Zones without modification, and publish a notice on the City of Mandurah website giving effect to the Policy.
2. In accordance with Schedule 2, Part 2, Clause 6 of the Deemed Provisions for Local Planning Schemes, that Council resolves to revoke Local Planning Policy No 3 – Urban Design Policy, Local Planning Policy No 12 – Home Occupation Policy, Local Planning Policy No 13 – Child Care Premises Policy and Local Planning Policy No 16 – Medical Centres, and publish a notice of revocation on the City of Mandurah website.

CARRIED: 7/0

Having declared an interest in the following item the Acting Director Built and Natural Environment vacated the Chamber at 5.44pm during consideration and voting on the matter.

CC.6/9/21 ADVERTISING OF SENIOR EMPLOYEE: DIRECTOR BUILT AND NATURAL ENVIRONMENT (REPORT 4)

Summary

The Director Built and Natural Environment has announced his intention to retire and has submitted his resignation effective from 31 December 2021.

Council are requested to approve the commencement of the recruitment process.

Officer Recommendation

That the Committee of Council recommend that Council:

1. Note the resignation of Mr Allan Claydon from the role as Director Built and Natural Environment.
2. Approve the commencement of the recruitment process of the Director Built and Natural Environment.

Committee Recommendation**MOTION**

Moved: Councillor C Knight
Seconded: Councillor P Rogers

That the Committee of Council recommend that Council:

- 1. Note the resignation of Mr Allan Claydon from the role as Director Built and Natural Environment.**
- 2. Approve the commencement of the recruitment process of the Director Built and Natural Environment.**

CARRIED: 7/0

The Acting Director Built and Natural Environment re-entered the Chamber at 5.57pm.

CC.7/9/21 PAYMENTS TO EMPLOYEES POLICY AMENDMENT (REPORT 5)Summary

A proposed amendment to the current Council policy in relation to Payments to Employees (POL-HRM 04) has been put forward to enable the City of Mandurah (the City) to financially recognise and thank long-serving employees at time of resignation or retirement via a small gift based on years of service.

Officer Recommendation

That the Committee of Council recommend that Council:

- 1. Approve the recommended amendment to the Payments to Employees Council Policy as detailed in Attachment 5.1.**
- 2. Authorise the CEO to publish the Council Policy in accordance with the *Local Government Act 1995*.**

Committee Recommendation**MOTION**

Moved: Councillor P Rogers
Seconded: Councillor J Green

That the Committee of Council recommend that Council:

- 1. Approve the recommended amendment to the Payments to Employees Council Policy as detailed in Attachment 5.1.**
- 2. Authorise the CEO to publish the Council Policy in accordance with the *Local Government Act 1995*.**

CARRIED: 7/0

CC.8/9/21 CLUB NIGHT LIGHTS PROGRAM (REPORT 6)Summary

The Club Night Lights Program is a new program administered by the Department of Local Government, Sport and Cultural Industries (DLGSC). It provides financial assistance to community groups and local governments to develop sports floodlighting infrastructure.

The Club Night Lights Program 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 facilities. The maximum grant offered for standard grant applications is one third of the total estimated project cost (excluding GST) up to a maximum grant of \$1 million. The application process for submissions requires local government authorities to undertake an initial assessment to ensure that the proposed projects are well planned, prioritised and of positive benefit to the community.

The City intends to submit one application for funding as part of the Club Night Lights Program for the Installation of flood lighting at Mandurah Tennis Club. A second application has been received by the Port Bouvard Sport and Recreation Club to upgrade luminaries to LED's around the bowling greens. It is a requirement that both applications come before Council prior to submission.

Council is requested to support the rating and priority of the two projects being submitted for the 2022/23 Club Night Lights Program. Sufficient funds are available for the purpose in the 2022/23 budget to cover the City of Mandurah's financial contribution towards these projects.

Officer Recommendation

That the Committee of Council recommend that Council supports the rankings and ratings for the Community Sport and Recreation Facility Fund Small Grant application:

- 1 City of Mandurah
Project: Installation of flood lighting at Mandurah Tennis Club
Ranking: 1
Rating: High
Requested Council Contribution: \$107,047.92
2. Port Bouvard Sport and Recreation Club
Project: Upgrade luminaries to LED's
Ranking: 2
Rating: Medium/High
Requested Council Contribution: \$11,860.90 (subject to the findings of the pole assessment)

Committee Recommendation**MOTION**

Moved: Mayor R Williams
Seconded: Councillor C Knight

That the Committee of Council recommend that Council supports the rankings and ratings for the Community Sport and Recreation Facility Fund Small Grant application:

- 1 City of Mandurah
Project: Installation of flood lighting at Mandurah Tennis Club

Ranking: 1
Rating: High
Requested Council Contribution: \$107,047.92

- 2. Port Bouvard Sport and Recreation Club**
Project: Upgrade luminaries to LED's
Ranking: 2
Rating: Medium/High
Requested Council Contribution: \$11,860.90 (subject to the findings of the pole assessment)

CARRIED: 7/0

14. LATE AND URGENT BUSINESS ITEMS

Nil.

15. CONFIDENTIAL ITEMS

Nil.

16. CLOSE OF MEETING

There being no further business, the Chairperson declared the meeting closed at 6.01pm.

CONFIRMED:[CHAIRPERSON]

Attachments to Committee Minutes: 14 September 2021 Committee of Council Agenda

NOTICE OF MEETING

COMMITTEE OF COUNCIL

Members of the Committee of Council are advised that a meeting of the Committee will be held in the Council Chambers, 83 Mandurah Terrace, Mandurah on:

TUESDAY 14 SEPTEMBER 2021
at 5.30pm

MARK R NEWMAN

Chief Executive Officer
9 September 2021

Committee Members

Councillor P Jackson [Chairperson]
Councillor M Darcy
Councillor C Knight
Councillor L Rodgers
Councillor A Zilani

Councillor J Green
Councillor Di Prinzio
Councillor D Pember
Councillor P Rogers
Mayor R Williams

AGENDA

1 OPENING OF MEETING AND ANNOUNCEMENT OF VISITORS

2 APOLOGIES

3 IMPORTANT NOTE:

Members of the public are advised that the decisions of this Committee are referred to Council Meetings for consideration and cannot be implemented until approval by Council. Therefore, members of the public should not rely on any decisions of this Committee until Council has formally considered the resolutions agreed at this meeting.

4 RESPONSES TO QUESTIONS TAKEN ON NOTICE

5 PUBLIC QUESTION TIME

Public Question Time provides an opportunity for members of the public to ask a question of Council. For more information regarding Public Question Time please visit the City's website mandurah.wa.gov.au or telephone 9550 3787.

6 AMENDMENT TO STANDING ORDERS

Modification to *Standing Orders Local Law 2016* - electronic attendance at meeting.

7 PRESENTATIONS

8 DEPUTATIONS

Any person or group wishing to make a Deputation to the Committee meeting regarding a matter listed on this agenda for consideration must complete an application form. For more information regarding making a deputation please visit the City's website mandurah.wa.gov.au or telephone 9550 3787.

NB: Persons making a deputation to this Committee meeting will not be permitted to make a further deputation on the same matter at the successive Council meeting, unless it is demonstrated there is new, relevant material which may impact upon the Council's understanding of the facts of the matter.

9 CONFIRMATION OF MINUTES: 10 AUGUST 2021

Minutes available on the City's website via mandurah.wa.gov.au/council/council-meetings/agendas-and-minutes

10 DECLARATIONS OF FINANCIAL, PROXIMITY AND IMPARTIALITY INTERESTS**11 QUESTIONS FROM COMMITTEE MEMBERS WITHOUT DISCUSSION**

11.1 Questions of which due notice has been given

11.2 Questions of which notice has not been given

12 BUSINESS LEFT OVER FROM PREVIOUS MEETING**13 REPORTS:**

No.	Item	Page No	Note
1	Disposal of Lease Mandurah Boat and Bike Hire	3 - 7	
2	Dog Prohibited / Exercise Areas Updates	8 – 14	Absolute Majority Required
3	Local Planning Policy No 3 Non-Residential Uses in Residential Zones – Final Adoption	15 – 35	
4	Advertising of Senior Employee: Director Built and Natural Environment	36 – 38	
5	Amendment: Payments to Employees Policy	39 – 43	
6	Club Night Lights Program	44 - 50	

14 LATE AND URGENT BUSINESS ITEMS**15 CONFIDENTIAL ITEMS****16 CLOSE OF MEETING**

1	SUBJECT:	Lease: Mandurah Boat and Bike Hire Advertising and Disposal
	DIRECTOR:	Business Services
	MEETING:	Committee of Council
	MEETING DATE:	14 September 2021

Summary

Hentech Pty Ltd trading as Mandurah Boat and Bike Hire (MBBH) hold a current lease over office accommodation located over a portion of Reserve 48457 and a jetty sub-licence over a 47.5 linear metre portion of Jetty LM1750, used to moor vessels for their hire business.

The current lease expired on the 6 August 2020, and since that time MBBH have remained in a holding over with all the current terms and conditions of the lease remaining in place. Due to the nature of their tourism based business and the current economic climate, the lessee had requested time to consider their future before committing to a new agreement. The lessee has recently made a formal request to the City for support for a new five year lease agreement.

In accordance with section 3.58 of the *Local Government Act 1995* (LGA) an independent valuation was required to determine the current market value for the site. The valuer was appointed to undertake the annual rental valuation which was assessed at \$22,000 per annum plus outgoings (exclusive GST). The City is also required to advertise the proposed disposal outlining the term of the lease, annual rent, lessee details and the assessment of an independent valuation.

Council is requested to approve the advertising of, and if no submissions received, the disposal via a lease for office accommodation over 45 square metres being portion of Reserve 48457 and a jetty sub-licence over a 47.5 linear metre portion of Jetty LM1750, to Hentech Pty Ltd, trading as Mandurah Boat and Bike Hire for a term of five years, with annual rent commencing at \$22,000 per annum plus outgoings (exclusive GST), with a Consumer Price Index (CPI) rate to be applied annually. The lease approval is conditional upon the consent of the Minister for Lands, and the jetty sub licence approval by the Department of Transport.

Disclosure of Interest

Nil

Location



Previous Relevant Documentation

- G.36/2/15 February 2015 Council approved an Assignment of Lease and jetty sub-licence from Silverthorne to Hentech Pty Ltd;
- G.35/6/14 24 June 2014 Council supported the lease and sub licence for Mandurah Boat & Bike Hire over portion of Reserve 48457 and the adjacent jetty;
- G.44/4/14 22 April 2014 Council resolved to advertise the proposed disposition of Mandurah Boat & Bike Hire to N & M Silverthorne;
- G.25/7/11 26 July 2011 Council approves an 18 month extension to the existing lease and sub licence to 30 June 2014;
- G.40/10/07 16 October 2007 Assignment of lease and sub licence to N & M Silverthorne was approved by Council.

Background

MBBH were originally operating from the Old Peninsula Hotel site (now The Point) and relocated to the current site due to the hotel redevelopment. The owners of MBBH at that time were given approval from the Department of Lands (DoL) for a short term lease to accommodate an office for six years expiring in December 2012, this office was required to service the boat and bike hire business.

In 2013, the Department of Lands (DoL) granted a Management Order over Reserve 48457 giving the City the ongoing 'Power to Lease' for a term not exceeding five years subject to the Minister for Lands approval, for each and every agreement over the site.

This current lease for MBBH commenced in 2015 for a term of five years, with the expiry being August 2020. During 2015, Council approved the assignment of the lease from the previous operator to the current lessee, Hentech Pty Ltd.

The annual lease amount currently paid by the lessee is \$18,428 (excludes GST). The reason for the proposed annual lease amount increase is because the 2015 valuation only included 30 linear metres of the jetty, however the lessee's current operations utilises a total of 47.5 linear metres and this has been reflected in the recently obtained valuation.

Comment

Although Council is currently in a Caretaker Period, this report is progressing to Council on the basis that any delays in a determination by Council to support the advertising of this disposal of land, will impact on the ongoing security of tenure for the commercial tenant.

The current lessee has formally requested support to enter into a new lease agreement, and a sub licence in accordance with standard leasing practices for commercial tenancies. City officers propose the maximum five year term in accordance with the maximum term of the management order over Reserve 48457.

In accordance with Section 3.58 of the LGA, the City is required to obtain a relevant independent valuation to determine fair market rent, together with advertising the proposed disposition for a period of no less than 14 days.

The valuer has rationalised the rent determining the analysis for the office space as follows:

Having regard for the attributes of the subject tenancy and current market conditions we have adopted \$225/sqm pa net as our assessed rental value rate. This equates to an annual Rental of \$10,125pa net plus GST when applied to the internal lettable area of 45sqm exclusive of verandah.

The valuer has rationalised the rent determining the analysis for the jetty as follows:

We have then applied a rate per linear metre to the jetty sub-licence. As illustrated these rates typically range between \$245/linear metre for non-exclusive use up to \$375/linear metre for exclusive use. We have adopted a rate of \$250/linear metre for the 47.50 linear metres of jetty equating to a licence fee of \$11,875pa. These calculations equate to a total Lease and Licence Fee combined of \$22,000pa. Our assessed rent of \$22,000pa net plus GST equates to an overall rate of \$489/sqm on the lettable building area of 45sqm."

Commencing in March 2020, like many businesses Mandurah Boat and Bike Hire were heavily impacted by lockdowns associated with COVID-19. The business was closed for a period of two months (27 March 2020 – 29 May 2020) during this time and subsequently up until the 31 March 2021, the City has waived or reduced rent and outgoings during that period in accordance with the *Commercial Tenancies (COVID-19 Response) Act 2020*.

Since July 2020, Mandurah Boat and Bike Hire have continued to operate in a down turn on low patronage but have continued to pay regular payments to ensure there are no outstanding balances due to the City. At the time of writing this report the tenant has no arrears due to the City, with all rent and outgoings paid in full up to the 31 August 2021.

Council is required to approve the advertising of the proposed disposal of land via a lease and sub-licence and if no submissions received during the advertising period, dispose of the site to Hentech Pty Ltd trading as Mandurah Boat and Bike Hire for a term of five years, with rent commencing at \$22,000 per annum plus outgoings (exclusive GST) with a Consumer Price Index (CPI) rate to be applied annually. Subject to the support of the Minister for Lands and the Department of Transport.

Consultation

Lessees - Hentech Pty Ltd accept the valuation and are agreeable with the terms and conditions relating to entering into a new lease with the City.

Statutory Environment

Section 3.58 of the *Local Government Act 1995* – Disposal of Property
'Dispose' includes to sell, lease, or otherwise dispose of, whether absolutely or not.

Section 3.58 (3) of the *Local Government Act 1995*

A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —

- (a) it gives local public notice of the proposed disposition —
 - (i) describing the property concerned; and
 - (ii) giving details of the proposed disposition; and
 - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given; and
- (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.

Section 3.58 (4) of the *Local Government Act 1995*

The details of a proposed disposition that are required by subsection (3)(a)(ii) include —

- (a) the names of all other parties concerned; and
- (b) the consideration to be received by the local government for the disposition; and

(c) the market value of the disposition —

- (i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or*
- (ii) as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.*

Section 18(1)(2)(3) and (4) of the *Land Administration Act 1997* Crown land transactions that need Minister's approval.

- (1) A person must not without authorisation under subsection (7) assign, sell, transfer or otherwise deal with interests in Crown land or create or grant an interest in Crown Land;*
- (2) A person must not without authorisation under subsection (7) –*
 - (a) grant a lease or licence under this Act, or a licence under the Local Government Act 1995, in respect of Crown land in a manager reserve;*
 - (b) being the holder of such a lease or licence, grant a sublease or sublicence in respect of the whole or any part of that Crown land; and*
- (3) A person must not without authorisation under section (7) mortgage a lease of Crown land: and*
- (4) A lessee of Crown land must not without authorisation under subsection (7) sell, transfer or otherwise dispose of the lease in whole or in part.*

Should any submissions be received a report will be presented to Council for its final determination.

Policy Implications

Nil

Financial Implications

The City will receive rental income of \$22,000 per annum (excluding GST), and CPI to be applied annually.

In accordance with the City of Mandurah 2020/21 Fees and Charges Schedule, the Lease Preparation Administration Charge of \$890.00 (Incl GST) and Council Report fee of \$580.00 (Incl GST) are to be borne by the Lessee.

All advertising and legal costs associated with the preparation of the Lease are to be borne by the lessee.

Risk Analysis

Limited risk is associated with the disposal of this lease and sub-licence, the current lessee has paid all payments due and payable during what has been a difficult economic time for many businesses.

Strategic Implications

The following strategies from the City of Mandurah Strategic Community Plan 2020 – 2040 are relevant to this report:

Economic:

- Facilitate and advocate for sustainable local job creation and industry diversification.

Social:

- Provide a range of social, recreational and cultural experiences for our residents and visitors to enjoy and take pride in.

Health:

- Promote the importance of a healthy, active lifestyle and the role the natural environment plays in preventative health, within our community.

Organisational Excellence:

- Deliver excellent governance and financial management.

Conclusion

The current lessee has requested support for a lease renewal over portion of Reserve 48457 and a sub-licence over the jetty site. City officers have undertaken the relevant requirements in obtaining an independent valuation to assess fair market rent, and the lessee has confirmed they are agreeable with the terms and conditions relating to entering into a new lease with the City.

Council is requested to approve the advertising of, and if no submissions received, the disposal of a lease for a 45 square metres portion of Reserve 48457 and a sub-licence over a 47.5 linear metre portion of Jetty LM1750 to Hentech Pty Ltd, trading as Mandurah Boat and Bike Hire for a term of five years (5 years), with annual rent commencing at \$22,000 per annum plus outgoings (exclusive GST), Consumer Price Index (CPI) rate to be applied annually. The lease is conditional upon the consent of the Minister for Lands, and the sub-licence by the Department of Transport.

RECOMMENDATION

That the Committee of Council recommend that Council:

- 1. Approves the advertising and if no submissions received during the advertising period, the disposal of a portion of Reserve 48457, and sub-licence over portion of Jetty No: LM1750 known as Mandurah Boat and Bike Hire to Hentech Pty Ltd with the following conditions:**
 - 1.1 A tenure period of five years;**
 - 1.2 Commencement date after Minister for Lands approval;**
 - 1.3 Rent commencing at \$22,000 per annum excluding GST and outgoings;**
 - 1.4 Annual CPI to apply for the term of the agreement;**
 - 1.5 Subject to the approval of the Minister for Lands and the Department of Transport.**
- 2. Approves all legal costs associated with the preparation of the lease are to be borne by the lessee;**
- 3. Authorises the Chief Executive Officer to finalise the conditions of the lease and sub-licence agreements.**

2	SUBJECT:	Dog Prohibited / Exercise Areas Updates
	DIRECTOR:	Business Services
	MEETING:	Committee of Council
	MEETING DATE:	14 September 2021

Summary

Changes are proposed to alter dog prohibited and dog exercise areas at Reserve 48366 at Meadow Springs Sporting Facility and to finalise changes to dog prohibited and dog exercise areas at Pyramids Beach Dawesville.

The City has had ongoing concerns with the use of the premier turf wicket oval at Meadow Springs Sporting Facility (Reserve 48366) as a dog exercise area. Although the premier oval has now been fenced separately to protect the wicket, it is proposed to change the current designation on this portion of the Reserve from dog exercise area to dog prohibited to allow enforcement of dogs being within this area. The change also proposes designating the shared use oval with Meadow Springs Primary School as Dog Prohibited, given its connection with the premier oval. The remainder of the Reserve to the south will continue to retain an extensive dog exercise area unless active sport is underway.

Council is requested to approve commencement of a 28-day public notice period specifying Council's intention to prohibit dogs on the northern premier and Meadow Springs Primary School oval on Reserve 48366 at Meadow Springs Sporting in accordance with *Attachment 2.2*.

In addition, the City has now completed the required 28-day public notice period to introduce dog prohibited and amended dog exercise arrangements at Pyramids Beach, Dawesville, to assist in the protection of nesting Australian Fairy Terns. Council is requested to give final approval to specify the northern portion of the beach as dog prohibited, with an amendment to the designated dog exercise area to the south providing for a transition to dog on lead. Subject to Council approval appropriate signage will then be installed in Accordance with *Attachment 2.3*.

Disclosure of Interest

Nil

Previous Relevant Documentation

• G.11/6/21	22 June 2021	Dog Exercise Area / Proposed Dog Prohibited Area
• G.42/6/14	24 June 2014	Dog Exercise and Prohibited Areas
• G.33/2/11	22 February 2011	Dogs Local Law
• G.41/5/11	24 May 2011	Dogs Local Law 2010 – Undertaking to Amend
• G.40/9/11	27 September 2011	Dogs Amendment Local Law 2011
• G.29/1/13	29 January 2013	Dogs Amendment Local Law 2012

Background

The *Dog Act 1976* provides that the Council may, by absolute majority, specify a public place as a dog prohibited area. Meadow Springs Sports Facility (R48366) is an extremely popular dog exercise area. Currently this includes the northern portion of the Reserve that contains the turf wicket and also connection to the shared use school oval.

The City has noted a number of examples where damage has occurred to the turf wicket and oval area and believes given the extensive dog exercise area available at the site that the change to dog prohibited

is warranted. It is also proposed to specify the school oval to the north of the premier oval that contains the turf cricket wicket as dog prohibited.

Attachment 2.1 provides the current designation for Reserve 48366 at Meadow Springs. The proposed designations are provided in *Attachment 2.2*.

On 4 August 2021, the required 28 day public notice period was completed, that sought comments on changes that introduced a dog prohibited area and dog amended dog exercise area at Pyramids Beach Dawesville. These changes are proposed to support protection of a nesting site of the Australian Fairy Tern.

The advertised changes created a dog prohibited area on the northern section of the beach, with a transition to dog on lead on the south side of the Port Bouvard Surf Lifesaving for a distance of 100m from the walkway entry to the beach. This aligns with the activities of the Port Bouvard Surf Lifesaving Club where nippers operate with high numbers of children. The area south of this would remain as dog exercise (dog off lead). The proposed designations are provided in *Attachment 2.3*.

Comment

The changes to the *Dog Act 1976* designations of Reserve 48366 at the Meadow Springs Sports Facility allow enforcement of dog prohibited requirements and support fencing that has been installed at the site to protect the turf wicket.

Changes proposed at Pyramids Beach, Dawesville will assist in managing the safety of the Australian Fairy Tern breeding site. Australia Fairy Terns are listed as vulnerable under the *Environmental Protection and Biodiversity Conservation Act 1999*.

Consultation

Officers have consulted with the Pirates Rugby Club and Mandurah Cricket Club regarding proposed changes at Meadow Springs Sports Facility (R48366). The Meadow Springs Primary School has been consulted and are supportive of the change of the school oval to dog prohibited. The Public Notice will be undertaken with the requirements of the *Local Government (Administration) Regulations 1996*.

Proposed changes for Pyramids Beach, Dawesville have been advertised for 28 days with no community feedback having been received. Port Bouvard Surf Lifesaving Club were consulted in the development of the proposed restrictions prior to advertising and are supportive.

Statutory Environment

Section 31, 2B of the *Dog Act 1976* provides:

(2B) A local government may, by absolute majority as defined in the *Local Government Act 1995* section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a place where dogs are prohibited:

- (a) at all times; or
- (b) at specified times.

Section 31, 3A of the *Dog Act 1976* provides:

A local government may, by absolute majority, as defined in the *Local Government Act 1995* section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government, to be a dog exercise area.

Section 3C provides that at least 28 days before specifying a place to be:

- (a) a place where dogs are prohibited at all times or at a time specified under subsection (2B); or
- (b) a dog exercise area under subsection (3A); or
- (c) a rural leashing area under subsection (3B), a local government must give local public notice as defined in the *Local Government Act 1995* section 1.7 of its intention to so specify.

Policy Implications

Nil

Economic Implications

There is a requirement for the installation of signage which can be accommodated within existing budgets.

Risk Analysis

Impacts to the turf wicket at the Meadow Springs Sports Facility (R48366) can lead to significant cost and disruption. There remains an extensive off lead area at the reserve and it is considered this change is appropriate.

The Australian Fairy Tern is listed in the vulnerable category of the *Environmental Protection and Biodiversity Conservation Act 1999*. Inadequate protection of these birds could have negative outcomes for their breeding success and population sustainability.

Adequate exercise and socialisation of dogs are critical elements of responsible dog ownership. The changes proposed continue to provide for extensive dog exercise areas while balancing the potential impact on the reserves and wildlife.

Strategic Implications

The following strategies from the City of Mandurah Strategic Community Plan 2020 – 2040 are relevant to this report:

Social:

- Advocate for and facilitate the provision of diverse and environmentally sustainable places and spaces for people to enjoy an inclusive and active lifestyle.
- Promote the importance of a healthy, active lifestyle and the role the natural environment plays in preventative health, within our community.

Conclusion

The proposed changes to the *Dog Act 1976* designations at Reserve 48366, Meadow Springs Sports Facility will support existing fencing that has been installed and assist in enforcing requirements. Finalisation of changes to Dog Prohibited and Dog Exercise area at Pyramids Beach Dawesville will support protection of the nesting Australian Fairy Tern.

NOTE:

- Refer: **Attachment 2.1 Existing Dog Act 1976 designations of Reserve 48366 Meadow Springs**
Attachment 2.2 Proposed Dog Act 1976 designations of Reserve 48366 Meadow Springs
Attachment 2.3 Finalised Dog Act 1976 Restrictions Pyramids Beach, Dawesville

RECOMMENDATION

That the Committee of Council recommend that Council:

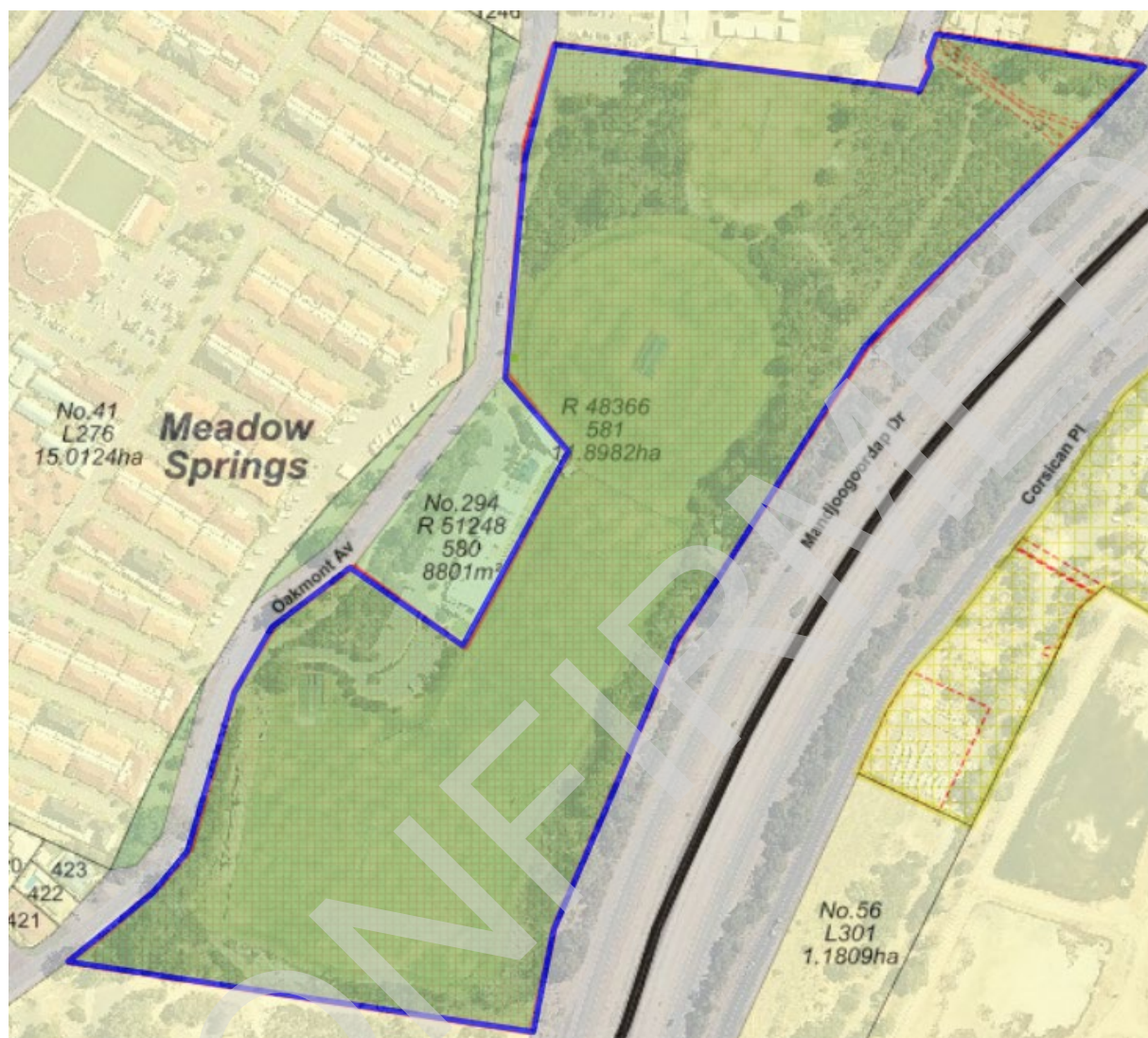
1. Approves the commencement of a 28-day public notice period specifying Council's intention to prohibit dogs on the northern oval premier cricket oval and shared use school oval of Reserve 48366 Meadow Springs as per *Attachment 2.2*.
2. Approves the variation to the existing dog exercise area at Reserve 48366 Meadow Springs as per *Attachment 2.2* which provides for dogs to be off lead except where active sport (including training) is in progress.
3. Provides final approval for the prohibition of dogs at Pyramids Beach, Dawesville and amendments to dog exercise areas in accordance with *Attachment 2.3*.

ABSOLUTE MAJORITY REQUIRED

CONFIRMED

ATTACHMENT 2.1

Existing Dog Act 1976 designations of Reserve 48366 Meadow Springs



Dog exercise area

ATTACHMENT 2.2

Proposed Dog Act 1976 designations of Reserve 48366 Meadow Springs



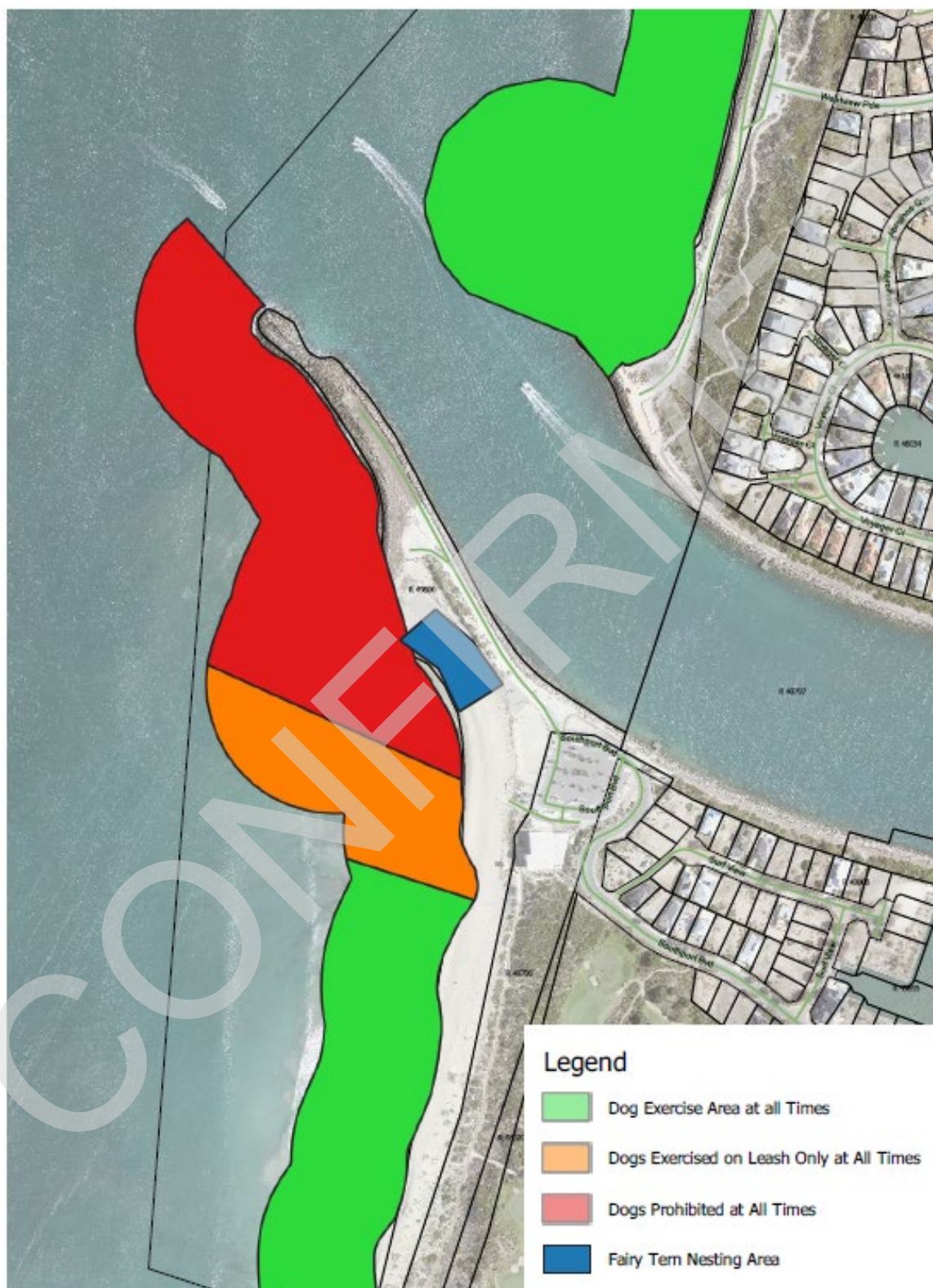
Dog prohibited area at all times



Dog exercise area except where active sport (including training) is in progress

ATTACHMENT 2.3

Finalised Dog Act 1976 Restrictions Pyramids Beach, Dawesville



3	SUBJECT:	Local Planning Policy No 3 Non Residential Uses in Residential Zones – Final Adoption
	DIRECTOR:	Business Services
	MEETING:	Committee of Council
	MEETING DATE:	14 September 2021

Summary

Council is requested to consider adopting for final approval Local Planning Policy No 3 – Non Residential Uses in Residential Zones (LPP3). This policy will consolidate three existing local planning policies relating to Medical Centres, Child Care Premises and Home Based Businesses and incorporate provisions from Town Planning Scheme No 3 (Scheme) relating to Commercial Vehicle Parking. The proposed LPP3 will provide a framework for the assessment and approval of various non-residential land uses within residential zones, including design criteria for new development.

The draft policy was adopted for advertising purposes by Council at its meeting held on 22 June 2021 and was subsequently advertised for public comment with submissions closing on 13 August 2021. No submissions were received and as such, no changes have been proposed to the draft policy.

As part of a review of the City's local planning policies, the existing Local Planning Policy No 3 – Urban Design Policy has been identified as being redundant due to the introduction of new State Planning Policies and is recommended for revocation.

It is recommended that Council adopt Local Planning Policy No 3 – Non Residential Uses in Residential Zones for final approval and revoke the following four existing local planning policies:

- Local Planning Policy No 3 – Urban Design Policy
- Local Planning Policy No 12 – Home Occupation Policy
- Local Planning Policy No 13 – Child Care Premises Policy and;
- Local Planning Policy No 16 – Medical Centres.

Disclosure of Interest

Nil

Previous Relevant Documentation

- G.12/6/21 22 June 2021 Council resolved to adopt for the purposes of advertising draft Local Planning Policy No 3 – Non Residential Uses in Residential Zones.
- G.14/11/20 24 November 2020 Council requested officers to prepare for Council, consideration of a Local Planning Policy addressing Commercial Vehicles within the residential zone.
- G.10/8/20 25 August 2020 Council directed officers to provide a report outlining a review of the approval process and outcomes for the parking of Commercial Vehicles in Residential Areas.
- G.22/6/20 23 June 2020 Council resolved to support the draft Local Planning Scheme No 12 and forward the Scheme to the Western Australian Planning Commission for approval.

- G.28/10/10 26 October 2010 Council adopted for final approval Local Planning Policy No 16 – Medical Centres.
- G.51/11/09 24 November 2009 Council adopted for final approval Local Planning Policy No 3 – Urban Design Policy, Local Planning Policy No 12 – Home Occupation Policy and Local Planning Policy No 13 – Child Care Premises Policy.

Background

In June 2021, Council adopted draft Local Planning Policy No 3 – Non Residential Uses in Residential Zones (LPP3), for advertising purposes. The policy was prepared to update and consolidate three existing local planning policies relating to Medical Centres, Child Care Premises and Home Based Businesses and incorporate provisions from the Scheme relating to Commercial Vehicle Parking.

The proposed policy will provide a framework for the assessment and approval of various non-residential land uses within residential zones, including design criteria for new development. In summary, the draft policy proposed the following changes and additions:

Medical Centres and Child Care Premises:

- Minor changes proposed for consistency and clarity;
- Inclusion of additional requirements for landscaping and supporting technical reports where deemed necessary; and
- Introduced limitations on hours of operations for child care premises to protect neighbouring amenity.

Commercial Vehicle Parking:

- Updated the definitions for Commercial Vehicles and Commercial Vehicle Parking to reflect Local Planning Scheme No 12;
- Introduced requirement for approval where commercial vehicles are housed within an outbuilding;
- Introduced minimum lot sizes for the parking of one or two commercial vehicles; and
- Amended the hours of restricted movement (commercial vehicle not to be taken to or from the site) to correlate with the *Environmental Protection (Noise) Regulations 1997*.

Home Based Businesses:

- Updated to reflect recent amendments to the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations) and the new definitions within LPS12 for a Home Office, Home Occupation and Home Business.

Changes to the Planning Framework

On 18 December 2020, amendments to the Regulations were gazetted as part of the State's planning reform agenda. These amendments came into effect on 15 February 2021 and have implications to application timeframes, advertising procedures and exempt development. With specific relevance to this report, the amendments to the Regulations exempt certain home businesses from requiring development approval.

The City's draft LPS12 was endorsed by Council on 23 June 2020 and has recently been approved by the Minister for Transport and Planning, subject to modifications. Once these changes have been made, LPS12 will be gazetted. LPS12 incorporates updated land use definitions as per the *Planning and Development (Local Planning Schemes) Regulations 2015* (Model provisions for local planning schemes), including amended definitions for commercial vehicles and home businesses. A review of the local planning policies is necessary to ensure consistency with LPS12.

Commercial Vehicle Parking

A Notice of Motion was approved by Council at its meeting of 25 August 2020 in regards to the parking of commercial vehicles in residential areas. The motion directed officers to provide a report outlining a review of the approval process and outcomes for the parking of commercial vehicles in residential areas. On 24 November 2020, officers presented a report to Council outlining the assessment process for commercial vehicles in response to the Notice of Motion. The report concluded that a local planning policy should be prepared for consideration by Council, that provides an assessment criteria and acceptable provisions for commercial vehicle parking applications.

State of Emergency Exemptions

In response to the current State of Emergency, a Notice of Exemption was issued on 8 April 2020 which temporarily exempts various land uses from requiring development approval. The exemptions include, but are not limited to, a home business, home occupation and commercial vehicle parking in a residential area. These exemptions will remain in effect until 90 days after the end of the State of Emergency. There remains uncertainty as to how long the State of Emergency will remain in effect.

Comment

Following Council's resolution to adopt LPP3 for advertising purposes in June 2021, the policy was advertised for public comment by placing notifications in the local newspaper, on the City's social media accounts and on the City's website.

Caretaker Policy Consideration

Council has adopted a Caretaker Council Policy. The September 2021 Ordinary Council Meeting falls within the caretaker period. In accordance with the Caretaker Council Policy, Council can consider a matter that would be considered a major policy decision in a number of circumstances such as outlined in clause 3.2 of the Caretaker Council Policy for prevailing circumstances. As the process has substantially commenced and there were no comments received, the Chief Executive Officer has approved for this to be considered.

The draft policy was advertised for a period of 23 days, with submissions closing on 13 August 2021. No submissions were received and as such, no changes have been proposed to the draft policy. It is recommended that Council adopt the policy for final approval without modification.

Revocation of Existing Local Planning Policies

LPP3 aims to consolidate and replace three existing local planning policies. Should Council determine to adopt the policy for final approval, it is recommended that Local Planning Policy No 12 – Home Occupation Policy, Local Planning Policy No 13 – Child Care Premises Policy and Local Planning Policy No 16 – Medical Centres are formally revoked.

The City has an existing Local Planning Policy No 3 – Urban Design Policy that was adopted in 2009 to provide guidance on improving the quality of urban design for new developments. At the time, the policy addressed a gap in the statutory planning framework whereby the Scheme and Residential Design Codes did not adequately address aspects of urban design. Since 2009, there have been various updates to the planning framework which guide the design of new developments and supersede the City's Urban Design Policy, summarised as follows:

- The City has various precinct plans and structure plans that include detailed urban design provisions and minimum standards for new developments within activity centres and areas identified for higher densities. Each precinct / structure plan incorporates specific design criteria to achieve the desired character of the locality.

- State Planning Policy No 7.0 – Design of the Built Environment addresses design quality and aims to achieve good design outcomes. SPP7.0 sets out the objectives, measures, principles and processes which apply to the design and assessment of development proposals.
- State Planning Policy No 7.2 – Precinct Design provides guidance for the preparation, assessment and determination of precinct structure plans and local development plans. SPP7.2 can also be used for significant subdivisions or development applications where there is not an approved precinct structure plan or local development plan.
- State Planning Policy No 7.3 – Residential Design Codes – Apartments and the draft Medium Density Codes set objectives and acceptable design outcomes for built form and scale, functionality, universal design/access, crime prevention, vehicle access, legibility and sustainability.
- Requirements for heritage buildings have been incorporated into the Deemed Provisions and LPS12.
- Design for noise attenuation is adequately addressed within State Planning Policy No 5.4 – Road and Rail Noise and the *Environmental Protection (Noise) Regulations 1997*.

For the reasons outlined above, the Urban Design Policy was identified during the overall policy review as being redundant and is recommended for revocation.

MEAG Comment

This item does not have any impact on the natural environment and therefore has not been referred to Mandurah Environmental Advisory Group for comment.

Consultation

In accordance with Clause 4 of the Deemed Provisions, a local government must advertise a proposed policy for a period not less than 21 days by publishing on the City's website and by giving notice of the proposed policy in any other way the local government considers appropriate.

The policy was advertised by publishing on the City's website, social media accounts and in the local newspaper for a period of 23 days. No submissions were received.

Statutory Environment

Local governments may prepare Local Planning Policies under Part 2, Division 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* in respect to any matter related to the planning and development of the scheme area. Once approved, the local government must have regard to each relevant local planning policy when making a determination under the Local Planning Scheme.

Policy Implications

The proposed consolidation and review of existing policies will refine and update the existing policy framework in line with the current regulations and proposed Local Planning Scheme No 12 as well as reduce the overall complexity of the framework.

Financial Implications

Nil

Risk Analysis

Poor management of non residential uses in residential areas can lead to amenity impacts for surrounding residents.

Excessive regulation and restriction on non residential uses in residential zones can limit entrepreneurship and business development. In some cases home based operations can be an entry to a larger business operation.

Strategic Implications

The following strategies from the City of Mandurah Strategic Community Plan 2020 – 2040 are relevant to this report:

Economic:

- Facilitate and advocate for sustainable local job creation and industry diversification.

Social:

- Facilitate safe neighbourhoods and lifestyles by influencing the built form through urban design.

Organisational Excellence:

- Listen to and engage with our community in the decision-making process.

Conclusion

The proposed Local Planning Policy No 3 – Non Residential Uses in Residential Zones seeks to consolidate three existing local planning policies relating to Medical Centres, Child Care Premises and Home Based Businesses and incorporate provisions from the Scheme relating to Commercial Vehicle Parking. The local planning policy reflects recent amendments to the statutory planning framework and provides guidance for assessment of non-residential development within residential zones.

The draft policy was adopted for advertising purposes by Council at its meeting held on 22 June 2021 and was subsequently advertised for public comment with submissions closing on 13 August 2021. No submissions were received and as such, no changes have been proposed to the draft policy.

As part of a review of the City's local planning policies, the existing Local Planning Policy No 3 – Urban Design Policy has been identified as redundant and is recommended for revocation.

It is recommended that Council adopt Local Planning Policy No 3 – Non Residential Uses in Residential Zones for final approval.

NOTE:

- Refer ***Attachment 3.1 Draft Local Planning Policy No 3 – Non Residential Uses in Residential Zones***

Recommendation

That the Committee of Council recommend that Council:

1. In accordance with Schedule 2, Part 2, Clause 4 of the Deemed Provisions for Local Planning Schemes, that Council resolves to proceed with Local Planning Policy No 3 – Non Residential Uses within Residential Zones without modification, and publish a notice on the City of Mandurah website giving effect to the Policy.
2. In accordance with Schedule 2, Part 2, Clause 6 of the Deemed Provisions for Local Planning Schemes, that Council resolves to revoke Local Planning Policy No 3 – Urban Design Policy, Local Planning Policy No 12 – Home Occupation Policy, Local Planning Policy No 13 – Child Care Premises Policy and Local Planning Policy No 16 – Medical Centres, and publish a notice of revocation on the City of Mandurah website.

Local Planning Policy No 3

Non Residential Uses in Residential Zones

May 2021

ATTACHMENT 3.1



Record of Adoption

Stage	Document Version	Approval Date
Draft for advertising	Version 1 May 2021	

Schedule of Modifications

No	Summary of Modifications	Document Version	Approval Date



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CONFIRMED



1. Introduction

1.1 Policy Objectives

The objectives of this Local Planning Policy are to:

- (a) Maintain the local character and amenity of residential areas;
- (b) Encourage non-residential uses to be located within close proximity to activity centres and areas that support a range of services;
- (c) Ensure that non-residential uses outside of activity centres are located on roads that can accommodate the additional traffic generated by the use;
- (d) Minimise the impacts of non-residential land uses on the amenity of surrounding landowners.

1.2 Background

Local Planning Policy No 3 – Non-Residential Uses in the Residential Zones replaces the following Local Planning Policies, in accordance with Clause 6(a) of the *Planning and Development (Local Planning Schemes) Regulations 2015* Deemed Provisions:

- LPP 12 – Home Occupation
- LPP 13 – Child Care Premises
- LPP 16 – Medical Centres

This policy also incorporates provisions relating to the Parking of Commercial Vehicles within the Local Planning Scheme.

1.3 Application of the Policy

- (a) This Local Planning Policy is prepared, advertised and adopted pursuant to Part 2 Division 2 of the Deemed Provisions for Local Planning Schemes (as set out in the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2) (Deemed Provisions)
- (b) Clause 3(5) and Clause 67(2)(g) of the Deemed Provisions state that the local government is to have due regard to a local planning policy in making a determination under the local planning scheme and applications for development approval.
- (c) This Local Planning Policy is applicable to the Residential, Canal and Rural Residential zones (hereby defined as 'residential area')



2. Medical Centre

2.1 Definition

A Medical Centre is defined within the local planning scheme as:

means premises other than a hospital used by 3 or more health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care.

An application for a medical centre within a residential area is to have regard to the provisions of this policy when submitted for assessment and determination by the local government.

2.2 Location

2.2.1 The following locations may be appropriate for the establishment of a medical centre:

- (a) A site that fronts (through direct access or via a parallel local road) onto a Major Road, District Integrator Road or Neighbourhood Connector Road, as identified on Figure 1;
- (b) Part of or within easy walking distance of commercial, recreation or community nodes and education facilities; or
- (c) A site well served by public transport.

2.2.2 It is unlikely that an application for a medical centre where the residential density coding is 'R5' or lower will be approved, due to the potential impact on the amenity of these areas.

2.3 Built Form

The built form of the proposed development shall be in accordance with the following:

- (a) The design of the development shall respect the character of the area having regard to land-use, building scale, built form and boundary setbacks;
- (b) The maximum building height, street walls/fences, street setbacks and lot boundary setbacks shall be in accordance with the Residential Design Codes for a residential dwelling.
- (c) Paths allowing pedestrian and universal access should be made with durable, non-skid surfaces and continuously provided across driveways; and
- (d) Signage shall be considered in accordance with Local Planning Policy No 2 - Signage.

2.4 Landscaping

Landscaping is to be in accordance with the following requirements:

- (a) A minimum of 10% of the site area shall be landscaped.
- (b) The landscaped area shall include a minimum strip of 1.5 metres wide adjacent to all street boundaries.
- (c) Landscaping is to be of a high quality through the use of trees within parking areas, the street verge and around buildings, complimented by extensive low-rise native landscaping. The City's Locality Street Tree Master Plan should be considered in design of landscaping.



2.5 Car Parking

The minimum car parking requirement for medical centres as required by the local planning scheme is 5 bays per practitioner. Design of on-site parking shall be as follows:

- (a) Parking of vehicles shall not visually dominate the street frontage, with some or all of the required on-site parking located behind the building line or sleeved within the development;
- (b) Safe vehicular and pedestrian access be from a road that is capable of handling additional traffic volumes and can accommodate the traffic generated by the use;
- (c) Vehicles will be required to enter and exit the site in a forward gear; and
- (d) The site layout and location shall minimise the impacts of noise and headlight glare of vehicles to bedrooms and major habitable rooms for adjacent or neighbouring dwellings.

2.6 Traffic

A traffic impact assessment and/or traffic management report, prepared by a suitably qualified Transport Consultant, may be required to be submitted with an application for development approval. The requirement for which, will be determined where there are concerns of traffic impacts from the proposal. The assessment / report should address:

- (a) The site characteristics and surrounding area;
- (b) The proposal and its expected trip generation;
- (c) Parking requirements, including the design of parking areas, and any pick-up and drop off facilities;
- (d) Existing traffic conditions and any future changes expected to the traffic conditions;

- (e) Current road safety conditions, including an accident history in the locality;
- (f) The expected impact of the proposed development on the existing and future traffic conditions; and
- (g) The impact on surrounding verges and the management of parking overflow.

The proposed use should be approved only if it will have a minimal impact on the functionality and amenity of an area and will not create or exacerbate any unsafe conditions for pedestrians or road users.

2.7 Noise

A Noise Assessment, prepared by a suitably qualified Acoustic Consultant, may be required for the development of a medical centre, where it is determined that the proposal may negatively impact the surrounding properties through the generation of noise.

This requirement will be determined on a case-by-case basis, based on residential density, existing buildings, hours of operation and proposed scale of operations.

2.8 Waste Management

A Waste Management Plan (WMP) is required to be prepared and submitted as part of the application for development approval. The WMP shall be prepared in accordance with the City's Commercial and Industrial Development Template and shall detail how bins will be stored and serviced in a way that protects the residential amenity of the area.



3. Child Care Premises

3.1 Definition

A Child Care Premises is defined under the local planning scheme as:

means premises where —

- a) an education and care service as defined in the Education and Care Services National Law (Western Australia) Act 2012 section 5(1), other than a family day care service as defined in that section, is provided; or*
- b) a child care service as defined in the Child Care Services Act 2007 section 4 is provided;*

An application for a child care premises within a residential area is to have regard to the provisions of this policy when submitted for assessment and determination by the local government.

3.2 Location

3.2.1 The following locations may be appropriate for the establishment of a child care premises:

- (a) A site that fronts (through direct access or via a parallel local road) onto a Major Road, District Integrator Road or Neighbourhood Connector Road, as identified on Figure 1;
- (b) Part of or within easy walking distance of commercial, recreation or community nodes and education facilities (as generally identified on Figure 1);
- (c) In areas where adjoining uses are compatible with a child care premises (includes considering all permissible uses under the zoning of adjoining properties); or
- (d) A site well served by public transport.

3.2.2 Child care premises generally would not be suitable at the following locations, unless the applicant can demonstrate to the satisfaction of the local government that the following matters listed will not have a detrimental impact on the child care premises:

- (a) Access is from an arterial route or in close proximity to a major intersection, as identified on Figure 1 to an arterial route where there may be safety concerns;
- (b) Access is from a local street where there may be impacts on amenity due to traffic and parking;
- (c) The current use or any permissible use under the zoning of the adjoining premises produces unacceptable levels of noise, fumes or emissions or poses a potential hazard by reason of activities or materials stored on-site;
- (d) Noise produced by roads and railways are likely to have an adverse impact on the site;
- (e) The site may be subject to contamination, within close proximity to high-voltage electricity transmission lines, or subject to external impacts that may be harmful to the staff and children; or
- (f) A site less than 1,000 square metres in area.



3.3 Hours of Operation

The hours of operation for a child care premises within a residential area should be limited to the following:

Monday to Friday	7:00am – 6:00pm
Saturday	8:00am – 5:00pm

An application proposing to operate outside of these hours will be assessed based on the potential impact to the neighbouring residential amenity.

3.4 Built Form

The built form of the proposed development shall be in accordance with the following:

- (a) The design of the development shall respect the character of the area having regard to land-use, building scale, built form and boundary setbacks;
- (b) The maximum building height, street walls/fences, street setbacks and lot boundary setbacks shall be in accordance with the Residential Design Codes as for a residential dwelling;
- (c) Paths allowing pedestrian and universal access should be made with durable, non-skid surfaces and continuously provided across driveways;
- (d) Signage shall be in accordance with Local Planning Policy No 2 Signage; and
- (e) Where possible, outdoor and indoor play areas for a Child Care Centre should:
 - i. Be in a safe location on the site and away from any adjoining noise sensitive premises;

- ii. Be north facing and/or accessible to the winter sun;
- iii. Create opportunities for casual surveillance of the outdoor play area from the premises building(s), adjacent land uses and the public domain where appropriate; and
- iv. Have a regular shape in order to avoid the creation of poorly surveyed spaces.

3.5 Landscaping

Landscaping is to be in accordance with the following requirements:

- (a) A minimum of 10% of the site area shall be landscaped;
- (b) The landscaped area shall include a minimum strip of 1.5 metres wide adjacent to all street boundaries; and
- (c) Landscaping is to be of a high quality through the use of trees within parking areas, the street verge and around buildings, complimented by extensive low-rise native landscaping. The City's Locality Street Tree Master Plan should be considered in design of landscaping.

3.6 Car Parking

The minimum car parking requirement for child care centres in the local planning scheme is 4.5 parking bays per 100m² of net lettable floor area. The design of on-site parking shall be as follows:

- (a) Parking of vehicles shall not visually dominate the street frontage, with some or all of the required on-site parking located behind the building line or sleeved within the development;



- (b) Safe vehicular and pedestrian access be from a road that is capable of handling additional traffic volumes and can accommodate the traffic generated by the use;
- (c) Vehicles will be required to enter and exit the site in a forward gear; and
- (d) The site layout and location shall minimise the impacts of noise and headlight glare of vehicles to bedrooms and major habitable rooms for adjacent or neighbouring dwellings.

3.7 Traffic

A traffic impact assessment and/or traffic management report, prepared by a suitably qualified Transport Consultant, may be required to be submitted with an application for development approval. The requirement for which, will be determined where there are concerns of traffic impacts from the proposal. The assessment / report should address:

- (a) The site characteristics and surrounding area;
- (b) The proposal and its expected trip generation;
- (c) Parking requirements, including the design of parking areas, and any pick-up and drop off facilities;
- (d) Existing traffic conditions and any future changes expected to the traffic conditions;
- (e) Current road safety conditions, including an accident history in the locality;
- (f) The expected impact of the proposed development on the existing and future traffic conditions; and

- (g) The impact on surrounding verges and the management of parking overflow.

The proposed use should be approved only if it will have a minimal impact on the functionality and amenity of an area and will not create or exacerbate any unsafe conditions for pedestrians or road users.

3.8 Noise

A Noise Assessment, prepared by a suitably qualified Acoustic Consultant, may be required for the development of a child care premises, where it is determined that the proposal may negatively impact the surrounding properties through the generation of noise. This requirement will be determined on a case-by-case basis, based on residential density, existing buildings, hours of operation and proposed scale of operations.

To reduce the impact of child care premise on surrounding properties, the following should apply:

- (a) Where a child care premises is located adjacent to a noise sensitive premises, the noise generating activities of the child care premises such as the outdoor play areas, parking areas and any plant and equipment are to be located away from the noise sensitive premises;
- (b) Where, due to design limitations or safety considerations, noise generating activities such as outdoor play areas are located close to noise sensitive premises, appropriate noise attenuation measures are to be undertaken; and
- (c) The design and construction of buildings may include noise attenuation measures to reduce impact from external sources and to achieve accepted indoor noise limits.



3.9 Waste Management

A Waste Management Plan (WMP) is required to be prepared and submitted as part of the application for development approval.

The WMP shall be prepared in accordance with the City's Commercial and Industrial Development Template and shall detail how bins will be stored and serviced in a way that protects the residential amenity of the area.

CONFIRMED



4. Commercial Vehicle Parking

4.1 Definitions

A Commercial Vehicle is defined under the local planning scheme as:

means a vehicle, whether licenced or not, that has a gross vehicle mass of greater than 4.5 tonnes including –

- (a) a utility, van, truck, tractor, bus or earthmoving equipment; and*
- (b) a vehicle that is, or is designed to be an attachment to a vehicle referred to in paragraph (a).*

Commercial Vehicle Parking is defined under the local planning scheme as:

means premises used for parking of one or 2 commercial vehicles but does not include –

- (a) any part of a public road used for parking or for a taxi rank; or*
- (b) parking of commercial vehicles incidental to the predominant use of the land.*

4.2 Assessment Criteria

In assessing an application for commercial vehicle parking within a residential area, the local government shall have regard to the following assessment criteria and/or requirements:

- (a) The subject site having a lot area of at least 500m² for one commercial vehicle or at least 2000m² for two commercial vehicles;
- (b) The proposed on-site parking location being adequately screened from view from the street;

- (c) The potential impacts on neighbouring residents with respect to noise, emissions, visual appearance or any other nuisance being minimised;
- (d) A restriction of movement (the commercial vehicle not to be taken from or brought to the lot) between the hours of 10:00pm and 7:00am;
- (e) Major repairs to the commercial vehicles are not undertaken on the lot. Any minor repairs are to be carried out within an outbuilding or screened from view from the street; and
- (f) All noise from the vehicle(s) is to comply with the Environmental Protection (Noise) Regulations 1997.

4.3 Noise

A Noise Assessment, prepared by a suitably qualified Acoustic Consultant, may be required for the assessment of a commercial vehicle where it is determined that the proposal may negatively impact the surrounding properties through the generation of noise.

This requirement will be determined on a case-by-case basis, based on residential density, existing buildings, hours of operation and proposed scale of operations.



4.4 Compliance

Should a commercial vehicle at a residential property become the subject of notice or complaint, the local government may undertake any of the following:

- (a) Ensure that conditions of any approval are being complied with, and should any conditions not be complied with:
 - i. Require the parking/operations to be altered; or
 - ii. Issue an infringement notice or alternative enforcement action.
- (b) Request a retrospective application, should the commercial vehicle be parked at a residential property without valid approval.

CONFIRMED



5. Home Based Businesses

5.1 Definitions

Home based businesses are divided into three different categories depending on the scale of operations and are defined within the local planning scheme as follows:

Home Office:

means a dwelling used by an occupier of the dwelling to carry out a home occupation if the carrying out of the occupation —

- (a) is solely within the dwelling;*
- (b) does not entail clients or customers travelling to and from the dwelling;*
- (c) does not involve the display of a sign on the premises; and*
- (d) does not require any change to the external appearance of the dwelling.*

Home Occupation:

means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out an occupation if the carrying out of the occupation that —

- (a) does not involve employing a person who is not a member of the occupier's household;*
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;*
- (c) does not occupy an area greater than 20 m²;*
- (d) does not involve the display on the premises of a sign with an area exceeding 0.2 m²; and*
- (e) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet;*

- (f) does not —
 - i. require a greater number of parking spaces than normally required for a single dwelling; or*
 - ii. result in an increase in traffic volume in the neighbourhood;**
- (g) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight;*
- (h) does not include provision for the fuelling, repair or maintenance of motor vehicles; and*
- (i) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located.*

Home Business:

means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out a business, service or profession if the carrying out of the business, service or profession —

- (a) does not involve employing more than 2 people who are not members of the occupier's household;*
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;*
- (c) does not occupy an area greater than 50 m²;*
- (d) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet;*
- (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood;*
- (f) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and*
does not involve the use of an essential service that is greater than the use normally required.



5.2 Requirement for Development Approval

In accordance with the Deemed Provisions, development approval is not required for a home office or home occupation.

An application for development approval is required for a home business.

5.3 Assessment Criteria

In assessing an application for a home business, the local government shall have regard to the following assessment criteria:

- (a) The nature, scale and hours of operation of the proposed home business being compatible with a residential area;
- (b) The relationship of the proposed home business with the adjoining land or on other land in the locality, including lot sizes;
- (c) The amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect of that traffic on the movement of traffic on that road system; and
- (d) Be compatible with its surrounds and not adversely affect the amenity of the area with respect to:
 - i. The parking of motor vehicles;
 - ii. The transporting of materials or goods to or from the dwelling;
 - iii. The hours of operation, which should generally be limited to the normal business hours of 8am to 6pm Monday to Saturday; and
 - iv. The creation of noise, vibration, electrical interference, or light emissions.

5.4 Administration

5.4.1 Advertising Procedure

Any home business that is likely to have an impact on neighbouring properties in regards to:

- (a) The creation of noise, vibration, electrical interference, or light emissions;
- (b) The parking of motor vehicles;
- (c) The transporting of materials or goods to or from the dwelling;
- (d) The hours of operation; or
- (e) Any home business associated with the repair, storage or maintenance of motor vehicles,

shall be advertised to surrounding landowners in accordance with clause 64 of the Deemed Provisions.

5.4.2 Compliance

Should a business that is operating from a dwelling become the subject of notice or complaint, the local government may undertake any of the following:

- (f) Ensure that conditions of any approval are being complied with, and should any conditions not be complied with:
 - i. Require business practices to be altered; or
 - ii. Issue an infringement notice or alternative enforcement action.
- (g) Request a retrospective application, should the business be operating without valid approval.

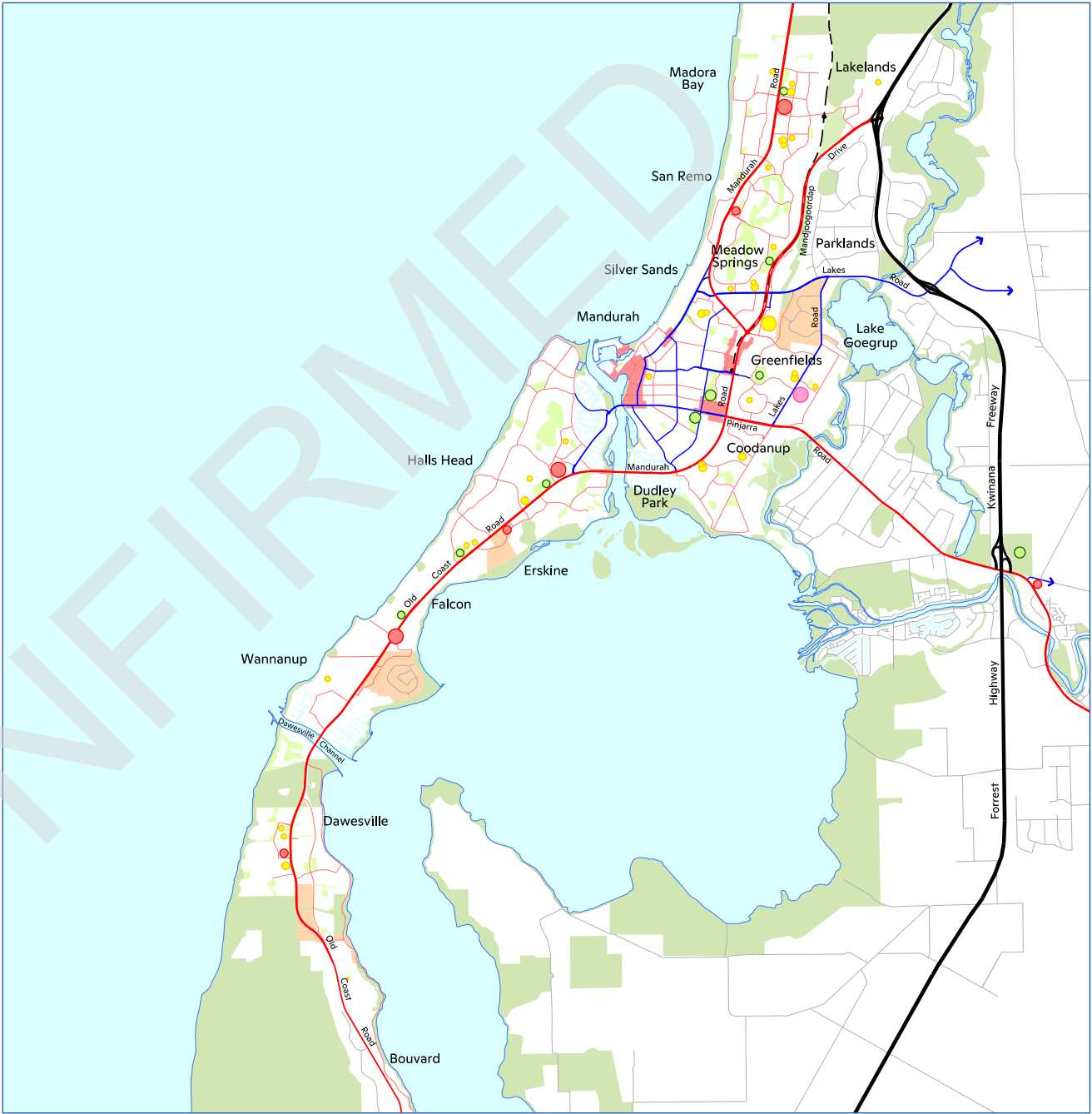
Figure 1 - Location Criteria

Road Network

- Freeway
- Major Road (Primary Distributor)
- District Integrator Road
- Neighbourhood Connector

Urban Form / Activity Centres

- Major Commercial Area (City Centre / District Centre / Neighbourhood Centre)
- Recreation Facilities (Regional / District Facilities)
- Peel Health Campus
- Education Facilities
- Residential Area with R-Code less than R5



4	SUBJECT:	Advertising of Senior Employee: Director Built and Natural Environment
	DIRECTOR:	Director Business Services
	MEETING:	Committee of Council
	MEETING DATE:	14 September 2021

Summary

The Director Built and Natural Environment has announced his intention to retire and has submitted his resignation effective from 31 December 2021.

Council are requested to approve the commencement of the recruitment process.

Disclosure of Interest

Nil

Confidentiality

This report is designated confidential under section 5.23(2) of the *Local Government Act 1995* as it relates to an employee matter.

Previous Relevant Documentation

- SP.10/3/20 10 March 2020 Organisational Structure: Directorates and services to align to Mandurah Matters

Background

The Director Built and Natural Environment has announced his intention to retire and submitted his resignation, effective from 31 December 2021. The resignation was received on 8 April 2021. Mr Claydon's employment contract required a three month notice period, which has been provided.

Mr Claydon has served the Council in a variety of roles during his 29 years' service. Mr Claydon will reach 30 years' service before retiring. He has been an outstanding employee and has played significant roles in establishing and delivering our workplace culture, capital projects, creating innovation in the field and in identifying and growing our future leaders.

Comment

The recruitment process for the position of Director Built and Natural Environment will consist of:

- The CEO finalising the position description as detailed in Confidential Attachment 4.1
- Advertising the position
- Reviewing applications and creating a shortlist of candidates to interview
- Conduct first round interviews with shortlisted candidate
- Undertake a personality and behaviour assessment
- Conduct second round interviews with one or more preferred candidates
- Carry out reference checks and verification of qualifications
- Present preferred candidate to Council for consideration

Consultation

The Council approved the organisational structure in March 2020 which brought the environment components together which includes the natural environment, marine, bushland, parks, education, energy and water.

Statutory Environment

Local Government Act 1995:

Section 5.41(g) states that the Chief Executive Officer is *responsible for the employment, management, supervision, direction and dismissal of other employees (subject to section 5.37 (2)) in relation to senior employees.*

Section 5.37(1) states that a local government *may designate employees or persons belonging to a class of employee to be Senior Employees.*

Section 5.37(2) states the *CEO is to inform Council of each proposal to employ or dismiss a Senior Employee, other than referred to in section 5.39(1a), and the Council may accept or reject the CEO's recommendation, but if the Council rejects a recommendation, it is to inform the CEO of the reasons for it doing so.*

The Director of Built and Natural Environment is designated as a Senior Employee, and therefore the Chief Executive Officer will recommend to Council the proposed appointment once the recruitment process has been finalised.

The City of Mandurah has received advice from the Department of Local Government, Sports and Cultural Industries that it is the DLGSC view that the responsibility for selecting and managing employees lies solely with the CEO and they cannot select a candidate. Therefore there is no recommendation for the Mayor or an Elected Member to sit on an interview panel of an employee, including a senior employee position.

Policy Implications

Senior Employees Council Policy designates the Director Built and Natural Environment as a Senior Employee.

Financial Implications

The position is included within the 2021/2022 Annual Budget.

Risk Analysis

It is important that the Council employs appropriately qualified, experienced and exceptional leaders in its senior employees' position.

Strategic Implications

The position will assist in achieving all of the strategies from the City of Mandurah Strategic Community Plan 2020 – 2040

Conclusion

Council is requested to:

- 1 Note the resignation of Mr Allan Claydon from the role as Director Built and Natural Environment.

- 2 Approve the commencement of the recruitment process of the Director Built and Natural Environment.

NOTE:

- Refer ***Confidential Attachment 4.1 Built and Natural Environment Position Description***

RECOMMENDATION

That the Committee of Council recommend that Council:

1. **Note the resignation of Mr Allan Claydon from the role as Director Built and Natural Environment.**
2. **Approve the commencement of the recruitment process of the Director Built and Natural Environment.**

5	SUBJECT:	Amendment: Payments to Employees Policy
	DIRECTOR:	Strategy and Economic Development
	MEETING:	Committee of Council
	MEETING DATE:	14 September 2021

Summary

A proposed amendment to the current Council policy in relation to Payments to Employees (POL-HRM 04) has been put forward to enable the City of Mandurah (the City) to financially recognise and thank long-serving employees at time of resignation or retirement via a small gift based on years of service.

Disclosure of Interest

Nil.

Previous Relevant Documentation

Nil.

Background

The City has reviewed its recognition of long serving employees. In doing so, it is proposed that the existing Payments to Employees Policy (POL-HRM 04) be amended to enable the City to recognise long-serving employees at the time of resignation or retirement.

Comment

It is proposed that Payments for Employees Policy is amended so that for employees whose employment is finishing at the City, an additional payment that the employee is contractually entitled to, will include:

- For employees with more than 10 years and less than 15 years' service, a gift up to the value of \$100 and contribution towards an appropriate organisational event up to the value of \$150.
- For employees with more than 15 years and less than 20 years' service, a gift up to the value of \$150 and contribution towards an appropriate organisational event up to the value of \$150.
- For employees with 20 or more years of service, a gift of \$250 and contribution towards an appropriate organisational event that is determined by the Chief Executive Officer based on the employee's role, length of service and contribution throughout their employment.

This amendment is referenced in Attachment 5.1, section 4.4

Statutory Environment

Local Government Act 1995 requirements within section 5.50 (1) (a) (b), (1a), (3) and (4).

Policy Implications

If Council approve the proposed amendments this will be the revised Council Policy implemented by City officers from the date of approval.

Financial Implications

The proposed changes are not expected to result in an increase in budget. The City will work within the current budget allocation to fund the gifts and organisational events outlined in the amendment.

Risk Analysis

Nil.

Strategic Implications

The following strategies from the City of Mandurah Strategic Community Plan 2020 – 2040 are relevant to this report:

Organisational Excellence:

- Build and retain a skilled, agile, motivated and healthy workforce.
- Ensure the City has the capacity and capability to deliver quality services and facilities through accountable and transparent business practices, governance, risk and financial management.
- Ensure that our actions maintain a sustainable balance between economic growth, the environment and social values.

Conclusion

The proposed amendment will enable to the City to recognise and thank long-serving employees at time of resignation or retirement. In doing so, this will not only recognise the relevant employee but will also reinforce that the City's values employees who have demonstrated a strong commitment to the organisation.

NOTE:

- Refer **Attachment 5.1** ***Revised Council Policy POL-HRM 04 Payments to Employees***

RECOMMENDATION

That the Committee of Council recommend that Council:

1. Approve the recommended amendment to the Payments to Employees Policy as detailed in Attachment 5.1.
2. Give local public notice in relation to the Council Policy.

Payments to Employees

Council Policy

Policy Objective

To set out the circumstances and manner of assessment in which the City of Mandurah (the 'City') will pay an employee an amount that is in addition to any amount to which the employee would normally be entitled.

Policy Statement

1. Application

This policy applies to all employees of the City.

Decisions under this policy are to be made:

- a) by the Council – where the decision involves a payment to the CEO; and
- b) by the Chief Executive Officer (CEO) – where the decision involves a payment to any other employee of the City.

2. Circumstances for payment

The City may make a payment, in addition to any amount to which the employee is entitled under a contract of employment or industrial agreement, relating to the employee in the following circumstances:

- a) redundancy – "Redundant" will be taken to mean that the duties of a position will no longer be performed by an employee of the City;
- b) local government boundary changes and amalgamations; and
- c) to settle such other termination matters (that do not relate to an employee being made redundant) in accordance with clause 4.

3. Exclusions

- 3.1 A payment will not be made to an employee who:
 - a) is redeployed within the City;
 - b) accepts employment with a successful tenderer;
 - c) is dismissed for serious misconduct;
 - d) is employed on either a temporary or casual basis;
 - e) has less than one year's service with the City, or
 - f) is classified as a trainee or apprentice or is under probation.
- 3.2 In addition to the exclusions in clause 3.1, where an employee's position is made redundant as a result of all or part of the functions of that position being undertaken by a contractor, a payment will not be made to the employee but, in this case, the City will encourage the contractor to engage the employee.

4. Determination of payment

4.1 Definition

In the context of a 'payment' to an employee, the term 'weeks' pay' –

- a) means the weekly salary or wage payable to the employee calculated in line with the 'base rate of pay' definition contained within the current City of Mandurah Enterprise Agreement or as otherwise defined within an officer's contract of employment;

- b) includes salary or wages specifically sacrificed for additional non-award benefits; and
- c) excludes the value of any non-award benefit normally provided for the employee's position (such as a vehicle and where normal use of that vehicle is a non-cash component of a salary package, and any over award superannuation provided to employees).

4.2 General maximum payment

The maximum payment to an employee under regulation 19A of the *Local Government (Administration) Regulations 1996*, where the employment with the City finishes after 1 January 2010, must not exceed:

- a) *if the person accepts voluntary severance by resigning, the value of the person's final annual remuneration; or*
- b) *in all other cases, \$5,000.*

4.3 Settlement and other terminations

For the purpose of determining the amount of a payment in respect of a settling a matter under clause 2 (c), the CEO may take into account:

- a) the advice of an industrial advocate or legal practitioner on the strength of the cases of the respective parties in any litigation or claim in an industrial tribunal;
- b) the costs of any industrial advocate or legal advice and support;
- c) the general costs associated with the hearing including witness fees, travel costs and accommodation charges; and
- d) the disruption to operations.

4.4 Recognition for long-serving employees at time of resignation or retirement

For employees whose employment is finishing at the City, an additional payment that the employee is contractually entitled to, will include:

- a) For employees with more than 10 years and less than 15 years' service, a gift up to the value of \$100 and contribution towards an appropriate organisational event up to the value of \$150.
- b) For employees with more than 15 years and less than 20 years' service, a gift up to the value of \$150 and contribution towards an appropriate organisational event up to the value of \$150.
- c) For employees with 20 or more years of service, a gift of \$250 and contribution towards an appropriate organisational event that is determined by the Chief Executive Officer based on the employee's role, length of service and contribution throughout their employment.

Legislative Context

Local Government Act 1995

s.5.50(1) Payments to Employees in addition to contract or award

Local Government (Administration) Regulations 1996

r.19A Payments in addition to contract or award, limits of

Payments to Employees

Responsible Directorate: Strategy and Economic Development

Responsible Department: People and Culture

Reviewer: Manager People and Culture

Creation date and reference: Minute G.43/12/09 15 December 2009

Last Review: Minute G.12/7/19, 23 July 2019

Amendments			
Version #	Council Approval Date, Reference	Date Document In force	Date Document Ceased
2	Minute G.57/2/12	29/02/2012	24/02/2015
3	Minute G.35/2/15	25/02/2015	23/07/2019
4	Minute G.12/7/19	24/07/2019	-

6	SUBJECT:	Club Night Lights Program
	DIRECTOR:	Place and Community
	MEETING:	Committee of Council
	MEETING DATE:	14 September 2021

Summary

The Club Night Lights Program is a new program administered by the Department of Local Government, Sport and Cultural Industries (DLGSC). It provides financial assistance to community groups and local governments to develop sports floodlighting infrastructure.

The Club Night Lights Program 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 facilities. The maximum grant offered for standard grant applications is one third of the total estimated project cost (excluding GST) up to a maximum grant of \$1 million. The application process for submissions requires local government authorities to undertake an initial assessment to ensure that the proposed projects are well planned, prioritised and of positive benefit to the community.

The City intends to submit one application for funding as part of the Club Night Lights Program for the Installation of flood lighting at Mandurah Tennis Club. A second application has been received by the Port Bouvard Sport and Recreation Club to upgrade luminaires to LED's around the bowling greens. It is a requirement that both applications come before Council prior to submission.

Council is requested to support the rating and priority of the two projects being submitted for the 2022/23 Club Night Lights Program. Sufficient funds are available for the purpose in the 2022/23 budget to cover the City of Mandurah's financial contribution towards these projects.

Disclosure of Interest

Nil

Location

Project 1 – Mandurah Tennis Club



Lot 201 Thomson Street Mandurah

Project 2 – Port Bouvard Sport and Recreation Club



1 Thisbe DR DAWESVILLE

Previous Relevant Documentation

Nil

Background

In June 2021, the DLGSC announced the new Club Night Lights Program. The purpose of the program is to provide financial assistance to community groups and local governments to develop sports floodlight infrastructure, with the aim to maintain or increase participation in sport and recreational activities.

The Club Night Lights Program complements the DLGSC's existing CSRFF program; a competitive grant program that aims to assist community groups and local governments to develop basic infrastructure for sports and recreation. Floodlighting was formerly an eligible project activity under the CSRFF program, however in 2021, the State Government announced an additional investment of \$10 million over four years towards floodlighting infrastructure under the new Club Night Lights Program.

The Club Night Lights Program identifies the following categories that will be considered for funding:

- Projects that provide floodlighting to community training and/or local match play where existing facilities do not meet training standards.
- Projects that meet strategic objectives for state sporting associations by providing facilities for competition play at formally identified locations.
- Projects that replace ageing metal-halide floodlighting with energy efficient LED floodlighting to community training and/or community match play standard.
- Power upgrade projects directly linked to the development of lighting.

Projects that are not eligible for funding include non-fixed floodlighting or safety, pathway or casual recreation floodlighting.

In the 2022/2023 funding round, the total funding available is \$2.5 million. Applicants may apply for up to \$1 million ex GST per project. The maximum grant provided is \$1 million, and grants awarded in this category must be claimed in the financial year following the date of approval. There is one round per year.

Council is required by the DLGSC to rank each project according to its priorities for the development or upgrade of facilities, ensuring consistency with relevant strategic documents, and then rate each project according to individual merit.

The project ratings are identified as follows:

Well planned and needed by the municipality	High
Well planned and needed by applicant	Medium/High
Needed by municipality, more planning required	Medium
Needed by applicant, more planning required	Medium/Low
Idea has merit, more preliminary work needed	Low
Not recommended	Not recommended

Comment

Council is requested to consider two applications as part of the Club Night Lights Program.

Project 1 – City of Mandurah

Project	Installation of flood lighting at Mandurah Tennis Club
Location	Lot 201 Thomson Street Mandurah
Years Applied for	2022/23
Total Project Cost	\$160,571.90
Eligible Grant Criterial Total	\$160,571.90
CSRFF Grant Request	\$53,523.96
CoM ContributionI (CSRFF)	\$107,047.92
Other Potential Funding	-
Clubs' Contribution (cash)	\$0
Clubs' Contribution (in kind)	\$0
Recommended Ranking	It is recommended that this project be given a ranking of "1" and a rating of "high"

Project Description

The City plays a pivotal role in ensuring that community spaces are designed to facilitate equitable access and are conducive to inclusive community participation. The Mandurah Tennis Club (MTC) has leased a portion of City freehold owned land at Rushton Park since 1981. The Club has 12 courts including four carpet courts and eight hard courts. Currently the Club has eight courts floodlit but they do not meet Australian Standard and so cannot be safely used at night.

The age, condition and location of the lighting infrastructure at the MTC now requires significant work to bring them to a compliant standard for night time use. Over the last 12 months five towers have come down which has significantly reduced the utilisation of the tennis courts. The current flood lighting infrastructure is metal-halide and provides inadequate lighting for tennis with the current standards being 250 lux.

Currently, a lighting design has been developed to install six new flood lighting towers with LED fittings on courts 1 to 4. The project will also include the safe removal of the old lighting towers which will no longer be required. The future provision for upgrading the lighting on the additional four courts (5 to 8) has been considered within the lighting design by ensuring the shared poles can accommodate the additional weight of lighting fittings.

In accordance with the MTC Lease Agreement, the Club will be responsible for maintaining, operating and repairing the floodlighting fittings to the appropriate Australian Standard and the City is responsible for maintaining and repairing the lighting poles. For outdoor tennis court lighting, AS2560. 2.1 specifies 250 lux average as the minimum required level of lighting to ensure a game of tennis can be played safely and comfortably.

The MTC provides opportunities for both competitive and social tennis players throughout central Mandurah. The Club has approximately 150 members and manages their courts and charges a fee for use by non-members. Installing the flood lighting to 250 lux will improve the accessibility of the courts and help build the capacity and future sustainability of the Club through increased membership and participation numbers. It will be especially beneficial to the Club in winter as they will be able to continue to offer tennis programs and promote these to a wider audience for participation.

Overall, this project has the potential to increase evening use of the four courts by more than 20 hours per week, making them more attractive and accessible to community hirers as well as players engaged in competitions and tennis participation and coaching programs.

Consultation

Consultation for the proposed facility lighting at MTC has occurred with the DLGSC – Sport and Recreation, MTC and within the City – project supported.

Project 2 – Port Bouvard Sport and Recreation Club

Project	Upgrade luminaries to LED's
Location	1 Thisbe Drive, Dawesville
Years Applied for	2022/23
Total Project Cost	\$35,582.72
Eligible Grant Criterial Total	\$35,582.72
CSRFF Grant Request	\$11,860.90
Requested from Council	\$11,860.90
Other Potential Funding	-
Clubs' Contribution (cash)	\$11,860.92
Clubs' Contribution (in kind)	\$0
Recommended Ranking	It is recommended that this project be given a ranking of "2" and a rating of medium/high

Project Description

Port Bouvard Sport and Recreation Club (PBSRC) is one of four bowling clubs within the City of Mandurah delivering lawn bowling participation opportunities and wider community benefits. The Club is financially sustainable with a strong membership base, vibrant social and competitive bowling programs, excellent and well-maintained facilities and an active engagement role within the local community.

Current membership is approximately 223 bowlers for pennant competitions and social bowls which is consistent with previous years. Furthermore, the Club promotes and encourages new memberships by running community coaching sessions and programs with local schools.

The Club has three synthetic bowling greens that are all floodlit, however they currently have metal halide fixtures which are not operating efficiently and are costly to repair. Night time participation and access to floodlights is considered important to delivering increased physical activity opportunities for both Club members and recreational lawn bowl participants.

With the Club Night Lights Program focussing on increased participation it is considered that the upgrade of luminaries to LED's on the bowling greens will meet this objective. The Club's application seeks to install the LEDS on the current existing pole in accordance with the Australian Standards and Lux levels.

The project is anticipated to provide 100 lux level lighting, the Australian Standards for outdoor bowling green lighting AS2560.2.8, specifies 100 lux average as the required level of lighting to ensure a game of bowls can be played safely and comfortably.

City Officers have requested the Club engage a structural engineer to conduct a structural capacity assessment of the current poles to ensure their suitability to handle the weight of the new luminaries.

In accordance with the PBSRC Lease Agreement, the Club will be responsible for maintaining, operating and repairing all sports floodlighting infrastructure to the appropriate Australian Standard. Importantly, the Club has demonstrated over an extended period that it is well governed and managed, and also has a proven ability to effectively maintain infrastructure in accordance with their Lease obligations.

The total project cost is \$35,582.72 (exclusive GST). The City will list \$11,860.90 on the 2022/2023 capital works budget for this project as the one third contribution to the total project cost if the application is successful. Should the structural report advise the poles are not suitable, the City will be required to reassess the grant application.

Officers have recommended that this project is ranked two and rated “medium/high”, as it is well planned and needed by the Club. In making this assessment, officers noted that the Port Bouvard Sport and Recreation Club have a sinking fund in place, is financially sustainable and is a good tenant of the City. However, the City’s commitment of funding should be based on the outcome of the structural capacity report. If the poles are deemed unsuitable for the LED fittings, the project should be reassessed and the City’s commitment reconsidered.

Consultation

Consultation for the proposed lighting upgrade at PBSRC has occurred with the DLGSC – Sport and Recreation, Bowls WA and with City staff.

Statutory Environment

N/A

Policy Implications

Policy CNP-05 Recreation Facility Development

Council may contribute a portion of funding towards the development of sport and recreation facilities in accordance with its Sport and Recreation Facility Development Procedures. The remaining funding must be provided by the applicant club or association or through a combination of club contributions and other funding sources such as grants, sponsorship, voluntary labour, donations etc.

Financial Implications

The project recommended for support is:

Project	Lodged by	Council Contribution Requested
Installation of flood lighting at Mandurah Tennis Club	City of Mandurah	\$107,047.92
Upgrade luminaries to LED's	Port Bouvard Sport and Recreation Club	\$11,860.90
Total		\$118,908.82

Results of the grant applications will be announced in December 2021 with the projects to be delivered in the 2022/23 financial year.

The two projects listed require a total funding contribution from Council of \$118,908.82. A requirement of the CSRFF funding program is that, if City funds are being contributed there is a pre-commitment of funding for the year in which the grant is approved. Currently the City has \$150,000 funding allocated in the 2022/23 long term financial plan under CSRFF Projects - Various

Risk Analysis

To ensure the provision of quality community infrastructure that is delivered in a safe and timely manner with little or no disruption to the community, a City Project Officer will be assigned to both project.

Strategic Implications

The following strategies from the City of Mandurah Strategic Community Plan 2020 – 2040 are relevant to this report:

Social:

- Facilitate opportunities that promote community led initiatives and build local capacity and capability.
- Provide a range of social, recreational and cultural experiences for our residents and visitors to enjoy and take pride in.

Health:

- Provide and facilitate quality infrastructure that is accessible and conducive to a healthy, active community.

Organisational Excellence:

- Ensure the City has the capacity and capability to deliver quality services and facilities through accountable and transparent business practices, governance, risk and financial management.

Conclusion

The two applications proposed for submission to the Club Nights Light Program have been well prepared by the City and PBSRC and are consistent with Council's Community and Recreation Facilities Policy.

It is considered suitable that the City is the applicant for the MTC because the City is responsible for the pole infrastructure and has the experience to manage such a project.

It is considered suitable that the PBSRC is the applicant for the upgrade luminaries to LED's as the infrastructure is the responsibility of the Club and the proposal aligns with the priorities outlined in the Club Night Lights Program guidelines.

A requirement of the CSRFF funding program is that if the City funds are being contributed then there is a pre-commitment of funding for the year in which the grant is approved. The City contributions reflected in this report are contained within the table below:

Grant Type	Rank	Project	Rating	Lodged by	CSRFF Funding Requested	Club Contribution	City of Mandurah Contribution Requested
Small	1	Installation of flood lighting at Mandurah Tennis Club	High	COM	\$53,523.96	\$Nil	\$107,047.92
Small	2	Upgrade luminaries to LED's	Medium/ High	COM	\$11,860.90	\$11,860.92	\$11,860.90

RECOMMENDATION

That the Committee of Council recommend that Council supports the rankings and ratings for the Community Sport and Recreation Facility Fund Small Grant application:

- 1 City of Mandurah**
Project: Installation of flood lighting at Mandurah Tennis Club
Ranking: 1
Rating: High
Requested Council Contribution: \$107,047.92

- 2. Port Bouvard Sport and Recreation Club**
Project: Upgrade luminaries to LED's
Ranking: 2
Rating: Medium/High
Requested Council Contribution: \$11,860.90 (subject to the findings of the pole assessment)