

## **Minutes of Committee of Council Meeting**

**Held on**

**8 June 2021 at 5.30pm**

**Held at Council Chamber, 83 Mandurah Terrace Mandurah**

### **PRESENT:**

COUNCILLOR	P JACKSON [Chairperson]	NORTH WARD
COUNCILLOR	M DARCY	COASTAL WARD
COUNCILLOR	C DI PRINZIO	COASTAL 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	A CLAYDON	ACTING CHIEF EXECUTIVE OFFICER
MR	M HALL	ACTING DIRECTOR BUILT AND NATURAL ENVIRONMENTS
MS	C MIHOVILOVICH	DIRECTOR BUSINESS SERVICES
MS	J THOMAS	DIRECTOR PLACE AND COMMUNITY
MR	J CAMPBELL-SLOAN	DIRECTOR STRATEGY AND ECONOMIC DEVELOPMENT
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 5.32 pm.

## **2. APOLOGIES**

Councillor L Rodgers

## **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**

### **5.1 MR S JORDAN: HOMELESSNESS STRATEGY**

Mr Jordan asked what measures had been taken to address homelessness in the past two years and also how the strategy will be monitored moving forward.

#### *City of Mandurah Response*

*The Director Place and Community outlined how the recently adopted Homelessness and Street Present Strategy 2021 – 2023 would address quite a few of the points of homelessness however, acknowledged the issue could not be fixed in the short term. Measurable outcomes are contained within the strategy and reporting against the outcomes would be presented to Council.*

### **5.2 MR S JORDAN: OPERATING EXPENDITURE**

Mr Jordan asked how costs could be cut when 40% of operating expenditure was for running costs of the organisation.

#### *City of Mandurah Response*

*The Acting Chief Executive Officer requested to take the question on notice.*

## 6. ANNOUNCEMENTS

### CC.1/6/21 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 C Knight

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: 9/0

## 7. PRESENTATIONS

Nil.

## 8. DEPUTATIONS

Nil.

## **9. CONFIRMATION OF MINUTES**

**CC.2/6/21 CONFIRMATION OF MINUTES TUESDAY 11 MAY 2021**

### **MOTION**

**Moved: Councillor P Rogers**

**Seconded: Councillor J Green**

**That the Minutes of the Committee of Council meeting of Tuesday 11 May 2021 be confirmed.**

**CARRIED: 9/0**

## **10. DECLARATIONS OF INTERESTS**

- 10.1 Councillor P Rogers declared an impartiality interest in Minute CC.8/6/21 - Lease and Funding Agreement: Mandurah Performing Arts Inc. as he is appointed by Council to the Mandurah Performing Arts Inc. Board. Councillor P Rogers will vacate the Chamber and not participate in discussion or voting on the item.
- 10.2 Mayor Williams declared an impartiality interest in Minute CC.8/6/21 - Lease and Funding Agreement: Mandurah Performing Arts Inc. as he was previously appointed by Council to the Mandurah Performing Arts Inc. Board. Mayor Williams would remain in the Chamber, consider the item on its merits and voting accordingly.

## **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.

5.49pm: The Presiding Member conducted a roll call of Elected Members to confirm electronic connections remained with members able to hear the meeting clearly.

### 13. REPORTS

#### CC.3/6/21 MANDURAH TERRACE ALFRESCO AND STREETSCAPE IMPROVEMENTS (REPORT 1)

##### Summary

Main streets in City Centres are unique places where there are generally high numbers of food and beverage businesses, unique retail offerings and other visitor related services. City Centre's with activated main streets are likely to positively impact the experiences of visitors and residents alike, generating positive sentiment which supports repeat visitation and increase spend in the area.

Mandurah's City Centre is in a unique position as its main street has both park and estuary views and high-quality public infrastructure, with further upgrades soon to be completed (Waterfront Redevelopment and Smart Street Mall Upgrade projects). This provides an 'attractive backdrop', value adding to the visitor experience as people move between public spaces and private venues.

Collectively, these spaces, together with event and activation strategies and consistent marketing, creates an overarching 'product' able to support current businesses and visitation, while also attracting new visitors and businesses over time. As a means of continuing to improve the streetscape to better link with the new Waterfront projects, the following City Centre projects have been developed and trialed over the last two to three years (2019-2021):

- Outdoor Place Activation - Courtyard Dining (Cnr Tuckey Street & Sholl Street)
- Alfresco Dining Upgrades / Improvement
- COVID-19 Parklet Trials

The learnings from the above projects has resulted in the following recommendations, designed to lift the alfresco dining experience within the City Centre, improve the streetscape along Mandurah Terrace and make the City Centre more functional and accessible for both pedestrians and vehicles into the future:

1. Conduct a review of the City Centre Parking Strategy with particular focus on timed parking options, signage and wayfinding, and lighting.
2. Development of a Master Plan for Mandurah Terrace between Pinjarra Road and Gibson Street to guide future alfresco and streetscape improvements.
3. Development of a clear set of guidelines with appropriate fees and charges to support business owners and operators to establish and enhance alfresco and outdoor trading areas on public land.

This report provides an overview of the City Centre projects that have been developed and trialed over the last two to three years, outlines the draft Alfresco Dining and Outdoor Trading Guidelines that have been developed and provides recommendations for further improvement projects for Council consideration.

##### Officer Recommendation

That the Committee of Council recommends that Council:

1. Note the outcomes of the various alfresco and streetscape improvement projects that have been developed and delivered over the last two to three years.
2. Acknowledge the community and business feedback received on the alfresco and streetscape improvement projects.

3. Approve the draft 'City of Mandurah Alfresco Dining and Outdoor Trading Guidelines' as detailed in Attachment 1.1; and
  - 3.1 Note that the 'City of Mandurah Alfresco Dining and Outdoor Trading Guidelines' will be used as a tool to support decision making for alfresco dining requests received.
  - 3.2 Note that the final guidelines and an associated framework for Alfresco Dining Fees and Charges will be presented to Council in mid-2022 for consideration.
4. Commence the process of preparing a City Centre Parking Plan as part of the City's wider parking strategy and include the following key areas of focus:
  - Timed parking;
  - Signage and wayfinding;
  - Lighting; and
  - Implementation.
5. Endorse the development of a revised Master Plan for Mandurah Terrace between Pinjarra Road and Gibson Street, subject to the approval of the 2021/22 budget, to guide future alfresco and streetscapes improvements with the process to include community, business and Elected Member engagement.

#### Committee Recommendation

#### **MOTION**

**Moved:** Mayor R Williams  
**Seconded:** Councillor D Pember

**That the Committee of Council defer consideration of this item to the Council meeting of 22 June 2021 with the item tabled for inclusion at the June 15 Elected Member Strategy meeting.**

CARRIED: 9/0

Comment: The Committee of Council deferred considering the item and requested a further workshop prior to the June 2021 Ordinary Council Meeting.

#### **CC.4/6/21 MANDURAH CALENDAR OF EVENTS 2021/2022 (REPORT 2)**

#### Summary

During the 2020 – 2021 financial year, the City made some significant changes to its events program in order to continue to deliver events and activations in line with the COVID-19 guidelines as set by the WA Department of Health. The amended program of COVID safe events was designed to maximise intrastate visitation, activate the City Centre and result in positive community outcomes. The anecdotal feedback received so far regarding the COVID safe events program has been positive.

The COVID-19 situation has now been prominent across the world for 14 months, and all events and mass gatherings are subject to the advice and restrictions at the time of the event, and in some cases (such as high-risk events) require approval from the WA Chief Health Officer. With this in mind, officers have developed a Calendar of Events for the 2021/22 financial year that offers a range of smaller events and activations, whilst still allowing for the adequate planning required for major events such as the Mandurah Christmas Pageant, New Year's Eve Celebrations and the Mandurah Crab Fest to proceed.

Officers are seeking Council's endorsement of the proposed calendar of events, and understanding that some changes or alterations may be required for particular events to proceed, pending COVID restrictions at the time of the event.

#### Officer Recommendation

That the Committee of Council recommend that Council:

1. Endorse the 2021/22 Mandurah Calendar of Events program as detailed in Attachment 2.1.
2. Note that alterations to the traditional format and delivery method for the Mandurah Christmas Pageant, New Year's Eve celebrations and Mandurah Crab Fest may be required to adhere to COVID-19 restrictions.

#### Committee Recommendation

##### **MOTION**

**Moved:** Councillor P Rogers

**Seconded:** Councillor C Knight

That the Committee of Council recommend that Council:

1. **Endorse the 2021/22 Mandurah Calendar of Events program as detailed in Attachment 2.1.**
2. **Note that alterations to the traditional format and delivery method for the Mandurah Christmas Pageant, New Year's Eve celebrations and Mandurah Crab Fest may be required to adhere to COVID-19 restrictions.**

CARRIED: 8/1

FOR: Mayor R Williams, Councillors D Pember, M Darcy, P Jackson, J Green, C Knight, P Rogers, C Di Prinzio

AGAINST: Councillor A Zilani

#### **CC.5/6/21 LEASE: STAGE DOOR RESTAURANT (REPORT 3)**

##### Summary

The current lease for the Stage Door Restaurant which is held over portion of Crown Reserve 42050, by Donald McCausland & Gayle Iannetta (Stage Door) is due to expire on the 30 June 2021. The current lessee has formally requested officers approach Council with a request of support for a further lease term of five years with a five year option of renewal (5+5 years).

In accordance with s3.58 of the *Local Government Act 1995* (the Act) 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 \$97,500 per annum plus outgoings (exclusive GST). The City is also required to advertise the proposed disposal outlining the term of the lease, rental amount, lessee details and assessment of an independent valuation.

Council is requested to approve the advertising of, and if no submissions received, the disposal of a lease for a 438 square metres over portion of Reserve 42050, to Donald

McCausland and Gayle Iannetta, for a term of five years with a further five year option of renewal (5+5 years), with annual rent commencing at \$97,500 per annum plus outgoings (exclusive GST), with a market rent review due at the end of the first term and Consumer Price Index (CPI) rate to be applied annually. The lease is also conditional upon the consent of the Minister for Lands.

#### Officer Recommendation

That the Committee of Council recommend that Council:

1. Approve the advertising and if no submissions received during the advertising period, the disposal of a 438 sq. metre portion of Reserve 42050, to Donald McCausland and Gayle Iannetta trading as Stage Door Waterfront Restaurant with the following conditions:
  - 1.1 A tenure period of five years with a further five year option of renewal, commencing after the Minister of Lands consent;
  - 1.2 Rent commencing at \$97,500 per annum (excluding GST);
  - 1.3 Annual CPI to apply for the term of the agreement;
  - 1.4 Market rent review at the end of the first term;
  - 1.5 Subject to the approval from the Minister of Lands.
2. 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 agreement.

#### Committee Recommendation

#### **MOTION**

**Moved:** Councillor P Rogers

**Seconded:** Councillor M Darcy

That the Committee of Council recommend that Council:

1. **Approve the advertising and if no submissions received during the advertising period, the disposal of a 438 sq. metre portion of Reserve 42050, to Donald McCausland and Gayle Iannetta trading as Stage Door Waterfront Restaurant with the following conditions:**
  - 1.1 **A tenure period of five years with a further five year option of renewal, commencing after the Minister of Lands consent;**
  - 1.2 **Rent commencing at \$97,500 per annum (excluding GST);**
  - 1.3 **Annual CPI to apply for the term of the agreement;**
  - 1.4 **Market rent review at the end of the first term;**
  - 1.5 **Subject to the approval from the Minister of Lands.**
2. **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 agreement.**

CARRIED: 9/0



**CC.6/6/21      DOG EXERCISE AREA / PROPOSED DOG PROHIBITED AREA (REPORT 4)**Summary

Following the successful breeding of the vulnerable Australian Fairy Tern at Pyramids Beach, Wannanup and the potential for this location to be an ongoing breeding site, Council is requested to support public notice being given for a period of 28 days, of its intention 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.

An example of where this approach has been used was in the suburb of Lakelands, Council approved public notice being given from 4 May to 1 June 2021, to specify the use of the central and southern ovals for dog exercise after 5:00pm and before 8:00am daily, except where active sporting activity is being undertaken. Council is requested to provide final approval to this proposal for Pyramids Beach, with a report to be provided in March 2022 reviewing the effectiveness of the implemented restrictions.

Officer Recommendation

That the Committee of Council recommend that Council:

1. Approves the commencement of a 28 day public notice period specifying Councils intention to prohibit of dogs at Pyramids beach in accordance with *Attachment 4.2*.
2. Approve the central and southern ovals of Lakelands District Open Space as detailed in *Attachment 4.3* as dog exercise areas only after 5:00pm and before 8:00am daily, except where active sport is in progress.
3. Council receive a report in March 2022 reviewing the effectiveness of the restrictions implemented Lakelands District Open Space (Lakelands Park) including feedback from the school and sporting clubs.

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 Councils intention to prohibit of dogs at Pyramids beach in accordance with *Attachment 4.2*.
2. Approve the central and southern ovals of Lakelands District Open Space as detailed in *Attachment 4.3* as dog exercise areas only after 5:00pm and before 8:00am daily, except where active sport is in progress.
3. Council receive a report in March 2022 reviewing the effectiveness of the restrictions implemented Lakelands District Open Space (Lakelands Park) including feedback from the school and sporting clubs.

CARRIED:    9/0

**CC.7/6/21      LOCAL PLANNING POLICY 3: NON-RESIDENTIAL USES IN RESIDENTIAL ZONES (REPORT 5)****Summary**

Council is requested to consider adopting for the purposes of advertising, the draft 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.

This review of existing local planning policies has been triggered by recent changes to the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) and the anticipated finalisation of the City's Local Planning Scheme No 12 (LPS12). The definitions and exemptions within proposed LPP3 reflect these changes to the planning framework.

Local planning policies sit below the local planning scheme and provide guidance for development within the City. 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.

It is recommended that Council adopt the policy for advertising purposes.

**Officer Recommendation**

That the Committee of Council recommend that Council, in accordance with Schedule 2, Part 2, Clause 4 of the Deemed Provisions for Local Planning Schemes, resolves to adopt for the purposes of advertising draft Local Planning Policy No. 3 – Non-Residential Uses within Residential Zones.

**Committee Recommendation****MOTION**

**Moved:**                **Mayor R Williams**  
**Seconded:**        **Councillor P Rogers**

**That the Committee of Council recommend that Council, in accordance with Schedule 2, Part 2, Clause 4 of the Deemed Provisions for Local Planning Schemes, resolves to adopt for the purposes of advertising draft Local Planning Policy No. 3 – Non-Residential Uses within Residential Zones.**

CARRIED:    9/0

*Having declared an interest in the following item Councillor P Rogers vacated the Chamber at 6.10pm*

**CC.8/6/21      LEASE AND FUNDING AGREEMENT: MANDURAH PERFORMING ARTS INC. (REPORT 6)**Summary

The current lease granted to Mandurah Performing Arts Incorporated over a portion of Reserve 42050, 75 Mandurah Terrace Mandurah, known as the Mandurah Performing Arts Centre expires 30 June 2021.

With expiry pending, the Lessee has approached City officers with a request to enter into a new 20 year lease agreement over a 3229 square metre portion of Reserve 42050.

Council is requested to approve the disposal via a lease to Mandurah Performing Arts Incorporated, over a 3229 square metre portion of Reserve 42050, for a term of five years with a further three, five year options (5+5+5+5years). An annual rent in accordance with the City's approved Fees and Charges Schedule – Lease Fee Charges for Community Groups to be applied. The lease is also conditional upon the approval of the Minister for Lands.

Council is requested to authorise the Chief Executive Officer to prepare and execute a Memorandum of Understanding for a five plus five year funding agreement subject to meeting performance conditions.

Officer Recommendation

That the Committee of Council recommend that Council:

1. Approves the disposal via a lease agreement to Mandurah Performing Arts Incorporated, over a portion of Reserve 42050 with the following terms;
  - 1.1 Term of five years with a further three, five year term options;
  - 1.2 Leased area of 3,229 square metres, of which 62 square metres is a common toilets area to be shared with the adjoining restaurant;
  - 1.3 Annual rent in accordance with the City's approved Fees and Charges Schedule – Lease Fee Charges for Community commencing at \$1020 per annum;
  - 1.4 Commencement date after the approval of the Minister for Lands; and
  - 1.5 Subject to the Minister for Lands consent.
2. Authorises the Chief Executive Officer to finalise the conditions of the lease agreement.
3. Authorises the Chief Executive Officer to prepare and execute a Memorandum of Understanding with Mandurah Performing Arts Incorporated which includes the following:
  - 3.1 Five plus five year funding agreement for the operations of the Mandurah Performing Arts Centre of \$716,335.92 per annum, increased annually by CPI.
  - 3.2 The provision of funding is subject to the following conditions:
    - a Strategic Plan (to be reviewed every three years)
    - a copy of its audited annual statement of accounts for each preceding financial year by no later than three months after the end of the financial year in each year of the Term;
    - a proposed annual budget 30 days before the next financial year commences in each year of the Term;

- an annual program 30 days before the next financial year commences in each year of the Term;
- an annual report, detailing the performance against the measures identified in the Strategic Plan, KPIS and annual business plan;
- advice of any changes in its office holders or its rules of associations; and
- any information on Mandurah Performing Arts Incorporated membership or other information in relation to the management or activities of Mandurah Performing Arts Incorporated requested by the City to determine Mandurah Performing Arts Incorporated compliance with the Parties Obligations.

#### Committee Recommendation

#### **MOTION**

**Moved:** Councillor A Zilani

**Seconded:** Mayor R Williams

**That the Committee of Council recommend that Council defer consideration of this item to the Council meeting of 22 June 2021.**

CARRIED: 8/0

Comment: The Committee of Council deferred considering the item until financial information is provided which is expected to be received prior to the June 2021 Ordinary Council Meeting.

*Councillor P Rogers returned to the Chamber at 6.12pm*

#### **CC.9/6/21 ESTABLISHMENT OF STRATEGIC FINANCE WORKING GROUP (REPORT 7)**

#### Summary

Council held a strategic workshop on 17 and 18 April 2021 which included a session on the City of Mandurah's financial sustainability outlining the importance of the City remaining financially sustainable whilst ensuring there are sufficient funds to deliver statutory services and the Strategic Community Plan 2020-2040. There are various controls that can be put in place to ensure the City of Mandurah is financially sustainable, including, adoption and annual reviews of the Long Term Financial Plan (LTFP); ongoing budget management through monthly financial reporting; regularly reviewing services, programs and service levels; monitoring performance ratios and taking the necessary action; and the whole of life costs are known prior to strategies, programs and/or projects being endorsed by Council to ensure there is capacity to fund.

For Council to carry out regular reviews of services, programs and service levels that aligns to the needs of the community, analyse future revenue proposals and oversee the long term financial planning associated with future service provision and investment, it is recommended that Council endorse the establishment of a Strategic Finance Working Group and adopt the Terms of Reference.

#### Officer Recommendation

That the Committee of Council recommend that Council:

- 1 Approve the Strategic Finance Working Group Terms of Reference as detailed in Attachment 7.1.
- 2 Appoint the following Elected Members to the Strategic Finance Working Group up until 15 October 2021:  
Mayor R Williams  
Councillor \_\_\_\_\_  
Councillor \_\_\_\_\_  
Councillor \_\_\_\_\_

Committee Recommendation

**PART 1**

**Moved: Councillor C Knight**  
**Seconded: Councillor P Rogers**

**That the Committee of Council recommend that Council approve the Strategic Finance Working Group Terms of Reference as detailed in Attachment 7.1.**

CARRIED: 9/0

The Chairperson called for nominations for the Strategic Finance Working Group. Nominations were received from Councillors D Pember, C Knight, P Rogers and J Green. Councillor J Green subsequently withdrew her nomination.

**PART 2**

**Moved: Mayor R Williams**  
**Seconded: Councillor J Green**

**That the Committee of Council recommend that Council appoint the following Elected Members to the Strategic Finance Working Group up until 15 October 2021:**

**Mayor R Williams**  
**Councillor D Pember**  
**Councillor C Knight**  
**Councillor P Rogers**

CARRIED: 9/0

**CC.10/6/21 PEEL STREET ABLUTIONS (REPORT 8)**

Summary

In 2020, City officers identified potentially significant structural defects related to the Peel Street Ablution and made the decision to close the facility, for public safety reasons, pending a more detailed investigation.

An independent consultant structural engineer was engaged to undertake an assessment of the building to determine its structural integrity and provide remediation advice. Based on this assessment, City officers consider that there are three options available with respect to the Peel Street Ablution, these are:

1. Structural repair works;
2. Remove and replace the building; or
3. Remove and not replace the building.

City officers have considered the above options and the related impacts, and request that Council approve that the Peel Street Ablution be removed and not replaced.

Officer Recommendation

That the Committee of Council recommend that Council authorise City officers to remove the Peel Street Ablution and reinstate the site with an appropriate landscaping solution.

Committee Recommendation

**MOTION**

**Moved:** Councillor C Knight  
**Seconded:** Councillor P Rogers

**That the Committee of Council recommend that Council authorise City officers to remove the Peel Street Ablution and reinstate the site with an appropriate landscaping solution.**

CARRIED: 9/0

**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 6.23pm.

CONFIRMED: .....[CHAIRPERSON]

**Attachments to Minutes: Committee of Council reports of 8 June 2021**

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<b>1</b>	<b>SUBJECT:</b> <b>DIRECTOR:</b> <b>MEETING:</b> <b>MEETING DATE:</b>	Mandurah Terrace Alfresco and Streetscape Improvements Strategy and Economic Development Committee of Council 8 June 2021
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## Summary

Main streets in City Centres are unique places where there are generally high numbers of food and beverage businesses, unique retail offerings and other visitor related services. City Centre's with activated main streets are likely to positively impact the experiences of visitors and residents alike, generating positive sentiment which supports repeat visitation and increase spend in the area.

Mandurah's City Centre is in a unique position as its main street has both park and estuary views and high-quality public infrastructure, with further upgrades soon to be completed (Waterfront Redevelopment and Smart Street Mall Upgrade projects). This provides an 'attractive backdrop', value adding to the visitor experience as people move between public spaces and private venues.

Collectively, these spaces, together with event and activation strategies and consistent marketing, creates an overarching 'product' able to support current businesses and visitation, while also attracting new visitors and businesses over time. As a means of continuing to improve the streetscape to better link with the new Waterfront projects, the following City Centre projects have been developed and trialled over the last 2-3 years (2019-2021):

- Outdoor Place Activation - Courtyard Dining (Cnr Tuckey Street & Sholl Street)
- Alfresco Dining Upgrades / Improvement
- COVID-19 Parklet Trials

The learnings from the above projects has resulted in the following recommendations, designed to lift the alfresco dining experience within the City Centre, improve the streetscape along Mandurah Terrace and make the City Centre more functional and accessible for both pedestrians and vehicles into the future:

1. Conduct a review of the City Centre Parking Strategy with particular focus on timed parking options, signage and wayfinding, and lighting.
2. Development of a Master Plan for Mandurah Terrace between Pinjarra Road and Gibson Street to guide future alfresco and streetscape improvements.
3. Development of a clear set of guidelines with appropriate fees and charges to support business owners and operators to establish and enhance alfresco and outdoor trading areas on public land.

This report provides an overview of the City Centre projects that have been developed and trialled over the last two to three years, outlines the draft Alfresco Dining and Outdoor Trading Guidelines that have been developed and provides recommendations for further improvement projects for Council consideration.

## Disclosure of Interest

Nil

## Previous Relevant Documentation

- G.16/9/19      24 September 2019      Council endorsed the City Centre Framework 2019-2021.
- G.9/12/18      18 December 2018      Council endorsed the City Centre Project Framework and 2018/19 Projects.

- G.22/11/17 28 November 2017 Council resolved to establish of a separate business unit for the City Centre.

## Background

Alfresco dining and outdoor trading can make significant contributions to the visual appeal and atmosphere of public and private spaces within City Centres. They contribute to active vibrant streets with opportunities for social interaction and leisure, providing positive impacts on the experiences of visitors and residents alike and generating positive sentiment which supports repeat visitation and increased spends in the area. Within Mandurah, alfresco dining and outdoor trading proposals are governed by the City of Mandurah's *Local Government Property and Public Places Local Law 2016*, with 20 permits currently active across Mandurah (18 within the City Centre).

In September 2019, Council endorsed the City Centre Framework 2019-2021, which had a focus on reinvigorating the City Centre as a 'lovable social place that showcases the best of Mandurah, it's people and businesses. A key outcome of this Framework was to encourage growth in visitation numbers, dwell time and day tripper offer via the development of 'destination' level public spaces within the City Centre, with one of the projects identified being alfresco improvements.

In line with the Framework, the City has worked with a range of business owners and operators in the City Centre to develop and trial a number of small-scale alfresco projects on both public and private land with a focus on 'business-led first' approach. These projects have been supported by the City through its Business Grants Program and have led to approximately \$120,000 in business and land owner contributions, as summarised below:

### Project 1 Outdoor Place Activation - Courtyard Dining (Cnr Tuckey Street & Sholl Street)

Aim: To increase functionality and activate an identified priority City Centre area.

Objectives:

1. To increase customer capacity numbers of a small hospitality businesses.
2. To increase activity during evenings and weekends

Year	Businesses Involved	Business Investment	City Support	Total Project Cost
2019	Mataya Eatery Momentum Wealth	\$25,000	\$10,000	\$35,000

Successes:

- Problematic, underutilised area now regularly active with alfresco dining during the day and increasing Friday night and weekend events (ie. music and movie nights, weekend markets).

Challenges:

- Failure of the privately appointed contractor to deliver the outcomes as per the project plan resulting in time delays and changes to the original project scope.

### Project 2 Alfresco Dining Upgrades / Improvements

Aim: To increase streetscape useability and street attractiveness of Mandurah Terrace that adds value to day and night visitors.

Objectives:

1. Increase the streetscape usability of at least 5 priority sites along Mandurah Terrace by 2022.
2. Increase the percentage of the streetscape that displays a positive visual attractiveness of Mandurah Terrace between Gibson St and Pinjarra Road.



Year	Businesses Involved	Business Investment	City Support	Total Project Cost
2019	Samudera Artisan Food & Bakehouse Foreshore Café Whizz Pop Candy Store	\$24,500	\$15,000	\$39,500
2020	Murphy's Irish Pub	\$30,000	\$8,700	\$38,700
2021	Hummingbird Cafe Hummingbird Café – Plant Based Wood & Stone Cafe	\$23,377	\$20,000	\$43,377

#### Successes:

- Businesses and land owners have been engaged in the delivery of the projects with private investment contributions made.
- Activated streetscapes. Two of the businesses are now also operating at night increasing the activation of Mandurah Terrace creating street vibrancy during weekdays and weekends.
- Larger customer numbers have assisted in ticketed event trials (ie. new income streams).

#### Challenges:

- Maintaining appropriate pedestrian access widths and preventing obstructions such as furniture and signage from impacting the path of travel.
- Businesses managing delivery of the projects (design and construction) on land managed by the City.

### Project 3      COVID-19 Parklet Trials 2020-2021

Aim: To support food businesses sustainability during COVID19 restrictions.

#### Objectives:

1. To increase customer capacity numbers at small venue food businesses on Mandurah Terrace.
2. To increase business revenue proportionally to the customer capacity limits.

#### Businesses Involved in the Trial:

1. Botanicals Café
2. Flics Kitchen
3. Foreshore Cafe
4. Samudera Artisan Food & Bakehouse

Alfresco Improvements developed following the trial:

Year	Name of Business	Business Investment	City Support	Total Project Cost
2021	Botanicals Café	\$2,620	\$2,620	\$5,240
2021	Foreshore Cafe	\$4,265	\$4,265	\$8,530

#### Successes:

- Financial loss minimised during COVID restrictions.
  - Businesses estimated an additional \$800-1200 per week generated through extra seating.
- High positive customer feedback.
- Some businesses received exposure of new customers due to alfresco presence.

#### Challenges:

- Changing the perceptions of parking availability via communication with nearby businesses.

The trials were successful in activating underutilised spaces, increasing the vibrancy and amenity along Mandurah Terrace and increasing the space available for alfresco dining. The trials did however highlight a number of challenges including:

- Maintaining pedestrian access;
- A need for further guidance for proposals on City managed land;
- Inconsistencies in fees and charges between land subject to a lease or license agreement and land subject to an alfresco dining/outdoor trading license; and
- A perceived lack of parking with the City Centre.

The community were also asked to have their say on alfresco dining in Mandurah's City Centre, through an online survey. Feedback was sought on how the community felt about alfresco dining and what they felt contributed to a good alfresco dining experience. The post reached 22,800 people, with over 2,600 engagements (likes, comments and shares) and 86 people responded to the survey.

Ninety five percent of respondents were supportive of alfresco dining within the City Centre, with key reasons for enjoying alfresco dining including:

- The experience of an enjoyable atmosphere, fresh air, more space, views;
- The provision of shade;
- Good customer service and reasonable prices (business' services).

Those who were not supportive of the current alfresco dining within the City Centre stated outside factors that impacted the experience but were not opposed to outdoor dining itself. The factors impacting on negative alfresco experiences were:

- too many cars;
- not enough alfresco places;
- not enough open late;
- spaces for alfresco too limited, 'forced' into car bays';
- reduce red tape for businesses to have outdoor dining spaces.

Respondents were also asked to suggest what improvements could be made to make the alfresco dining experience more enjoyable. Suggestions provided included:

- Ensuring no smoking within and around alfresco dining areas;
- Reducing vehicles movements and road traffic along Mandurah Terrace;
- Closing Mandurah Terrace between Pinjarra Rd and Tuckey Street;
- Providing for multi-story parking options away from Mandurah Terrace;
- Allowing for more outdoor activations;
- Provision of heating in Winter;
- Providing more alfresco options e.g. beach bars.

## **Comment**

In order to further examine the results of the alfresco dining trials, a cross-organisational team of 12 officers from seven departments met in October 2020, assessed the Mandurah Terrace streetscape from Gibson Street to Pinjarra Road resulting in the identification of the following actions:

1. A need to review the City Centre Parking Strategy and develop a Parking Plan for the City Centre precinct with focuses on timed parking, signage and wayfinding and lighting;
2. The preparation of a Mandurah Terrace Streetscape Masterplan (Gibson St to Pinjarra Rd).
3. The preparation of Alfresco Dining and Outdoor Trading Guidelines to provide further guidance to business on the requirements of the City of Mandurah *Local Government Property and Public Places Local Law 2016*;

Draft Alfresco Dining and Outdoor Trading Guidelines have now been prepared as outlined below, and are attached for Council's consideration (*refer Attachment 1.1*). The remaining two project concepts are detailed below, however will be subject to a further report to Council.

## Alfresco Dining and Outdoor Trading Guidelines

Alfresco dining and outdoor trading permits are governed by the City of Mandurah *Local Government Property and Public Places Local Law 2016* (Local Law). Whilst the Local Law outlines the relevant considerations and minimum requirements for alfresco dining proposals, the alfresco/parklet trials highlighted a need for further guidelines to clarify the requirements of the Local Law, providing increased certainty to local businesses as to what may be considered in public spaces.

Accordingly, draft guidelines have been prepared which address the following key considerations:

- **Maintaining pedestrian access**

The Local Law requires all permit holders to maintain pedestrian access between alfresco dining areas and any abutting food business. Currently the City requires a 2 metre wide pedestrian accessway to be located adjacent to the property line, with alfresco dining and outdoor trading occurring adjacent to the kerb. The benefit of this approach is, where buildings are built up to the property boundary, a clear shoreline is provided for the pedestrian accessway, however this pedestrian accessway is often encroached upon the display of menu boards, goods and products directly outside stores, uneven surfaces created by ramps and downpipes, and by signage, and is an ongoing compliance matter.

In reviewing alfresco dining and outdoor trading approaches in other local governments, a common approach is to have two 'trading' areas, one immediately adjacent to the building (frontage zone) and one adjacent to the kerb (kerbside zone), with a 2m pedestrian access in between. This approach is considered to address some of the issues identified above, and is preferred by businesses who are undertaking outdoor trading only, as goods being displayed can be kept undercover, and directly adjacent to the building reducing the threat of theft. The frontage zone would also provide an extension to any existing outdoor dining located on privately owned land where buildings are setback from the property boundary.

Consultation was undertaken with members of the City's Access and Inclusion Committee who have advised that maintaining a consistent accessway with no intrusions is key to ensuring accessibility for all pedestrians, regardless of the approach taken.

Accordingly, the draft guidelines provide for the public space between the property boundary and the road pavement being divided into four zones in order to provide a clear and consistently unobstructed footpath for pedestrian access. These zones include:

- Frontage zone – The area of land 0.8 metre wide, immediately adjacent to the property boundary;
- Pedestrian zone – A clear 2.0 metre wide pedestrian accessway located immediately adjacent to the Frontage zone, which is required to be maintained free of any obstacles or displayed goods;
- Kerbside zone – The area of land located in between where the pedestrian zone ends and the kerb zone starts, available for alfresco dining and outdoor trading; and
- Kerb zone – The area of land 0.5m wide immediately located adjacent to the road pavement.

- **Furniture Specifications**

The Local Law requires all furniture within alfresco dining areas to be maintained in a good, clean and serviceable condition at all times. The draft guidelines provide further details on requirements for furniture (tables, chairs, umbrellas, planter boxes, heating etc) within alfresco dining and outdoor trading areas, with a focus on ensuring furniture is used according to design specifications and safety standards.

- **Semi-permanent fixtures and fittings**

Traditionally, businesses conducting alfresco dining and outdoor trading have set up and dismantled furniture at the start and close of each business day, storing all furniture within their business premises. Increasingly however, requests have been received seeking approval for the ability to fix furniture and shade structures to the footpath pavement to reduce the need to continually shift furniture and improve patron comfort.

Public and private sector utility installations such as gas mains, electricity and communications cabling, and sewerage pipes, are commonly located within footpath areas, and access to these services may be required at any time. For this reason, permanent structures are not permitted within the road reserve.

There is scope however, to allow for semi-permanent structures to be approved, subject to these structures being designed to be easily removed within 48 hours if required, such as through the use of below ground footings with plate/bolt connections. The draft guidelines provide for the approval of such structures detailing design and structural requirements which seek to balance the amenity of the alfresco space and patron comfort with the need to maintain clear sightlines for pedestrian and vehicle movements and maintain an open pedestrian friendly environment.

In addition to the preparation of the draft guidelines, a review of the fees and charges applied to alfresco dining and outdoor trading permits was undertaken. Under the City's 2020/21 Schedule of Fees and Charges, the initial application fee for an alfresco dining permit is \$120 with an annual renewal fee of \$70. This fee is substantially less than the rates applied to land subject to a Crown lease or license agreement (such as the alfresco dining leases that the City enters into) raising the perception of inconsistencies between the fees and charges for alfresco dining in areas of the City.

In order to inform proposed fees and charges, a formal valuation was obtained for alfresco dining areas along Mandurah Terrace, noting that alfresco dining permits allow for non-exclusive use of a public place, whilst land subject to a lease agreement provide for exclusive use by the leaseholder. The valuation received recommended the rates for an alfresco dining permit should range between \$20/sqm to \$40/sqm per annum dependant on the level to which the space is 'privatised' through the use of semi-permanent fixtures and fittings.

In arriving at the valuation, consideration was given to the rates charged by other jurisdictions, the amenity of alfresco areas within Mandurah and the rates applied to land subject to a lease agreement. It is proposed that fees and charges for alfresco dining and outdoor trading proposals will be considered as part of the 2022/23 review of the City's Schedule of Fees and Charges.

#### City Centre Parking Plan

The City's City Centre Parking Strategy dates back to September 2011 and provides for a range of strategies and actions to meet the anticipated car parking demand within the City Centre. This included the commitment of an annual budget towards public parking, the redevelopment of a long-term integrated transport strategy, the preparation of a business plan for the introduction of a paid parking system, the identification and establishment of consolidated decked public parking facilities and the development and implantation of TravelSmart and public transport initiatives.

Since this time, there have been significant changes within the City Centre that impact parking requirements. These changes include changes in population growth projections, the construction of the new Mandurah Bridge, the implementation of the Waterfront Project, the development of Transform Mandurah, improved technologies in way finding and parking vacancy monitoring, the viability of multi-decked car parking and paid parking, walkability and inclusion requirements and land availability within the Centre's periphery.

For this reason, an update to the overarching City Centre Parking Strategy is considered timely through the development of a City Centre Parking Plan. This work may need to be more focused in scope than the previous City Centre Parking Strategy which covered a broad area, and may be better served as a clear and direct plan for the core City Centre area. It is also timely as recent amendments to the *Planning and Development (Local Planning Scheme) Regulations 2005* require local governments to prepare a Car Parking Plan for areas that may be subject to cash-in-lieu requirements from new developments in a similar manner to a small-scale development contribution plan.

It is proposed the Parking Plan will consist of the following stages:

#### 1. Data Collection

The review will commence with a data collection exercise utilising licence plate recognition with manual accuracy audits, which will provide an overview of current demand and vacancy rates.

#### 2. Review Actual vs Future Requirements:

An analysis of existing parking provisions against an assessment of future car parking requirements will be undertaken based on:

- Existing parking provision (separate public and private provision) – existing uses, public spaces, events, safety and security, mobility, signage, technology
- Proposed parking provision (separate public and private provision) – future uses, public spaces redevelopment, events, safety, security, mobility, signage, technology, multideck parking – options for operation (paid/free parking)
- Public transport provision and integration
- Parking site review;
- Update to the broad scale strategy for the wider City Centre precinct;

#### 3. Consideration of Parking Methods

An assessment into the suitability and appropriateness of available parking methods will be undertaken in consideration of factors such as human behaviour, inclusion, ACROD, mobility, revenue, safety, security, demand, business impacts and technology.

#### 4. Community Engagement and Education Strategy

It is essential that the parking plan is inclusive of key stakeholders to ensure positive outcomes particularly from the business community. Community expectation of parking at the door is not unique to Mandurah.

The outcomes of the above process will be subject to a future report to Council.

#### Mandurah Terrace (Gibson St to Pinjarra Rd) Streetscape Masterplan

Approximately ten years ago, the southern part of Mandurah Terrace was reconstructed with flush (flat) kerbing, paving, lighting and street furniture improvements. Since this time, the Mandurah Bridge has been replaced, Waterfront project work has progressed and the above-mentioned outdoor dining projects have been taking place. The southern end of Mandurah Terrace is achieving a relatively high level of success with regard to current activity, but is also the most constrained, which in a City Centre context, is an important element.

In recent times, matters such as loading zones, drop off points, use of parking bays for outdoor dining, cyclist movements, intersection treatments, signage and lighting have been identified as areas that could benefit from a planned rather than reactionary approach.

Given the above matters, an integrated streetscape plan for Mandurah Terrace is recommended to be prepared. A number of matters have been workshopped by officers, however further work and detail is required for a plan to be produced.

Once complete and Council has supported the plan, if necessary (dependant on the nature of the plan), business and community engagement will be undertaken to assist in its implementation. A review of the Alfresco Dining and Outdoor Trading Guidelines will also be reviewed at this time to ensure they reflect the new Master Plan.

#### **Consultation**

Informal consultation has been undertaken with business owners through the implementation of the alfresco dining trials, however no formal consultation has been undertaken with regards to the draft Alfresco Dining and Outdoor Trading Guidelines.

It is proposed that the draft Alfresco Dining and Outdoor Trading Guidelines be adopted for a 12 month trial – similar to trading permit guidelines with a review to be undertaken in 12 month's time.

### **Statutory Environment**

Alfresco dining and outdoor trading permits are governed by the City of Mandurah *Local Government Property and Public Places Local Law 2016*. The Draft Alfresco Dining and Outdoor Trading Guidelines clarify the requirements of the Local Law, providing increased certainty to local businesses as to what may be considered in public spaces.

### **Policy Implications**

The Local Law provides the ability to provide policy guidelines to clarify its permit and approval requirements; and the use of a Guidelines format can assist proponents with the various stages of approvals required.

### **Financial Implications**

Alfresco improvement projects are eligible for funding through the City's Activate Now Grants 2021/22 program.

Costs to implement any outcomes from the review of the City Centre Parking Strategy and Mandurah Terrace Master Plan will be subject to future considerations as part of the Long Term Financial Plan review process.

### **Risk Analysis**

The outcomes of the associated Mandurah Terrace Streetscape Improvement projects are designed to create consistency and address long-term issues in the area such as parking and pedestrian access.

The Waterfront Projects intend to attract more residents and visitors to the City Centre, especially its main street, Mandurah Terrace. This anticipated increase will add pressure on how people move around safely during the day and night.

Commencing the work required to better plan and implement these improvements now will help minimise any negative perceptions and/or impacts associated with increased visitation and movement.

### **Strategic Implications**

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

#### Economic:

- Promote and foster business investment aimed at stimulating economic growth.
- Facilitate and advocate for sustainable local job creation and industry diversification.
- Leverage partnerships with key stakeholders to achieve improved economic outcomes with due consideration to environmental impacts.

### **Conclusion**

The City Centre has and will continue to undergo transformation through public and private investments. It is important to ensure the public realm remains attractive, accessible and well connected to transport and pedestrian links.

Recent alfresco and parklet projects and an internal assessment identified three core actions to improve consistency in the streetscape while maintaining important access and links. This report outlined the

guidelines for alfresco dining and retail, as well as its associated fees and charges. This will streamline internal processes, as well as provide clarity to businesses and land owners regarding options to improve the outdoor customer experience.

In addition, the City Centre Parking Strategy and Mandurah Terrace (Gibson Street to Pinjarra Rd) Streetscape Masterplan project scopes have been presented to Council, with individual reports to be presented later in 2021 for Council consideration.

NOTE:

- Refer ***Attachment 1.1 City of Mandurah Alfresco Dining and Outdoor Trading Guidelines***

## **RECOMMENDATION**

**That the Committee of Council recommends that Council:**

- 1. Note the outcomes of the various alfresco and streetscape improvement projects that have been developed and delivered over the last two to three years.**
- 2. Acknowledge the community and business feedback received on the alfresco and streetscape improvement projects.**
- 3. Approve the draft 'City of Mandurah Alfresco Dining and Outdoor Trading Guidelines' as detailed in Attachment 1.1; and**
  - 3.1 Note that the 'City of Mandurah Alfresco Dining and Outdoor Trading Guidelines' will be used as a tool to support decision making for alfresco dining requests received.**
  - 3.2 Note that the final guidelines and an associated framework for Alfresco Dining Fees and Charges will be will presented to Council in mid-2022 for consideration.**
- 4. Commence the process of preparing a City Centre Parking Plan as part of the City's wider parking strategy and include the following key areas of focus:**
  - **Timed parking;**
  - **Signage and wayfinding;**
  - **Lighting; and**
  - **Implementation.**
- 5. Endorse the development of a revised Master Plan for Mandurah Terrace between Pinjarra Road and Gibson Street, subject to the approval of the 2021/22 budget, to guide future alfresco and streetscapes improvements with the process to include community, business and Elected Member engagement.**

# Alfresco Dining and Outdoor Trading Guidelines

June 2021 *(draft)*

ATTACHMENT 1.1





**Record of Adoption**

Stage	Version No	Document Date	Approval Date
Draft – Subject to Council Adoption	1	June 2021	

**Schedule of Modifications**

No	Description	Version No	Document Date	Approval Date

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# 1. Introduction

Alfresco dining and Outdoor Trading can make significant contributions to the visual appeal and atmosphere of public and private spaces within centres. They contribute to active vibrant streets with opportunities for social interaction and leisure.

The purpose of this document is to provide further guidance to business owners and operators on the establishment of Outdoor Trading and alfresco areas in accordance with the *Local Government Property and Public Places Local Law 2016 (Local Law)*.

These guidelines apply specifically to Alfresco Dining and Outdoor Trading adjacent to existing businesses on any public land that is under the care, control and management of the City of Mandurah (City). Alfresco dining that occurs on private land, or on land that is subject to a lease or licence agreement, is not subject to these guidelines.

The objectives of the guidelines are:

- (a) To encourage the establishment of outdoor dining on paths and in public spaces in the area adjacent to restaurants/cafes;
- (b) To enrich the pedestrian experience and present an open, inviting environment that is safe and accommodating for all pedestrians;
- (c) To create an attractive, cohesive and vibrant streetscape.

## 1.1 Definitions

***Alfresco Dining*** the provision of facilities for outdoor dining.

***Outdoor Trading*** the display of goods for sale outside an adjoining business.

## 1.2 Trading Zones

Unless otherwise identified, the public space between the property boundary and the road pavement is divided into four zones in order to provide a clear and consistently unobstructed footpath for pedestrian access.

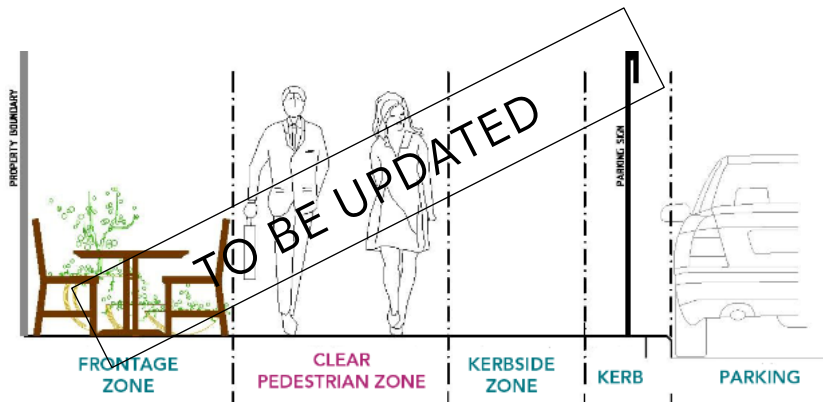
These zones include:

- **Frontage zone** The area of land 0.8m wide, immediately adjacent to the property boundary;
- **Pedestrian zone** A clear 2.0m wide pedestrian accessway located immediately adjacent to the frontage zone, which is required to be maintained free of any obstacles or displayed goods;
- **Kerbside zone** The area of land located in between the pedestrian zone and the kerb zone available for Outdoor Trading; and

- Kerb zone                      The area of land 0.5m wide immediately located adjacent to the road pavement.

**No Alfresco Dining or Outdoor Trading is permitted within the pedestrian or kerb zones, and these areas must be maintained free of obstruction at all times.**

**Footpaths with a width of less than 2.85m may not be used for Outdoor Trading or Alfresco Dining.**



### 1.2.1 Smart Street Mall

Alfresco Dining and Outdoor Trading locations within the Smart Street Mall will be identified at the completion of the current redevelopment and may only be permitted in the identified locations.

Once complete, a plan will be included in these guidelines for clarity.

## 2. Approvals

Three tiers of approval for Outdoor Trading and Alfresco Dining proposals are provided, dependent on the type and scale of trading proposed.

### 2.1 Tier One: Outdoor Trading in Frontage Zone

Approval *is not* required for Outdoor Trading within the Frontage Zone only, subject to the following criteria being met:

- The display of goods being wholly located within the frontage trading zone and being displayed within normal business hours;
- Goods being located outside the premises to which they relate only;
- The display being secured, protected or displayed in a manner that it cannot be displaced by wind or other elements or create an unsightly display on a public thoroughfare;
- The display not being fixed to any footpath, building, asset, pole or other structure unless written approval is sought; and
- The display having a contrasting colour to its background, to assist the vision impaired.
- Public liability insurance to the minimum value of \$10 million being held and maintained by the operator. Operators are required to be able to produce proof of public liability insurance at the request of the City of Mandurah.

**NOTE:** Where the display of goods is proposed within the Kerbside Zone, Tier Two requirements will apply.

### 2.2 Tier Two: Alfresco Dining and Outdoor Trading Within Kerbside Zone

As required by the *Local Law*, a permit is required to be obtained:

- for outdoor dining in either, or both, the frontage and kerbside zones; and/or
- for the trading of goods and displays within the kerbside zone.

Where all the criteria within these guidelines have been met and there are no proposed semi-permanent fixtures or fittings, permits will be fast-tracked.

### 2.3 Tier Three: Installation of Semi-Permanent Fixtures and Fittings

Where the installation of semi-permanent fixtures or fittings are proposed, a more detailed assessment is required.

Further details regarding acceptable outcomes are provided in Section 3.7.

## 3. Assessment Criteria

### 3.1 Location

Alfresco Dining and Outdoor Trading may be approved where:

- Located on a footpath with a width greater than 2.85m;
- Located adjacent to a road with a speed limit of less than 60kph;
- The Alfresco Dining and/or Outdoor Trading area proposed does not extend beyond the frontage of the premises to which the trading relates (unless written approval is obtained in accordance with Clause 3.3).
- The Outdoor Trading or Alfresco Dining areas do not obstruct the visibility or clear sight lines for pedestrians and motorists at an intersection of thoroughfares.

### 3.2 Pedestrian Access

- A pedestrian access way must be provided, located 0.8m from the property boundary and be a minimum of 2.0m wide.
- The pedestrian accessway must be maintained free and clear of any obstruction at all times, including moveable signs, menu boards etc.
- Overhead clearance for all signs within the pedestrian accessway is to be a minimum of 2.4m.
- A one metre wide pedestrian access break may be required at suitable crossing points to allow access to premises and the pedestrian accessway from alighting vehicles and pedestrians crossing the road.

### 3.3 Extension of Alfresco Dining/Outdoor Trading areas

Should a business seek to extend their Alfresco Dining/Outdoor Trading Area across the frontage of an adjoining premises, written permission is required from:

- the trader occupying the adjacent premises; and
- the owner of the adjacent premises;

***Note: Obtaining consent from adjacent occupiers/owners, does not prejudice the final decision of the City. This approval will cease if the permission of either the owner or occupier of the neighbouring property or business is withdrawn.***

In some circumstances, the extension of Alfresco Dining areas into parking bays directly in front of an applicants' business may be considered. These requests should be made in writing to the City and will be considered on a case-by-case basis, dependent on location and road environment.

Where modifications to the footpath/road network are required, to enable the extension of dining areas into adjoining parking bays, these costs shall be met by the proponent.

### 3.4 Insurance

All businesses with an Outdoor Trading or Alfresco Dining area will be required to carry and maintain public liability insurance to the minimum value of \$10 million.

Operators are required to be able to produce proof of public liability insurance as part of the application process, and at the request of the City of Mandurah at any time.

Where a person holding an Alfresco Dining permit has been granted permission to extend the outdoor dining area across the frontage of adjoining premises, the operator must have appropriate public liability insurance to cover the entire permit area.

### 3.5 Furniture

Public safety and comfort should be considered when choosing furniture. Particular care should be taken with any sharp edges and hinges or other moving parts, to ensure that they do not present a potential hazard to their users.

Furniture should be capable of being removed and stored at the close of business, unless otherwise approved. Further details are outlined in Section 3.7.

The permit holder must remove or repair any furniture the City of Mandurah determines unsuitable.

#### 3.5.1 Tables and Chairs

Tables and chairs must be:

- of a high standard in appearance and style, in keeping with the amenity of the area;
- constructed from high quality materials that are safe and durable;
- resistant to windy conditions (lightweight plastic furniture is not acceptable); and
- located entirely within the approved trading area, and not protrude into the pedestrian access or kerb zones.

#### 3.5.2 Umbrellas

Market style umbrellas may be used to provide shade and weather protection for patrons where:

- the use of an umbrella will not interfere with or damage existing items;
- a minimum clearance of 2.4m (at the lowest point) above the ground level can be maintained;
- the canopy of any umbrella does not extend into the kerb zone or road pavement;
- they are maintained to a high standard and securely anchored in accordance to the Australian Standards AS1170 (wind loads) and/or manufacturer's specifications to ensure public safety; and
- are removed or closed in times of strong winds or storms.

***Lightweight gazebos are not considered appropriate shade shelters.***

### 3.5.3 Barriers

Barriers may be used to define Alfresco Dining and Outdoor Trading area boundaries. Where used, barriers must:

- have a maximum height of 0.9m; and
- must be adequately fixed or weighted down to prevent dislodgement.

Barriers requiring in ground sleeves/footings may be permitted subject to written approval (see Section 3.7).

These will require identification and avoidance of existing underground services (in accordance with Utility Providers Code of Practice for Western Australia).

### 3.5.4 Planter Boxes

Planter boxes may be used to further define Alfresco Dining areas, whilst providing visual interest and a vegetated setting. Where used, planter boxes shall be:

- aligned parallel to the kerb and within the permitted trading zone;
- freestanding and moveable, but may be left in place outside of trading hours if not easily moved;
- constructed of durable material adequate to meet functional requirements including resistance to vandalism and impact from pedestrians;
- maintained to a good standard, with all vegetation and material well maintained;

- a minimum height of 600mm and a maximum height of 900mm, with all components higher than 900mm designed to maintain high visual permeability of the Alfresco Dining area; and
- a minimum width of 400mm (inside planter) with a maximum length of 1.5m.

Any damage to footpath, verge, or other street furniture caused by the planter box or its movement shall be the responsibility of the trader to repair.

### 3.5.5 Outdoor Heaters

Portable gas heaters (suitable for outdoor use) or similar devices are permissible within Alfresco Dining areas but must be stored within the premises at the end of each day's trading.

### 3.5.6 Lighting and Electrical Installations

Adequate lighting must be provided and maintained by the permit holder to ensure the safety and amenity of both patrons and pedestrians is met outside daylight hours.

All electrical installations connected to lights, devices or appliances situated in or about the Alfresco Dining area are to be undertaken by a licenced electrician and a Certificate of Compliance provided to the City of Mandurah in regards to the works.

Electrical installations and power cords must not interfere with or obstruct the safe passage of pedestrians or vehicles.



### 3.6 Signage

Advertising on any item of furniture, including barriers shall be limited to the name and logo of the business or names of products sold at the premises. No third-party advertising is permitted.

Advertising is to take up no more than 25% of the surface area of these items.

No product pictures are permitted.

### 3.7 Semi-permanent Fixtures and Fittings

Public and private sector utility installations such as gas mains, electricity and communications cabling, and sewerage pipes, are commonly located within the road reserve, and access to these services may be required at any time.

For this reason, permanent structures are not permitted within the road reserve.

Approval for 'fixed' structures however, may be granted subject to written approval. This may include the installation of 'fixed' barriers, umbrellas or other shade structures.

Minimum design and construction requirements apply as follows:

- Structures must be designed to be easily removed within 48 hours if required. Below ground footings with plate/bolt connection are required for ease of removal (posts are not to be direct buried).
- Fixed structures requiring in ground sleeves/footings will require identification and avoidance of existing underground services (in accordance with *Utility Providers Code of Practice for Western Australia*).
- Structures are to be of heavy duty, high quality construction that is suitable for the public realm and coastal conditions.
- Structures should be visually attractive, and the use of a combination of materials to provide interest and character is encouraged.

- Heavy duty aluminium (clear anodised or powder coated) and/or hardwood timber are preferred materials for post/frame/hard roof structures.
- All fixings are to be stainless steel/tamper proof.
- Certified engineering Drawings and Certificate of Design Compliance are required for all structures. Certificate of Design Compliance and certification by a professional engineer to be sought following review of concept and detail plans/elevation and approval by the City of Mandurah.
- A minimum clearance of 2.75m is required to be maintained between any roof structure and the ground level.
- No gutters are to be installed with roof grades to direct rain to road.
- Built in screens/seating/benches can be installed to perimeter edges (café side left open) to a max. 0.9m high;
- Drop down blinds may be permitted on a maximum of two sides of the Alfresco Dining area to provide weather protection, subject to the blinds being:
  - transparent;
  - high quality and durable;
  - used only when required for protection from rain;
  - raised or removed during fine weather and after hours; and
  - maintained in good condition.

## 4. Approval Requirements

### 4.1 Tier One

Approval is not required for Outdoor Trading within the frontage zone, subject to compliance with the requirements of Section 2.1.

Where these requirements cannot be met, or where Outdoor Trading is proposed within the kerbside zone, an application should be completed in accordance with Tier Two requirements as detailed below.

### 4.2 Tier Two

An application form is required to be completed and submitted to the City of Mandurah for all Tier Two proposals. All applications must be accompanied by the following:

- Plans and specification of the proposed dining or display area at a scale of 1:50 showing:
  - The location and dimensions of the proposed dining/trading area;
  - The location of any existing street fixtures and fittings, eg street furniture, signs, light poles etc; and
  - The location of any proposed furniture, barriers, planter boxes, displays proposed to be provided in the dining area, and which items, if any, are to be retained within the dining area at all times.

- Details of the days and operating hours for the Alfresco Dining area.
- Number of chairs and tables to be provided.
- Details of the number and location of toilets to be made available to dining customers.
- Written particulars of arrangements made in respect of public liability insurance of not less than \$10 million.
- Payment of the applicable fee.

Permits issued will be subject to an annual licence fee as specified within the City's Annual Fees and Charges.

### 4.3 Tier Three

In addition to the above information, where semi-permanent fixtures are proposed the following additional information is required:

- Plans, elevations and sections of any structure proposed to be erected or altered;
- A detailed schedule of all finishes, including materials and colours of the proposed structures;
- Details of the proposed in ground footing and fixtures proposed; and
- Certificate of Design Compliance and certification by a professional engineer.

Permits issued will be subject to an annual licence fee as specified within the City's Annual Fees and Charges.

## 5. Conditions of Approval

Permits may be subject to conditions relating to:

- the permit holder having non-exclusive rights to establish and conduct an Alfresco Dining area in the relevant area;
- the colour, number, type, form and construction, as the case may be, of any furniture which may be used in the Alfresco Dining area;
- the care, maintenance and cleaning of any furniture used in the Alfresco Dining area;
- the removal and storage of all furniture used in the Alfresco Dining area prior to the close of business of the abutting food business on any day that the Alfresco Dining area is operating;
- the removal of all furniture and fixings used in the Alfresco Dining area for the purposes of events or other activities of the City;
- the requirement to maintain pedestrian access between the Outdoor Trading area and the abutting business;
- the Alfresco Dining or Outdoor Trading area not impeding or obstructing any City property or public place used by either pedestrians or vehicles;
- the requirement to maintain clear sight lines for vehicles entering or leaving City property, a thoroughfare or a vehicle crossing;

- the payment of costs associated with preparing any City of Mandurah property or public place for use as an Alfresco Dining area including the reshaping of footpaths and marking the boundaries of the Alfresco Dining area;
- the need for public liability insurance of \$10 million indemnifying the City of Manudrah from any claims that may arise out of the use of the area subject to the permit; and
- The prohibition of smoking within all outdoor dining areas.

Permits may be cancelled or suspended if:

- The Permit Holder has not complied with the conditions of the Permit.
- The Permit Holder has not complied with a provision of any written law that relates to the activity regulated by the Permit.
- If the City of Mandurah or a utility requires access to or near the Alfresco Dining area for the purposes of carrying out works in or near the vicinity of the alfresco ding area.

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<b>2</b>	<b>SUBJECT:</b> Mandurah Calendar of Events 2021/22 <b>DIRECTOR:</b> Director Strategy and Economic Development <b>MEETING:</b> Committee of Council <b>MEETING DATE:</b> 8 June 2021
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## Summary

During the 2020 – 2021 financial year, the City made some significant changes to its events program in order to continue to deliver events and activations in line with the COVID-19 guidelines as set by the WA Department of Health. The amended program of COVID safe events was designed to maximise intrastate visitation, activate the City Centre and result in positive community outcomes. The anecdotal feedback received so far regarding the COVID safe events program has been positive.

The COVID-19 situation has now been prominent across the world for 14 months, and all events and mass gatherings are subject to the advice and restrictions at the time of the event, and in some cases (such as high-risk events) require approval from the WA Chief Health Officer. With this in mind, officers have developed a Calendar of Events for the 2021/22 financial year that offers a range of smaller events and activations, whilst still allowing for the adequate planning required for major events such as the Mandurah Christmas Pageant, New Year's Eve Celebrations and the Mandurah Crab Fest to proceed.

Officers are seeking Council's endorsement of the proposed calendar of events, and understanding that some changes or alterations may be required for particular events to proceed, pending COVID restrictions at the time of the event.

## Disclosure of Interest

N/A

## Previous Relevant Documentation

- SP.2/11/20 30 November 2020 Noted the New Year's Eve (NYE) fireworks event was cancelled as not approved by the Chief Health Officer, approved cancellation of 2021 Crab Fest event based on WA Department of Health advice, approved re-purposing of \$252,416 (Crab Fest event budget) to deliver a number of smaller events and activations across the summer months. Approved operating expenditure decrease of \$93,820 (NYE budget) and \$100,000 (Crab Fest event budget) to reduce the City's operating deficit, noted intent to increase budget by \$70,000 for the 2022 Mandurah Crab Fest event enabling delivery of new elements.

## Background

Last year, in addition to a large number of external events that were either cancelled or postponed due the impacts of COVID – 19, the City was forced to cancel a number of its major events due to the inability to deliver them under the COVID-19 restrictions. These events included:

- Mandurah Street Party (November) – replacement event for the Mandurah Children's Festival
- Mandurah Christmas Pageant (December)
- Mandurah New Year's Eve (December)
- Mandurah Crab Fest (March)

Whilst the decision to cancel the Street Party, Christmas Pageant and Crab Fest lied with the City, the cancellation of the New Year's Eve fireworks was enforced by the Chief Health Officer due to the event

being unfenced and un-ticketed, the inability to contact trace, and the likeliness that the event will attract a large number of people.

Following the cancellation of the events, Council endorsed a budget of \$252,000 to be redirected from the Crab Fest and New Year's Eve budgets to a COVID safe events program. This program of events was focussed on adding vibrancy, activation, and an "always on" feel to the City Centre, resulting in Mandurah's Endless Long Weekends program. The program rolled out across six weekends, and these weekends were specifically selected to fill gaps in the existing events calendar.

### **Comment**

Anecdotal feedback from the COVID safe events program was that it was well received by the community. The program also allowed for a flexible and fluid approach to the City's events program which could be adapted to meet the changes to COVID event restrictions. Since that time, COVID event restrictions have not significantly changed, and require events to comply with the following:

- Events with over 500 people are subject to the 2sqm rule up to a maximum of 10,000 people (not applicable to venues and events with allocated seating).
- A COVID Event Plan must be approved by the Department of Health for all high-risk events (including the Christmas Pageant, New Year's Eve and Crab Fest).
- Alterations to the event including ticketing and fencing may be required prior to approval of the COVID Event Plan in order to ensure that the capacity limit (max 10,000) is not exceeded.

With the above in mind, and noting that COVID restrictions have not changed significantly since December 2020, officers have prepared an events calendar for the 2021/22 financial year that includes a range of events of different sizes and delivery models to allow for this fluidity to continue, whilst also maintaining the budget for the Mandurah Christmas Pageant, New Year's Eve celebrations and the Mandurah Crab Fest to proceed (noting that changes to the traditional delivery format of these events may be required).

A copy of the 2021/22 Mandurah Calendar of Events is included in Attachment 2.1.

### **Statutory Environment**

All events that are proposed in the 2021/22 draft calendar of events are subject to the COVID Event Guidelines and restrictions as set by the State Government Department of Health. Due to the changing nature of the pandemic, these guidelines may be subject to increases / decreases in restrictions at any point in time dependent on current case numbers within Western Australia.

### **Policy Implications**

N/A

### **Economic Implications**

The 2021/22 Calendar of Events will not require any further resources, with all funds proposed from the existing Festivals and Events budget.

Below is a summary of the current budget breakdown in the 2021/22 Long Term Financial Plan for City of Mandurah events and the reallocations proposed based on the delivery of the 2021/22 Mandurah Calendar of Events program that has been developed.

## Current

Project / Event	Net Cost	Notes	Budget
Children's Festival	\$57,000	Includes a revenue target of \$17,000 <i>Note: The budget was reallocated in 2020/21 to the proposed Mandurah Street Party event which was subsequently cancelled.</i>	\$74,000
Christmas Pageant	\$63,000	Includes a revenue target of \$20,000	\$83,000
New Year's Eve	\$104,000		\$104,000
Australia Day	\$38,000		\$38,000
Crab Fest	\$435,000	Includes a revenue target of \$260,000.	\$695,000
<b>Total</b>	<b>\$697,000</b>		<b>\$994,000</b>

## Proposed

Project / Event	Net Cost	Notes	Budget
Christmas Pageant	\$63,000	Includes a revenue target of \$20,000.	\$83,000
New Year's Eve	\$74,000	Includes fireworks celebrations, COVID compliance, and City Centre activations.	\$74,000
Australia Day	\$68,000	Includes Citizenship Ceremony & Awards and new City Centre Activations.	\$68,000
Summer Program	\$57,000	Includes new Fringe Mandurah and Easter in Mandurah events and a revenue target of \$17,000.	\$74,000
Crab Fest	\$435,000	Includes a revenue target of \$260,000.	\$695,000
<b>Total</b>	<b>\$697,000</b>		<b>\$994,000</b>

Note: An additional \$50,000 is current being held in reserve following the cancellation of Crab Fest 2021 for new event element in 2022.

## Risk Analysis

The current COVID-19 event guidelines have a maximum capacity stipulated on free events, with an increased likelihood that ticketing will be required for events above 5,000 persons. There is no guarantee that this will change within the next seven months for the New Year's Eve Celebrations, or the Channel Seven Mandurah Crab Fest. As a result, early planning is essential to ensure that the format for each event is flexible and can be scaled up or down depending on the environment surrounding COVID-19 restrictions at the time and that adequate engagement can be conducted with all event partners including the Department of Health and event sponsors.

Risk	Consequence	Risk Mitigation
COVID guidelines require significant changes to the delivery of City events, such as ticketing and maximum capacity on attendance.	<ul style="list-style-type: none"> <li>Financial</li> <li>Reputational</li> <li>Environmental and health</li> <li>Legal, regulatory and compliance</li> </ul>	<ul style="list-style-type: none"> <li>Agree on possible alternative ways to deliver events so that adequate time for planning can be undertaken to meet expectations.</li> <li>Discussion(s) with existing and potential sponsors surrounding possible scenarios, and determining their level of risk acceptance.</li> </ul>

Corporate environment unwilling to be associated with large and major events due to perceptions surrounding COVID-19.	<ul style="list-style-type: none"> <li>Financial</li> <li>Reputational</li> </ul>	<ul style="list-style-type: none"> <li>Early discussions with sponsors, particularly around Crab Fest to understand concerns and provide reassurance that the City has contingency plans in place.</li> <li>Development of alternative / contingent ways to deliver events such as New Year's Eve and Crab Fest, so that Officers can communicate effectively with sponsors.</li> <li>Agree on deadlines/timeframes that these scenarios will be adopted in the event that COVID-19 restrictions do not ease.</li> </ul>
Event and activations program does not meet community expectations.	<ul style="list-style-type: none"> <li>Reputational</li> </ul>	<ul style="list-style-type: none"> <li>City to communicate events program early, following positive community and business feedback from Mandurah's Endless Long Weekends program (purpose of this report).</li> </ul>
Ticketing and/or maximum capacity of events results in people missing out.	<ul style="list-style-type: none"> <li>Reputational</li> <li>Financial</li> </ul>	<ul style="list-style-type: none"> <li>Clear understanding of expectations around COVID Safe events, and possible alternative / contingent ways to deliver.</li> </ul>
Event cancellation due to sudden lockdown	<ul style="list-style-type: none"> <li>Financial</li> <li>Reputational</li> <li>Legal, regulatory and compliance</li> </ul>	<ul style="list-style-type: none"> <li>Make decisions early around agreed changes that may need to be made to City events to ensure they can be altered to meet COVID restrictions.</li> </ul>

## Strategic Implications

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

### Economic:

- Leverage partnerships with key stakeholders to achieve improved economic outcomes with due consideration to environmental impacts.

### Social:

- Facilitate opportunities that promote community led initiatives and build local capacity and capability.
- Promote and encourage community connectedness to create social interaction and a strong sense of security and belonging.
- Provide a range of social, recreational and cultural experiences for our residents and visitors to enjoy and take pride in.

## Conclusion

The program of events for 2021 – 2022 combines the successful elements of the Endless Long Weekends program, with the traditional events calendar that Mandurah knows and loves. Whilst changes may be required to the major events listed including the Mandurah Christmas Pageant, New Year's Eve fireworks and Mandurah Crab Fest in order to adhere to COVID-19 restrictions at the time of the event, officers will commence planning these events and enter into discussions with the Department of Health. Outside of these major events, a fluid calendar of events will remain in place compiled of City delivered, City supported and City partnered events, with additional external events continuing to be added over time.

### NOTE:

- Refer **Attachment 2.1 2021/22 Mandurah Calendar of Events**



## **RECOMMENDATION**

**That the Committee of Council recommend that Council:**

- 1. Endorse the 2021/22 Mandurah Calendar of Events program as detailed in Attachment 2.1.**
- 2. Note that alterations to the traditional format and delivery method for the Mandurah Christmas Pageant, New Year's Eve celebrations and Mandurah Crab Fest may be required to adhere to COVID-19 restrictions.**

## ATTACHMENT 2.1

### 2021 – 2022 Mandurah Calendar of Events

Campaign	Month	Event	Delivery Model
Winter Program	July	Mandurah Ice Skating Festival (3 weeks)	City Partnered
	August	Mandurah Wine and Wander	City Partnered
		School Surf Titles	City Supported
Spring Program	September	2021 Australian Association for Environmental Education Conference	City Delivered
	October	Mandurah Yoga Festival	City Supported
		Brew Fest	City Supported
		MACA Cancer 200 Ride for Research	City Supported
		Teachers Games	City Supported
		Mandurah Boat, Caravan, 4WD and Camping Show	City Supported
		Australian Masters games – Mandurah Hub	City Supported
		Mandurah Arts Festival (including Wearable Art)	City Delivered
	November	Mandurah Half Marathon	City Supported
Christmas Program	December	Christmas in Mandurah - Christmas Lights Trail	City Delivered
		Mandurah Christmas Pageant	City Delivered
		Mandurah Murray Motorcycle Charity Ride	City Supported
		New Year's Eve Celebrations *	City Delivered
Summer Program	January	Australia Day - Citizenship Ceremony & Activations	City Delivered
		Mandurah Masters Open Water Swim	City Supported
		Top of the Terrace Summer Bash 4.0	City Partnered
	February	Wellness Weekend: Flow State Festival	City Supported
		Fringe Mandurah	City Partnered
		Peel Rod Run	City Supported
	March	Pre-season AFL Cup	City Partnered
		Channel Seven Mandurah Crab Fest *	City Delivered
	April	Squeeze Music Festival	City Supported
		Mandurah Masters Golf Tournament	City Supported
		Action Sport Games	City Supported
		Mandurah Rotary Duck Race	City Supported
		Peel Open Studios	City Delivered
		Easter in Mandurah	City Delivered
Winter Program	May	Mandurah Craft Brew Trail	City Partnered
		Baseball Australia Senior League Championships	City Supported
	June	Winter in Mandurah Activations	City Partnered

\* Events may be subject to changing COVID-19 restrictions and guidelines as set by the WA Department of Health. Further consideration may be required in relation to the format of the event and the structure of how it is delivered (i.e. fencing, ticketing etc).

City Delivered: The City is solely responsible for the planning, management and delivery of the event/activation.

City Partnered: The event/activation is primarily planned, managed and delivered by a third party. However, the City plays a significant role in business engagement and may provide further input to surrounding logistics and/or activations.

City Supported: The event is planned, managed and delivered solely by a third party. The City is a sponsor of the event providing financial and/or in-kind support.

<b>3</b>	<b>SUBJECT:</b>	Lease: Stage Door Pty Ltd Advertising and Disposal
	<b>DIRECTOR:</b>	Director Business Services
	<b>MEETING:</b>	Committee of Council
	<b>MEETING DATE:</b>	8 June 2021

## Summary

The current lease for the Stage Door Restaurant which is held over portion of Crown Reserve 42050, by Donald McCausland & Gayle Iannetta (Stage Door) is due to expire on the 30 June 2021. The current lessee has formally requested officers approach Council with a request of support for a further lease term of five years with a five year option of renewal (5+5 years).

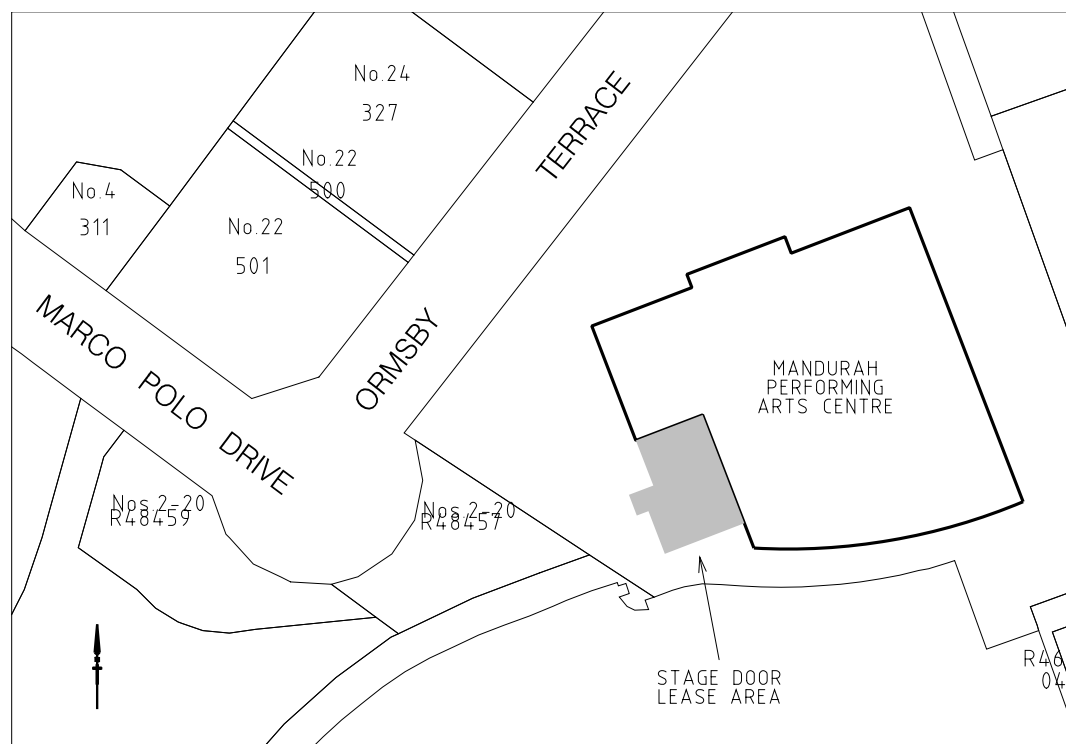
In accordance with s3.58 of the *Local Government Act 1995* (the Act) an independent valuation was required to determine the current market value for the site. The valuer was appointed to undertake the annual rental valuation which was assessed at \$97,500 per annum plus outgoings (exclusive GST). The City is also required to advertise the proposed disposal outlining the term of the lease, rental amount, lessee details and assessment of an independent valuation.

Council is requested to approve the advertising of, and if no submissions received, the disposal of a lease for a 438 square metres over portion of Reserve 42050, to Donald McCausland and Gayle Iannetta, for a term of five years with a further five year option of renewal (5+5 years), with annual rent commencing at \$97,500 per annum plus outgoings (exclusive GST), with a market rent review due at the end of the first term and Consumer Price Index (CPI) rate to be applied annually. The lease is also conditional upon the consent of the Minister for Lands.

## Disclosure of Interest

Nil

## Location



## Previous Relevant Documentation

- G.39/3/18 27 March 2018 Council approves assignment of the lease for Stage Door Waterfront Restaurant from Stage Door Pty Ltd to Donald McCausland and Gayle Iannetta
- G.38/6/16 28 June 2016 Council approves a five year renewal term and an adjustment to annual rental payments.
- G.33/2/14 25 February 2014 Council approved the assignment of the restaurant lease to Stage Door Pty Ltd.

## Background

This current lease for the Stage Door Waterfront Restaurant commenced in 2001 for a term of ten years, with two five year options of renewal with the final expiry due June 2021.

The lease was first assigned in 2013 and subsequently assigned three times with the last occurring in March 2018 when Council approved the assignment from The Stage Door Pty Ltd to the current lessee Donald McCausland and Gayle Iannetta.

The Lease is now in its final option to renew period and is due to expire on 30 June 2021.

## Comment

The current lessee has formally requested support to enter into a new lease agreement, in accordance with standard leasing practices for commercial tenancies. City officers propose a five year term with a five year renewal option (5+5 years).

In accordance with Section 3.58 of the Act, 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 that *“analysis of the best available rental evidence suggests a broad range of values from \$283/sqm to \$441/sqm. The lower end of this range reflected by a larger two level restaurant in the Boardwalk precedent with similar water views and upper end reflected by a smaller restaurant tenancy on Mandurah Terrace. Having regard for the attributes of the subject tenancy and current conditions we have adopted a \$300/sqm pa net as our assessed rental value rate. This equates to an annual rental of \$97,500 pa net plus GST when applied to the internal lettable area of 325sqm exclusive of the storage shed area. Our assessed rent of \$97,500 pa net plus GST equates to an overall rate of \$222/sqm on the total lettable area of 438sqm (inclusive of external dining and storage)”*.

The independent valuation has determined an approximate 18% increase in the current rental rate, but advises that this site is still lower than other comparative waterfront dining options available in the precinct.

Council is required to approve the advertising of the proposed disposal of land via a lease and if no submissions received during the advertising period, dispose of the site to Donald McCausland and Gayle Iannetta trading as Stage Door Waterfront Restaurant for a term of five years with a five year renewal option, with rent commencing at \$97,500 per annum plus outgoings (exclusive GST).

Commencing in March 2020, like many businesses Stage Door was heavily impacted by lockdowns associated with COVID-19. The restaurant was closed for a period of two months (23 March 2020 – 1 June 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, the restaurant has continued to operate in a limited capacity and the lessee has continued to pay regular weekly 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 30 June 2021.

## Consultation

Lessee – The Stage Door Pty Ltd  
Valuers – Acumentis

## 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.

## Policy Implications

Nil

## **Financial Implications**

The City will receive rental income of \$97,500 per annum (excluding GST), with market rent review at the end of the first term, and CPI rate 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 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, the current lessee has remained up to date with 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.

### Organisational Excellence:

- Deliver excellent governance and financial management.

## **Conclusion**

The current lessee has requested support for a lease renewal over the Stage Door Restaurant. 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 438 square metres over portion of Reserve 42050, to Donald McCausland and Gayle Iannetta, for a term of five years with a further five year option of renewal (5+5 years), with annual rent commencing at \$97,500 per annum plus outgoings (exclusive GST), with a market rent review due at the end of the first term and Consumer Price Index (CPI) rate to be applied annually. The lease is conditional upon the consent of the Minister for Lands.

## **RECOMMENDATION**

**That the Committee of Council recommend that Council:**

- 1. Approve the advertising and if no submissions received during the advertising period, the disposal of a 438 sq. metre portion of Reserve 42050, to Donald McCausland and Gayle Iannetta trading as Stage Door Waterfront Restaurant with the following conditions:**
  - 1.1 A tenure period of five years with a further five year option of renewal, commencing after the Minister of Lands consent;**
  - 1.2 Rent commencing at \$97,500 per annum (excluding GST);**

- 1.3 Annual CPI to apply for the term of the agreement;**
  - 1.4 Market rent review at the end of the first term;**
  - 1.5 Subject to the approval from the Minister of Lands.**
- 2. Note 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 agreement.**



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<b>4</b>	<b>SUBJECT:</b> Dog Exercise Area / Proposed Dog Prohibited Area <b>DIRECTOR:</b> Business Services <b>MEETING:</b> Committee of Council <b>MEETING DATE:</b> 8 June 2021
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## Summary

Following the successful breeding of the vulnerable Australian Fairy Tern at Pyramids Beach, Wannanup and the potential for this location to be an ongoing breeding site, Council is requested to support public notice being given for a period of 28 days, of its intention 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.

An example of where this approach has been used was in the suburb of Lakelands, Council approved public notice being given from 4 May to 1 June 2021, to specify the use of the central and southern ovals for dog exercise after 5:00pm and before 8:00am daily, except where active sporting activity is being undertaken. Council is requested to provide final approval to this proposal for Pyramids Beach, with a report to be provided in March 2022 reviewing the effectiveness of the implemented restrictions.

## Disclosure of Interest

Nil

## Previous Relevant Documentation

G.9/3/21      23/03/2021      Dog Exercise (Off Leash) Area: Lakelands District Open Space

## Background

In 2020/21 the beach area to the north of the Port Bouvard Surf Lifesaving Club became the site of the successful breeding of the vulnerable Australian Fairy Tern. Currently dogs are permitted within this area on lead however it was noted that dogs both on lead and where illegally permitted off lead by owners, caused disturbance to the nesting site.

The beach in this area provides for extensive off lead opportunities to the south currently from the walk way adjacent to the Port Bouvard Surf Lifesaving Club. The current designations are noted in *Attachment 4.1*.

It is proposed for the current on lead area in the north to be changed to dog prohibited 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 4.2*.

The City is very generous in the extent of areas provided for dog exercise and this change, while improving the ability to protect the fairy terns from disturbance, still provides an extensive dog exercise area for dog owners.

In March 2021, Council supported the commencement of a public notice period of 28 days to formalise dog arrangements at the Lakelands District Open Pace (Lakelands Park). This public notice period has now ended. No submissions were received during the period. Council is requested to provide final approval to this designation.

*Attachment 4.3* provides the plan of the dog exercise area on the central and southern ovals for dog exercise after 5:00pm and before 8:00am daily, except where active sporting activity is being undertaken.

### **Comment**

In accordance with the *Dog Act 1976*, the proposed changes to the designations of the Pyramids Beach will provide clarity to dog owners and support enforcement efforts to protect the fairy tern nesting site. There remains extensive dog exercise (dog off lead) area to the south.

The formalisation of Lakelands District Open Space (Lakelands Park) will provide clarity to users and provide an important dog exercise opportunity for dog owners. The area will be provided with signage and dog poo bags and a Council report reviewing the effectiveness of the restrictions will be provided in March 2022.

### **MEAG Comment**

MEAG have indicated their support for changes to designations at Pyramids Beach to support the successful breeding of Fairy Terns.

### **Consultation**

Officers have consulted with the Port Bouvard Surf Life Saving Club who support the changes to the designations at Pyramids Beach.

### **Statutory Environment**

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.

City Parks staff will be required to remove dog faeces from the reserve where necessary which may add additional workload to maintenance activities.

### **Risk Analysis**

Failure to effectively manage dogs in close proximity to the Fairy Tern nesting site may impact the breeding success of this vulnerable species.

Adequate exercise and socialisation of dogs are critical elements of responsible dog ownership. The provision of designated exercise areas contributes to this.

It is important that dogs, although off lead, are effectively controlled and supervised by their owner in dog exercise areas to prevent attacks. The City is currently undertaking an active campaign to encourage the reporting of inadequately controlled dogs.

In addition, it is important that owners appropriately manage dog faeces particularly given the active sports played on the reserve and monitor the impact on the playing surface. Additional work is generated for the City Parks team in managing these issues.

## **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.

### Environment:

- Protect and manage our local natural environment and ensure.
- Create opportunities for our community to celebrate and preserve our local natural environment.

## **Conclusion**

In accordance with the *Dog Act 1976*, the proposed changes to the designations at Pyramids will support the protection of the vulnerable Fairy Tern whilst still providing extensive off lead opportunity. The Lakelands District Open Space provides an opportunity to support the community of Lakelands and maximise the usage of the facility in a manner similar to other active reserves across the City.

### **NOTE:**

- Refer: ***Attachment 4.1 Existing Dog Act 1976 designations of Pyramids Beach***  
***Attachment 4.2 Proposed Dog Act 1976 designations of Pyramids Beach***  
***Attachment 4.3 Plan of finalised Dog Exercise Area Central and Southern Ovals of Lakelands District Open Space***

## **RECOMMENDATION**

**That the Committee of Council recommend that Council:**

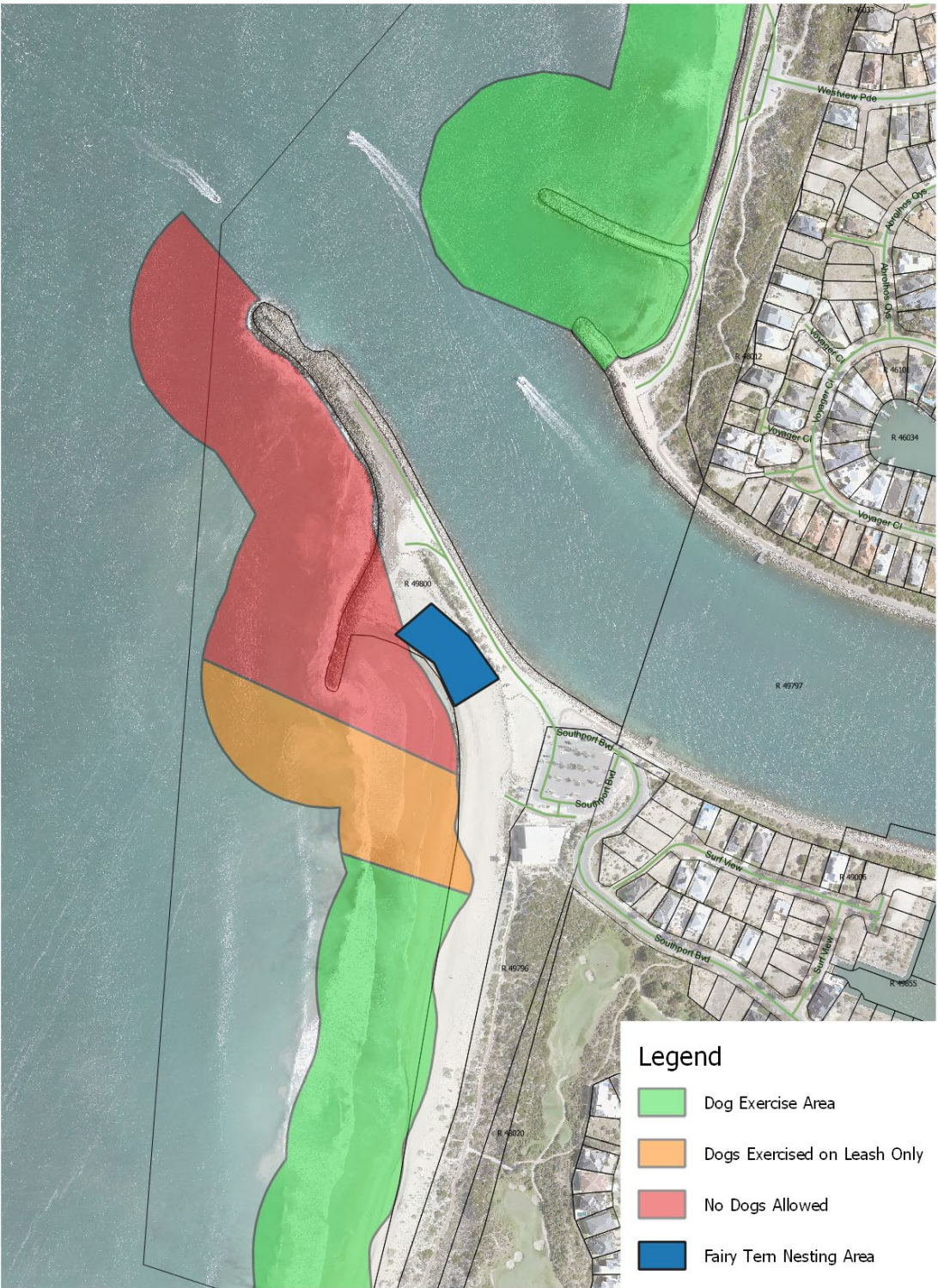
1. **Approves the commencement of a 28 day public notice period specifying Councils intention to prohibit of dogs at Pyramids beach in accordance with *Attachment 4.2*.**
2. **Approves the central and southern ovals of Lakelands District Open Space as detailed in *Attachment 4.3* as dog exercise areas only after 5:00pm and before 8:00am daily, except where active sport is in progress.**
3. **Receives a report in March 2022 reviewing the effectiveness of the restrictions implemented Lakelands District Open Space (Lakelands Park) including feedback from the school and sporting clubs.**

## Current *Dog Act 1976* Restrictions Pyramids Beach





Proposed *Dog Act 1976* Restrictions Pyramids Beach



**Proposed Restrictions**

## ATTACHMENT 4.3

### Dog Exercise (Off Leash) Area – Lakelands District Open Space

#### Central & Southern Ovals - Lakelands District Open Spaces



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<b>5</b>	<b>SUBJECT:</b>	Local Planning Policy No 3 – Non Residential Uses in Residential Zones
	<b>DIRECTOR:</b>	Business Services
	<b>MEETING:</b>	Committee of Council
	<b>MEETING DATE:</b>	8 June 2021

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## Summary

Council is requested to consider adopting for the purposes of advertising, the draft 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.

This review of existing local planning policies has been triggered by recent changes to the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) and the anticipated finalisation of the City's Local Planning Scheme No 12 (LPS12). The definitions and exemptions within proposed LPP3 reflect these changes to the planning framework.

Local planning policies sit below the local planning scheme and provide guidance for development within the City. 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.

It is recommended that Council adopt the policy for advertising purposes.

## Disclosure of Interest

Nil

## Previous Relevant Documentation

- 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 12 – Home Occupation Policy and Local Planning Policy No 13 – Child Care Premises Policy.

## **Background**

### 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**

The proposed LPP3 will consolidate three existing local planning policies relating to Medical Centres, Child Care Premises and Home Businesses and incorporate provisions from LPS12 relating to Commercial Vehicle Parking. Local planning policies sit below the local planning scheme and provide guidance for development within the City. 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.

### Medical Centres and Child Care Premises

The existing Local Planning Policy No 13 – Child Care Premises (LPP13) and Local Planning Policy No 16 – Medical Centres (LPP16) have operated effectively and as such, only minor changes have been proposed for consistency and clarity. The following amendments have been proposed:

- Removal of reference to commercial zones and activity centre plans from the physical location attributes given that this policy only relates to residential zones. The policy now refers to being in proximity to commercial, recreation or community nodes and/or well served by public transport.
- Inclusion of additional landscaping requirements. The Scheme currently requires 10% of the site area to be provided as landscaping, however this will not be transferred to LPS12 for residential



zones. The minimum landscaping requirements have been included in this policy, with some additional design requirements to ensure that quality landscaped areas are provided.

- Requirement for additional information and supporting reports. A traffic impact assessment, noise assessment and/or waste management plan may be required and will be determined on a case-by-case basis. Where required, the policy provides guidance on what aspects the assessment/reports should address.
- Limitation on hours of operation for child care centres. Hours of operation have previously been imposed on child care centres as a condition of development approval, however inclusion in the policy will provide additional clarity. It is considered necessary to limit the hours of operation, particularly where outdoor play areas are proposed, to ensure that neighbouring residential amenity is protected.

In summary, LPP13 and LPP16 are being proposed to be revoked if Council resolve to proceed with LPP3 once submissions have been considered, which will be presented to Council for consideration in the future.

### Commercial Vehicle Parking

Definitions and assessment criteria relating to the parking of commercial vehicles within a residential area are currently included within the Scheme. The definition of a commercial vehicle and commercial vehicle parking will be amended within LPS12, however the assessment criteria will not be carried across. As such, the existing criteria within the Scheme has been incorporated into LPP3, with the following alterations:

- Requirement for development approval when housed within an outbuilding. The Scheme currently exempts commercial vehicles from requiring approval when they are housed within a garage/outbuilding. The most significant impact of commercial vehicles is generally the noise resulting from moving the vehicle to and from the property. As such, it is proposed that all commercial vehicles should require an application and assessment regardless of whether they are stored within an outbuilding.
- Introduction of a minimum lot size. Minimum lot sizes for the parking of one or two commercial vehicles has been included as part of the assessment criteria to prevent commercial vehicles being stored on small residential lots. These lot sizes are the minimum lot sizes and do not necessarily guarantee approval, as the remaining assessment criteria will need to be complied with.
- Hours of restricted movement (commercial vehicle not to be taken to or from the site) being amended to 10pm - 7am to correlate with the *Environmental Protection (Noise) Regulations 1997* (Noise Regulations). The Scheme previously referred to 6:30am, however this was inconsistent with the Noise Regulations and could result in vehicles exceeding the permitted limits.
- Included reference to the Noise Regulations. Whilst the noise requirements are covered under separate legislation, reference has been included within the policy for clarity and to ensure that applicants are aware of the required limits. A noise assessment may be required to ensure compliance with the Noise Regulations and will be determined on a case by case basis.

### Home Based Businesses

Amendments to the deemed provisions and imminent gazettal of LPS12, have required fairly significant changes to the existing Local Planning Policy No 12 (LPP12) – Home Occupation Policy. The City previously had two categories for home based businesses, being a home office and a home business, with the latter requiring development approval. Once LPS12 is gazetted, definitions from the model provisions will be implemented with three categories of home based businesses – home office, home occupation and home business. In accordance with the changes to the deemed provisions, a home office and a home occupation are now exempt from requiring development approval.

Under LPS12, a home business is defined as:

- 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; and*
  - (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and*
  - (c) does not occupy an area greater than 50 m<sup>2</sup> ; and*
  - (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; and*
  - (e) does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and*
  - (f) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and*
  - (g) 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;*

To reflect these changes, the policy will incorporate assessment criteria for home businesses only. A home business is a larger scale operation and therefore the assessment criteria is intended to ensure that these types of businesses will only be supported where there will not be an adverse impact on the amenity of the surrounding area.

LPP12 is being proposed to be revoked if Council resolve to proceed with LPP3 once submissions have been considered, which will be presented to Council for consideration in the future.

#### Enforcement of Conditions

The Scheme previously permitted the City to rescind a development approval for commercial vehicle parking or a home business where the conditions of approval were not being complied with. The deemed provisions no longer allow for a development approval to be rescinded and therefore the wording of the policy has been updated to reflect the current enforcement options. Should the City receive complaints regarding alleged non-compliance with the conditions of a development approval, an investigation will be carried out and enforcement action may be taken.

Subject to the provision of appropriate evidence, there are a range of enforcement options under the provisions of the *Planning and Development Act 2005* (Act). In accordance with Section 223 of the Act, a person who commits an offence under the provisions of the Act, is liable to a fine of a maximum of \$200,000 and, in the case of a continuing offence, a further fine of \$25,000 for each day during which the offence continues. In accordance with Regulation 42 of the *Planning and Development Regulations 2009*, infringement notices of \$500 may be issued as an enforcement option in lieu of prosecution.

#### **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.

#### **Statutory Environment**

Local governments may prepare Local Planning Policies under Part 2, Division 2 of the Deemed Provisions for Local Planning Schemes 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 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. It is recommended that Council adopt the policy for advertising purposes.

NOTE:

- Refer ***Attachment 5.1 Draft Local Planning Policy No 3 – Non Residential Uses in Residential Zones***

## **RECOMMENDATION**

**That the Committee of Council recommend that Council, in accordance with Schedule 2, Part 2, Clause 4 of the Deemed Provisions for Local Planning Schemes, resolves to adopt for the purposes of advertising draft Local Planning Policy No. 3 – Non Residential Uses within Residential Zones.**

# Local Planning Policy No 3

## Non Residential Uses in Residential Zones

May 2021

ATTACHMENT 5.1



# 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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# 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 100m<sup>2</sup> 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.

## 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 500m<sup>2</sup> for one commercial vehicle or at least 2000m<sup>2</sup> 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.

## 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 m<sup>2</sup>;*
- (d) does not involve the display on the premises of a sign with an area exceeding 0.2 m<sup>2</sup>; 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 m<sup>2</sup>;*
- (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.

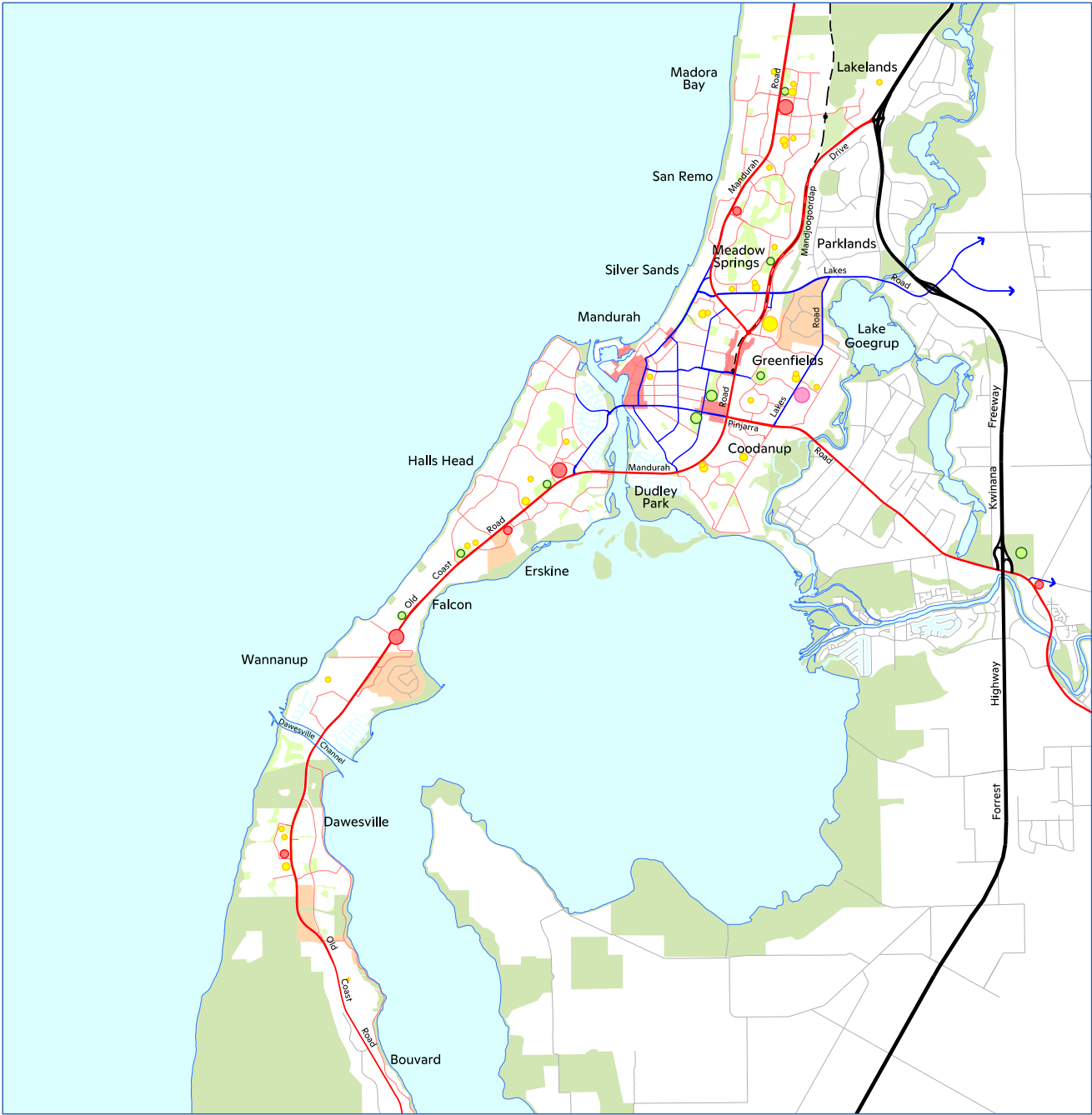
Figure 1 - Location Criteria

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



<b>6</b>	<b>SUBJECT:</b>	Lease and Funding Agreement: Mandurah Performing Arts Inc. Portion of Reserve 42050
	<b>DIRECTOR:</b>	Business Services/Place and Community
	<b>MEETING:</b>	Committee of Council
	<b>MEETING DATE:</b>	8 June 2021

## Summary

The current lease granted to Mandurah Performing Arts Incorporated over a portion of Reserve 42050, 75 Mandurah Terrace Mandurah, known as the Mandurah Performing Arts Centre expires 30 June 2021.

With expiry pending, the Lessee has approached City officers with a request to enter into a new 20 year lease agreement over a 3229 square metre portion of Reserve 42050.

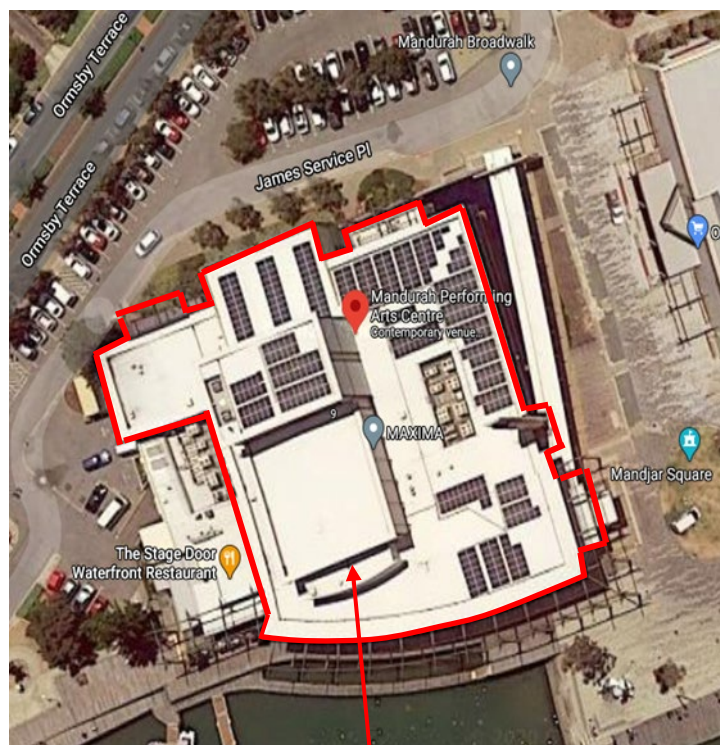
Council is requested to approve the disposal via a lease to Mandurah Performing Arts Incorporated, over a 3229 square metre portion of Reserve 42050, for a term of five years with a further three, five year options (5+5+5+5years). An annual rent in accordance with the City's approved Fees and Charges Schedule – Lease Fee Charges for Community Groups to be applied. The lease is also conditional upon the approval of the Minister for Lands.

Council is requested to authorise the Chief Executive Officer to prepare and execute a Memorandum of Understanding for a five plus five year funding agreement subject to meeting performance conditions.

## Disclosure of Interest

Nil

## Location



Lease area

## Previous Relevant Documentation

- G.29/4/08      15 April 2008      Council supported a lease agreement to Mandurah Performing Arts Incorporated for a term of four years with two renewal options, each consisting of a five year term (4+5+5years);
- G.37/5/07      15 May 2007      Council supported the implementation of 'holding over' provisions of the existing lease to continue until 30 September 2007, or until such time as Council resolves to execute a new lease agreement;
- G.50/7/01      17 July 2001      Council supported the lease renewal option to Mandurah Performing Arts Incorporated for a term of five years, commencing 1 July 2002 and expiring on the 30 June 2007;
- G.51/9/99      21 September 1999      Council supported the amendment of lease to revoke the commencement date and amend to commence on the 5 August 1997 aligning with consent from the Minister for Lands and expiry on the 30 June 2002 with a five year renewal option;
- G.8504          24 June 1997      Council supported a lease to the board of Mandurah Performing Arts Incorporated for a term of five years with a further five year option.

## Background

In early 1997, Council relinquished the management of the Mandurah Performing Arts Centre in favour of an appointed Board of Management to independently operate the Centre. A formal lease agreement was established in July 1997 for a term of five years with a five year renewal option, aligning with the consent of the Minister for Lands the lease commenced on the 5 August 1997.

Upon the expiry of the original lease on 30 June 2007, Council supported the implementation of a holding over period until such time as Council resolved to execute a new lease agreement. A new maximum 14 year lease consisting of (4+5+5years) back dated to 1 July 2007, was granted with final expiry due 30 June 2021.

## Comment

City officers contacted the Lessee in October 2020 in an attempt to gauge their position regarding the option to apply for a new lease agreement over a portion of Reserve 42050, known as the Mandurah Performing Arts Centre.

In November 2020, the Lessee confirmed their desire to enter into a new agreement, and requested support for a new lease.

Officers propose the following terms and conditions for the new lease agreement subject to the approval of Council and the Minister for Lands consent;

- Maximum 20 years lease, via four five year option terms (5+5+5+5 years)
- Total Area of 3,229 square metres acknowledging that 62 square metres comprises of a common toilet area to be shared with the Stage Door Restaurant.
- Annual rent in alignment with the City's approved Fees and Charges Schedule– Lease Fee Charges for Community Groups. Currently \$1020 per annum
- Commencement date after the approval of the Minister for Lands

The City requires funding recipients to enter into a Memorandum of Understanding outlining the City's requirements and reporting obligations during the term of the agreement. The requirements which will be conditions of funding include:

- a Strategic Plan (to be submitted every three years)
- a copy of its audited annual statement of accounts for each preceding financial year by no later than three months after the end of the financial year in each year of the Term;
- a proposed annual budget 30 days before the next financial year commences in each year of the Term;
- an annual program 30 days before the next financial year commences in each year of the Term;
- an annual report, detailing the performance against the measures identified in the Strategic Plan, KPIs and annual business plan;
- advice of any changes in its office holders or its rules of associations; and
- any information on Mandurah Performing Arts Incorporated membership or other information in relation to the management or activities of Mandurah Performing Arts Incorporated requested by the City to determine Mandurah Performing Arts Incorporated compliance with the parties Obligations.

## Consultation

CEO – Mandurah Performing Arts Incorporated

## Statutory Environment

Section 30 of the *Local Government (Functions and General) Regulations Act 1996* – Disposal of Property to which 3.58 of the Local Government Act 1995 does not apply.

Section 30 (2) of the *Local Government (Functions and General) Regulation Act 1996*

*A disposition of land is an exempt disposition if -*

*(b) the land is disposed of to a body, whether incorporated or not –*

*(i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature*

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

- (1) A person must not without authorisation under section (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 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 sublicense 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.*

## Policy Implications

Nil

## Financial Implications

The City will receive an annual rental income in accordance with the City's approved Fees and Charges Schedule 2020/21 – Lease Fee Charges for Community Groups being \$1,020.00 (Incl GST).

The Lease Preparation Administration Fee Charge, in accordance with the City's approved Fees and Charges Schedule 2020/21 of \$610.00 (Incl GST) is to be borne by the Lessee.

Any legal costs associated with the preparation of the Lease agreement are to be borne by the Lessee.

The City will contribute \$716,335.92 per annum, increased annually by CPI, to the Mandurah Performing Arts Incorporated to operate the Mandurah Performing Arts Centre.

## **Risk Analysis**

If Council did not agree to lease the facility or enter into a Memorandum of Understanding with the Mandurah Performing Arts Incorporated then the operations would be the responsibility of the City.

The Memorandum Understanding includes adequate controls, such as regular reporting, to ensure due diligence is maintained for the life of the agreement.

## **Strategic Implications**

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

### Social:

- Promote a positive identity and image of Mandurah and the contributions of its youth.
- Facilitate opportunities that promote community led initiatives and build local capacity and capability.
- Promote and encourage community connectedness to create social interaction and a strong sense of security and belonging.
- Provide a range of social, recreational and cultural experiences for our residents and visitors to enjoy and take pride in.
- Advocate for and facilitate the provision of diverse and environmentally sustainable places and spaces for people to enjoy an inclusive and active lifestyle.

### 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.
- Ensure that our actions maintain a sustainable balance between economic growth, the environment and social values.

## **Conclusion**

The board of Mandurah Performing Arts Incorporated have formally requested support to enter into a new lease agreement with the City of Mandurah upon the expiry of the current renewal term which is due on the 30 June 2021.

Council is requested to approve the disposal of a lease agreement to Mandurah Performing Arts Incorporated, over a portion of Reserve 42050, 75 Mandurah Terrace, Mandurah, for a maximum 20 years via four five year terms (5+5+5+5 years). An annual rent in accordance with the City's approved Fees and Charges Schedule – Lease Fee Charges for Community Groups to be applied. The lease is also conditional upon the approval of the Minister for Lands.

Council is also requested to authorise the Chief Executive Officer to prepare and execute a Memorandum of Understanding for a five plus five year funding agreement subject to meeting performance conditions.

## **RECOMMENDATION**

**That the Committee of Council recommend that Council:**

- 1. Approves the disposal via a lease agreement to Mandurah Performing Arts Incorporated, over a portion of Reserve 42050 with the following terms;**
  - 1.1 Term of five years with a further three, five year term options;**
  - 1.2 Leased area of 3,229 square metres, of which 62 square metres is a common toilets area to be shared with the adjoining restaurant;**



- 1.3 Annual rent in accordance with the City's approved Fees and Charges Schedule – Lease Fee Charges for Community commencing at \$1020 per annum;
  - 1.4 Commencement date after the approval of the Minister for Lands; and
  - 1.5 Subject to the Minister for Lands consent.
2. Authorises the Chief Executive Officer to finalise the conditions of the lease agreement.
3. Authorises the Chief Executive Officer to prepare and execute a Memorandum of Understanding with Mandurah Performing Arts Incorporated which includes the following:
  - 3.1 Five plus five year funding agreement for the operations of the Mandurah Performing Arts Centre of \$716,335.92 per annum, increased annually by CPI.
  - 3.2 The provision of funding is subject to the following conditions:
    - a Strategic Plan (to be reviewed every three years)
    - a copy of its audited annual statement of accounts for each preceding financial year by no later than three months after the end of the financial year in each year of the Term;
    - a proposed annual budget 30 days before the next financial year commences in each year of the Term;
    - an annual program 30 days before the next financial year commences in each year of the Term;
    - an annual report, detailing the performance against the measures identified in the Strategic Plan, KPIS and annual business plan;
    - advice of any changes in its office holders or its rules of associations; and
    - any information on Mandurah Performing Arts Incorporated membership or other information in relation to the management or activities of Mandurah Performing Arts Incorporated requested by the City to determine Mandurah Performing Arts Incorporated compliance with the Parties Obligations.

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<b>7</b>	<b>SUBJECT:</b> Establishment of Strategic Finance Working Group <b>DIRECTOR:</b> Director Business Services <b>MEETING:</b> Committee of Council <b>MEETING DATE:</b> 8 June 2021
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## Summary

Council held a strategic workshop on 17 and 18 April 2021 which included a session on the City of Mandurah's financial sustainability outlining the importance of the City remaining financially sustainable whilst ensuring there are sufficient funds to deliver statutory services and the Strategic Community Plan 2020-2040. There are various controls that can be put in place to ensure the City of Mandurah is financially sustainable, including, adoption and annual reviews of the Long Term Financial Plan (LTFP); ongoing budget management through monthly financial reporting; regularly reviewing services, programs and service levels; monitoring performance ratios and taking the necessary action; and the whole of life costs are known prior to strategies, programs and/or projects being endorsed by Council to ensure there is capacity to fund.

For Council to carry out regular reviews of services, programs and service levels that aligns to the needs of the community, analyse future revenue proposals and oversee the long term financial planning associated with future service provision and investment, it is recommended that Council endorse the establishment of a Strategic Finance Working Group and adopt the Terms of Reference, as detailed in Attachment 7.1.

## Disclosure of Interest

Nil

## Previous Relevant Documentation

Nil

## Background

Financial Sustainability in local government consists of many components being managed, which include:

- Ability to maintain its services and assets over the long term
- If funding is withdrawn, the City can continue to operate without significant impact on services
- Whole of life costs are known prior to decision being made (capacity to fund)
- Long term positive cashflows
- Managing financial risks
- Critically and regularly review services and service levels
- Services and programs delivered in accordance with the LTFP without the need to quickly react by increasing rates or reducing services
- Funding considers intergenerational benefits and capacity to service debt (borrowing strategy)
- Achieving performance ratios

The Western Australian Treasury Corporation (WATC) describes that there are three elements to measure the financial sustainability of a local government:

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<b>7</b>	<b>SUBJECT:</b>	Establishment of Strategic Finance Working Group
	<b>DIRECTOR:</b>	Director Business Services
	<b>MEETING:</b>	Committee of Council
	<b>MEETING DATE:</b>	8 June 2021

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## Summary

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For Council to carry out regular reviews of services, programs and service levels that aligns to the needs of the community, analyse future revenue proposals and oversee the long term financial planning associated with future service provision and investment, it is recommended that Council endorse the establishment of a Strategic Finance Working Group and adopt the Terms of Reference, as detailed in Attachment 7.1.

## Disclosure of Interest

Nil

## Previous Relevant Documentation

Nil

## Background

Financial Sustainability in local government consists of many components being managed, which include:

- Ability to maintain its services and assets over the long term
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- Services and programs delivered in accordance with the LTFP without the need to quickly react by increasing rates or reducing services
- Funding considers intergenerational benefits and capacity to service debt (borrowing strategy)
- Achieving performance ratios

The Western Australian Treasury Corporation (WATC) describes that there are three elements to measure the financial sustainability of a local government:

# Financial Sustainability - Overview

Three elements combine to gauge the effective financial sustainability of an LGA:



WATC state that for effective financial sustainability, a local government needs to ensure that:

- *Cash inflows (primarily supported by property rates income) are sufficient to fund operating expenses, capital expenditure programs and scheduled debt service obligations; and*
- *Its planned capital expenditure is adequate to fund the scheduled renewal of its asset base (for which depreciation can be used as a proxy).*

The LTFP was first approved by Council in March 2020 and reviewed in May 2021 and maps the cash inflows and planned capital expenditure which WATC consider imperative to effective financial sustainability. The LTFP assists the Council in making informed and evidence-based decisions. City officers will be able to demonstrate and outline the details on how these decisions affect the long term position of the City. The LTFP demonstrates a commitment to prudent fiscal management and greater transparency to the community in relation to the projects that the Council are committed to over the next 10 years. The LTFP shows the long term impact of decisions and the investment for each service, program and project it is delivering or is proposing to deliver over the next ten years.

### Comment

The Strategic Finance Working Group is proposed to consist of the Mayor and three Councillors. The Strategic Finance Working Group will analyse proposals and reports that are presented by City officers and provide recommendations to Council in relation to the following:

- future revenue sources to ensure funds are available to deliver community programs and services;
- service and infrastructure provision that aligns to the needs of the community;
- future services and investment to be provided, and the service level standards associated with them; and
- long term financial planning associated with future service provision and investment.

The Strategic Finance Working Group has no powers delegated from Council. The Council remain the decision makers in relation to the allocation of local government resources and adoption of the LTFP and Annual Budget.

The responsibilities of the Strategic Finance Working Group include:

- Assessing and recommending to Council the current and future levels of service required to be delivered by Council;
- The strategic review of services to assess and recommend to Council the relevance of the service to Council's and community needs and the delivery models for the future;
- Investigating and recommending to Council opportunities for cost sharing or shared services arrangements with other organisations;
- Advising Council on the development and implementation of the Long Term Financial Plan and associated financial strategies such as the rating policy; and
- Recommendation to Council in relation to the timing and scope of service reviews and the creation of a five year service review plan.

The Strategic Finance Working Group Terms of Reference is included in Attachment 7.1.

### **Consultation**

Nil

### **Statutory Environment**

Nil

### **Policy Implications**

Nil

### **Financial Implications**

It is likely that there will be additional administration resources required to administer the working group.

### **Risk Analysis**

There is no impact to the financial and reputation strategic risks areas if Council did not support the establishment of the Strategic Finance Working Group as the Council would continue to operate as it is currently, where all information is presented to Council through detailed reports and workshops.

### **Strategic Implications**

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

#### Organisational Excellence:

- Demonstrate regional leadership and advocate for the needs of our community.
- Listen to and engage with our community in the decision-making process.
- 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**

It is recommended that Council approve the establishment of the Strategic Finance Working Group and that the Mayor and three Councillors are appointed as representatives up until 15 October 2021, which is the time that the next local government election is held.

NOTE:

- Refer ***Attachment 7.1 Strategic Finance Working Group Terms of Reference***

## **RECOMMENDATION**

**That the Committee of Council recommend that Council:**

- 1 Approve the Strategic Finance Working Group Terms of Reference as detailed in Attachment 7.1.**
- 2 Appoint the following Elected Members to the Strategic Finance Working Group up until 15 October 2021:**  
**Mayor R Williams**  
**Councillor \_\_\_\_\_**  
**Councillor \_\_\_\_\_**  
**Councillor \_\_\_\_\_**

### Strategic Finance Working Group Terms of Reference

#### **1 Objectives of the Strategic Finance Working Group:**

- 1.1 Recommend to Council the future revenue sources to ensure funds are available to deliver community programs and services.
- 1.2 Align service and infrastructure provision to the needs of the community.
- 1.3 Recommend to Council the future services and investment to be provided, and the service level standards associated with them.
- 1.4 Oversee the long term financial planning associated with future service provision and investment.

#### **2 Powers of the Strategic Finance Working Group:**

- 2.1 The Working Group is a formally appointed Working Group of Council and is responsible to that body. The Working Group does not have executive powers or authority to implement actions in areas over which the Chief Executive Officer has legislative responsibility and does not have any delegated financial responsibility. The Working Group does not have any management functions and cannot involve itself in management processes or procedures.
- 2.2 The Working Group is to report to Council and provide appropriate advice and recommendations to Council on matters relative to its Terms of Reference. This is in order to facilitate informed decision-making by Council in relation to the future planning for Mandurah.

#### **3 Membership:**

- 3.1 The membership of Strategic Finance Working Group shall comprise of the Chief Executive Officer, Mayor and three Councillors, as resolved by Council.
- 3.2 The Chief Executive Officer and/or his/her nominee(s) are to attend all meetings to provide advice and guidance to the Working Group.
- 3.3 The tenure of members' appointment to the Strategic Finance Working Group is up to two years terminating on the day of the Ordinary Council elections, at which time all Elected Members will be eligible for reappointment.
- 3.4 Working Group members must declare any conflict of interests or financial interests in accordance with regulation 22 of the *Local Government (Model Code of Conduct) Regulations 2021*, in a written notice to the Chief Executive Officer before the meeting or at the meeting immediately before the matter is discussed.
- 3.5 The members who are appointed to the Strategic Finance Working Group must represent the needs of the entire district of Mandurah equitably.

#### **4      *Role of City Staff:***

- 4.1      The Chief Executive Officer will invite relevant City officers to attend Working Group meetings, in order to provide advice and guidance, discuss specific issues or reviews as and when required and take part in the discussions of the meetings.

#### **5      *Meetings:***

- 5.1      The Working Group will meet once every two months or otherwise as required. There may be times during the year that there is a requirement to meet more frequently.
- 5.2      The Working Group meetings are only open to invited persons.
- 5.3      The quorum for a meeting is at least 50% of the number of Elected Members elected to the Strategic Finance Working Group.
- 5.4      The Mayor will hold the position of Chair.

#### **6      *Reporting:***

- 6.1      Reports and recommendations of each Working Group meeting shall be presented to Council via email at the earliest convenience.
- 6.2      Council will determine the information that is contained in the report.

#### **7      *Duties and responsibilities:***

- 7.1
- 7.2      Assessing and recommending to Council the current and future levels of service required to be delivered by Council;
- 7.3      The strategic review of services to assess and recommend to Council the relevance of the service to Council's and community needs and the delivery models for the future;
- 7.4      Investigating and recommending to Council opportunities for cost sharing or shared services arrangements with other organisations;
- 7.5      Advising Council on the development and implementation of the Long Term Financial Plan and associated financial strategies such as the rating policy;
- 7.6      Recommendation to Council in relation to the timing and scope of service reviews and the creation of a five year service review plan.

#### **8      *Confidentiality:***

- 8.1      All Working Group members will be required to adhere to the City's confidentiality requirements. In particular, no confidential information received or generated by the Working Group will be disclosed to unauthorised persons.



## **Property Details**

Public Ablution - Brick and concrete building on concrete slab.  
Owner: City of Mandurah

## **Previous Relevant Documentation**

Nil

## **Background**

In 2020, as part of the City's ongoing asset inspection program, City officers identified potentially significant structural defects related to the Peel Street Ablution.

City officers made the decision to close the facility, for public safety reasons, pending a more detailed investigation. Subsequently, City officers engaged structural engineering consultants to undertake an assessment of the building to determine its structural integrity and provide remediation advice.

The structural engineering consultant's assessment reaffirmed a significant degree of cracking across parts of the structure and noted potential tension cracks on the top surface of the concrete roof slab that could have led, or would lead, to water ingress into the roof slab and related corrosion to internal steel reinforcement. There was also significant corrosion along the perimeter of the roof slab with the potential risk of falling debris. The structural engineering consultants concluded that the structure was presently unsafe and presents a safety risk from falling debris. Also, that the concrete roof slab would require extensive repair and remediation and that the repair is not limited to the perimeter of the slab and that further investigation may demonstrate that the slab is not repairable.

Subsequently, City officers placed a fenced exclusion zone around the Peel Street Ablution pending a decision on the future of the building.

Based on the structural engineering consultant's advice, City officers consider that there are three are options available to the City, these are:

1. Structural repair works;
2. Remove and replace the building; or
3. Remove and not replace the building.

## **Comment**

The following considers the community service need for the Peel Street Ablution together with each of the options available to the City with respect to the building.

### Community Service Need

It is noted that there are four alternative public ablution facilities within 500m of the Peel Street Ablution including the Mandurah Ocean Marina, Town Beach, Keith Holmes Reserve and the Mandurah Visitor Centre.

In addition, there are two public ablutions available to the City's customers, with restricted access, which are located at the City's Main Administration Centre and Built and Natural Environment Building, and are within 100m of the Peel Street Ablution.

The City's records indicate that there have been four Customer Requests (CRMs) with respect to the Peel Street Ablution during the period of its temporary closure. It is noted that all of these requests relate to minor damage and vandalism, and none are in relation to the closure or re-opening of the facility.

Based on the above, the precinct is well serviced by alternative public ablution facilities meaning that the demand for the Peel Street Ablution is considered to be low.

#### Option 1 - Structural Repair Works

Given the significant extent of structural repairs required, it is estimated that these works would cost approximately \$50,000 to 75,000.

In addition, the existing building is not compliant with current statutory requirements, including accessibility, does not meet contemporary design standards and is due for major interior renovation. Accordingly, the upgrade works that should be considered as part of any structural repairs are estimated to cost an additional \$100,000.

Even with the above repairs and upgrade the result would most likely be a compromised solution and would not be an overall good outcome for the site.

#### Option 2 - Remove and Replace

The estimated cost of removing the existing building with a contemporary public ablution facility is approximately \$250,000, based on recent market testing of similar facilities.

#### Option 3 - Remove and Not Replace

The estimated cost of removing the existing building and associated reinstatement of landscaping is approximately \$22,500. Any further options for the site could be considered separately.

City officers have considered the community service need and options available for the Peel Street Ablution, and have formed the view that the facility is not needed to maintain a good level of service with respect to public amenities in the precinct and this, together with the high cost of repair or replacement, makes it undesirable to retain this facility. In addition, the removal of the facility will enable landscaping works to occur that are sympathetic with the Muddy Creek Wetland and will improve the visual appearance and passive surveillance of the site.

### **Consultation**

Nil

### **Statutory Environment**

Nil

### **Policy Implications**

Nil

### **Financial Implications**

Based on the recommendation of City officers to remove and not replace the Peel Street Ablution, the cost would be approximately \$22,500 for the initial works and subsequent operating savings would be approximately \$18,500 per annum.

The demolition of the existing building (\$17,500) would be funded from savings under the Infrastructure Management maintenance budget for the Peel Street Ablutions and the landscaping works (\$5,000) would be funded from the City Parks maintenance budget for the Administration and Civic Centre.

## **Risk Analysis**

The removal of the Peel Street Ablution would eliminate the public safety risk.

## **Strategic Implications**

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

### Social:

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

### Environment:

- Protect and manage our local natural environment and ensure that our actions to manage land-based assets don't adversely impact our waterways.

### 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**

City officers have considered the available options and related impacts with respect to the Peel Street Ablutions and request Council approve that the Peel Street Ablution is removed and not replaced.

## **RECOMMENDATION**

**That the Committee of Council recommend that Council authorise City officers to remove the Peel Street Ablution and reinstate the site with an appropriate landscaping solution.**