

CITY OF ARMADALE

MINUTES

**OF COMMUNITY SERVICES COMMITTEE HELD IN THE COMMITTEE ROOM,
ADMINISTRATION CENTRE, 7 ORCHARD AVENUE, ARMADALE ON TUESDAY, 2
JULY 2019 AT 7.09PM.**

PRESENT: Cr C M Wielinga (Chair)
Cr C Frost (Deputy Chair)
Cr R Butterfield
Cr C A Campbell JP
Cr M Geary
Cr G J Smith
Cr J A Stewart

APOLOGIES:

OBSERVERS: Cr H Zelones
Cr J Munn
Cr D Shaw
Cr G Nixon

IN ATTENDANCE: Mrs Y Loveland Executive Director Community Services
Mr C Frewing Chief Executive Officer
Mr J Lyon Executive Director Corporate Services
Ms L Jarosz Executive Assistant Community Services
Ms C Whittington Community Facilities Planning Coordinator

PUBLIC: 2

*“For details of Councillor Membership on this Committee, please refer to the City’s website
– www.armadale.wa.gov.au/your_council/councillors.”*

DISCLAIMER

As there were members of the public present, the Disclaimer for protecting Councillors and staff from liability of information and advice given at Committee meetings to be read.

DECLARATION OF MEMBERS' INTERESTS

Cr M Geary – Recommendation C24/7/19 - Cross Park Cricket/Netball Pavilion - Intention To Lease.

QUESTION TIME

Nil

DEPUTATION

Nil

CONFIRMATION OF MINUTES

RECOMMEND

Minutes of the Community Services Committee Meeting held on 4 June 2019 be confirmed.

**Moved Cr J A Stewart
MOTION CARRIED**

(7/0)

ITEMS REFERRED FROM INFORMATION BULLETIN - ISSUE 10

Report on Outstanding Matters – Community Services Committee

Community Planning
Community Development
Recreation Services Report
Library & Heritage Services Report
Ranger & Emergency Services Report

If any of the items listed above require clarification or a report for a decision of Council, this item to be raised for discussion at this juncture.

.

CONTENTS

COMMUNITY SERVICES COMMITTEE

2 JULY 2019

1. COMMUNITY PLANNING	
1.1 CROSS PARK CRICKET/NETBALL PAVILION - INTENTION TO LEASE	4
2. COUNCILLORS' ITEMS.....	13
1. CR FROST - PUBLIC SPEAKING COMPETITION FOR SCHOOLS – COMMENDATION	
2. CR BUTTERFIELD - KELMSCOTT HALL OPEN DAY	
3. EXECUTIVE DIRECTOR COMMUNITY SERVICES REPORT.....	13



LEASE PLAN

Roleystone Karragullen Cricket Club Cricket Pavilion
Cross Park, Roleystone



Based on information provided by and with the permission of the
Western Australian Land Information Authority (Landgate, 2012).
Aerial photograph supplied by Landgate, Photomaps by NearMap.



ATE 22 May 2019 - REVISION 1901

p:\autocad\job_request\to\governance\lease_diagrams\management_agreements\cross_park_cricket_pavilion\cross_park_cricket_pavilion.dwg

Councillor Geary disclosed that he had a non-financial interest as his daughter is a Member of the Netball Club. As a consequence, he advised that there may be a perception on the basis of his non-financial interests that his impartiality on the matter may be affected, but declared that he would set aside this association, consider the matter on its merits and vote accordingly.

1.1 - CROSS PARK CRICKET/NETBALL PAVILION - INTENTION TO LEASE

WARD : HILLS
FILE No. : M/429/19
DATE : 26 June 2019
REF : CW
RESPONSIBLE : Executive Director
MANAGER : Community Services

In Brief:

- This Report presents a proposed Lease for Roleystone-Karagullen Cricket Club Inc. following Council's support in July 2017.
- Recommend that pursuant to section 3.58 of the *Local Government Act*, enter into a Lease with the Roleystone-Karagullen Cricket Club Inc. for a portion of Cross Park – Lot 1 Jarrah Road, Roleystone.
- *Council determined the following at its Ordinary Council Meeting of 10 June 2019:*

Recommit the Report to the July 2 Community Services Committee Meeting (C19/6/19)

Additional commentary in the report is noted in bold italics.

Tabled Items

Nil

Officer Interest Declaration

Nil

Strategic Implications

1.3.1 Plan for Services and facilities in existing and emerging communities.

2.2.1.1 Deliver new and upgraded facilities that are multi-purpose where appropriate.

2.2.1.2 Facilitate the delivery of best locations for community facilities including colocation.

The Cross Park Master Plan which forms a part of the City's broader Community Hubs Master Plan initiative covers the subject area of this report.

Legislation Implications

Section 3.58 (5) *Local Government Act 1995* – Disposing of Property

Regulation 30 *Local Government (Functions and General) Regulations 1996* – Dispositions of property to which section 3.58 of the Act does not apply i.e. exempt dispositions.

Council Policy/Local Law Implications

Council Policy ADM2 – Property Lease Rental is applicable.

Budget/Financial Implications

There will be associated costs with regard to the preparation of the Lease, which under the City's current Leasing Policy the City contributes 100% of the legal costs for Community Groups / Associations.

It is recommended this be a peppercorn lease (\$1.00 per annum (plus GST)).

Consultation

1. Roleystone-Karagullen Cricket Club Inc.
2. Roleystone Netball Club Inc.
3. Officers from Community Services Directorate
4. Officers from Corporate Services Directorate
5. Officers from Technical Services Directorate

BACKGROUND

The City's Master Planning initiative was undertaken to identify current and future needs for community buildings and public open space on 12 community hubs in the City's more established areas, including the facilities and open space at Cross Park, Roleystone. The Cross Park Master Plan was one of the first to be developed and was endorsed by Council in March 2013 (C8/3/13).

In November 2016 Council adopted a preliminary assessment and prioritisation of twelve major projects identified through the Master Planning initiative over the twelve sites throughout the City's more established areas (C42/11/16). One of these is the Cross Park Cricket/Netball Pavilion that is the subject of this report.

Each of the Master Plan projects are to be the subject of a feasibility study and further analysis to determine a more detailed scope of works and how each may be funded. The Cross Park Cricket and Netball Pavilion was one of the first for which this more detailed work has been undertaken. In July 2017 Council received the report on the project feasibility, and endorsed the concept plan and supported submission of funding application for the pavilion. (C18/7/17). The July 2017 report provides comprehensive background information on the project and how the redeveloped facility relates to the Cross Park precinct and other facilities at Cross Park.

In summary, the Cricket/Netball pavilion will be home to the Roleystone-Karagullen Cricket Club and the Roleystone Netball Club. The cricket club will use the facility more as it trains and schedules games at Cross Park. The netball club will use the facility and nearby courts for training only. Both clubs have storage areas and both will use the facilities for other club related activities such as committee meetings and social functions.

An external grant of \$500,000 has been secured and the combined financial contribution of the two clubs towards the project is \$250,000 (\$220,000 cricket, \$30,000 netball). A loan of \$270,000 is allocated in the budget which will meet the balance of the construction costs. Construction is scheduled to commence in 2019-2020 and it is considered desirable to have conditions of tenure agreed before construction commences.

Officers can advise if that Council determines not to resolve the recommendation to enter into a lease, the awarding of the Tender can include conditional approval subject to a satisfactory Occupancy Arrangement being reached. This will enable further negotiation if required.

DETAILS OF PROPOSAL

The Roleystone-Karagullen Cricket Club Inc. (RKCC) is seeking to enter into a lease for the premises known as Cross Park Cricket Netball Pavilion situated in Cross Park, 44 Jarrah Road Roleystone, for use on a regular basis for meetings and recreation activities managed by the Club. The terms of the lease will ensure that the interests of the Roleystone Netball Club, as a secondary tenant, are taken into account.

The RKCC has made two requests regarding the lease that are different from the City's normal practice.

1. RKCC have requested a 30 year (minimum) single term lease (ie. no options within the term). Security of tenure is the club's most pressing concern given the significant fundraising effort by the clubs that has resulted in a \$250,000 contribution towards construction of the new facility.

It is noted that a 30 year term would be inconsistent with longer term leases that have been provided in recent years, for example the Armadale Golf Course (C52/11/15) and Greendale Centre (CS3/1/16), which are both leased under initial 10 year terms with two further five year options. This report recommends a 10 year term with one further 10 year option.

2. RKCC have also requested that the cost to the Club of outgoings is capped. The Club is proposing that it pays water and power consumption costs in full and that a cap is placed on all other outgoings. This report recommends against this request and that the lease is based on similar agreements where the lessee is responsible for all outgoings.

For reasons outlined in the next section of this report, it is proposed that the lease be based on the terms and conditions as follows:

Occupier:	Roleystone-Karagullen Cricket Club Inc.
Leased Area:	Approx. 400 m2 of Cross Park as outlined on the plan attached.
Term:	Ten (10) years with a further optional ten (10) year term.
Commencement:	Upon practical completion of the pavilion.
Rent:	Peppercorn \$1.00 per annum plus GST.
Insurance:	Lessee to be responsible for: <ul style="list-style-type: none">▪ Building Insurance.▪ Insurance of any property or equipment owned by the club stored on site.▪ Public Liability to a value of \$20 Million.
Outgoings:	Occupier to be responsible for normal outgoings of the premises.
Maintenance:	In accordance with Maintenance Schedule outlining City and Lessee responsibilities.
Other:	Any required conditions of the approved Development Application to be incorporated in the Lease Leasing arrangements must ensure that the Roleystone Netball Club has adequate access to, and can operate effectively from the facility.

ANALYSIS

Type of agreement

It is recommended that a lease would be the most appropriate form of agreement in this instance. Other options for occupancy are through a licence or occupancy agreement, but these don't offer the security of tenure that the RKCC are seeking. In recognising the level of financial contribution provided by the clubs, entering into a lease rather than another arrangement is considered a reasonable proposition.

While tenure for the cricket club is a significant consideration, the pavilion also has dual use as the home for netball. A primary reason for the success and amount of the grant funding secured is to accommodate netball and their interests need to be considered and provided for.

The proposed lease will be directly with the cricket club as the head lessee, and will include terms and mechanisms to accommodate both permanent access for netball, and community use. This arrangement has been agreed between the two clubs.

Rent

It is proposed to charge the group a 'peppercorn' amount of \$1 per annum in recognition of the significant financial contribution towards the capital costs of the project.

Term of Lease

It is proposed that Council initially enter into a Lease for a ten (10) year term with the option to extend a further ten (10) years. This approach is consistent with recent leases entered into with other organisations that have a long term outlook and a significant commitment to operate facilities, such as the Armadale Golf Course and Greendale Centre.

The proposal by the RKCC for a single term lease of 30 years is not supported for the following reasons;

- 30 years is a long time to be locked into a set of arrangements. While leases can be varied it is suggested that a more formal review of arrangements at intervals of no more than ten years is appropriate.
- While both the RKCC and RNC are currently very well run and operate effectively together, experience with other organisations indicates this may not always be the case.
- The proposed term of an initial ten years with a further ten year option is consistent with other longer term leases.
- The RKCC will have the ability to seek a new lease at the end of 20 years. If the Club continues to be well run, and arrangements with other user groups operate effectively, the Club should be well positioned to secure a new lease.

The City entered a number of 21 year leases (no options) in the 1990s and early 2000s. These include the Kelmscott Tennis Club, Roleystone and Armadale Guides, and Southern Districts Support Association (John Greene Centre, Gwynne Park). As these leases expire groups are being advised that shorter lease periods will be the norm.

An exception is Lotteries House (Gwynne Park) for which the land is leased for a 50 year term (commenced in 1992). This would have been a condition of Lotterywest funding at the time. In this case the City has no responsibility for any maintenance of structures on the leased land.

Council has the ability to propose and enter into a lease for a longer term in accordance with section 136 of the *Planning and Development Act 2005* which requires approval from the Planning Commission. While there is an additional level of approval required for leases extending beyond 20 years, this is not a determining factor in proposing a ten year initial term with one ten year option for the RKCC.

Subsequent to the June report, officers have confirmed that Planning Commission approval relates to land only and not to buildings and so is not applicable to the Cricket /Netball pavilion lease.

Outgoings

It is proposed that RKCC is responsible for all outgoing associated with the facility. This approach is consistent with recent leases entered into with other organisations.

- Roleystone Community Garden – the group provided all capital and paid for service connections, and their lease includes all outgoing.
- Roleystone Mens Community Shed – while the development application is still being considered, the resolution on the intention to lease report includes all outgoing as the responsibility of the group. The capital contribution of the club is comparable to that of the RKCC.

Typically City leases include a schedule detailing the maintenance items and responsibilities particular to the subject premises. Generally this schedule is comprised of:

- Items that are the responsibility of the lessee to undertake. For example general housekeeping, replacement of light bulbs.
- Items that are undertaken by the City, but on charged to the lessee. For example repairs to light fittings, leaking taps, clearing gutters above 2m off the ground, statutory servicing and pest control.
- Items that are the responsibility of the City. For example replacement of floor coverings due to fair wear and tear, renewal items, hot water system replacement.

The lessee is also typically responsible for costs in full of outgoing of power, water, communications, insurance etc.

RKCC have said that they are very happy to pay consumption costs (power, water etc) in full but have requested that in recognition of the capital contribution to the project; all other outgoing are limited to a capped amount to be negotiated and indexed annually.

Subsidising outgoing in this way is inconsistent with the City's normal approach which sees all outgoing as the responsibility of the lessee. An exception is the agreement the City has with the Child health clinics which occupy part of Evelyn Gribble Centre, Kindaimanna Kindergarten (Grasmere Way) and Bakers House. In this case the lessee pays a set contribution towards the overall outgoing of these larger multi use facilities.

While the significant capital contribution of the RKCC is acknowledged, it was not the intention that it be 'recouped' by passing costs on to the City over the term of the lease. The capital contribution allowed the project to be progressed, and for exclusive use and control of the facility by the two clubs.

It is noted that the current review of the City's Property Lease Rentals Policy is in part, aiming to create more consistency in arrangements for new occupancy agreements. While it may be ideal to enter a lease under revised leasing arrangements it is considered highly desirable to set the terms and conditions of occupancy of the Cricket/Netball pavilion prior to the commencement of construction which is scheduled for the second half of calendar year 2019. Should Council wish to wait until the revised policy is considered it would be advisable to delay construction until such time as conditions and responsibilities are known and agreed.

Pursuant to relevant legislation, Council can without calling public tenders or holding a public auction, approve the Applicant's request as the land (premises) will be used by a group whose :-

- objects are of a charitable, educational and recreational nature; and
- members are not entitled to receive any pecuniary profit from the group's transactions.

OPTIONS

Option 1 – Enter into a Lease with Roleystone-Karagullen Cricket Club Inc for an initial term of 10 years with one further 10 year option.

This is the preferred and recommended option for the following reasons:

- Formalises the tenancy for the club.
- Provides highest level of security for the club taking into account their significant financial contribution.
- Includes enforceable mechanisms to protect the interests of the netball club and ensure the facility is available to the public.
- Aligns to the endorsed Master Plan for Cross Park.

Option 2 – Enter into a Lease with Roleystone-Karagullen Cricket Club Inc for a single term of 30 years.

This option is not recommended for reasons outlined in this report.

Option 3 – Enter into an alternative agreement instrument (e.g. Management Agreement or License)

This is not the preferred option at this time and is not recommended.

CONCLUSION

The redevelopment of the Cross Park Cricket/Netball pavilion was identified as part of the Cross Park Master Plan process. With external funding and a significant financial contribution from the clubs this new facility will be delivered at low cost to the City. Therefore it is considered appropriate for Council to acknowledge this contribution by committing to Lease as detailed in the proposal section of this report for the reasons noted in Option one (1).

ADDITIONAL OFFICER COMMENT:

The Roleystone Cricket Club have indicated that the most significant issue for them is securing tenure for the building for the longest possible term. The Club's proposal is for a 30 year signal term lease (with no options during the lease term).

The City's current practice is for a maximum of 20 years comprising an initial term and then options of either 5 or 10 years.

RKCC has requested a 30 year term based on its stable tenure of Cross Park over many decades and also because of the significant commitment of \$250,000, raised by club members towards the redevelopment.

In this instance, rather than presenting an officer recommendation regarding the term, Council is being asked to make a judgement on the merit of the club's proposal against the City's usual practice. The term of the lease is therefore to be determined by Council in the recommendation.

In relation to Maintenance and Outgoings, Council is aware that the revised Leasing Policy is to be presented shortly for endorsement. The RKCC wishes to be assured that they will not be at a disadvantage to any other organisation that has an occupancy arrangement with the City. Whilst Council is still to determine the details of the Policy, the intention is that Maintenance and Outgoings would be consistent with current practices.

Committee Discussion

Committee discussed various options of tenure to help determine the term for the Club, recognising the proactive approach the Club has taken over the years. Committee discussed the risk to the City in awarding a 30 year lease, the current review of the Policy associated with leasing of City buildings and the desire to standardise lease arrangements to provide equity amongst all groups and consistency in application. After lengthy discussion, Committee voted on a term of thirty years as reflected in the recommendation.

ATTACHMENTS

There are no attachments for this report.

RECOMMEND

C24/7/19

That Council, pursuant to section 3.58 of the Local Government Act 1995, enter into a Lease with Roleystone-Karagullen Cricket Club Inc. for a portion of Cross Park – Lot 1 (No.44) Jarrah Road, Roleystone, as detailed on the attached plan to this report , under the following basic terms and conditions:

- Occupier:** Roleystone-Karagullen Cricket Club Inc.
- Leased Area:** Approx. 400 m2 of Cross Park as outlined on the plan attached.
- Term:** ~~30 years~~ **20 year term lease with 10 year option.**
- Commencement:** Upon practical completion of the pavilion.
- Rent:** Peppercorn \$1.00 per annum plus GST.
- Insurance:** Lessee to be responsible for:
- Building Insurance.
 - Insurance of any property or equipment owned by the club stored on site.
 - Public Liability to a value of \$20 Million.
- Outgoings:** Occupier to be responsible for normal outgoings of the premises.
- Maintenance:** In accordance with Maintenance Schedule outlining City and Lessee responsibilities.
- Other:** Any required conditions of the approved Development Application to be incorporated in the Lease.
Leasing arrangements must ensure that the Roleystone Netball Club has adequate access to, and can operate effectively from the facility.

Amended
at the
Council
Meeting
of 8 July
2019.

Moved Cr C A Campbell
Seconded Cr C Frost
MOTION CARRIED

Opposed Cr Butterfield
(4/3)

COUNCILLORS' ITEMS

1. Public Speaking Competition for Schools - Commendation (Cr Carole Frost)

Cr Frost acknowledged the recent public speaking competition and wanted to recognise the effort put in by the students. Cr Frost requested copies of the video footage be made available, which could be used to promote Armadale in a positive light.

2. Kelmscott Hall Open Day (Cr Ruth Butterfield)

Cr Butterfield informed Committee that residents had provided very positive feedback in relation to the recently refurbished Kelmscott Hall and requested that an Open Day be organised in the near future to allow the Community the opportunity to see the upgrades.

RECOMMEND

C25/7/19

That Council refers the following Councillor Items to the relevant Directorate for action and/or Report to the appropriate Committee

- **Public Speaking Competition for Schools – Commendation**
- **Kelmscott Hall Open Day**

Moved Cr C M Wielinga
MOTION CARRIED

(7/0)

EXECUTIVE DIRECTOR COMMUNITY SERVICES REPORT

The Executive Director Community Services, Yvonne Loveland, has been appointed to the Library Board of Western Australia as a representative for Local Government, with a term expiring on 11 June 2023.

As a Board Member, Yvonne is the WALGA Metropolitan representative.

MEETING DECLARED CLOSED AT 7.39PM