

13.4 Proposed disposal of cafe spaces at Leisurelife and Aqualife by way of lease

Location	East Victoria Park
Reporting officer	Senior Property Development and Leasing Officer
Responsible officer	Chief Operations Officer
Voting requirement	Simple majority
Attachments	1. CONFIDENTIAL - Submitter 1 [13.4.1 - 1 page] 2. CONFIDENTIAL - Submitter 2 [13.4.2 - 2 pages]

Recommendation

That Council:

1. Notes the outcomes of the notice to invite public submissions on the proposal to dispose of the Leisurelife Café and Aqualife Café by lease for a social enterprise to operate from the premises under Policy 114 Community Funding Policy, subsection Operating subsidy.
2. Authorises the Chief Executive Officer to readvertise by public notice of the intention to dispose of the Leisurelife Café and Aqualife Café by lease to the public at large pursuant to section 3.58 of the *Local Government Act 1995*, with criteria to include that the Town seeks a service provider, community or sporting organisation that would complement the services provided by the Town at the Leisurelife Recreation Centre and Aqualife Aquatic Centre.
3. Authorises the Council to consider all submissions and select the preferred proponent/s for the Leisurelife Café and Aqualife Café.

Purpose

To present all submissions to Council following the public notice period of the intention to dispose of the Leisurelife and Aqualife Café by lease to a social enterprise to allow Council to consider and select the preferred proponent.

In brief

- Historically the Town operated the cafes at Aqualife and Leisurelife. The café services operated at an annual loss of approximately \$50,000. This led to a Council endorsed decision to test the market for interest in leasing the café facilities, resulting in the appointment of Hospitality Industry Service Providers Pty Ltd (HISP). Notwithstanding continuous efforts, HISP were not able to meet projected sales targets from both Café locations and subsequently rendered their business operations at these locations unviable after operating at a loss.
- Council, at the Ordinary Council Meeting of 21 April 2020 accepted the surrender of lease effective 31 March 2020 for both the Leisurelife Café lease and Aqualife Café lease.
- At the Ordinary Council Meeting held 21 April 2020, the Council also resolved to authorise the Chief Executive Officer to advertise by public notice within the next 12-24 months of the intention to dispose of the Leisurelife Café and Aqualife Café by lease for a social enterprise to operate from the premises under Policy 114 Community Funding Policy, subsection Operating subsidy.
- Policy 114 Community Funding Policy defines a social enterprise (also referred to as business) as:
 - a. A small business that is led by an economic, social, cultural or environmental mission consistent with a public or community benefit.

- b. Derive a substantial portion of their income from trade.
- c. Reinvest the majority of their profits/surplus in the fulfilment of their mission.
- The Town advertised by public notice pursuant to section 3.58 of the *Local Government Act 1995* to invite expressions of interest for the disposal of the Aqualife Café and Leisurelife Café to a social enterprise by way of a lease.
- Two submissions were received during the public submission period which closed on 4 March 2022. Both submissions do not evidence qualification as a social enterprise under the definition of a social enterprise within Policy 114 Community Funding Policy.
- This item recommends Council approve readvertising both Café spaces to the open market and invite submissions from the public at large in accordance with section 3.58 of the *Local Government Act 1995*.

Background

1. The Aqualife and Leisurelife facilities provide a range of community recreational spaces and related services. The facilities include two cafe spaces:
 - (a) Aqualife Café - Fully equipped 60m² café facility with all kitchen facilities and a servery onto the public seating area adjacent to the indoor pool area.
 - (b) Leisurelife Café - Fully equipped 24m² café facility with kitchen facilities and a servery onto the public seating area adjacent to the basketball arena.
 - (c) Until 31 March 2020 the Aqualife Café and Leisurelife Café were both leased to HISP, a commercial operator who requested a surrender of lease to effect the premature termination of their lease contracts due to the inability to operate at a profit.
2. Council, at the Ordinary Council Meeting of 21 April 2020 accepted the surrender of lease effective 31 March 2020 for both the Leisurelife Café lease and Aqualife Café lease and authorised the Chief Executive Officer to advertise by public notice within the next 12-24 months of the intention to dispose of the Leisurelife Café and Aqualife Café by lease for a social enterprise to operate from the premises under Policy 114 Community Funding Policy, subsection Operating subsidy.
3. A social enterprise is a hybrid business model which joins the social purpose traditionally associated with the not-for-profit sector, with the economic rationality and market based approach traditionally associated with for-profit firms to drive social and/or environmental change. In addition to raising revenue through product sales, social enterprises have the capacity to leverage a range of funding sources, including philanthropic funding, grant funding, donations etc, which can help ensure financial viability and sustainability.
4. Prior to HISP leasing the café spaces, the Town was approached by the Perth Basketball Association Inc (Perth Redbacks). To ensure a service could continue to be provided after the café spaces were vacated, the Town approached the Perth Redbacks to see if they were still interested in a casual hire arrangement until the café spaces were advertised for a social enterprise. The Perth Redbacks initially tried both café spaces however ceased to operate the Aqualife Café soon after due to it not being a viable business option for them.
5. To test the market in the lease opportunities within the facilities, the Town advertised by public notice pursuant to section 3.58 of the *Local Government Act 1995* to invite expressions of interest for the disposal of the Aqualife Café and Leisurelife Café to a social enterprise by way of a lease.

Strategic alignment

Economic	
Strategic outcome	Intended public value outcome or impact
EC02 - A clean, safe and accessible place to visit.	Café facilities will be available within a clean, safe

	and accessible environment.
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Environment	
Strategic outcome	Intended public value outcome or impact
EN05 - Appropriate and sustainable facilities for everyone that are well built, well maintained and well managed.	The café spaces are in compliance with EN05 and any new tenant will be required to maintain the cafes at a high standard to the benefit of community members who visit the facilities.

Social	
Strategic outcome	Intended public value outcome or impact
S03 - An empowered community with a sense of pride, safety and belonging.	Empower people facing barriers to inclusion and upwards social mobility through meaningful employment opportunities which provide hands on experience and training within the hospitality industry.

Engagement

Internal engagement	
Stakeholder	Comments
Property Development and Leasing Manager	Comments are incorporated in the report.
Leisure Facilities Program Manager	The café space at Leisurelife is currently operating under a casual hire arrangement with the Perth Redbacks Basketball Association. This arrangement is working reasonably well for both parties predominantly due to alignment of core programs. The Redbacks briefly operated the Aqualife Café space under the same arrangement without success. The provision of food and beverage is an important part of the Leisure facilities experience and we feel that a longer-term arrangement would be beneficial for the Town. Selection criteria must stipulate that any proponent would align to our core values, programs and services.
Manager Community	Support the rationale that the applicants for the EOI do not meet the definition of a social enterprise, as per Policy 114. Due to the nature and general funding model of social enterprises, it can be difficult to succeed in such an enterprise / location without substantial start up assistance and or resources. Opening a future EOI to the wider market will likely increase the range of businesses suitable for the locations in question, with social enterprises still able to submit an EOI.
Manager Development Services	The continued use of the spaces as a café is acceptable from a planning perspective. The Parks and Recreation reservation applying to the land is limiting in terms of the allowable uses of the land. Uses considered to be complimentary to the services provided by the Town at the centres, would be favorably

considered.

External engagement

Stakeholders	Social Enterprises
Period of engagement	12 February 2022 to 4 March 2022
Level of engagement	Consult
Methods of engagement	Written submissions accepted.
Advertising	Notification on public notice boards, Town website and the West Australian newspaper notice.
Submission summary	Two submissions received.
Key findings	Two submissions do not qualify as an eligible social enterprise.

Legal compliance

[Section 3.58 of the *Local Government Act 1995*](#)

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Leaving the café spaces vacant would result in revenue loss for the Town.	Moderate	Almost Certain	High	Low	TREAT risk by making the café spaces available for ongoing hire.
Environmental	Not applicable.					
Health and safety	Not applicable.					
Infrastructure/ ICT systems/ utilities	Not applicable.					
Legislative compliance	Not applicable.					
Reputation	Not applicable.					

Service delivery	Failure to secure a suitable operator to meet community expectations.	Moderate	Possible	Medium	Low	TREAT risk by securing a suitable operator to ensure service provision for the community.
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Financial implications

Current budget impact	<ul style="list-style-type: none"> The Town currently does not receive any revenue from the Aqualife café as this space has remained vacant. The Town currently receives approximately \$3,500 per annum in revenue from the Perth Redbacks via hire fees for the Leisurelife cafe. Should Council accept the recommendation, the revenue for this financial year will be adjusted as required.
Future budget impact	<ul style="list-style-type: none"> Given the limited permissible land uses, lack of exposure to passing trade and history of unviable business operations and the current rental demand and supply situation in the market, we are limiting revenue forecast to the \$3,500 per annum which we are currently receiving.

Analysis

- Advertising the proposal to dispose of the Leisurelife Café and Aqualife Café by lease for a social enterprise to operate from the premises under Policy 114 Community Funding Policy, subsection Operating subsidy has been undertaken in accordance with section 3.58 of the *Local Government Act 1995*. Notice of the proposed disposition was published in the West Australian newspaper, on the Towns website and at the Town of Victoria Park Library and Administration Centre notice boards on the 12 February 2022. The expression of interest submission period was open for 21 days.
- Two submissions were received during the submission period. Both submissions have expressed an interest in leasing the Leisurelife Café space however, for the reasons set out below, they do not evidence compliance with social enterprise criteria under Policy 114 Community Funding Policy.

Submission	Summary	Officer Response
1. Submitter 1	<p>Submitter is a commercial operator who asserts extensive experience within the hospitality industry. Proposes a quality service focusing on:</p> <ul style="list-style-type: none"> house made products; tailored products to suit the demographic and individual needs e.g. gluten free; classic lines; coffee and beverages; a retail vibe through the sale of 	Submitter 1 does not evidence compliance with social enterprise criteria and therefore does not meet the requirements contained within Policy 114 Community Funding Policy.

	<ul style="list-style-type: none"> coffee beans and to-go cups; a catering service; and local suppliers 	
2. Submitter 2	<p>Submitter is a not-for-profit sporting association who currently occupy the Leisurelife café under a casual hire arrangement, submission offers to provide a café service managed by a dedicated and experienced canteen manager for specific days, these being Saturday, Sunday and Special event days. They would like to continue to operate the café based on their current arrangement or a comparable arrangement that meets the objectives of the Town.</p>	<p>Submitter 2's offering is a limited one based on their current (Leisurelife only) casual hire arrangement or a comparable arrangement. The Town's Leisure Facilities assess that the provision of food and beverage is an important part of the Leisure facilities experience and a longer-term arrangement would be beneficial for the Town.</p> <p>Submitter 2 is a not for profit and displays some characteristics of a social enterprise but hasn't evidenced all of the characteristics contained within the definition of a social enterprise under the terms of the Policy 114 Community Funding Policy.</p>

8. Submitter 1 and Submitter 2 do not qualify as a social enterprise under Policy 114 Community Funding Policy due to lack of evidence and insufficient evidence, respectively. The Policy definition states:
"A social enterprise (also referred to as business) means;
(a) A small business that is led by an economic, social, cultural or environmental mission consistent with a public or community benefit
(b) Derive a substantial portion of their income from trade
(c) Reinvest the majority of their profits/surplus in the fulfilment of their mission."
9. The cafés predominantly offer a community facility as a service to users of the leisure centre. Historically, they have not been able to function as a viable commercial operation due to the lack of a continuous flow of patrons other than perhaps weekends and evenings when the facilities are being utilised. Considering the cafes are located within community leisure centres without the tenancies having any individual identity, it is generally difficult to attract tenants who require a commercial or other trading image to appeal to their particular customer base.
10. The Leasing Management Practice notes these cafes are held for community purposes and may be considered for utilisation by not-for-profit associations, community groups, sporting clubs and commercial operators subject to either a lease, licence or facility hire agreement. Generally, tenure is granted on the basis of a lease where the intention is to grant exclusive possession of the property or part of the property.
11. The officer recommendation supports readvertising the café spaces in the open market to the public at large in order to invite submissions from commercial operators, sporting clubs, not-for-profit associations, community groups and individuals under a lease arrangement with a view to providing the Council with an opportunity to select the best proponent for the community. In the meantime, it is envisaged that the existing casual hire arrangement for the Leisurelife café will continue.

12. A local government may dispose of property by way of a lease provided it gives local public notice, and it considers any submissions made to it before the date specified in the notice in accordance with section 3.58(3) of the *Local Government Act 1995*.

Relevant documents

Not applicable.