

13.5 Approval to enter into a landscaping maintenance agreement - Burswood Park Board and Town of Victoria Park

Location	Burswood
Reporting officer	Principal Traffic and Design Coordinator
Responsible officer	Chief Operations Officer
Voting requirement	{voting-requirement}
Attachments	<ol style="list-style-type: none"> 1. CONFIDENTIAL REDACTED - Maintenance Costs prepared by Burswood Park Board [13.5.1 - 2 pages] 2. CONFIDENTIAL REDACTED - Burswood Park Board Service Levels and Maintenance schedule [13.5.2 - 11 pages] 3. CONFIDENTIAL REDACTED - Dedication of Roads on the Peninsula (49553) - Legal Advice from Mcleods dated 01082022 [13.5.3 - 8 pages] 4. CONFIDENTIAL REDACTED - Burswood Park Board and Town Victoria Park Cost Analysis with Comparisons [13.5.4 - 1 page]

Recommendation

That Council:

1. Approves the preparation of a maintenance agreement between the Town of Victoria Park and Burswood Park Board subject to the following objectives;
 - (a) The costs of drafting any legal documentation are shared equally between the Burswood Park Board and Town of Victoria Park
 - (b) Endorse option 2 – 50/50 Cost sharing arrangement for landscaping maintenance on Peninsula roads nominated being Bolton Avenue, Camfield Drive North and Victoria Park Drive South
 - (c) Term of the agreement shall be 3 years with an option of 2 X 1 year extensions, effective from the 1 January 2023. Reviews by the Town will be aligned to any contract renewals or new tender submissions
2. In accordance with section 9.49A(4) of the *Local Government Act 1995*, authorises the Chief Executive Officer to execute the final maintenance agreement on behalf of Town of Victoria Park.

Purpose

Present Council with the assessment of future maintenance options and costs for landscaping on Peninsula Roads, currently being maintained by Burswood Park Board.

In brief

- Since the establishment of the Casino and subsequent Stadium venue, a number of roads within the precinct have been dedicated, which include Bolton Avenue, Victoria Park Drive and Camfield Drive (the northern section between the WA Water Sports Association and Roger Mackay Drive). Many roads also remain in private ownership with an intent to handover road assets to the Town for future care, control and management.

- The precinct and access roads no longer just serve the Casino and are a significant tourist destination for the State of Western Australia.
- Historically the Burswood Park Board have been maintaining landscaping on verges and medians for key roads such as Bolton Avenue and Victoria Park Drive.
- In early January 2022, the Town of Victoria Park and Burswood Park Board commenced preliminary discussions regarding landscaping maintenance on peninsula roads triggered by several network changes aligned to Stadium transport planning and the need to define areas of responsibilities.
- To investigate the most equitable outcome for both the Town of Victoria Park and Burswood Park Board, 6 options have been assessed and presented with costs. The most favourable is option 2, which is to share the maintenance costs equally.
- The estimated total maintenance area currently being considered is 16068m². This includes existing verges and median strips

Background

1. On 9 May 2022, the Town received formal correspondence from Burswood Park Board to commence negotiations on a maintenance agreement that recovers costs for Burswood Park Board Operations that currently service areas under the Town's control and care.
2. The basis being put forward to justify the maintenance agreement is as follows
 - (a) Burswood Park Board has been managing and maintaining areas controlled by the Town bordering the Parks Reserves for several years
 - (b) Recent boundary changes triggered by Optus Stadium have resulted in a need to establish formal agreements to maintain landscaping in zones where roads have been dedicated.
 - (c) Costs in managing and maintaining landscaping have risen substantially over the last two years. The Board is seeking to recover contract management and grounds maintenance costs
 - (d) Continued growth in the land area controlled by the Town has placed added pressure on existing contractual arrangements
 - (e) The Town is proposing additional landscaping within the road reserve along Victoria Park Drive (Roger Mackay Drive to Marlee Loop. This has not been accounted for and is yet to be installed.
3. The Burswood Park Board have identified four distinct areas where the maintenance agreement would be applicable;
 - (a) Bolton Avenue – Great Eastern Highway to Park Road (Old Dome ring road)
 - (b) Camfield Drive – Water Ski Association to Roger Mackay Drive
 - (c) Victoria Park Drive (Southern portion) - Great Eastern Highway to Park Road intersection
 - (d) Victoria Park Drive (Northern portion) - Roger Mackay Drive to Marlee Loop (This is subject to additional landscaping proposed by the Town. The area will be excluded from any agreement until such time works are completed.
4. Bolton Avenue, Camfield Drive North and Victoria Park Drive are all dedicated roads
5. In July 2022, the Town sought legal advice to confirm its obligations to maintain areas that historically have been cared for by Burswood Park Board. The intent was to clarify if the Burswood Islands Agreement Act 1985 had any enforcement powers relating to dedications. The advice suggested that there was nothing within the Parks and Reserves Act 1895 and/or Casino (Burswood Island) Agreement Act 1985 which would change the general position that the Town is responsible for the care, control and management of dedicated roads, which are not main roads or highways, pursuant to the provisions of section 3.53 of Local Government Act 1995 and section 55(2) of the Land Administration Act 1997. This position is also supported by section 8 of the Casino (Burswood Island) Agreement Act

1985 and the fact that the roads, through their dedication, do not comprise part of the Reserves over which the Burswood Park Board (the Board) has management over.

6. Over the years, Council has accepted various dedications on peninsula roads, and by virtue given the transaction via the land administration process, the responsibility falls on the Local Government to control, care and manage assets within the public realm.

Strategic alignment

Civic Leadership	
Community priority	Intended public value outcome or impact
CL3 - Accountability and good governance.	As roads are dedicated, the Town will have significant control and influence over future works within the road reserve.

Environment	
Community priority	Intended public value outcome or impact
EN5 - Providing facilities that are well-built and well-maintained.	The allocation of annual funding will assist the Town to upkeep these public amenities at the required service level

Engagement

Internal engagement	
Place Planning	Place Planning have indicated the importance of arriving at a suitable arrangement that ensures the current high service levels are maintained. The Burswood Peninsula is a special area of state significance. It is also a significant contributor to the Town's long-term financial position. To this end it is important that the Town provides an outstanding level of service across a range of areas.
Operations	Concerned that the current workforce is inadequate to deploy additional staff to the Peninsula . There is an advantage to keep the current contractual arrangements in place for the shorter term.

Other engagement	
Burswood Park Board	The Boards administration support an equal cost sharing arrangement as per option 2.

Legal compliance

[LAND ADMINISTRATION ACT 1997 - SECT 55](#)

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	If full costs revert to the Town, operations maybe forced to negotiate a new contract arrangement rather than use existing contract rates set by Burswood Park Board. Cost escalations are likely for new tenders	Moderate	Likely	High	Low	TREAT risk by Adopting a cost share arrangement that is equitable for all parties involved
Environmental	N/A				Medium	
Health and safety	N/A				Low	
Infrastructure/ ICT systems/ utilities	N/A				Medium	
Legislative compliance	Legal advice suggests that as roads are dedicated under section 55 (2) - Land Administration Act 1997 they are the responsibility of the Town to maintain. Not agreeing could result in further legal disputes	Moderate	Almost certain	High	Low	ACCEPT risk - In the short-term ensure current contractual arrangements between Burswood Park Board and their service provider continue.

Reputation	Reducing service levels will impact the quality of the public realm. The Peninsula attracts the wider community and there is an expectation to maintain the area at a high standard.	Moderate	Likely	High	Low	Accept risk – Lower service standard could be applicable to Victoria Park Drive , however a high service standard needs to be maintained for some key roads. E.g Bolton Avenue entry statement. Furthermore, it's extremely important for the Town to have a strong presence on the Peninsula
Service delivery	Workforce planning may require additional FTE's to service the Peninsula if high service standards are adopted	Minor	Likely	Medium	Medium	Treat risk by reviewing the Workforce Plan for the Parks Business Unit to ensure adequate resources are catered for into the future. Alternatively vary current town contracts to add additional scope if maintenance activity is permitted under tender.

Financial implications

Current budget impact	<p>Sufficient funds do not exist within the annual budget to address this recommendation. It is proposed that operating costs within the Parks budget will need to be increased and a new account set-up</p> <p>It is envisaged that the agreement will take affect from 1 January 2023, subject to Council endorsement, thus the first payment will be \$57,580.65 within the current financial year. If approved the adjustment can be incorporated into the mid-year review process</p> <p>As the Burswood Park Board are considered a "state agency" they can be classed as a monopoly supplier via this service agreement.</p>
Future budget	An amount of \$115,161.30 + CPI or accepted rates through a competitive tender

Impact

process will need to be considered for future years with the term of the agreement to align with contract renewals administered by Burswood Park Board in liaison with the Town. After 3 years, the Town should be in a better position to take control over certain areas of the Peninsula and understand its workforce needs into the future.

The funds will be allocated solely for landscaping maintenance. At a strategic level this arrangement must also be identified in the Town's Long Term Financial Plan (LTFP) to ensure adequate funding into the future

Analysis

7. The options assessed include the following;
 - (a) The full cost of maintenance as per BPB rates
 - (b) 50/50 cost share arrangements.
 - (c) 55/45 cost share arrangement with Victoria Park Drive removed from BPB maintenance schedule and added as a responsibility to the Town for routine works
 - (d) Full Town controlled maintenance on all 3 roads – With reduced service level
 - (e) Differential cost option – One agency pays the difference between high-quality servicing compared to a base level of service.
 - (f) Agreed square meter rate (m2) based on Town's costings and rates from other parks the Town maintains. (Medium to high service level)
 - (g) Table of cost comparisons below:

Options	Future Obligations	TOVP future costs	BPB Costs	Comment
Option 1 – Full Cost	ToVP only	\$230,322.60	\$0	Option indicates full cost recovery to BPB
Option 2 – 50/50	Shared costs	\$115,161.30	\$115,161.30	Balanced approach
Option 3 – 55/45	Shared costs	\$126,990.72	\$103,331.88	Difference relates to Victoria Park Drive South maintenance
Option 4 – Full Town controlled maintenance – Reduced Service level	TOVP only	\$129,040.80	\$0	Reduced service levels may not be acceptable
Option 5 – Differential Costs	Shared costs	\$101,228.40	\$129,094.20	Lowest cost option to the Town
Option 6 – Agreed m2 rate based on other Parks maintenance	ToVP only	\$160,037.28	\$0	Average rate is \$9.96 per m2

8. The current indication of the Burswood Park Board is that the administration supports option 2, which effectively allows costs to be equally shared between the Town and Burswood Park Board.

9. Option 5 is the most economical for the Town. However, the level of landscaping maintenance would likely be cut back on roads such as Victoria Park Drive and Camfield Drive to reduce operating costs for the Burswood Park Board.
10. The main benefit of securing option 2 is that it allows the Burswood Park Board to continue its maintenance regime with their contractor, Programmed Maintenance Services Ltd. Additionally, no service level reductions are envisaged.
11. At this stage, the Town does not have the in-house workforce to maintain the three nominated sites at the expected high service levels; therefore, there is no advantage of the Town taking control, care and management given the current resource implications.

Relevant documents

Not applicable.