

**11.7 EXTENSION OF LEASE AND DEED OF CONTRACT TO BELGRAVIA HEALTH & LEISURE GROUP PTY LTD - LOFTUS RECREATION CENTRE - PORTION LOT 501 (99) LOFTUS STREET, LEEDERVILLE**

- Attachments:**
1. Loftus Recreation Centre - Profit and Loss Statement - Confidential
  2. Loftus Recreation Centre - Loan Statement - 31 May 2022
  3. Loftus Recreation Centre - Loan Repayment Schedule
  4. DRAFT Deed of Extension of Lease - Belgravia Leisure - Confidential
  5. Belgravia Leisure - Counter Party Credit Report - 13 July 2022 - Confidential

**RECOMMENDATION:****That Council:**

1. **APPROVES** an extension to Belgravia Health & Leisure Group Pty Ltd (CAN 005 087 463) of the:
  - 1.1 **Deed of Contract, governing the operation and management of the Loftus Centre, for a further five (5) years commencing 1 January 2022 and expiring on 31 December 2027 subject to the following:**
    - 1.1.1 **The annual fee is reduced by an amount equal to 50% of the annual land tax liability on the lease of the Loftus Recreation Centre;**
    - 1.1.2 **All other terms and conditions remaining the same.**
  - 1.2 **Lease (including the Car Parking Licence) for part of the Loftus Centre at Lot 501 (99) Loftus Street, Leederville, for a further term of five (5) years commencing 1 January 2022 and expiring on 31 December 2027 subject to the following:**
    - 1.2.1 **A repayment plan is agreed in writing with the Chief Executive Officer, for the repayment of the Deferred Amount of \$64,900.72, within the term of this contract;**
    - 1.2.2 **The Lessor and Lessee to agree an annual program of capital works, to include the allocation of the Loftus Recreation Fund, for the purpose of facilitating venue improvements and capital purchases to assist in maintaining the facility and improving profitability of the Loftus Recreation Centre; and**
    - 1.2.3 **All other terms and conditions remaining the same.**
  - 1.3 **AUTHORISES** the affixing of the Common Seal of the City of Vincent to the extension of the Deed of Contract and Lease in accordance with the City's Execution of Documents Policy.
  - 1.4 **REQUESTS** the Chief Executive Officer to:
    - 1.4.1 **Prepare a paper for the consideration of Council considering options for the operating model and management agreement of Loftus Recreation Centre, no later than 31 December 2026 and**
    - 1.4.2 **include the Loftus Recreation Centre Options Paper in the Corporate Business Plan 2022-2026.**

**PURPOSE OF REPORT:**

To consider granting an extension of the Deed of Contract and the Lease (including the Car Parking Licence) to Belgravia Health & Leisure Group Pty Ltd (ACN 005 087 463) (**Belgravia**) over the Loftus Recreation Centre (Loftus Centre).

**BACKGROUND:**

Belgravia leases part of the Loftus Centre at Lot 501 (99) Loftus Street, Leederville pursuant to a Lease (**Lease**) between Belgravia and the City. At the same time the Lease was entered into, the City and Belgravia executed a Deed of Contract (**Contract**). The Contract runs concurrently with the Lease and governs the operation and management of the Loftus Recreation Centre by Belgravia.

The Loftus Recreation Centre provides multi-court sports and fitness programs that are unique recreation offerings for the Vincent community.

The Lease was for an initial term of 10 years commencing 1 January 2007 and expiring 31 December 2016 (this included a further optional term of 10 years, commencing 1 January 2017 and expiring 31 December 2026).

At its Ordinary Council Meeting on 23 August 2016, Council considered the grant of an extension to the Lease and Contract. The following options were considered by Council at the time:

- 1) Grant the Further Term and execute a Deed of Extension to the Contract and Lease;
- 2) Advise Belgravia that the Further Term will not be granted and the City intends to go back to Tender to test the market; or
- 3) Advise Belgravia that the Further Term will not be granted and the City take over the operation.

Council approved the grant of an extension to the Lease and Contract for a further term of 5 years rather than 10 years, commencing 1 January 2017 and expiring 31 December 2021 citing the development of the Leederville Oval Masterplan for the lesser period. A Deed of Extension of Lease dated 12 November 2018 was subsequently executed by the City and Belgravia.

The Contract includes a profit share arrangement and a loan repayment provision relating to the repayment by Belgravia of the City's \$3 million loan which funded the redevelopment of the Loftus Centre. Pursuant to the Contract, Belgravia is required to make Loan repayments to the City in equal monthly instalments in advance and the City is required to use the Loan repayments to pay off the principal and interest owing by the City under the Loan.

The 2017 Contract renewal of 5 years rather than 10 years means the Contract term and loan repayment term are no longer in alignment.

On 30 June 2020, the COVID-19 Relief and Recovery Committee (Committee) at its Meeting approved a deferral of Belgravia's obligations to pay 27 percent of rent, variable outgoings, sinking fund contributions and Loan repayments for the period between 1 April 2020 and 31 July 2020. The total deferred amount is \$64,900.72 (**Deferred Amount**).

On 8 September 2020, the Committee approved for the CEO to enter into a payment arrangement of equal monthly instalments with Belgravia for the repayment of the Deferred Amount to commence after 1 October 2020 and conclude no later than 31 December 2021. No formal payment arrangements were finalised in respect of the Deferred Amount repayment as the City and Belgravia were in negotiations regarding possible new lease arrangements.

At the Ordinary Council Meeting on 8 February 2022, Council approved a 12-month Contract extension to the Contract Council:

2. *APPROVES an extension to Belgravia Health & Leisure Group Pty Ltd (ACN 005 087 463) of the:*
  - 2.1 *Deed of Contract, governing the operation and management of the Loftus Centre, for a further term of 12 months commencing 1 January 2022 and expiring on 31 December 2022 subject to all other terms and conditions remaining the same; and*
  - 2.2 *Lease (including the Car Parking Licence) for part of the Loftus Centre at Lot 501 (99) Loftus Street, Leederville, for a further term of 12 months commencing 1 January 2022 and expiring on 31 December 2022 subject to all other terms and conditions remaining the same*

The Contract extension has not been executed as Belgravia have sought to renegotiate the terms. The Lease is currently in holding over.

**DETAILS:**

Belgravia advise that they have incurred a loss at Loftus Recreation Centre this financial year and cannot commit to the Contract extension as this would compound those losses. Refer Loftus Recreation Centre Profit and Loss for April 2022, at **Confidential Attachment 1**.

**Revised Contract Terms**

Belgravia seek an extension of the Contract for a further five (5) years to enable Belgravia sufficient time to make a greater investment in the proposed facility upgrades and recover losses incurred during COVID. They also seek a change to the annual lease fee to recognise the Department of Finance's recent decision to impose land tax on the Lease, and other minor contract variations.

Belgravia Leisure and the City of Vincent's management committee will continue to manage the performance of the Centre and will agree a program for the allocation of the Loftus Recreation Reserve Fund for the purpose of facilitating venue improvements that will assist to increase revenue eg gym equipment upgrades.

Proposed Deed and Contract Variations are detailed at **Confidential Attachment 4**.

**CONSULTATION/ADVERTISING:**

This paper includes outcomes from extensive discussions with Belgravia Health and Leisure Group and the management of Beatty Park Leisure Centre.

**LEGAL/POLICY:**

Clause 4.2 of the Contract provides that the City at its sole discretion may extend the Deed of Contract for a further 10-year term, commencing on 1 January 2017.

Similarly, clause 19.1 of the Lease provides that the City at its sole discretion may extend the Lease for a further 10-year term, commencing on 1 January 2017.

Council is therefore in a position to consider granting an extension of the Contract and Lease for a further 5 years to Belgravia.

**RISK MANAGEMENT IMPLICATIONS**

Low: It is low risk for Council to grant an extension of the Contract and Lease.

A counter party risk assessment is at **Confidential Attachment 5**.

Belgravia has demonstrated its capacity in managing the Loftus Centre and performing the requirement under the Lease. In addition, the observance of Belgravia's obligations under the Contract and Lease are supported through guarantee provisions under the Contract and Lease and backed by a bank guarantee.

In the event of a default, and after the application of the guarantee provisions, the primary financial risk for the City is the fulfilment of the Loftus Recreation Centre loan which can be paid if the Centre continues trading under a City management structure. We do not anticipate any significant impact on services in this scenario.

**STRATEGIC IMPLICATIONS:**

This is in keeping with the City's *Strategic Community Plan 2018-2028*

Connected Community

*Our community facilities and spaces are well known and well used.*

Thriving Places

*Our physical assets are efficiently and effectively managed and maintained.*

#### Innovative and Accountable

*Our resources and assets are planned and managed in an efficient and sustainable manner.*

#### **SUSTAINABILITY**

This does not contribute to any environmental sustainability outcomes in the *City's Sustainable Environment Strategy 2019-2024*,

#### **PUBLIC HEALTH IMPLICATIONS:**

This is in keeping with the following priority health outcomes of the City's *Public Health Plan 2020-2025*:

*Increased physical activity*

#### **FINANCIAL/BUDGET IMPLICATIONS:**

This lease and contract extension is a fiscally responsible approach to managing the ongoing provisions of services. It facilitates the repayment of the Loftus Recreation Centre loan, Belgravia contributions to the Loftus Recreation Centre Reserve, and improved utilisation of the Loftus Recreation Centre Reserve for the benefit of the venue and its operations.

The contract variation proposes that the Lessor and Lessee contribute a 50% share of land tax applying to the Lease, through an equivalent reduction in the annual fees. Land tax was recently imposed on the Lessee and was unanticipated in the original business case. As the management agreement places constraints on the tenant in their utilisation of the venue, and their ability to maximise profit, it is appropriate that the tax burden is shared between the Lessor and Lessee.

The City will improve the management of Loftus Recreation Centre capital works expenditure which will assist in recouping this expense.

#### **COMMENTS:**

##### **Benefits to the Vincent community**

The Belgravia Contract and Lease has delivered significant benefits for the City of Vincent and its community.

Over the past 15 years Belgravia has provided a financial return to the City of Vincent of approximately \$7.5m through a combination of loan repayments, lease payments, profit share and contribution to the reserve fund.

Belgravia provide an excellent service. They work collaboratively with the Vincent sport and recreation team and deliver against agreed key performance indicators. With the exception of business disruption arising from the impact of COVID-19 on the fitness sector, the contract has achieved the required objectives.

Services are delivered almost entirely without cost to the City of Vincent, other than capital works renewal for the building.

There is a benefit to continuing with the agreement for a further 5 years and honouring the original lease term. This allows Belgravia to trade through the recent challenges, repay their fee deferrals and pay out the remaining Loftus Recreation Centre Loan. Belgravia are better able to implement profit-making business strategies if they have a reasonable period of time remaining on the Contract.

##### **Other Options Considered**

##### *Alternative Option 1: Vincent Leisure Model – Loftus Recreation Centre and Beatty Park Leisure Centre*

In considering the renewal of the Contract, Administration has worked collaboratively with Belgravia to understand the nature of any actual or perceived competitive conflict between the Loftus Recreation Centre

and Beatty Park Leisure Centre businesses. We have also considered a 'Vincent Leisure Model' where there might be commercial or operating benefits to working more closely together.

In particular these discussions considered:

- Financial impact – where do the businesses compete against each other
- Service offering – what services are provided at each venue, which market segments do they target, and can they complement each other to deliver a suite of solutions to the Vincent community and each business' customers
- Vincent Leisure model – are there opportunities to create a joint membership model that delivers a synergistic uplift in profit across both businesses, either as separate entities or as a joint entity
- Opportunities for back-office efficiency – are there ways to save money, improve purchasing power or improve efficiency, by integrating back-office processes.

These discussions have identified potential synergies. However, we believe this is a significant piece of work, and a financial investment is required, to modify systems and processes.

#### Alternative Option 2: Market Testing the Operational Management Agreement

There is the option for Council to seek expressions of interest (**EOI**) from 3<sup>rd</sup> parties to market test the Operational Management Agreement more generally. The EOI could also include jointly or separately an Operational Management Agreement for the Beatty Park Leisure Centre.

#### Alternative Option 3: A further term is not granted and the City take over the operation (Insourcing)

Administration also considered the option of the City taking over the operation of Loftus Recreation Centre (insourcing).

#### Justification for not considering Alternative Options 1 to 3 at this time

Administration does not believe this is the optimal time to consider Alternative Options 1 to 3, for the following reasons:

- **Legal:** The current contract provides for an extension through to 2027 and this is consistent with the timeframes identified in the original tender.
- **Contract Performance:** There are no performance issues in the management agreement and therefore no compelling reasons to go to market right now, other than to test contestability. The proposal ensures no disruption to existing services to the community.
- **Financial:** The existing arrangement is financially acceptable to the City, as the majority of costs relating to the delivery of services are covered by the Contract. Belgravia Leisure is making a financial contribution to the maintenance of the asset, through their contribution to the Loftus Recreation Centre Reserve. Current inflationary conditions raise the likelihood that market testing the agreement may result in an adverse financial outcome to the City.
- **Market Competition:** There are no compelling competitive issues in the external market, or between Loftus Recreation Centre and Beatty Park (ie Alternative Option 1) that require immediate attention.
- **Sport and Recreation Facility Planning:** Maintaining the status quo is sensible while the sport and recreation facility plan is being undertaken.
- **Repayment of the Loan:** Extending this arrangement ensures the Loftus Recreation Centre Loan is repaid during the term of the Contract.
- **Capability and Capacity:** The City's ability to undertake external market testing or insourcing has been impacted by the response needed to respond to COVID-19.

The COVID-19 pandemic has impacted the sport and recreation sector and the Loftus Recreation Centre is in a period of recovery. Extending the contract allows sufficient time for Belgravia Leisure to recover losses, repay referred amounts, and stabilise the business.

A period of business recovery and stabilisation will improve the likelihood of successfully implementing Alternative Options 2 or 3 at a future date.

#### **Options available for Council**

If Council would prefer Alternative Options 2 or 3, the following actions would be required:

- The City would take over the management of the centre, either temporarily (Alternative Option 2) or permanently (Alternative Option 3). Additional staffing and budget would be required to manage the site.
- The City would take on the financial obligation of repaying the Loftus Recreation Centre Loan. This would be funded through revenue generated by continued operations.
- Additional operating costs would be expended in communications, IT system and finance system changes.
- Additional capital expenditure would be incurred, in the range of \$70,000 per annum, in lieu of the reserve fund contribution from Belgravia Leisure Centre.

If Council decided to test the market (Alternative Option 2), funding would be required to appoint an external consultant to develop the brief and support the process.

WESTERN AUSTRALIAN  
TREASURY CORPORATION

## Audit Report

Account - General

Facility - Annuity Lending

Client Loan ID	WATC Trade ID	Start Date	Maturity Date	Int Rate %	CF <sup>1</sup>	Debt Outstanding 31 May 22	Interest Paid 01 May 22 to 31 May 22 <sup>2</sup>	Accrued Interest 31 May 22	Market Value 31 May 22 <sup>4</sup>
5	49581	02 Jul 07	01 Jul 27	6.3500	M	1,165,481.36	6,251.20	6,167.34	1,259,804.92
						1,165,481.36	6,251.20	6,167.34	1,259,804.92

(1) The compounding frequency of the loan.

(2) Report does not include premium/ discount payments made on early termination of loans.

(3) Weighted Average Interest Rate is annualised rate.

(4) Market valu

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Loan No 5 Loftus Recreation Centre & Belgravia Leisure Centre  
 Lending Date 02/07/2007  
 Maturity Date 01/07/2027  
 Loan Amount \$ 3,000,000.00  
 Schedule Basis 240 months  
 Interest Rate 6.35% p.a.  
 0.53% effective monthly

	Payment Date	Debt Balance Outstanding	Capital Repayment	Interest Payment	Total Fixed Payment	Indicative Guarantee Fee	Indicative Total Payment
11	03/06/2008	2,929,152.25	6,564.47	15,534.83	22,099.30	151.17	22,250.47
23	02/06/2009	2,847,615.92	6,993.66	15,105.64	22,099.30	151.17	22,250.47
35	01/06/2010	2,760,748.64	7,450.91	14,648.39	22,099.30	151.17	22,250.47
47	01/06/2011	2,668,201.87	7,938.06	14,161.24	22,099.30	151.17	22,250.47
59	01/06/2012	2,569,604.31	8,457.06	13,642.24	22,099.30	151.17	22,250.47
71	04/06/2013	2,464,560.31	9,009.99	13,089.31	22,099.30	151.17	22,250.47
83	03/06/2014	2,352,648.43	9,599.07	12,500.23	22,099.30	151.17	22,250.47
95	01/06/2015	2,233,419.64	10,226.67	11,872.63	22,099.30	151.17	22,250.47
107	01/06/2016	2,106,395.55	10,895.30	11,204.00	22,099.30	151.17	22,250.47
119	01/06/2017	1,971,066.45	11,607.65	10,491.65	22,099.30	151.17	22,250.47
131	01/06/2018	1,826,889.40	12,366.57	9,732.73	22,099.30	151.17	22,250.47
143	03/06/2019	1,673,285.89	13,175.11	8,924.19	22,099.30	151.17	22,250.47
155	01/06/2020	1,509,639.62	14,036.51	8,062.79	22,099.30	151.17	22,250.47
167	01/06/2021	1,335,293.96	14,954.24	7,145.06	22,099.30	151.17	22,250.47
179	01/06/2022	1,149,549.40	15,931.96	6,167.34	22,099.30	151.17	22,250.47
180	01/07/2022	1,133,533.13	16,016.27	6,083.03	22,099.30	151.17	22,250.47
181	01/08/2022	1,117,432.11	16,101.02	5,998.28	22,099.30	151.17	22,250.47
182	01/09/2022	1,101,245.89	16,186.22	5,913.08	22,099.30	151.17	22,250.47
183	03/10/2022	1,084,974.02	16,271.87	5,827.43	22,099.30	151.17	22,250.47
184	01/11/2022	1,068,616.04	16,357.98	5,741.32	22,099.30	151.17	22,250.47
185	01/12/2022	1,052,171.50	16,444.54	5,654.76	22,099.30	151.17	22,250.47
186	02/01/2023	1,035,639.94	16,531.66	5,567.74	22,099.30	151.17	22,250.47
187	01/02/2023	1,019,020.90	16,619.04	5,480.26	22,099.30	151.17	22,250.47
188	01/03/2023	1,002,313.92	16,706.98	5,392.32	22,099.30	151.17	22,250.47
189	03/04/2023	985,518.53	16,795.39	5,303.91	22,099.30	151.17	22,250.47
190	01/05/2023	968,634.27	16,884.26	5,215.04	22,099.30	151.17	22,250.47
191	01/06/2023	951,660.66	16,973.61	5,125.69	22,099.30	151.17	22,250.47
192	03/07/2023	934,597.23	17,063.43	5,035.87	22,099.30	151.17	22,250.47
193	01/08/2023	917,443.51	17,153.72	4,945.58	22,099.30	151.17	22,250.47
194	01/09/2023	900,199.02	17,244.49	4,854.81	22,099.30	151.17	22,250.47
195	02/10/2023	882,863.27	17,335.75	4,763.55	22,099.30	151.17	22,250.47
196	01/11/2023	865,435.79	17,427.48	4,671.82	22,099.30	151.17	22,250.47
197	01/12/2023	847,916.09	17,519.70	4,579.60	22,099.30	151.17	22,250.47
198	02/01/2024	830,303.68	17,612.41	4,486.89	22,099.30	151.17	22,250.47
199	01/02/2024	812,598.07	17,705.61	4,393.69	22,099.30	151.17	22,250.47
200	01/03/2024	794,798.77	17,799.30	4,300.00	22,099.30	151.17	22,250.47
201	01/04/2024	776,905.28	17,893.49	4,205.81	22,099.30	151.17	22,250.47
202	01/05/2024	758,917.10	17,988.18	4,111.12	22,099.30	151.17	22,250.47
203	03/06/2024	740,833.74	18,083.36	4,015.94	22,099.30	151.17	22,250.47
204	01/07/2024	722,654.69	18,179.05	3,920.25	22,099.30	151.17	22,250.47
205	01/08/2024	704,379.44	18,275.25	3,824.05	22,099.30	151.17	22,250.47
206	02/09/2024	686,007.48	18,371.96	3,727.34	22,099.30	151.17	22,250.47
207	01/10/2024	667,538.30	18,469.18	3,630.12	22,099.30	151.17	22,250.47
208	01/11/2024	648,971.39	18,566.91	3,532.39	22,099.30	151.17	22,250.47
209	02/12/2024	630,306.23	18,665.16	3,434.14	22,099.30	151.17	22,250.47
210	02/01/2025	611,542.30	18,763.93	3,335.37	22,099.30	151.17	22,250.47
211	03/02/2025	592,679.08	18,863.22	3,236.08	22,099.30	151.17	22,250.47
212	03/03/2025	573,716.04	18,963.04	3,136.26	22,099.30	151.17	22,250.47
213	01/04/2025	554,652.65	19,063.39	3,035.91	22,099.30	151.17	22,250.47
214	01/05/2025	535,488.39	19,164.26	2,935.04	22,099.30	151.17	22,250.47
215	02/06/2025	516,222.72	19,265.67	2,833.63	22,099.30	151.17	22,250.47
216	01/07/2025	496,855.10	19,367.62	2,731.68	22,099.30	151.17	22,250.47
217	01/08/2025	477,384.99	19,470.11	2,629.19	22,099.30	151.17	22,250.47
218	01/09/2025	457,811.85	19,573.14	2,526.16	22,099.30	151.17	22,250.47
219	01/10/2025	438,135.14	19,676.71	2,422.59	22,099.30	151.17	22,250.47
220	03/11/2025	418,354.31	19,780.83	2,318.47	22,099.30	151.17	22,250.47
221	01/12/2025	398,468.80	19,885.51	2,213.79	22,099.30	151.17	22,250.47
222	02/01/2026	378,478.06	19,990.74	2,108.56	22,099.30	151.17	22,250.47
223	02/02/2026	358,381.54	20,096.52	2,002.78	22,099.30	151.17	22,250.47
224	02/03/2026	338,178.68	20,202.86	1,896.44	22,099.30	151.17	22,250.47
225	01/04/2026	317,868.91	20,309.77	1,789.53	22,099.30	151.17	22,250.47
226	01/05/2026	297,451.67	20,417.24	1,682.06	22,099.30	151.17	22,250.47
227	01/06/2026	276,926.39	20,525.28	1,574.02	22,099.30	151.17	22,250.47
228	01/07/2026	256,292.49	20,633.90	1,465.40	22,099.30	151.17	22,250.47
229	01/08/2026	235,549.40	20,743.09	1,356.21	22,099.30	151.17	22,250.47
230	01/09/2026	214,696.55	20,852.85	1,246.45	22,099.30	151.17	22,250.47
231	01/10/2026	193,733.35	20,963.20	1,136.10	22,099.30	151.17	22,250.47
232	02/11/2026	172,659.22	21,074.13	1,025.17	22,099.30	151.17	22,250.47
233	01/12/2026	151,473.58	21,185.64	913.66	22,099.30	151.17	22,250.47
234	04/01/2027	130,175.83	21,297.75	801.55	22,099.30	151.17	22,250.47
235	01/02/2027	108,765.38	21,410.45	688.85	22,099.30	151.17	22,250.47
236	01/03/2027	87,241.63	21,523.75	575.55	22,099.30	151.17	22,250.47
237	01/04/2027	65,603.98	21,637.65	461.65	22,099.30	151.17	22,250.47
238	03/05/2027	43,851.83	21,752.15	347.15	22,099.30	151.17	22,250.47
239	01/06/2027	21,984.58	21,867.25	232.05	22,099.30	151.17	22,250.47
240	01/08/2027	0.00	21,984.58	116.34	22,100.92	151.17	22,252.09
	<b>Totals</b>		<b>3,000,000.00</b>	<b>2,303,833.62</b>	<b>5,303,833.62</b>	<b>36,280.80</b>	<b>5,340,114.42</b>