

**5.5 VARIATION OF LEASE TO WEST AUSTRALIAN TENNIS ASSOCIATION INC
(ROBERTSON PARK TENNIS CENTRE)**

- Attachments:**
1. Robertson Park Tennis Centre lease plan
 2. Robertson Park development Staging plan

RECOMMENDATION:**That Council**

1. **APPROVES** a variation of lease with West Australian Tennis Association Inc (ABN 90 803 634 736) located at a portion of 176 Fitzgerald Street, Perth as follows:
 - 1.1 waiver of rent; and
 - 1.2 extend the tenure of the lease to expire, whichever date occurs later:
 - 1.2.1 on 29 August 2025; or
 - 1.2.2 until Stages 1A and 1B works for the Robertson Park Development Plan relating to the Robertson Park Tennis Centre are completed; and
2. **Subject to satisfactory negotiations being carried out by the Chief Executive Officer, AUTHORISES** the Mayor and CEO to execute the Deed of Variation of Lease in accordance with the Execution of Documents Policy.

PURPOSE OF REPORT:

To consider a variation and extension of the lease to West Australian Tennis Association Inc (ABN 90 803 634 736) (Tennis West) in respect of a portion of Robertson Park, No.176 Fitzgerald Street, Perth (Robertson Park).

DELEGATION:

Delegation 2.2.18 only allows minor variations of a lease. Waiver of rent and extending tenure of a lease are not considered minor variations.

BACKGROUND:

The Robertson Park Tennis Centre (Tennis Centre) is situated within Robertson Park. The Tennis Centre comprises of 38 tennis courts and a large social space/function room with a bar, commercial kitchen, office space and undercover area.

Following termination of Tennis Seniors' lease on 31 October 2019 and, in order to allow tennis to continue at the Tennis Centre throughout the Robertson Park Development Plan (Development Plan), Tennis West entered into an Interim Management Agreement with the City, which commenced on 12 November 2019 (approved by Council on [12 November 2019](#)). Following the interim agreement, on [28 July 2020](#), Council approved a lease to Tennis West (Lease) over the lease area shown in **Attachment 1** for a term of 13 months in view of the Development Plan. The Lease is currently on holding over.

Tennis Central entered into an agreement with Tennis West and has continued to operate the coaching, court hire and pennants competitions from the Tennis Centre.

Council on [14 September 2021](#) adopted the Development Plan. The Development Plan outlines the improvements to Robertson Park, identifying infrastructure upgrades that respond to community needs, whilst maximising land use and improving community access to recreation and leisure activities. The Development Plan is included as a strategic project in the City's Corporate Business Plan and works will be staged as per the plan at **attachment 2**.

DETAILS:

Robertson Park

Robertson Park is owned by the City in freehold with certain parcels of land being held in conditional freehold by the City for Municipal Purposes. The Premises may not be leased unless with the consent of the Minister for Lands, which may be given subject to conditions.

Condition of tennis courts

It is a term of the Lease that Tennis West is not required to rectify any damage to the tennis courts that were present prior to the Lease.

Since the endorsement of the Development Plan, the court conditions have continued to decline rapidly and operations at the Tennis Centre have significantly reduced as a result. To date, multiple tournaments including the major junior tournament hosting over 300 juniors, coaching and social competitions (over 126 players per week) have either had to be cancelled or relocated. Not only has the cancellation of events and venue move lost players, but it has also placed significant pressure on the other tennis centres.

Due to the court condition, the high maintenance costs associated with a poor asset condition, inability to generate revenue and the upcoming construction works, Tennis West has requested financial assistance to continue to operate the Tennis Centre throughout the Development Plan construction phase.

Cost to maintain grass courts

Clause 5.1 of the Lease requires Tennis West to carry out maintenance of the lawns and gardens. Due to the high maintenance costs associated with maintaining the grass tennis courts, lack of revenue from the hiring of the tennis courts, Tennis West and Tennis Central are unable to financially maintain the 11 grass tennis courts along Randell Street. These courts are also intended to be removed as part of the Development Plan.

To relieve the financial burden, Tennis West requested the City take on the maintenance of these courts which are now managed to the mowing standard of the remaining park. The City has assessed the cost for the City to undertake maintenance of this area at the Tennis Centre and have estimated the cost to the City to be approximately \$17,000 per annum. This cost is currently unbudgeted.

Lease and rent

Tennis West is currently paying rent of \$11,963.04 per annum. The rent is less than the City’s cost, should it take over maintenance of the grass courts. Tennis West is willing to continue undertaking the maintenance of the area at their cost and expenses, if the rent is waived.

Although Tennis West is a category 3 tenant within the [Property Management Framework](#), the proposal to waive the rent and extend the term of Lease falls outside the essential terms of the framework.

Terms of variation:

Rent	Waived
Extension of lease date	29 August 2025; or until Stages 1A and 1B works for Robertson Park Development Plan relating to the Robertson Park Tennis Centre are completed, whichever occurs the later.

Except as varied above, the terms and conditions of the Lease, including the obligation to pay outgoings will remain unchanged during the extended term of the Lease.

It is anticipated that as the Development Plan works are nearing completion, Administration and Tennis West will negotiate the terms of a new long term lease.

CONSULTATION/ADVERTISING:

The City has consulted with Tennis West on the proposed terms of variation set out in Recommendation 1 and Tennis West has confirmed their acceptance of these terms.

Section 3.58(5)(d) of the *Local Government Act 1995* (Act) and Regulation 30(2)(b) of the *Local Government (Functions and General) Regulations 1996* (Regulation) apply. The City is exempt from giving a local public notice in accordance with Regulation 30(2)(b) as this disposition is to a not-for-profit sporting organisation.

LEGAL/POLICY:

Local Government (Functions and General) Regulations 1996

Regulation 30 covers a range of exempt dispositions that are excluded from the application of s 3.58 of the Act. Regulation 30(2)(b) states that:

'A disposition of land is an exempt disposition if:

- (b) the land disposed of to a body, whether incorporated or not to:*
 - (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and*
 - (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transaction;'*

RISK MANAGEMENT IMPLICATIONS

Low: It is low risk for Council to waive the rent and extend the lease until stages 1A and 1B Development Plan works are completed as the asset will continue to be maintained and community sport will continue to be offered. A revised lease with rent reflective of the improvements following completion of the Development Plan works represents a better outcome for the City.

STRATEGIC IMPLICATIONS:

This is in keeping with the City's *Strategic Community Plan 2022-2032*:

Connected and Healthy Community

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

Thriving Places

Efficiently managed and maintained City assets in the public realm.

Innovative and Accountable

We deliver our services, projects and programs in the most inclusive, efficient, effective and sustainable way possible.

SUSTAINABILITY IMPLICATIONS:

This is in keeping with the following key sustainability outcomes of the *City's Sustainable Environment Strategy 2019-2024*.

This does not contribute to any environmental sustainability outcomes. This action/activity is environmentally neutral.

PUBLIC HEALTH IMPLICATIONS:

This does not contribute to any public health outcomes in the *City's Public Health Plan 2020-2025*.

FINANCIAL/BUDGET IMPLICATIONS:

The current rent for the Tennis Centre is \$11,963.04 per annum. There will be no impact on the City financially from waiving the rent as the costs incurred for assuming maintenance of the grass tennis courts would be higher than the rental income received.

COMMENTS:

The proposed waiver of rent until the Development Plan works are completed is necessary to ensure that the Tennis Centre can remain open and service the community throughout the implementation of the works.

The waiver of the rental fee by the City would enable the tenant to continue operating during Stages 1A and 1B of the Development Plan.



ROBERTSON PARK DEVELOPMENT PLAN

PROPOSED UPGRADES

- New bench seat
- New picnic table
- New public rest room
- New public lighting
- Improved access to public car park
- 1** Paint existing pedestrian pathway along the laneway to help with its delineation
- 2** Include additional signage delineating the location of public car park

TENNIS PRECINCT

- 1** Tennis courts – 18 Green Hard Courts:
 - Resurface 12 tennis courts to acrylic hard courts (approx. 6,290m², nos. 1-8 and 15-18)
 - Convert 7 existing grass courts to 6 hard courts (approx. 5,000m², nos. 9-14)
- 2** Multipurpose courts – 4 Acrylic Green Hard Courts:
 - Resurface existing tennis courts to 4 multipurpose courts (approx. 3,042m²)
 - Entrance upgrade (pathway and landscaping)
- 3** New thoroughfare between tennis courts (10m wide and includes landscaped elements and shade structures from point 7 below)
- 4** Renew tennis court fencing
 - Perimeter fencing: Chainwire mesh (height 3,600mm)
 - Court divider fencing: Chainwire mesh (height 1,500mm at lowest point)
- 5** LED lighting for tennis and multi courts
 - Upgrade tennis courts No. 1-8 (34 x 350 LUX | 28 x 7.6m poles)
 - New lighting tennis courts No. 9-18 (40 x 350 LUX | 32 x 7.6m poles)
 - New lighting multipurpose courts No. 1-4 (13 X 250 LUX | 13 x 7.6m poles)
 - Utilise / relocate existing light poles where possible
- 6** Remove all existing shade huts (total 9 huts) and replace with the following:
 - 5 medium shade structures in new thoroughfare (7m x 4m)
 - Verandah extension to existing tennis building (approx. 150m²)
- 7** Trees and landscaping
- 8** Hitting wall (tennis)

TURF/ECO AREA

- 1** Converting 7 existing grass courts to turf and native landscaped areas (approx. 0.8 hectares)
- 2** New trees - natives (approx. 15) (tree species not identified)
- 3** New footpath (approx. 220m)
- 4** Rain Garden (native landscaped area used to capture stormwater runoff, treat water pollutants, and allow infiltration back into the ground).

DOG AND LEISURE PARK

- 1** Wetland heritage trial signage upgrade
- 2** Remove existing playground and exercise equipment and replace with new nature playground
- 3** New outdoor gym equipment
- 4** Footpath extension (approx. 60m)
- 5** Concrete retaining wall/bench (approx. 30m)
- 6** Public multi-sports half court (converted from tennis hard court)
- 7** Repurposed original tennis shelter
- 8** Hitting wall (soccer/multipurpose)
- 9** Community garden
- 10** Extend low level fence
- 11** New footpath and concrete space (path approx. 60m)
- 12** Concrete retaining wall/bench (approx. 20m)
- 13** Relocate fence 0.5m north to provide space for footpath
- 14** Extend footpath along Stuart Street (1.5m wide | approx. 172m long)
 - retain existing vegetation where possible
 - will likely result in the loss of 5 - 6 car bays (1 - 2 90-degree bays and 4 parallel bays)

