

**7.5 LATE REPORT: VARIATION OF SEASONAL LICENCES FOR CHARLES VERYARD RESERVE PAVILION - RUBBISH & RECYCLING BIN CHARGES**

**TRIM Ref:** D18/161323  
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**Authoriser:** Kerryn Batten, Director Corporate Services  
**Attachments:** Nil

**RECOMMENDATION:**

That Council:

1. **APPROVES** the following addition to the joint winter licence for the use of Charles Veryard Reserve Pavilion (excluding public toilets) to the Modernians Hockey Club Inc. and Mt Hawthorn Cardinals Junior Football Club Inc. as approved by Council at the Ordinary Meeting of Council held on 29 May 2018 (Item 12.1):  
  
*“Clubs to equally pay all rubbish and recycling bin charges corresponding to their use of the premises, which equates to 50 per cent of annual charges.”*
2. **APPROVES** the following addition to the summer licence for the use of Charles Veryard Reserve Pavilion (excluding public toilets) by the Tuart Hill Cricket Club Inc. as approved by Council at the Ordinary Meeting of Council held on 29 May 2018 (Item 12.1):  
  
*“Club to pay all rubbish and recycling bin charges corresponding to its use of the premises, which equates to 50 per cent of annual charges.”*
3. **AUTHORISES** the Mayor and Director Corporate Services to affix the common seal and execute the licences as amended in accordance with 1. and 2. above;
4. **APPROVES** a write-off of:
  - (a) 50 per cent of the rubbish and recycling bin charges for 2014/15 – 2017/18, totalling \$2,197.50 (excluding GST), paid by Modernians Hockey Club Inc; and
  - (b) 50 per cent of the emergency services levy for 2017/18 and 2018/19 and the rubbish and recycling bin charge for 2018/19, totalling \$1,239.87;

in recognition of the joint use of the Charles Veryard Reserve Pavilion by Mt Hawthorn Cardinals Junior Football Club Inc during this period; and
5. **NOTES** that Modernians Hockey Club Inc has an outstanding debt of \$2,197.50 (excluding GST), and therefore the City will provide the Modernians Hockey Club Inc with a credit of \$957.63 (excluding GST).

**PURPOSE OF REPORT:**

To consider:

- the recoupment of rubbish and recycling bin charges from the Tuart Hill Cricket Club Inc., Modernians Hockey Club Inc. and Mt Hawthorn Cardinals Junior Football Club Inc. pursuant to their seasonal licences to use the Charles Veryard Reserve Pavilion; and
- the write-off of rubbish and recycling bin charges and the emergency service levy payable by Modernians Hockey Club Inc. in recognition of the usage of the Charles Veryard Reserve Pavilion by the Mt Hawthorn Cardinals Junior Football Club.

**BACKGROUND:**

At the Ordinary Meeting of Council held on 29 May 2018 (Item 12.1) Council resolved as follows:

*“That Council:*

1. *APPROVES the termination of the Tuart Hill Cricket Club Inc. and Modernians Hockey Club Inc. joint monthly tenancy of the clubrooms and cricket wickets (turf and practice wickets) at Charles Veryard Reserve, pursuant to clause 14 of the Lease dated 2 October 2009;*
2. *APPROVES a joint winter Licence (1 April – 30 September) for the use of Charles Veryard Reserve Pavilion (excluding public toilets) to the Modernians Hockey Club Inc. and Mt Hawthorn Cardinals Junior Football Club Inc. on the terms set out below:*
  - 2.1 *Term:* *Two winter seasons;*
  - 2.2 *Licence Fee:* *\$2,175 plus GST (indexed by CPI) to be paid by each Club;*
  - 2.3 *Licence Area:* *Kitchen, servery, social room, cool room, shared storeroom and change rooms (whole of Pavilion except for public toilets and storage areas);*
  - 2.4 *Permitted Purpose:* *Sporting and recreational activities;*
  - 2.5 *Days of Use (Mods):* *Monday, Thursday, Saturday and alternating Friday;*
  - 2.6 *Days of Use (Cardinals):* *Tuesday, Wednesday, Sunday and alternating Friday;*
  - 2.7 *Outgoings (utilities & ESL):* *Clubs pay 93 per cent of electricity and water charges (during season of use) and 50 per cent of the Emergency Services Levy – to be divided equally between Hockey and Football;*
  - 2.8 *Insurance:* *Clubs to effect and maintain public liability insurance;*
  - 2.9 *Cleaning:* *Clubs to keep clean and tidy during season;*
  - 2.10 *Hand Over:* *At end of season Clubs to steam clean floor, touch up paint, and remove all items from area to the City’s satisfaction;*
  - 2.11 *Maintenance:* *City to repair and maintain (including cleaning gutters and removing graffiti), and undertake structural maintenance and repairs, except if damage caused by Clubs, in which case Clubs to pay cost;*
  - 2.12 *Minimum Level of Service (statutory fire compliance checks, pest inspections):* *City to conduct at City’s cost;*
  - 2.13 *Shared Use of Clubrooms:* *Clubs can hire clubrooms at rates consistent with City’s Schedule of Fees and Charges;*
  - 2.14 *Shared Use of Change Rooms:* *Clubs must provide use of change rooms to schools and community groups hiring the Reserve, subject to payment of a nominal cleaning fee of \$30 per hour; and*
  - 2.15 *Termination:* *In the event that the Reserve is not available for use by a Club, or is not of a suitable standard, the Club may terminate the Licence by providing one (1) months’ notice in writing to the City and if the Licensor and Licensee agree in writing that the Licence is no longer required, the Licence will terminate on the day that the Licensee yields up the Premises;*
3. *APPROVES a summer Licence (1 October – 31 March) for the use of Charles Veryard Reserve Pavilion (excluding public toilets) to the Tuart Hill Cricket Club Inc. on the terms set out below:*
  - 3.1 *Term:* *Two summer seasons;*
  - 3.2 *Licence Fee:* *\$4,350 plus GST (indexed by CPI);*

- 3.3 *Licence Area:* Kitchen, servery, social room, cool room, shared storeroom and change rooms (whole of Pavilion except for public toilets and storage areas);
- 3.4 *Permitted Purpose:* Sporting and recreational activities;
- 3.5 *Days of Use:* Monday – Sunday;
- 3.6 *Outgoings (utilities & ESL):* Club pay 93 per cent of electricity and water charges (during season of use) and 50 per cent of the Emergency Services Levy;
- 3.7 *Insurance:* Club to effect and maintain public liability insurance;
- 3.8 *Cleaning:* Club to keep clean and tidy during season;
- 3.9 *Hand Over:* At end of season the Club is to steam clean floor, touch up paint, and remove all items from area to the City's satisfaction;
- 3.10 *Maintenance:* City to repair and maintain (including cleaning gutters and removing graffiti), and undertake structural maintenance and repairs, except if damage caused by the Club, in which case the Club to pay cost;
- 3.11 *Minimum Level of Service (statutory fire compliance checks, pest inspections):* City to conduct at City's cost;
- 3.12 *Shared Use of Clubrooms:* Club can hire clubrooms at rates consistent with the City's Schedule of Fees and Charges;
- 3.13 *Shared Use of Change Rooms:* Club must provide use of change rooms to schools and community groups hiring the Reserve, subject to payment of a nominal cleaning fee of \$30 per hour; and
- 3.14 *Termination:* In the event that the Reserve is not available for use by the Club, or is not of a suitable standard, the Club may terminate the Licence by providing one (1) months' notice in writing to the City and if the Licensor and Licensee agree in writing that the Licence is no longer required, the Licence will terminate on the day that the Licensee yields up the Premises;
4. APPROVES annual Licences to the Tuart Hill Cricket Club and Mt Hawthorn Cardinals Junior Football Club to exclusively use their respective storage areas for the term of the seasonal Licences set out above, on the terms set out below:
- 4.1 *Cleaning:* Club/s to keep storeroom clean and tidy; and
- 4.2 *Maintenance:* City to repair and maintain, except if damage caused by clubs, in which case Club/s to pay cost;
5. AUTHORISES the Mayor and Director Corporate Services to affix the common seal and execute the Licences as set out above;
6. APPROVES BY ABSOLUTE MAJORITY a waiver of fees for Modernians Hockey Club Inc. totalling \$4,361.16 in recognition of Pavilion usage by Mt Hawthorn Cardinals Junior Football Club during the 2014/15 to 2017/18 period;
7. APPROVES BY ABSOLUTE MAJORITY a write-off of fees for Modernians Hockey Club Inc. totalling \$8,915.82 in recognition of Pavilion usage by Mt Hawthorn Cardinals Junior Football Club during the 2014/15 to 2017/18 period and restricted Pavilion access during the refurbishment works; ~~and~~
8. APPROVES BY ABSOLUTE MAJORITY a waiver of the Licence Fee for Mt Hawthorn Cardinals Junior Football Club totalling \$4,350 across the term of the joint winter Licence for the use of Charles Veryard Reserve Pavilion in recognition of their transition to formal building tenure arrangements; and
9. NOTES that Administration shall negotiate an appropriate agreement with Tuart Hill Cricket Club Inc. regarding turf cricket wicket management and maintenance for further consideration by Council."

Subsequent to the Administration drafting the licences and the clubs agreeing to the licence terms and signing the licences, it has been identified that the licences do not specify responsibility for the payment of rubbish and recycling bin charges. Pursuant to the joint lease dated 2 October 2009 between the City, Tuart Hill Cricket Club and Modernians Hockey Club, the clubs were responsible for the payment of rubbish and recycling bin charges. The rubbish and recycling bin charges paid by each club since 2014/15 are set out below:

	<b>2014/15</b>	<b>2015/16</b>	<b>2016/17</b>	<b>2017/18</b>
<i>Rubbish bin charge</i>	\$870	\$1,050	\$1,050	\$1,050
<i>Recycling bin charge</i>	\$90	\$95	\$95	\$95

The Mt Hawthorn Cardinals Junior Football Club commenced using the pavilion during the winter season in 2014, without a formal arrangement with the City or the Modernians Hockey Club to govern use. In recognition of this a waiver and write-off of a portion of the fees paid by the Modernians Hockey Club since the 2014/15 financial year was approved by Council at the Ordinary Meeting of Council held on 29 May 2018 (see recommendations 6 and 7 above).

#### **DETAILS:**

##### ***Variation of seasonal licences***

As the joint lease provided that the clubs were responsible for the payment of the rubbish and recycling bin charges and historically the clubs have paid the charges in accordance with the lease, Administration recommends that the seasonal licences are amended to reflect this. It is noted that it was an Administrative error that led to the rubbish and recycling bin charges not being included in seasonal licences terms approved by Council, and that the City and the Clubs position has remained throughout the licence negotiations that the rubbish and recycling bin charges were payable by the clubs.

Administration has discussed the proposed amendment with the clubs and the clubs have confirmed that it is acceptable. If Council approves this amendment the seasonal licences will be varied accordingly.

##### ***Waiver of rubbish and recycling bin charges paid by Modernians Hockey Club***

The Modernians Hockey Club has requested that Administration provide a credit for 50 per cent of the rubbish and recycling bin charges it paid since 2014/15 on the basis that Mt Hawthorn Cardinals Junior Football Club was also using the premises during the winter seasons. The table below shows the rubbish and recycling bin charges as paid by the Modernians Hockey Club since the Mt Hawthorn Cardinals Junior Football Club commenced using the pavilion in the 2014/15 financial year.

<b>Year</b>	<b>Total bin charge paid by Modernians</b>	<b>50 per cent credit to Modernians (write-off)</b>
2014/15	\$960	\$480
2015/16	\$1,145	\$572.50
2016/17	\$1,145	\$572.50
2017/18	\$1,145	\$572.50
<b>TOTAL</b>	<b>\$4,395</b>	<b>\$2,197.50</b>

Administration notes that the following charges are currently outstanding for Modernians Hockey Club:

<b>Charge / Levy</b>	<b>Invoice Total</b>	<b>50 per cent credit to Modernians</b>
2017/18 Emergency Services Levy	\$609.22	\$304.61
2018/19 Emergency Services Levy	\$666.52	\$333.26
2018/19 Bin Charge	\$1,204	\$602
<b>TOTAL</b>	<b>\$2,479.74</b>	<b>\$1,239.87</b>

Administration recommends that the outstanding balance payable by Modernians Hockey Club Inc is offset against the credit the City owes to Modernians Hockey Club. This is summarised in the table below:

Credit to Modernians for rubbish and recycling bin charges 2014/15 – 2017/18	\$2,197.50
Modernians outstanding balance – ESL & bin charges (incl interest)	\$1,239.87
Difference between credit and outstanding balance (payable to Modernians)	<b>\$957.63</b>

**CONSULTATION/ADVERTISING:**

Administration has reached agreement with the clubs in respect to the proposed changes to the seasonal licences.

It is not necessary for the City to advertise or provide public notice of the proposed variation to the seasonal licences.

**LEGAL/POLICY:**

In accordance with the City's Execution of Documents Policy No. 4.1.10 a specific resolution of Council is required in order for the City to grant a licence in respect to the use of a building. Therefore it is necessary for Council to approve the amendment of the seasonal licences terms as approved by Council at the Ordinary Meeting of Council held on 29 May 2018.

As the Clubs are recreational and sporting in nature and the members would not receive any pecuniary profit from the seasonal licences the proposed variation of the licences meets the requirements of an exempt disposition, in accordance with Section 3.58(5) of the *Local Government Act 1995*. Therefore there is no requirement for the City to advertise an intention to vary the seasonal licences with the clubs.

Pursuant to section 6.12(1) of the *Local Government Act 1995* the City may (b) waive or grant concessions in relation to any amount of money; or (c) write off any amount of money. The City's Delegations Register 2018/19 provides that Council has delegated its power under section 6.12(1) in respect to amounts up to \$1,000. As the proposed waivers are above this threshold it is necessary for Council to approve the waivers.

**RISK MANAGEMENT IMPLICATIONS:**

**Medium:** The payment of rubbish and recycling bin charges is not currently expressed in the seasonal licences and therefore it is necessary for the City to vary the licences accordingly. It is also necessary for the City to resolve the outstanding emergency services levy and rubbish and recycling bin charges. This can be achieved by providing Modernians Hockey Club with a credit and offsetting this against the outstanding costs.

**STRATEGIC IMPLICATIONS:**

The recommendation aligns with the "Connected Community" and "Innovative and Accountable" objectives in the City's Strategic Community Plan 2018-2028:

*"We are a diverse, welcoming and engaged community. We want to celebrate what makes us unique and connect with those around us to enhance quality of life."*

*"The City of Vincent has a significant role to play in supporting our community to realise its vision. To achieve this, we will be an innovative, honest, engaged and responsible organisation that manages resources well, communicates effectively and takes our stewardship role seriously."*

**SUSTAINABILITY IMPLICATIONS:**

N/A

**FINANCIAL/BUDGET IMPLICATIONS:**

Administration recommends that Council approve a write-off of \$3,437.37 payable by Modernians Hockey Club Inc. This credit will be offset against Modernians Hockey Club's current outstanding balance, and therefore the balance payable by the City to Modernians Hockey Club Inc is \$957.63.

**COMMENTS:**

Administration recommends that Council approves the proposed change to the seasonal licences as it aligns with the terms of the joint lease and will rectify Administration's error in not including the rubbish and recycling bin charge as one of the seasonal licence terms. It is also necessary for Administration to provide Modernians a credit for the rubbish and recycling charges and emergency services levy which it paid in full between 2014/15 and 2017/18, due to the fact that the premises was jointly used by Mt Hawthorn Cardinals

Junior Football Club during this time. The proposed licence variation and write-off of fees should ensure compliance with the licence terms moving forward.