5.3 OUTCOME OF PUBLIC NOTICE - PROPOSED LEASE TO KIDZ GALORE PTY LTD OF NO. 15 HAYNES STREET, NORTH PERTH

Attachments:
1. Lease Area Plan
2. Attorney General Consent
3. Summary of Submissions - Administration Response

RECOMMENDATION:

That Council:

1. APPROVES the lease of No. 15 (Lot 9) Haynes Street, North Perth to Kidz Galore Pty Ltd (ACN 069 285 472) shown on the plan attached as Attachment 1 subject to the following key terms:

1.1. Term: Two (2) years, commencing 1 January 2026 and expiring 31 December 2027.

1.2. Option Term: Nil.

The Tenant acknowledges that following the lease expiry, the City will not permit any holding over or monthly tenancy.

1.3. Rent: Current rent for FY2024/25: $42,542.72 per annum plus GST

1 Jan 2026 – 30 June 2026	$44,669.86 per annum exc. GST
1 July 2026 – 30 June 2027	$46,903.35 per annum exc. GST
1 July 2027 – 31 Dec 2027	$49,248.52 per annum exc. GST

1.4. Rent Review: Fixed increase of 5% annually on 1 July each year of the lease commencing from 1 July 2026.

1.5. Outgoings: Tenant will pay:

(a) ESL charges applicable to the premises;

(b) rubbish and recycling bin charges for the premises;

(c) utilities (including scheme water, electricity and gas); and

(d) minimum level of service statutory compliance testing (including RCD, DFES and pest inspection fees and charges).

1.6. Insurance: Tenant to hold and maintain a public liability insurance policy for not less than $20 million per one claim, in respect of the Tenant's use and occupation of the Premises.

1.7. Repair/maintenance: As per the maintenance obligations prescribed by the Property Management Framework.

1.8. Permitted Use: The business of providing childcare services.

1.9. Special conditions

1.9.1. Transition plan

(a) The Tenant acknowledges that the City is required to transition the use of the Premises away from childcare services in order to comply with the Deed of Trust dated 2 October 1941;

(b) In accordance with paragraph (a) above, the Tenant acknowledges and agrees that:

(i) by 30 June 2026, the Tenant will submit to the City a relocation or business plan (Business Plan) outlining:

- **the Tenant's planned transition from the Premises; or**
- **how the Tenant will scale down its business operations at the Premises by the end of the Lease term; and**

(ii) by 1 January 2027, the Tenant will submit to the City a closure plan (Closure Plan) which will demonstrate:

- **the proposed timeline for the closure of the Tenant's business at the Premises; and**
- **the removal of the Tenant's buildings (including the demountable building) and property from the Premises; and**

(iii) the Tenant must completely vacate the Premises by no later than midnight on 31 December 2027.

(c) If the City is not satisfied with the information contained in either or both the Business Plan or the Closure Plan, the City may provide the Tenant with notice:

(i) specifying what additional information is required by the City; and

(ii) the timeframe within which the Tenant must provide that information to the City.

(d) If the Tenant fails to provide the City with:

(i) the Business Plan or Closure Plan within the time specified in paragraph (b)(i) or (b)(ii) (respectively); or

(ii) any additional information requested by the City in accordance with paragraph (c),

the City may terminate the Lease and the Tenant must vacate the Premises within one month of being notified of that termination

1.9.2. Termination for convenience	**The Tenant may terminate the Lease by providing no less than three (3) months' written notice of termination to the City.**
1.9.3. Removal of demountable building and play equipment	**The Tenant acknowledges and agrees that prior to the lease expiry it is required to remove the demountable building and play equipment from the Premises and make good any damage caused by that removal.**

PURPOSE OF REPORT:

To consider the outcomes of the public notice period and approve a two year lease extension of No. 15 Haynes Street, North Perth (Premises) to Kidz Galore Pty Ltd (ACN 069 285 472).

The lease currently expires on 31 December. The lease extension would be until 31 December 2027.

DELEGATION:

Council's resolution from 20 August 2024 noted that any submissions received during the public notice period would be presented to Council for consideration and to determine whether to proceed with the proposed lease.

BACKGROUND:

The City owns the Premises in freehold which is subject to a Deed of Trust dated 2 October 1941. The Deed provides that the land is to be used for public recreation purposes (Trust).

Lease History 2005-2020

Kidz Galore has leased the childcare centre at the Premises at the Haynes Street Reserve since 1 April 2005. The original lease was for a term of 5 years with a further term of 5 years. In 2012 the original lease was extended until 31 December 2020.

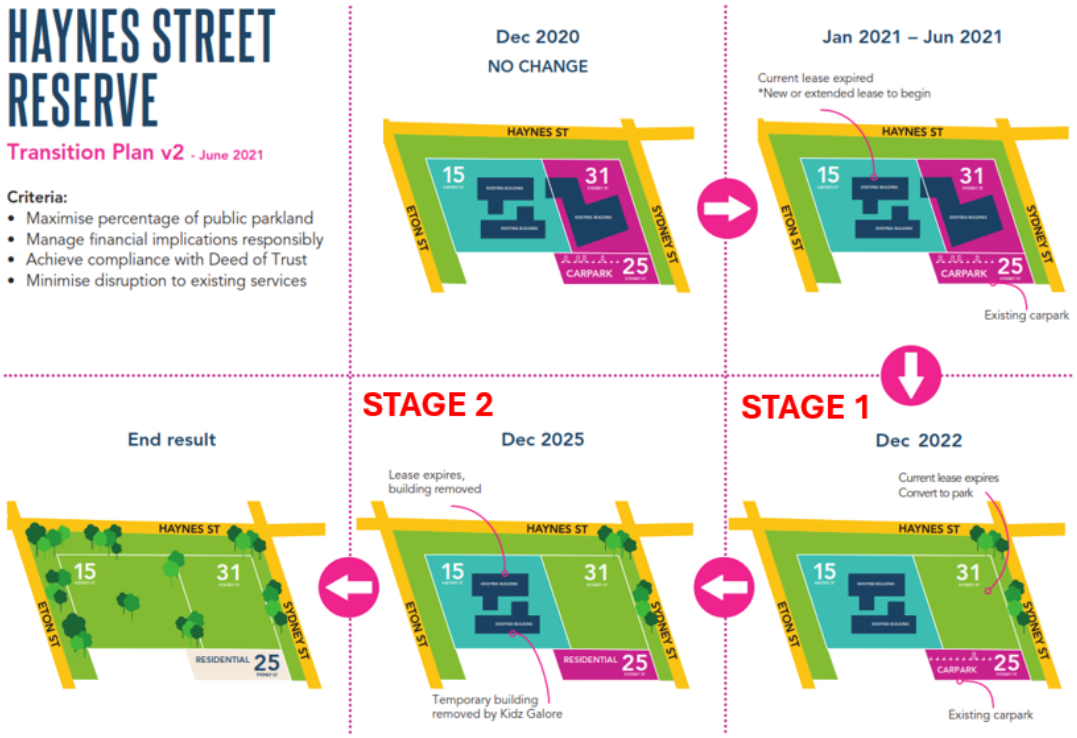
Haynes Street Development Plan

In 2017 it was identified that the use of the Premises by Kidz Galore as a commercial childcare centre was inconsistent with the Trust purpose.

The City's Public Open Space (POS) Strategy was adopted by Council in December 2018 and identifies a lack of local POS in the North Perth area.

In May 2019 Council resolved to prepare the Haynes Street Reserve Development Plan (Development Plan) to provide for future POS in the area, including the type, size and the level of amenities required.

The Development Plan was approved by Council at its meeting on 20 October 2020 and outlined a staged approach the redevelopment of the Haynes Street Reserve as shown below.



Construction of Stage 1 of the Development Plan has been completed. This included the demolition of buildings at No. 31 Sydney Street (formerly the North Perth Playgroup and Shalom Coleman Dental Clinic North Perth) and the completion of landscaping works.

Stage 2 would commence following the expiry of the Kidz Galore lease. This would include the demolition of the existing Premises and landscaping works to complete the conversion of the site to POS.

Lease Extension 2020-2025

On 3 March 2020, the Attorney General consented to the continued breach of the Trust by providing Kidz Galore with a further five year lease which would expire on 31 December 2025. This was to support Kidz Galore to transition out of the Premises.

Kidz Galore entered into a new lease commencing 1 January 2021 and expiring on 31 December 2025 subject to:

(a) *a business plan being submitted by 1 January 2023, which shows a transition from the Premises and how they will scale down current operations by the end of the fifth year; and*
(b) a closure plan being submitted by 1 January 2025 to demonstrate the timeline closure and removal of buildings and property from the Premises; and
(c) Kidz Galore vacating the Premises no later than 31 December 2025.

In accordance with this, on 31 January 2023, Kid Galore submitted a Business Plan and Closure Plan to outline how it would transition to an alternative site at No. 6 London Street (London Street site) by December 2025.

London Street Redevelopment

On 27 November 2020 the City approved a development application for a new childcare centre for Kidz Galore at the London Street site.

The Business Plan and Closure Plan submitted in January 2023 outlined issues that Kidz Galore was experiencing in redeveloping the London Street site due to uncertainties regarding:

- the provision of an adequate power supply to the property relating to the Western Power underground power roll out; and
- increased costs of construction.

This development approval was not substantially commenced and expired on 27 November 2024.

Pre-lodgement discussions occurred between the City and Kidz Galore in 2023 regarding an alternative redevelopment proposed for the London Street site. These discussions did not progress towards a new development application being lodged because of similar reasons to above.

Through discussions in 2024 and 2025, Kidz Galore have expressed their commitment to redevelop the London Street site and achieve a transition from the Premises as soon as possible.

On 21 October 2025, Kidz Galore provided an update that they are currently *"undertake[ing] a feasibility analysis on [an} alternative larger child care scheme to improve project viability… A detailed feasibility analysis is currently being undertaken to ascertain build methodology (modular, pre-cast or in-situ) and costs and project viability before entering into the City's Design Review process and updating the relevant sub-consultant reports for DA lodgement in January 2026.*

Should this application be approved (with the Council's assistance), then it should allow for the facility to be complete by Q3/Q4 2027 depending on construction methodology, timeframes and availability of trades."

Proposed Further Lease Extension to 2027

On 12 March 2024 Kidz Galore requested an extension of the lease from 31 December 2025 to 31 December 2027.

Kidz Galore's justification for this included that the unpredictability of the construction market and uncertainty around the timing of the Underground Power Project meant that relocation by the end of 2025 as outlined above would not be possible.

The additional two years would provide the opportunity to progress the rollout of the Underground Power Project and ensure viability of redeveloping the London Street site to manage the impact on children and parents from the transition to a new premises.

In April 2024 Administration through the State Solicitor's Office sought approval from the Attorney General for Kidz Galore to extend the lease of the Premises to 31 December 2027.

On 6 June 2024, the Attorney General approved an:

(a) extension of the lease to 31 December 2027 on the basis that parties are attempting, in good faith, to restore the Premises to its recreational purposes as required under the Deed of Trust; and
(b) extension of time for the Haynes Street Development Plan.

The Attorney General's approval is **Attachment 2**.

At its meeting on 20 August 2024, Council resolved to give public notice and invite submissions on the proposed lease extension to Kidz Galore to 31 December 2027.

DETAILS:

Public Notice

In accordance with section 3.58 of the *Local Government Act 1995* (Act), public notice on the proposed lease area, term, and rent occurred for 16 days between 20 August 2025 and 5 September 2025.

Local public notice was provided in the following ways:

- 164 letters to owners and occupiers within a 100 metre radius of the Premises;
- published in Perth Now local newspaper 21 August 2025;
- published on the City's website and social media platforms on 20 August 2025; and
- inclusion in the City's fortnightly e-news on 28 August 2025.

These methods exceeded the public notice requirements of the Act by extending the public notice period beyond the minimum legislative timeframe of two weeks, and by sending letters to owners and occupiers within a 100 metre radius.

A total of 71 submissions were received at the end of the public notice period with 68 in support and 3 objecting to the proposed lease.

The submissions in support included:

- Kidz Galore is a well-established and valued part of the community that provides vital childcare services.
- The Premises is well-located, of high amenity, and addresses a gap of existing childcare services in the local area.
- Continuity in the provision of childcare services is important to minimise disruption on parents, children and staff while Kidz Galore transitions to a new location.

The submissions in objection raised concerns in relation to:

- The City's decision to grant a lease extension to Kidz Galore was influenced by the financial implications.
- Kidz Galore has received several previous extensions and has yet to progress plans to relocate.
- Any extension would further delay the completion of Stage 2 of the Development Plan and the provision of needed green space that would benefit the wider community.
- There has been a lack of transparency and communication from the City which has may have impacted on the outcome of the consultation period.

A summary of submissions and Administration's responses is included in **Attachment 3**.

LEGAL/POLICY:

Local Government Act 1995

S3.58(3) of the Act – Disposing of Property states:

(3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
(a) it gives local public notice of the proposed
(b) disposition —
1. describing the property concerned; and
ii. giving details of the proposed disposition; and
iii. inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;

and

it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.

As outlined in the Details section the methods of public notice exceeded those required by the Act.

Property Management Framework

The objectives of the City's Property Management Framework (PMF) are:

- *To meet growing community needs and to maximise community benefit, City owned and managed properties will be prioritised for use where occupancy arrangements include co-location, shared-use and highest community utilisation;*
- *To meet the Strategic Community Plan's objectives of 'Connected Community' and 'Thriving Places', City owned and managed properties will primarily be available for local not-for-profit organisations, community groups and other community purposes;*
- *To ensure transparency and equity, all financial and in-kind subsidisation by Council will be recognised where City owned and managed properties are used to meet demonstrated community needs;*
- *To ensure sustainable City owned and managed properties, effective asset management and demonstrated sound financial management will be prioritised; and*
- *Where appropriate, specific City owned and managed properties may be identified and made accessible for commercial activities for income generation to support and encourage sustainable City owned asset management.*

The PMF also establishes general terms and conditions that is used as a basis for negotiating all leases and licences.

Council approved the key terms in August 2024 for the purpose of providing public notice of the proposed lease and these have been agreed with Kidz Galore.

These remain consistent with the key terms of the current lease and the essential terms of the City's PMF and are not proposed to be modified following the public notice period.

RISK MANAGEMENT IMPLICATIONS

Risk Category	Risk Appetite and tolerance statement	description/clarifications
Governance, Due diligence, Accountability and Sustainability	The City has a ***low risk tolerance*** for less than better practice decision making for governance, due diligence, accountability, and sustainability, as measured by accepted industry standards and practices.	The City has demonstrated it has undertaken all required actions to ensure that proposed lease has been conducted through accountable and transparent procedures through implementing relevant risk control measures implemented in accordance with the City's Risk Management Framework and Property Management Framework.
Regulatory Compliance and Legal Obligations	The City has a very low risk appetite for breaches of legislation, professional standards or ethical requirements.	The recommendation ensures compliance with section 3.58 of the *Local Government Act 1995*. This action minimises legal risk and aligns with the City's governance principles of transparency and accountability.

Lease Extension

It is low risk for Council to grant the lease to Kidz Galore.

Risks associated with the Kidz Galore transitioning from the Premises would be managed by the terms of the lease. This includes requiring the submission of a Business Plan by 30 June 2026 and a Closure Plan 1 July 2027 outlining how it would transition from Haynes Street Reserve by 31 December 2027.

Not approving the lease extension without transition arrangements would mean that Kidz Galore is required to vacate the Premises by 31 December 2025. This would pose a reputational risk to Council as submissions from the public notice period indicates that many families rely on this childcare service.

Approving the lease extension would provide for continuity of childcare services and support an orderly transition to a new location.

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

Our decision-making process is consistent and transparent, and decisions are aligned to our strategic direction.

SUSTAINABILITY IMPLICATIONS:

This does not contribute to any specific sustainability outcomes of the City's Sustainable Vincent Framework or Enhanced Environment Strategy (EES).

The future implementation of Stage 2 of the Development Plan would provide opportunities for the incorporation of Water Sensitive Urban Design and tree planting, consistent with the Water Conservation & Management and Urban Greening & Biodiversity themes of the EES.

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 key terms approved by Council in August 2024 for public notice included the rent outlined below to commence on 1 January 2026. This rent will be subject to a 5 percent annual increase, effective each year on 1 July:

1 Jan 2026 – 30 June 2026	**$44,669.86 per annum exc. GST + outgoings**
1 July 2026 – 30 June 2027	**$46,903.35 per annum exc. GST + outgoings**
1 July 2027 – 31 Dec 2027	**$49,248.52 per annum exc. GST + outgoings**

The rent will be applied towards the redevelopment and construction of Stage 2 of the Development Plan.

COMMENTS:

Kidz Galore has provided a valuable service the local community from the Premises for over 20 years, but the continued use as a childcare centre is inconsistent with the purpose of the land to be used for public recreation to serve the wider North Perth locality.

Administration is supportive of granting a two year lease term to Kidz Galore because:

- Transition – It is essential that Kidz Galore relocates to an alternative site to realise the development of POS at Haynes Street Reserve as soon as possible, and that this transition is managed in a way to minimise disruption to its service and families.

  As outlined above there have been previous attempts to relocate but development of a new premises has been constrained because of the roll out of the Underground Power Program and increased construction costs. In relation to these:

  - The London Street site has recently been connected to the Western Power underground grid which means that power is available and resolves one of these constraints.
  - The current construction market within Western Australia is challenging, but this is likely to continue for the foreseeable future and would need to overcome through the next two years to relocate.

  Kidz Galore have recently outlined how a transition could be achieved by the end of 2027. There are a number of steps that would be required to be met and any unexpected delays in completing these steps could impact on completing the transition within this timeframe.

  To manage this Administration has been and will continue to engage with Kidz Galore to support this transition to an alternative site within Vincent by the end of 2027 and enable completion of the Development Plan at the earliest opportunity.

- Haynes Street Reserve – The Attorney General's approval in 2024 for the proposed two year lease extension also included an extension to the Development Plan.

  Stage 2 of the Development Plan to demolish the Premises and develop the land into POS would progress following the expiration of the Kidz Galore lease. Based on the two year extension, the implementation of Stage 2 would be deferred to the 2028/29 financial year.

  The approximate $140,000 of rent generated during the two year lease extension would be allocated to funding Stage 2 of the Development Plan in accordance the Attorney General's approval.

CITY OF VINCENT	The City of Vincent does not warrant the accuracy of information in this publication and any person using or relying upon such information does so on the basis that the City of Vincent shall bear no responsibility or liability whatsoever for any errors, faults, defects or omissions in the information. Includes layers based on information provided by and with the permission of the Western Australian Land Information Authority (Landgate) (2013).	Lease Area – 15 Haynes St, North Perth	8/10/2025 1:564	N

Attorney General; Minister for Electoral Affairs

Our ref: 67-24563
Your ref: SC3339 D20/4832

City of Vincent
244 Vincent Street
LEEDERVILLE WA 6007

Attention: Senior Land and Legal Advisor

By email:

Dear

15 (LOT 9) HAYNES STREET, NORTH PERTH – KIDZ GALORE REQUEST FOR EXTENSION

Thank you for your emails to the State Solicitor's Office dated 11 April and 10 May 2024 seeking my views on a proposal to extend the consent I have previously given for a childcare centre to remain at 15 (Lot 9) Haynes Street, North Perth. The land is subject to a charitable trust for the purposes of recreation and the City, as trustee, seeks my consent to the ongoing breach, in my role as protector of charitable trusts.

Thank you for the information provided and for responding to the additional queries from the State Solicitor's Office, including confirmation that additional rent will be applied towards redevelopment of the trust land. I note that the parties do appear to be attempting, in good faith, to restore the trust land to its recreational purposes as required.

I consent to the City's proposal – that is, I consent to the breach of trust constituted by the use as a childcare centre continuing beyond the end of 2025, to 31 December 2027 as requested by Kidz Galore.

I also consent to an extension of time for the Haynes Street Reserve Development Plan, as previously approved by the Council, to take into account the extension of the lease.

Thank you for raising this matter.

Yours sincerely

Hon. John Quigley MLA
ATTORNEY GENERAL; MINISTER FOR ELECTORAL AFFAIRS
06 JUN 2024

Summary of Submissions – Lease to Kidz Galore Pty Ltd – 15 Haynes Street, North Perth

The tables below summarise the comments received during the public notice period, together with the Administration's response to each comment.

Comments Received in Support:	No. of Submissions	Administration Comment:
General Support		
Supportive of extension with no additional comments.	10	Comments in support are noted.
Provision of Childcare Services		
Kidz Galore is a well-established and valued part of the local community and offers a high quality level of care, service and education to children.	39	Comments in support are noted.
The centre enables many parents and guardians to maintain employment by providing a childcare centre that is conveniently located and of high amenity.	8	Comments in support are noted.
There is a shortage of childcare services in the area that is addressed by the services Kidz Galore provide in this location.	5	Comments in support are noted.
Continued operation of Kidz Galore supports surrounding businesses which parents visit after drop-off and pick-up.	1	Comments in support are noted.
Transition to New Location		
It is important that there is continuity in childcare services being provided from the current location while Kidz Galore transitions to a new location for parents, children and staff to minimise disruption.	26	Comments in support are noted.

Comments Received in Objection:	No. of Submissions	Administration Comment:
Lease Extension		
Kidz Galore have been given a number of previous extensions from the City and continue to disregard the need to relocate. This includes seeking approval from the Attorney General to remain.	1	Kidz Galore has acquired an alternative site at No. 6 London Street to facilitate the transition of its childcare services. Kidz Galore has advised that the commencement of development of this site has been delayed due to the implementation of the Underground Power Program and escalating construction costs. Administration has been engaging with Kidz Galore to manage risks associated with the continued operation at Haynes Street Reserve and to support the transition to No. 6 London Street at the earliest opportunity.

Summary of Submissions – Lease to Kidz Galore Pty Ltd – 15 Haynes Street, North Perth

Comments Received in Objection:	No. of Submissions	Administration Comment:
		Kidz Galore have provided an outline of how a transition could be achieved by the end of 2027. There are a number of steps that would be required to be met and any unexpected delays in completing these steps could impact on completing the transition with the extended timeframe. It is important that Kidz Galore transitions from its current site to allow the completion of the Haynes Street Reserve Development Plan, but this should be managed to minimise disruption to families, children and staff because of its important community service it provides. Administration is supportive of the proposed lease to allow this to occur and noting the recent progress in No. 6 London Street being connected to underground power which addresses one of the redevelopment constraints previously identified.
Influence and financial interests have driven the outcome and decisions made by the Council and Attorney General with respect to approving the new lease.	1	The City maintains a Governance Framework that clearly defines roles, responsibilities, and processes to guide ethical decision-making and oversight. In addition, the City upholds codes of conduct for the Council Members and Employees setting clear expectations for professional behaviour, ethical standards and responsibilities regarding transparency, conflicts of interest and undue influence. These measures have supported the transparent and accountable decision making relating to the proposed lease.
Concerns regarding the City's lack of transparency and deficiencies in its communication processes may have affected the community consultation.	1	The public notice period was undertaken in accordance with section 3.58 of the *Local Government Act 1995* (Act). Public notice of the proposed lease was provided for a period of 16 days in the following ways: • in the City's local newspapers; • on the City's website and social media platforms; • e-news; and • letters to landowners and occupiers within a 100 metre radius. These methods exceeded the requirements of the statutory obligations under the Act in engaging with the community regarding the proposed lease.
Impact on Haynes Street Reserve		
Concerns that the City in receiving financial remuneration from the tenant does not compensate for the loss of public open space.	1	On 6 June 2024, the Attorney General consented to the breach of trust and use of the site as a childcare centre until 31 December 2027 and extension of time for the Haynes Street Reserve Development Plan. This was premised on: • confirmation that the rent from the childcare will be applied towards the redevelopment of the trust land; and • the parties attempting in good faith to restore the trust land to its recreational purposes.

Summary of Submissions – Lease to Kidz Galore Pty Ltd – 15 Haynes Street, North Perth

Comments Received in Objection:	No. of Submissions	Administration Comment:
		On 22 October 2024, Council approved the grant of a new lease to Kidz Galore, subject to public notice being issued. The approximate $140,000 of rent generated during the two year lease extension would be allocated to funding Stage 2 of the Haynes Street Development Plan in accordance the Attorney General's consent.
Concerns that there has been sufficient time for Kidz Galore to relocate and a further extension would delay the implementation of the Haynes Street Reserve Development Plan to provide public open space.	1	As outlined above Kidz Galore has outlined challenges in relocating to an alternative site, and Administration has been in regular contact to support this. The recent connection of No. 6 London Street to underground power is an important step towards Kidz Galore redeveloping this site.
A 2 year extension is excessive, and 6 months would be sufficient for Kidz Galore to relocate to deliver much needed additional green space for the benefit of all residents.	1	The two year extension would be an appropriate balance to provide continuity to families, parents and staff associated with Kidz Galore while it transitions away to the allow the completion of the Haynes Street Reserve Development Plan and delivery of much need public open space in North Perth. Based on the two year extension of the lease, the implementation of Stage 2 of the Haynes Street Redevelopment Plan would be anticipated in the 2028/29 financial year.

Note: Submissions are considered and assessed by issue rather than by individual submitter.