

8.4. Green Park Tennis Courts - Variation to Hours of Operation in the Temporary Lease to Primrose Park Tennis Court Operator

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ATTACHMENTS: Nil

PURPOSE:

The purpose of this report is to address a request made by the Operator of Primrose Park Tennis Courts, who is currently operating under a temporary lease arrangement at Green Park, to increase his operating hours from a total of 44.5 to 52.15 per week.

EXECUTIVE SUMMARY:

At the meeting of 26 April 2021, Council resolved to formalise the temporary lease to the Operator of Primrose Park Tennis Courts (Dalbech Pty Ltd) for the use of the Green Park Tennis Courts, for a total of 44.5 hours a week during the refurbishment of the Primrose Park Tennis Courts.

The Operator has now requested that the hours be varied by increasing the operating times on a weekday, as well as a Saturday, to a total of 52.15 hours per week, with Sundays being available for public use, and a decrease to a total of 46 hours during the school vacation period.

FINANCIAL IMPLICATIONS:

Whilst the refurbishment of the Primrose Park Tennis Courts is being funded through a combination of Federal Government Grant Funding and Councils Property Capital Works Budget, the operator of the Primrose Park Tennis Courts is paying a lease fee for the use of the courts at Green Park. The lease fee was reported to Council at the 26 April 2021 meeting.

RECOMMENDATION:

- 1. THAT** Council approves the request of the Primrose Park Tennis Court operator, now operating at Green Park, to increase the operating hours from a total of 44.5 to 52.15 per week, which includes weekdays and Saturday, excluding Sundays; and a corresponding decrease to a total of 46 hours per week during the school holiday periods.
- 2. THAT** all costs in relation to the variation of the lease is to be borne by lessee.

LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

2. Our Built Infrastructure

2.1 Infrastructure and assets meet community needs

BACKGROUND

At the meeting of Council on 22 February 2021, Council considered a report on the proposed refurbishment of the Primrose Park Tennis Courts and the Property and Leasing implications for the current lease holder as the operator of the courts and resolved the following:

- “1. THAT Council approves the proposal to re-locate the current Primrose Park Tennis Court operator to Green Park Tennis Courts for the duration of the works at Primrose Park.*
- 2. THAT a temporary lease for the relocation of the Primrose Park Tennis Court Operator be drafted and that in accordance with Section 47A of the Local Government Act 1993, place the proposal for the exclusive, temporary lease on Public Exhibition for 28 Days during which time submissions can be received.*
- 3. THAT Council at the conclusion of the 28-day exhibition period, and if no submissions are received, resolve to formalise the temporary lease agreement.*
- 4. THAT the General Manager under the delegations of Section 377 of the Local Government Act 1993, negotiate the terms and conditions of the temporary lease.*
- 5. THAT Council notes that the proposed relocation of the Primrose Park Tennis Court Operator to Green Park Tennis Courts and the execution of a temporary lease will only be undertaken on the basis that Council is in a position to award the tender to commence works on the project in April – May 2021.”*

At the meeting of Council on 26 April 2021, Council considered a report on the outcome of the public consultation and resolved, in part, the following:

- “1. THAT as Council is in a position to award a tender for the upgrade of the Primrose Park Tennis Courts, Council enter into a temporary lease arrangement with the Primrose Park Tennis Court operator (Dalbech Pty Ltd) to utilise the Green Park Tennis courts for the duration of the upgrade works with amended operational hours at the Courts as outlined in Table 1 of this report.*
- 2. THAT the General Manager under the delegations of Section 377 of the Local Government Act 1993, finalise the terms and conditions of the temporary lease that is to be entered into with Dalbech Pty Ltd.*
- 3. THAT the lease be made public.*

CONSULTATION REQUIREMENTS

The current lease was advertised for public comment from 15 March to 11 April 2021.

Council consulted with its Solicitors, Marsdens Lawyers in relation to whether any further public consultation was required to fulfil the requirements of the Local Government Act 1993 and received the following advice:

“I note the Tenant wishes to amend the hours of operation which are presently defined in Item 12 of the Reference Schedule.

I am of the view that the requirement for the lease to again go to public exhibition (as it is community land) is not required under the Local Government Act 1993 as those provisions are required to be complied with only the grant of the relevant lease. As the lease has already been granted, the changes to the operating hours could be made through a variation of lease only and not require the grant of a new lease altogether.

The language of the public consultation and exhibition provisions do not refer to a variation, surrender or transfer of a lease of community land that requires further public consultation or exhibition”.

DETAIL

Request for a change to the Operating hours

The Resolution of April 26 meeting was finalised, with the operator of the Primrose Park Tennis Courts commencing his operations at the Green Park Tennis Courts on 19 June 2021.

However, due to the Operator now having a better understanding of how the business will work at the Green Park Tennis courts for the next 7 months and the impacts that the recent COVID –19 lock down and Public Health orders have had, Dalbech Pty Ltd has requested a variation to his operating hours.

As outlined in Schedule 1 of this report, the Operator is now requesting an increase from a total of 44.5 to 52.15 hours per week, which includes the weekdays and Saturdays, but has allowed more flexibility for the public to use the courts from 2pm on a Saturday and all day on a Sunday.

School Holidays

The Operator has proposed a decrease to 46 hours of operation during the school holiday period with there being no sessions on a Sunday. This is a decrease of 6.15 hours during the school holiday period, which allows more public access to the courts during this period.

Reasons for the Change in Operating Hours

The Operator has advised that he has no flexibility when he is required to change or make up for a lesson. He has also informed Council that despite the approved hours of operation, he has willingly allowed other members of the public as well as other commercial operators such as Personal Trainers, Tennis Coaches and other organised health and recreation activities to benefit from the use of the courts when he does not have a lesson during his agreed times.

In addition, the Green Park Tennis Courts do not have any lights for evening lessons, and the number of courts is only two (2) compared to Primrose Park which has four (4) courts and night lighting. The operator who has brought many of his customers from Primrose Park Tennis

courts is finding that the reduced number of courts at Green Park means that he does not have the capacity for bookings and is turning away customers.

The operator has also outlined to Council Officer's that due to the current COVID-19 lockdown there is a significant increase in demand for tennis as an outdoor recreation activity. With less public tennis courts available in the area due to the current upgrade works at Primrose Park Tennis courts he is not being able to meet current community demand within the existing approved hours of operation.

Conclusion

Since the commencement of the temporary lease at Green Park Tennis Courts the Operator (Dalbech Pty Ltd), has made a concerted effort to work with the community and other commercial operators (Unlicensed) to ensure there is equitable access for all users.

Since the operator commenced operation at Green Park on 19 June 2021, Council has not received any complaints about access to the courts. The operator has demonstrated that he complies with his current hours of usage and has worked cooperatively with Council to ensure a smooth transition out of Primrose Park tennis courts to enable construction works to commence on time.

On the basis that the operator is now understanding the transition to Green Park and the impacts it is having on how he runs his business, along with the impacts of the COVID-19 lockdown, it is being requested that Council approve the increase of his operating hours from 44.5 to 52.15 hours per week during school term while decreasing hours to 46 hours per week during school holiday periods. Refer to Schedule 1 in this Report.

Schedule 1: Current and varied times of operation

Days of Week	Current hours of operation following the Resolution of Council dated 26/04/2021	No. of Operating Hours at Green Park	Proposed Changes (Daily Operating Hours – Monday to Saturday)	No. of Operating Hours	Adjustment per session	Proposed Changes (School Vacation Operating Hours)	No. of Operating Hours
Monday	7am to 11am	4	7am to 12pm	5 hours	Increased by 1 hour	8am to 12pm	4 hours
	2pm to 5pm	3	1pm to 6pm	5 hours	Increased by 2 hours	1pm to 5pm	4 hours
Tuesday	7am to 11am	4	7am to 11.30am	4.5 hours	Increased by ½ an hour	8am to 12pm	4 hours
	3pm to 5pm	2	2.30pm to 6pm	3.5 hours	Increased by 1½ hours	1pm to 5pm	4 hours
Wednesday	7am to 12pm	5	7am to 1pm	6 hours	Increased by 1 hour	8am to 12pm	4 hours
	2pm to 5pm	3	1.45pm to 6pm	4 hours 15 minutes	Increased by 1 hour 15 minutes	1pm to 5pm	4 hours
Thursday	7am to 12pm	5	7am to 12pm	5 hours	No Change	8am to 12pm	4 hours
	2.30pm to 5pm	2.5	2pm to 6pm	4 hours	Increased by 1½ hours	1pm to 5pm	4 hours
Friday	7am to 11am	4	7am to 11am	4 hours	No change	8am to 12pm	4 hours
	3pm to 5pm	2	12 pm to 6pm	5 hours	Increased by 3 hours	1pm to 5pm	4 hours
Saturday	8am to 2pm	6	8am to 2pm	6 hours	No Change	8am to 2pm	6 hours
Sunday	8am to 12pm	4	No session available	n/a	Decreased by 4 hours	No session	No session
		44.5 hours		52.15 hours			46 hours